

Project No: _____

Project Name: _____



400 ALEXANDRIA BOULEVARD • OVIEDO, FLORIDA 32765

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DEVIATION APPLICATION

It is recognized that because of the individual characteristics of any given development, flexibility in the application of minimum requirements may be warranted in certain situations. The approving authority may therefore grant deviations from the minimum requirements of the Land Development Code (LDC) whenever it finds such deviations will fulfill the intent of the LDC. A copy of LDC Table 2.1 outlining the approval authority for deviations is provided with this application for your review. If an application requests multiple deviations, each deviation shall be evaluated independently. Any deviations from the minimum requirements of the LDC must be specified and justified below as mitigation may be required.

PROJECT ADDRESS AND/OR PARCEL ID NO.: _____

GENERAL LOCATION: _____

APPLICANT NAME: _____

APPLICANT ADDRESS: _____

APPLICANT PHONE: _____ FAX: _____ E-MAIL: _____

OWNER NAME: _____

OWNER ADDRESS: _____

OWNER PHONE: _____ FAX: _____ E-MAIL: _____

THE FOLLOWING ITEMS MUST BE SUBMITTED WITH THE APPLICATION:

APPLICATION FEES PAID IN FULL: Resolution No. 1794-08

Residential 0-10% = \$150.00

Commercial 0-10% = \$720.00

11-20% = \$250.00

11-20% = \$1,610.00

21-30% = \$350.00

21-30% = \$1,920.00

WRITTEN RESPONSE TO THE CRITERIA IN LDC SECTION 2.6(B-G). A COPY OF LDC SECTION 2.6(B-G) IS ATTACHED.

SURVEY OR SITE PLAN OF PROPERTY (Showing the Deviation Requested)

NOTARIZED LETTER OF AUTHORIZATION FROM PROPERTY OWNER (if application not signed by owner of record)

THE DEVIATION REQUESTED IS:

IS OF 10% OR LESS

IS BETWEEN 11% AND 20%

IS BETWEEN 21% AND 30%

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A DESCRIPTION OF THE DEVIATION(S) REQUESTED. Please use the space below to provide a detailed description of the deviation and reason(s) you are requesting the deviation(s). Attach a new page if necessary.

The application must adhere to the City of Oviedo Land Development Code and other applicable regulations. The application will not be accepted without a complete package. If the applicant is someone other than the property owner, a Notarized Letter of Authorization signed by the property owner, which authorizes the applicant to apply for this specific purpose at this specific location, must be attached to the application.

I hereby certify to the best of my knowledge and belief that all information submitted with this application is true and accurate.

Owner of record for the property described herein.
Authorized Agent (Notarized Letter of Authorization attached)

Signature

Date

Name and Title (printed or typed)

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OFFICE USE ONLY

DATE OF PRE-APPLICATION CONFERENCE: _____

DATE OF APPLICATION: _____

APPLICATION _____ SUFFICIENT _____ INSUFFICIENT

IF INSUFFICIENT, DATE LETTER OF INSUFFICIENCY MAILED TO APPLICANT: _____

DATE OF RESUBMITTAL: _____

BEGINNING DATE OF COMPLIANCE REVIEW: _____

DATE COMMENTS SENT TO APPLICANT: _____

LAND USE ADMINISTRATOR ACTION: _____

DATE OF DRC MEETING: _____

DRC ACTION: _____

DATE OF PZA MEETING: _____

PZA ACTION: _____

NOTES: _____

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Land Development Code Section 2.6 (B-G)

B) Approval Authority

1) City Development Projects:

- a) The Land Use Administrator is authorized to approve a deviation of ten (10) percent or less of a minimum LDC requirement.
- b) The DRC is authorized to approve a deviation of twenty (20) percent or less of a minimum LDC requirement.
- c) The City Council is authorized to approve a deviation greater than twenty (20) percent of a minimum LDC requirement.

2) All Other Development Projects (see Table 2.1 below):

- a) The Land Use Administrator is authorized to approve a deviation of ten (10) percent or less of a minimum LDC requirement.
- b) The DRC is authorized to approve a deviation of twenty (20) percent or less of a minimum LDC requirement.
- c) The PZA is authorized to approve a deviation greater than twenty (20) percent up to thirty (30) percent of a minimum LDC requirement associated with a building permit.
- d) The City Council is authorized to approve a deviation greater than twenty (20) percent of a minimum LDC requirement. **However, a deviation greater than thirty (30) percent shall require the execution of a Development Agreement between the Applicant and the City Council.**

TABLE 2.1: SUMMARY OF APPROVAL AUTHORITY FOR DEVIATIONS

Application	Percent Deviation	City Development Projects	Other Development Projects
Site Development Order	compliant	LUA	LUA
	≤ 10%	LUA	LUA
	11% ≤ 20%	DRC	DRC
	21% ≤ 30%	City Council	CC
	30% >	City Council	CC - Development Agreement
Building Permit or Other Development Permit	compliant	LUA	LUA
	≤ 10%	LUA	LUA
	11% ≤ 20%	DRC	DRC
	21% ≤ 30%	City Council	PZA
	30% >	City Council	CC - Development Agreement

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Notes:

CC: City Council

DRC: Development Review Committee

LUA: Land Use Administrator

PZA: Planning, Zoning and Appeals Board

C) Criteria for Approval: A deviation may be granted by the approving authority if it finds that strict application of a minimum LDC requirement is not warranted and granting a deviation will fulfill the intent of this LDC. The approving authority shall consider the following to determine if the Applicant has justified a request for a deviation to a minimum LDC requirement and if granting the proposed deviation will fulfill the intent of this LDC:

- 1) **Existence of Special Conditions:** That special conditions or circumstances exist which are peculiar to the land, structure or building involved.
- 2) **Compatibility:** The proposed deviation's scale and intensity is compatible with and will not adversely impact land use activities on adjacent properties.
- 3) **Proper Use of Mitigative Techniques:** The proposed development project has been designed to incorporate mitigative techniques needed to prevent adverse impacts to adjacent land use activities.
- 4) **Protection of Environmentally Sensitive Areas:** The proposed deviation is necessary to conserve and protect the natural environment including wetlands, natural habitat, protected canopy trees, drainage corridors, flood prone lands, and other environmentally sensitive lands.
- 5) **Only Minimum Deviation Granted:** That the proposed deviation is the minimum necessary.
- 6) **Open Space and Other Facilities:** The proposed deviation provides for more useable and suitably located open space and other public and common facilities than would otherwise be provided under strict application of the minimum LDC requirement.
- 7) **Existing Non-Conforming Uses of Other Property Not Basis for Approval:** No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a deviation.
- 8) **Other Information:** The applicant may provide other information in addition to that listed above to justify a request for a deviation to a minimum LDC requirement and demonstrate that granting the proposed deviation will fulfill the intent of this LDC.

D) Burden of Proof: The burden of presenting evidence sufficient to allow the approving authority to reach the determination set forth in Subsection 2.6 (C), as well as the burden of persuasion on those issues, remains with the Applicant seeking the deviation.

E) Approval Conditions: In granting deviations, the approving authority may impose such reasonable conditions as will ensure that the use of the property to which the deviation applies will be reasonably compatible with the surrounding properties, including visual screening, and may also prescribe a

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reasonable time limit within which construction or occupancy of the premises for the proposed use shall have begun or have been completed or both. All such conditions are enforceable in the same manner as any other applicable requirement of this LDC.

- F) Notwithstanding the foregoing, no deviation may be granted that would otherwise impact the City's standing under the Federal Flood insurance program or any similar program.
- G) **No Deviations for Anything Prohibited by the Code:** No deviation may be granted for use of land or building or structure that is prohibited by this LDC.