

Robin Reinhart

From: Jennifer C. Rey <jrey@hoganlawfirm.com>
Sent: Wednesday, July 19, 2023 12:27 PM
To: Michelle Miller
Cc: Cayce Dagenhart; Robin Reinhart; Kyle Benda
Subject: Application H-23-08 Teramore Development; County Failure to Meet 180 Day Statutory Deadline for Final Action Fla. Stat. 125.022

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Michelle,

I appreciate your email of July 13, 2023, explaining the County's practice of processing applications in batches. Not knowing when the Applicant's feedback to County staff was distributed for agency review, and not having been provided with a date as to when agency feedback is to be completed, I have no way of advising my clients on when the County will have completed its consideration of the application. I do know however that since the application was not heard at the July 2023 Planning and Zoning Commission meeting, there is no way for the county to take Final Action within the 180 days required by statute. As noted in my email of May 3, 2023, I am concerned that the County's current process for addressing the Teramore Application (Case No. H-23-08) is not consistent with statutory timeframes under Fla. Stat. 125.022. To recap:

Stage	Deadline	Date Achieved	Comment/ Note
Application Submitted		February 1, 2023	
Letter of Completeness	March 3, 2023	March 29, 2023	
Agency Feedback	April 2, 2023	May 1, 2023	Included a request for a conference with staff.
Request for Conference	N/A	May 3, 2023	First available date for conference provided by the County was May 15
Conference with County Staff	N/A	May 16, 2023	15 days following agency feedback.
Applicant Response	May 31, 2023	June 14, 2023	When no acknowledgment of receipt was received, Applicant resubmitted on June 26, June 28, and July 7; additional follow up on July 10 and July 12. No acknowledgement from the County until July 13.
Confirmation of Receipt of Applicant Response		July 13, 2023	We were advised that the Applicant's response was distributed for agency feedback but not as to when that action was taken or when the deadline for a response would be.
County Response to Additional Information	July 14, 2023	No Response to Date	Fla. Stat. 125.022 provides for 30 days from receipt of additional information
Public Notice – Mail	July 2, 2023	Did not occur	10 days before hearing; VI. Sec. 7
Posting Notice	July 2, 2023	Did not occur	10 days before hearing; VI. Sec. 7
Planning and Zoning Commission Meeting	July 12, 2023	Did not occur	
County Commission Meeting	July 25, 2023	Did not occur	

County Deadline for Final Action	July 31, 2023	Did not occur	180 days from date of application; Fla. Stat. 125.022
Public Notice – Mail	August 4, 2023		10 days before hearing; VI. Sec. 7
Posting Notice	August 4, 2023		10 days before hearing; VI. Sec. 7
Planning and Zoning Commission Meeting	August 14, 2023		
County Commission Meeting	August 22, 2023		

As I outlined in my email of May 3, 2023, included below, given the County’s untimely notice regarding completeness, I expected that the County would move forward on a timelier basis with its consideration of the application in order to meet the statutory deadline for final action as of July 31, 2023. As of May 3, 2023, the County was on notice of the applicant’s expectation regarding this deadline. Since there is no way for the County to meet the 180 days for Final Action as required by statute, moving forward with the next available meeting would mean the application being included on the August Planning and Zoning Commission on August 14, 2023, and the Commission on August 22, 2023.

I have not been provided any details as to the internal dates and deadlines that County staff have been held accountable to. This is not a complicated application or project – it’s a single site, and a single structure – so I am unclear as to why it has taken so long to consider. In addition, I understand that it is the County’s practice to “process” applications in batches, but if that process is not consistent with achieving final action within statutory requirements, then I must ask for a deviation from that process. The timeline has also not been interrupted by any matters qualifying as force majeure or extenuating circumstances.

My clients have every right to expect that the County meets its statutory obligations, the County’s failure to do so is costing my clients time, money and resources. At this point, we ask that we be provided with agency feedback, the County’s staff report, and any public input the County may have received as soon as possible, that the application be heard on the August 14, 2023 Planning and Zoning meeting agenda, and the August 22, 2023 Commission agenda. If the County contends that is not possible, I’d like to be provided a detailed reply as to why.

Sincerely,

Jennifer

From: Jennifer C. Rey
Sent: Wednesday, May 3, 2023 11:44 AM
To: 'Michelle Miller' <MLMiller@co.hernando.fl.us>
Cc: 'Kyle Benda' <KBenda@co.hernando.fl.us>
Subject: Question: Development Review Time Periods

Michelle,

As you are aware, I represent Teramore Development, and their application was filed with development services on February 1, 2023. The letter confirming completeness of the application is dated March 29, 2023. Pursuant to Fla. Stat. 125.022, “Within 30 days after receiving an application for approval of a development permit or development order, a county must review the application for completeness and issue a letter indicating that all required information is submitted or specifying with particularity any areas that are deficient.” So, the letter of completeness was untimely. The letter of completeness indicates that my client was to receive agency feedback on or around April 26, 2023; however, agency feedback was not provided until May 1, 2023. We are working to set a meeting with County staff to discuss the

agency feedback, but that is not yet scheduled; and my client will work diligently to get this accomplished as soon as possible.

My concern is that the letter of completeness, by my count, should have come as of March 3, 2023, and allowing for thirty days for agency review that would have put us at the end of April 2, 2023; which would have set up the application for a possible May or June hearing before P&Z. In planning out the hearing timeline based on where things are at now, under Fla Sta. 125.022, the County has 120 days after it has deemed the application complete, or 180 days for applications that require final action through a quasi-judicial hearing or a public hearing, to approve, approve with conditions, or deny the application for a development permit or development order. Calculating from March 29, 2023, those deadlines are July 27, 2023 / September 25, 2023; calculating from March 3, 2023, those deadlines would be July 1, 2023, and August 30, 2023. I believe the latter set of deadlines are what is statutorily applicable.

Given that (1) the County requires agenda items to be completed three weeks in advance, (2) our request requires a hearings before P&Z and the Commission, and (3) P&Z only meets once per month, I'm concerned about how the application will move forward in a timely fashion. The remaining P&Z dates for either timeframe outlined above are as follows: May 10, 2023, June 14, 2023, July 12, 2023, Aug 9, 2023, Sept 13, 2023.

It is unlikely that the application will make the May 10, 2023 agenda, however, I would expect that the June 14, 2023 meeting is still feasible. I've copied Kyle with the County Attorney's Office, as I am raising a legal issue, but it would be greatly appreciated if the County would reply with an anticipated hearing schedule. With the application having been filed February 1, 2023, we expected that it would could be heard as early as May 2023, or the latest June 2023. I want to be sure that the nearly 30 day delay in issuing the letter of completeness, and in the added delay in receiving staff feedback is not going to needlessly further delay the application process.

Understanding that there is agency review/feedback that was presented this past Monday, I would appreciate a commitment from the County on the expected hearing schedule, and any effort to expedite staff availability to meet to address agency feedback. My client will need to alter its project schedule, and incur the costs of doing so, if the County fails to meet it statutory deadlines for review of development orders.

Sincerely,

Jennifer

Jennifer C. Rey, Esq.



We mean businessSM

20 S. Broad Street
Post Office Box 485
Brooksville, Florida 34605
(352) 799-8423 Telephone
(352) 799-8294 Facsimile
jennifer@hoganlawfirm.com
www.hoganlawfirm.com

Disclaimer: The information transmitted, including attachments, is intended only for the person(s) or entity to which it is addressed and may contain material that is confidential, privileged and/or exempt from disclosure under applicable law. Any review, retransmission, dissemination or other use of, or taking of any action in reliance upon this information by persons or entities other

than the intended recipient is prohibited. If you received this in error, please contact the sender and destroy any copies of this information.