

ARTICLE 2

APPLICATION PROCESSES AND PROCEDURES

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ARTICLE 2

APPLICATION PROCESSES AND PROCEDURES

CHAPTER A GENERAL

Section 1 Purpose

To establish procedures and standards for Zoning and Planning applications. This Article is organized under the following Chapters with specific requirements pertaining to each type of application or process. In addition, Art. 2.G, Decision Making Bodies specifies the powers and duties of each Authority. [Ord. 2018-002]

- A. Chapters A through C – Zoning Applications related to the Legislative, Quasi-Judicial, or Administrative processes; [Ord. 2018-002]
- B. Chapter D – Privately Initiated Amendments to the Unified Land Development Code; [Ord. 2018-002]
- C. Chapter E – Monitoring of Development Orders; [Ord. 2018-002]
- D. Chapter F – Concurrency (Adequate Public Facility Standards) for Development Orders; [Ord. 2018-002]
- E. Chapter G – Decision Making Bodies; [Ord. 2018-002]
- F. Chapter H – Comprehensive Plan Amendments; and, [Ord. 2018-002]
- G. Chapter I – Coordinated School Planning. [Ord. 2018-002]

Section 2 Zoning Applications

Chapters A through D address application processes of the Zoning Division. These processes are generally classified as legislative, quasi-judicial, and administrative, and are reviewed by various County Agencies and presented to the applicable Decision Making Bodies or Person for consideration. Both legislative and quasi-judicial processes are subject to the public hearing procedures. For the purpose of this Article, the term “public hearing” refers to the legislative and quasi-judicial processes. [Ord. 2018-002] [Ord. 2020-001]

A. Applicability

The provisions in this Article shall apply to all Zoning applications unless otherwise specified. Quasi-judicial and Administrative Approvals of applications will result in the issuance of DOs. DOs run with the land and may be transferred to new owners unless otherwise stipulated. [Ord. 2018-002]

B. Definitions

See Art. 1.H, Definitions and Acronyms.

C. Application Types and Authorities

For the purposes of this Article, the authority of the Board of County Commissioners, Zoning Commission, and Development Review Officer shall be limited to the powers and duties pursuant to Art. 2.G, Decision Making Bodies on those applications specified below. [Ord. 2006-036] [Ord. 2018-002]

1. Board of County Commissioners (BCC)

The BCC shall make a final decision on the following types of applications: [Ord. 2018-002]

Table 2.A.2.C – Board of County Commissioners, Legislative and Quasi-Judicial Processes

Legislative	
Privately Initiated Unified Land Development Code (ULDC) Amendment (PIA)	
County Initiated Official Zoning Map Amendment (Rezoning)	
Quasi-Judicial	
Official Zoning Map Amendment (Rezoning) (1)	
Class A Conditional Use (2)	
Development Order Amendment (DOA) of a prior DO approved by the BCC	
DOA – Expedited Application Consideration (EAC) of a prior DO approved by the BCC	
Development Order Abandonment (ABN) of a prior DO approved by the BCC	
Status Report of a prior DO approved by the BCC (3)	
Public Ownership (PO) Deviations (4)	
Type 2 Waiver	
Unique Structure	
Release of Agreement (3)	
Administrative Inquiry (AI) (3)	
Corrective Resolution for prior DO approved by the BCC	
[Ord. 2007-013] [Ord. 2008-003] [Ord. 2009-040] [Ord. 2012-027] [Ord. 2017-007] [Ord. 2018-002] [Ord. 2019-005]	
Notes:	
1.	Only Rezoning to a PDD or TDD will issue a DO. A Rezoning to a Standard District with a COZ may result in the issuance of a DO.
2.	Includes where it specifies the process is subject to the BCC in Table 4.A.9.B, Thresholds for Projects Requiring Board of County Commissioners Approval, Art. 4.B, Use Classification, Art. 3.B, Overlays, Art. 5.G.1.B.3, Approval Process for WHP, Table 5.G.2.D, Review Process for AHP, and Art. 5.G.3.K.3, Review Process for TDR.
3.	This is not considered as a quasi-judicial process; however, it is subject to the Public Hearing process.
4.	PO Deviations reviewed by the BCC do not include those PO Deviations described in Art. 11, Subdivision, Platting, and Required Improvements that are reviewed and approved or denied by the County Engineer. [Ord. 2019-005]

2. Zoning Commission (ZC)

The ZC shall make a final decision on the following types of applications. [Ord. 2018-002]

Table 2.A.2.C – Zoning Commission, Quasi-Judicial Processes

Quasi-Judicial	
Class B Conditional Use	
DOA for a prior approved Class B Conditional Use	
ABN for a prior DO approved by the ZC	
Type 2 Variance (1)	
Status Report for a prior DO approved by the ZC (2)	
Unique Structure	
Corrective Resolution for a prior DO approved by the ZC	
Release of Unity (2)	
Notes:	
1.	Refer to Art. 2.B.7.E, Type 2 Variance for specific provisions where it indicates that the ZC is not authorized to grant Variances from Code regulations with prohibited provisions.
2.	This is not considered as quasi-judicial; however, it is subject to the Public Hearing process.

3. Development Review Officer (DRO)

The DRO, shall make a final decision on the types of applications indicated in Art. 2.C.3.A, Process for Administrative Requests. [Ord. 2006-036] [Ord. 2018-002] [Ord. 2018-018]

Section 3 Initiation of Applications

Applications may be submitted to the Zoning Division by the following authority: PBC Official, owner, Agent who is authorized in writing to act on the owner's behalf, or person having a written contractual interest in the land for which the amendment or Development Permit is proposed. Applications shall be submitted in accordance with the dates and fees established by the Zoning Division. [Ord. 2018-002]

A. Established Dates and Fees for Zoning Division Applications

1. The Zoning Director shall publish an Annual Zoning Calendar, as may be amended, providing dates and deadlines for the following: [Ord. 2018-002]
 - a. Submittals and Resubmittals of an application by the Applicant; [Ord. 2018-002] [Ord. 2020-001]
 - b. Sufficiency and Insufficiency determination by the DRO; [Ord. 2018-002] [Ord. 2020-001]
 - c. Issues and Comments identified by Staff;
 - d. Certification of an application for Public Hearings; and, [Ord. 2018-002]
 - e. Hearing dates. [Ord. 2018-002]
2. All other dates and deadlines for the application processes shall be specified in the Code. If there is a conflict in the dates between the Code and the Calendar, the Code shall prevail. [Ord. 2018-002]
3. Applications that are submitted to the Zoning Division shall be accompanied by a fee established by the BCC. All fees shall be paid at the time of the submittal of the applications.
4. Any request for a refund of fees shall be in writing, based on the current PZB Refund Policy, and subject to approval by the Executive Director of Planning, Zoning and Building, or designee. [Ord. 2018-002] [Ord. 2020-001]

Section 4 Concurrent or Separate Applications

Applications may be submitted to the applicable Division concurrently or separately subject to the following:

A. Land Use Amendments

If a Small Scale land use amendment requires a Rezoning, Conditional Use, DOA, or ABN application, the applications shall be reviewed and considered by the BCC concurrently. The Applicant shall submit a Master Plan and/or Site Plan as part of the Zoning application. The Zoning application shall be submitted on the date indicated on the Annual Zoning Calendar within 45-calendar days of receipt of the land use amendment application. If a complete Zoning application is not submitted, the land use amendment shall be administratively withdrawn. [Ord. 2006-036] [Ord. 2009-040] [Ord. 2017-007] [Ord. 2018-002]

B. Zoning Applications

Applications for DOs on the same property may be consolidated for review, subject to the approval by the Zoning Director. When applications for DOs are consolidated, the review period shall not be less than the timeframe established for the application with the longest review period. [Ord. 2018-002]

C. Type 2 Waivers and Type 2 Variances

An application for a Type 2 Waiver or a Type 2 Variance may be submitted concurrently or separately subject to the approval of the Zoning Director. Applications that are contingent upon the approval of Variances must be submitted separately. [Ord. 2018-002]

D. Type 2 or 3 Concurrent Review

Concurrent Review allows an Applicant to submit applications to different County Agencies for simultaneous review. The Final Zoning Plans may be approved concurrently with the approval of other Division or Department applications. [Ord. 2018-002]

1. Types of Concurrent Review

There are two types of Concurrent Review based on the following: [Ord. 2018-002]

a. Type 2 Concurrent Review

- 1) Zoning Division for Final Plan approval and Land Development Division for plat review; or [Ord. 2018-002]
- 2) Zoning Division for Final Plan approval and Building Division for permit review.

b. Type 3 Concurrent Review

Zoning Division for Final Plan approval; Land Development Division for plat review; and, Building Division for permit review. [Ord. 2018-002]

2. PAC

Applications for Concurrent Review shall be subject to the PAC requirements in accordance with Art. 2.A.5, Pre-Application Conference (PAC) and Pre-Application Appointment (PAA). The Applicant shall have six months from the date of the issuance of the PAC written notification to submit the Concurrent Review application to the DRO. [Ord. 2018-002] [Ord. 2020-020]

3. Submittal to Other Agencies

Within ten days of submittal of the Concurrent Review Final Plan application to the DRO, the Applicant shall submit the Concurrent Review Plat application(s) to the Land Development Division or the Permit application(s) to the Building Division, based on the type of Concurrent Review. [Ord. 2018-002]

Section 5 Pre-Application Conference (PAC) and Pre-Application Appointment (PAA)

It is mandatory for the Applicants to meet with Staff prior to the official submittal of applications that are listed in Table 2.A.5, PAC and PAA to identify issues related to the proposed request(s), and ensure the requests are in compliance with the applicable Comprehensive Plan or Codes. [Ord. 2018-002]

Table 2.A.5 – PAC and PAA

PAC	PAA
Applications requesting an IRO (1)	PIA
Applications within the PRA (1)	Type 2 Variance
Concurrent Review (2)	Type 2 Waiver
-	Type 1 Waiver for Landscaping
-	Type 1 Variance
-	Zoning Confirmation Letter – Formal
-	WHP, AHP, and TDR
-	PO Deviations (3)
-	Existing native vegetation (4)
[Ord. 2018-002] [Ord. 2019-005] [Ord. 2021-023]	
Notes:	
1.	A Conceptual Plan shall be submitted to be reviewed as part of a PAC application.
2.	Applicants shall indicate whether they have questions related to the request(s) for Staff to address before submitting for the Concurrent Review.
3.	The Zoning Director in consultation with the Applicant may determine a formal PAA is not required based on general discussions on this request. [Ord. 2019-005]
4.	Pursuant to Art 7.E, Existing Native Vegetation, Prohibited, and Controlled Plant Species, an Applicant shall meet with the Zoning Division and the Department of ERM prior to the submittal of an Application for a Development Permit to address the preservation of native vegetation on the affected site. [Ord. 2021-023]

A. Pre-Application Conference (PAC)

The purpose of the PAC is to provide the Applicant an opportunity to submit an application and a Conceptual Plan for review by the Zoning Division and other County Agencies. [Ord. 2018-002]

1. Applicant's Request and Responsibility

A PAC application shall include, but not limited to, the following: [Ord. 2005-002] [Ord. 2010-005] [Ord. 2010-022] [Ord. 2017-025] [Ord. 2018-002]

- Identification of the proposed uses as defined in Art. 4, Use Regulations; [Ord. 2018-002]
- Identification of the requested processes; [Ord. 2018-002]
- Application of Code requirements specific to the use(s) of the subject property; [Ord. 2018-002]
- Review of the proposed Conceptual Plan for those applications in the IRO or PRA; and, [Ord. 2018-002]
- Specific questions pertinent to the application for County Agencies to respond. [Ord. 2018-002]

2. Sufficiency and Insufficiency

The application shall follow the procedures as provided in Art. 2.B, Public Hearing Processes and Art. 2.C, Administrative Processes. [Ord. 2018-002]

3. Additional IRO and PRA Requirements

a. PAC Application

The PAC application shall identify and document any proposed Variances or Waivers; and include any previous BCC Conditions of Approval, if applicable. [Ord. 2010-005] [Ord. 2012-027] [Ord. 2018-002]

b. Conceptual Plan

The Conceptual Plan shall be prepared in compliance with the applicable type of plans pursuant to the Zoning Technical Manual, Title 2, Plans. The plan shall indicate and delineate the applicable items listed in the Table below: [Ord. 2010-005] [Ord. 2018-002]

Table 2.A.5.A – Conceptual Plan

Conceptual Plan Requirements	IRO	PRA's
Intensity or density.	✓	✓
Transect zones assigned to all land.	✓	✓
Vehicular and pedestrian circulation, including location of access points and interconnectivity to adjacent parcels, perimeter streets, internal street network including alleys.	✓	✓
General outline of building placement and building type, including any tenants 65,000 square feet or larger.	✓	
Pedestrian streetscape realm for all perimeter street frontages or required frontage types.	✓	✓
Pedestrian area for Main Street(s).		
Proposed or required mix of uses, including residential units, identifying whether or not such is horizontally or vertically integrated.	✓	✓
Location of any Conditional Uses, and outdoor uses such as Restaurant, Financial Institution with Drive-Through Facilities, Financial Institution Freestanding ATM, gasoline pumps and related queuing areas, outdoor dining areas, and required outdoor Day Care areas, among others. Where applicable, additional detail shall be required to demonstrate how such uses will be located behind buildings, or shielded from adjacent residential uses or perimeter streets.	✓	✓
Location of parking, loading, and service areas (dumpsters, etc.).	✓	✓
Required public open space or usable open space.	✓	✓
Green Building Incentive Program: Where applicable, include any site improvements that will be used towards an application for bonus height.		✓
[Ord. 2010-005] [Ord. 2010-022] [Ord. 2017-007] [Ord. 2017-025] [Ord. 2018-002]		

4. Review Summary

Within ten days after the date of the PAC, the DRO shall provide the Applicant with a written response to the Applicant's questions. [Ord. 2010-005] [Ord. 2018-002]

B. Pre-Application Appointment (PAA)

The purpose of a PAA is to provide the Applicant an opportunity to discuss the proposed request(s) with Zoning Division Staff prior to the official submittal of an application. [Ord. 2018-002]

1. Applicant's Request and Responsibility

The Applicant shall request the PAA and specify whether the attendance of the other County Agencies is required. Prior to the PAA, the Applicant shall specify the requests, prepare a list of questions related to the subject property, and provide a copy of relevant information regarding the proposed development to the DRO.

- For a DOA application, it shall be the responsibility of the Applicant to research and review prior approved files, which includes but not limited to, plans, Resolutions, and other relevant documents prior to the PAA. [Ord. 2018-002]
- For a PO Deviation application, it is the responsibility of the Applicant to complete the application including the Justification Statement, and provide a draft copy of these documents for review at the time of the PAA. [Ord. 2019-005]

Section 6 Zoning Application Procedures

All Zoning applications shall be submitted to the Zoning Division. Applications shall be reviewed for sufficiency prior to the initiation of review by the DRO, unless otherwise stated in this Code. It is recommended that applications that were subject to a review by the DRO under a PAC or PAA remain consistent with what was requested or discussed at the conference or appointment. Amendments to the application request(s) that are different from what was discussed at the PAC or PAA shall be documented in the Justification Statement of the application. [Ord. 2005-041] [Ord. 2018-002]

A. Zoning Application Requirements

Applications shall be submitted in a manner and forms established by the Zoning Division unless otherwise stated herein. The Applicant shall also provide additional application requirements specific to a zoning district, use, or process that are referenced in the applicable Sections of the ULDC. [Ord. 2005-041] [Ord. 2009-040] [Ord. 2018-002]

1. Justification Statement

Applicants shall provide a Justification Statement, which shall include but not limited to: [Ord. 2018-002]

- a. Summary of the request(s) specifying the types of applications and approval processes; [Ord. 2018-002]
- b. Project history with prior Resolutions, if applicable; [Ord. 2018-002]
- c. Analyses of the applicable Standards pursuant to Art. 2.B, Public Hearing Processes and Art. 2.C, Administrative Processes; and, [Ord. 2018-002]
- d. Any other pertinent information related to the subject property. [Ord. 2018-002]

B. Plan Requirements

All applications, excluding Comprehensive Plan Amendments and Privately Initiated Amendments, shall require the submittal of plan(s) to the DRO, except where indicated otherwise. The type of plan shall be based upon the type of application request(s), and shall be prepared to include graphics and tabular data consistent with the Zoning Technical Manual requirements, as amended. The plan shall provide sufficient information for the DRO to review in order to render comments on the application for compliance with the applicable standards pursuant to Art. 2.B, Public Hearing Processes and Art. 2.C, Administrative Processes. In addition, the plan shall be prepared in compliance with the following: [Ord. 2009-040] [Ord. 2015-006] [Ord. 2017-002] [Ord. 2018-002]

1. The Land Development Design Standards Manual (LDM) published and maintained by the Land Development Division; and [Ord. 2009-040] [Ord. 2018-002]
2. Plan labeling standards as follows, unless otherwise stated herein: [Ord. 2009-040] [Ord. 2018-002]
 - a. Plans requiring BCC or ZC's approval shall be labeled "Preliminary." After the BCC or ZC approves the DOs, the DRO shall finalize the Preliminary Plans to ensure consistency with the approved DOs. These plans shall be labeled as Final Plans at the Final DRO approval process. [Ord. 2009-040] [Ord. 2018-002]
 - b. Plans requiring DRO approval shall be labeled "Final." [Ord. 2009-040] [Ord. 2018-002]

3. Master Plan

The Master Plan shall be the controlling document for a PDD listed below. All development site elements including, but not limited to: ingress and egress, density, and intensity in the PDD shall be consistent with the Master Plan. All subdivisions and plats shall be consistent with the Master Plan. In cases of conflict between plans, the most recently approved BCC plan for those DOs that have no Final DRO plans, shall prevail. [Ord. 2009-040] [Ord. 2018-002]

a. Preliminary Master Plan (PMP) for Public Hearing Approval

The BCC shall approve a PMP for the following PDDs: PUD, PIPD, MHPD, RVPD, PDDs with an MLU or EDC Future Land Use designation, and a PUD within the Lion Country Safari (LCS) where the transfer of density from other PDDs within the LCS is proposed. The BCC may approve a PMP for an MUPD that utilizes more than one FLU designation in order to define location of uses and property development regulations. [Ord. 2009-040] [Ord. 2010-022] [Ord. 2011-016] [Ord. 2018-002] [Ord. 2019-005] [Ord. 2021-023]

1) Preliminary Site Plan (PSP) or Subdivision Plan (PSBP) Options

For a PUD application with no proposed subdivision, the Applicant may submit a PSP prior to certification for Public Hearing process, which includes but not limited to: layout of lots and buildings, ingress and egress, recreation areas, or exemplary design standards, if applicable for the purpose of the BCC's consideration. For a PUD with proposed subdivision of lots, the Applicant, may submit a PSBP pursuant to Preliminary Subdivision Plan. [Ord. 2009-040] [Ord. 2018-002]

2) Lion Country Safari

A PMP shall be required for any LCS PUD application that proposes to transfer density from the MUPD or RVPD in accordance with FLUE Objective 1.10, Lion Country Safari Overlay. All other plans within the LCS shall be consistent with the PMP. [Ord. 2011-016] [Ord. 2018-002]

b. Final Master Plan (FMP) for Public Hearing Processes

For applications with a PMP, the Applicant shall submit a FMP to the DRO for finalization of the BCC or ZC-approved DO(s). The FMP shall be prepared consistent with the BCC or ZC-approved PMP, and all modifications shall be approved by the BCC or ZC unless the proposed changes are required to meet Conditions of Approval or are in accordance with the ULDC, whichever is more restrictive. [Ord. 2009-040] [Ord. 2018-002]

4. Site Plan

The Site Plan shall be the controlling plan for Conditional Uses or PDDs listed below. All development site elements including, but not limited to: ingress and egress, density, and intensity in the proposed application shall be consistent with the Site Plan. All plats shall be consistent with the Site Plan. In cases of conflict between plans, the most recently approved BCC Preliminary Plan(s) for those DOs that have no Final Plan(s) shall prevail. [Ord. 2009-040] [Ord. 2017-007] [Ord. 2018-002]

a. Preliminary Site Plan (PSP)

The BCC shall approve a PSP for the following applications: Class A Conditional Use, MUPD and equivalent Previously Approved Planned Developments. The ZC shall approve a PSP for a Class B Conditional Use request. [Ord. 2009-040] [Ord. 2017-007] [Ord. 2018-002] [Ord. 2021-023]

b. Final Site Plan (FSP) with Public Hearing Processes

After a PSP is approved by the BCC or ZC, the Applicant shall submit a FSP to the DRO for finalization of the BCC or ZC-approved DO(s). The DRO shall review the FSP for consistency with the PSP, applicable Code requirements, and BCC or ZC Conditions of Approval. All modifications to the PSP that are shown on the FSP must be approved by the BCC or ZC unless the proposed changes are required to meet Conditions of Approval or are in accordance with the ULDC, whichever is more restrictive. [Ord. 2009-040] [Ord. 2018-002]

c. Final Site Plan (FSP) for Administrative Approval

The DRO shall approve a FSP for: [Ord. 2009-040]

- 1) Any requests for uses that have a "D" in the Use Matrices in Art. 4, Use Regulations; or [Ord. 2009-040] [Ord. 2017-007] [Ord. 2018-002]
- 2) Any requests subject to Table 4.A.9.A, Thresholds for Projects Requiring DRO Approval, and where it specifies in Art. 3.B, Overlays. [Ord. 2009-040] [Ord. 2017-007] [Ord. 2018-002]

5. Subdivision Plan

The Subdivision Plan shall be the controlling plan for Conditional Uses that are subject to the subdivision process. All development site elements including, but not limited to: ingress and egress, density, and intensity in the proposed project, shall be consistent with the Subdivision Plan. In cases of conflict between plans, the most recently approved BCC Preliminary Plan(s) for those DOs that have no Final DRO plans shall prevail. All plans and plats shall be consistent. [Ord. 2009-040] [Ord. 2010-005] [Ord. 2017-007] [Ord. 2018-002]

a. Preliminary Subdivision Plan (PSBP) for Public Hearing Processes

The DRO shall review and certify a PSBP for any applications that are subject to the submittal requirement of a PMP, and which involves in the subdivision of land to be platted. The Applicant may submit a PSBP prior to certification for Public Hearing process, which includes but not limited to: layout of lots, exemplary design standards, ingress and egress, or density for the purpose of the BCC's consideration. [Ord. 2009-040] [Ord. 2018-002]

b. Final Subdivision Plan (FSBP) for Public Hearing Processes (Off-The-Board)

After a PSBP is approved by the BCC or ZC, the Applicant shall submit a FSBP for parcels of land that are subject to subdivision to the DRO for finalization of the BCC or ZC-approved DO(s). The FSBP shall be approved prior to submission of an application for a plat or other approval required by Art. 11, Subdivision, Platting, and Required Improvements. [Ord. 2009-040] [Ord. 2010-005] [Ord. 2018-002]

c. Final Subdivision Plan (FSBP) for Administrative Approval

The DRO shall approve a Final Subdivision Plan for: [Ord. 2009-040] [Ord. 2010-005]

- 1) Any subdivision of lots when the Zoning Director determines that it does not require the Public Hearing approval process. [Ord. 2009-040] [Ord. 2010-005]

d. Exception

A minor subdivision may be exempt from this Section subject to the approval of a Plat Waiver pursuant to Art. 11, Subdivision, Platting, and Required Improvements. [Ord. 2009-040]

6. Regulating Plans – Optional

When applicable, Regulating Plans shall provide a comprehensive graphic and written description of the project. [Ord. 2017-002]

a. Thresholds

Regulating Plan(s) may be submitted to the DRO for review and consideration under the following circumstances: [Ord. 2017-002] [Ord. 2018-002]

- 1) The Applicant may choose to provide design details to demonstrate the intent of the requests or the requests are in compliance with the Standards of the Code; [Ord. 2017-002]
- 2) Staff may recommend the submittal of the Regulating Plans due to the size and complexity of the application and site design; or, [Ord. 2017-002]
- 3) By a ZC or BCC Condition of Approval. [Ord. 2017-002]

b. Submittal Requirements

If submitted, the plans shall be prepared in accordance with the Submittal Requirements, and consistent with the format and naming requirements pursuant to the Zoning Technical Manual. Regulating Plans shall be drawn to scale or labeled with notes, specifications and dimensions, and shall include where applicable, the following: [Ord. 2017-002] [Ord. 2018-002]

- 1) Street cross sections, including sidewalks, bike lanes, street trees, on-street parking, and lighting; [Ord. 2009-040] [Ord. 2017-002] [Ord. 2018-002]
- 2) Typical lot layouts for each housing type, including building envelope, screen enclosure/pool setbacks, and driveway access; [Ord. 2009-040] [Ord. 2017-002] [Ord. 2018-002]
- 3) Landscape buffer and interior landscaping details (plan view and cross section); [Ord. 2009-040] [Ord. 2017-002] [Ord. 2018-002]
- 4) Pedestrian circulation in accordance with Art. 3.E, Planned Development Districts (PDDs); [Ord. 2009-040] [Ord. 2017-002] [Ord. 2018-002]
- 5) Phasing pursuant to Art. 2.E, Monitoring of Development Orders (DOs) and Conditions of Approval; [Ord. 2009-040] [Ord. 2010-005] [Ord. 2017-002] [Ord. 2018-002]
- 6) Screening details; and, [Ord. 2009-040] [Ord. 2017-002] [Ord. 2018-002]
- 7) Neighborhood parks. [Ord. 2009-040] [Ord. 2017-002] [Ord. 2018-002]

c. Other Plans

All other plans, including but not limited to: Phasing, Pedestrian, or Vehicular Circulation, shall be submitted as Regulating Plans and labeled with the applicable name specifying the nature of the plan(s). Refer to the Zoning Technical Manual for examples. [Ord. 2018-002]

7. Landscape-Related Plans

Art. 7, Landscaping, identifies different types of landscape-related plans that are reviewed by the DRO for a final decision: Planting Plan, Landscape Plan, and Alternative Landscape Plan (ALP). All plans shall be prepared consistent with the approved Master, Site, or Subdivision Plan. Application requirements, labeling of plans, and approval procedures for the landscape-related plans shall be consistent, where applicable, with Art. 2.A.6.B, Plan Requirements and the Zoning Technical Manual, and Art. 7, Landscaping. All types of Landscape Plans shall be submitted at Building Permit, unless required to be submitted at Final Approval by the DRO through a Condition of Approval. The following Table summarizes the different types of plans, applicability, and approval authority. [Ord. 2009-040] [Ord. 2016-042] [Ord. 2018-002]

Table 2.A.6.B – Landscape-Related Plans

Type of Landscape Plan	Additional Plan Requirements	Applicability	Approval of Plan(s)	Authority
Planting Plan (6)	Identify number, location, height, and species of required trees, palms or pines, and shrubs (4)	Single Family	(1)	DRO
		Two-unit Townhouse		
		A lot with two MF units		
		Vacant lots within 120 days of demolition		
Landscape Plan	Identify number, location, height, and species of required trees, palms or pines, and shrubs. (4)	Non-residential developments	(1)(3)	DRO
		A lot with more than two MF units	(1)(3)	DRO
		Common areas of PUD	(1)(3)	DRO
		Variance	(1)(3)	ZC
		Type 2 Waiver	(1)(3)	BCC
		Type 1 Waiver	(1)(3)	DRO
ALP	Identify number, location, height, and species of required trees, palms or pines, and shrubs. (4)	(2)(5)	(1)(3)	DRO
[Ord. 2016-042] [Ord. 2018-002]				
Notes:				
1.	Approval of Plan(s) must be completed prior to the issuance of a Building Permit, unless it is required to be approved at Final DRO by a Condition of Approval.			
2.	Applicant may submit the ALP concurrent with the DO application to garner support of the Waiver request(s). The ALP may be required as a Condition of Approval by the ZC, BCC, or DRO.			
3.	Landscape Plan(s) and ALP (except Planting Plan) shall be signed and sealed by a Florida-licensed professional Landscape Architect prior to the approval of a Building Permit. [Ord. 2020-001]			
4.	A Vegetation Disposition Chart may apply to all of the landscape-related plans, where a Site has existing native vegetation, even if no Waivers or Variances are being requested. Refer to the Technical Manual, Title 3, Landscape for the Vegetation Disposition Chart. [Ord. 2020-001]			
5.	An ALP may be submitted by the Applicant concurrently with a Waiver request to modify Landscape standards. The DRO may determine that the Waiver for Landscape requirements pursuant to Art. 7, Landscaping could be shown on a Site, Subdivision, or Regulating Plan in lieu of an ALP.			
6.	May be approved by the Building Division. The amount of required plant material shall be indicated on the applicable Building Division submittal form and installed prior to issuance of CO.			

8. Sign Plans

Art. 8, Signage, identifies two types of sign plans that are reviewed by the DRO for a decision: Master Sign Plan and Alternative Sign Plan (ASP). All plans shall be prepared consistent with the approved DO, Art. 8, Signage, and Art. 2.A.6.B, Plan Requirements. The DRO may allow the proposed signs be shown on a Site, Subdivision, or Regulating Plan, whichever is most applicable. [Ord. 2009-040] [Ord. 2010-022] [Ord. 2016-042] [Ord. 2018-002]

a. Thresholds

- 1) The Applicant may submit a PMSP to the BCC or ZC for consideration and a decision. The BCC or ZC may impose a Condition of Approval on the proposed signs. [Ord. 2018-002]
- 2) The Applicant shall submit a Preliminary ASP for Sign Variances or Waivers to the ZC or BCC for consideration and a final decision. [Ord. 2018-002]
- 3) The Applicant shall submit the FMSP at Final DRO or at Building Permit review. [Ord. 2018-002]

Section 7 Sufficiency Review

The DRO shall determine whether the application is sufficient or insufficient by reviewing the required information provided in the application, and any additional data necessary to evaluate the application. Sufficiency review procedures specified in other Articles applicable to particular County Agencies may supersede these provisions, unless stated otherwise. Applications shall be subject to the requirements of Art. 2.B.2, Sufficiency Review for Public Hearing processes and Art. 2.C.2, Sufficiency Review for Administrative processes. [Ord. 2005-041] [Ord. 2011-016] [Ord. 2018-002] [Ord. 2020-001]

Section 8 Review and Decision

All Zoning applications subject to the Public Hearing process shall be reviewed and processed pursuant to Art. 2.B, Public Hearing Processes. Applications that are subject to Administrative Approval shall be reviewed and processed pursuant to Art. 2.C, Administrative Processes. [Ord. 2018-002]

Section 9 Development Order Abandonment (ABN)

Abandonments of DOs that were approved by the BCC or ZC shall be subject to the requirements indicated in Art. 2.B, Public Hearing Processes. Abandonments of DOs approved by the DRO shall be subject to the requirements indicated in Art. 2.C, Administrative Processes. [Ord. 2018-002]

Section 10 Postponement, Remand, Suspension of Development Review, Withdrawal, and Denial of Application

A. Postponement and Remand

Postponement or remand of applications that were subject to the final decision of BCC or ZC shall be subject to the requirements indicated in Art. 2.B, Public Hearing Processes. Applications that are subject to the final decision by the DRO shall be subject to the requirements indicated in Art. 2.C, Administrative Processes. [Ord. 2018-002]

B. Suspension of Development Review

An application for a DO may be suspended during the pendency of a Code Enforcement proceeding pursuant to Art. 10, Enforcement, or for any Code violation involving all or a portion of the land proposed for development, unless it is demonstrated in writing by the Applicant that suspension of development review processing could be adverse to the public interest. [Ord. 2018-002]

C. Withdrawal

The Applicant shall have the right to withdraw an application for a DO at any time prior to the final action on the application by the Decision Making Body or Person. Requests for withdrawal received by the PBC Official responsible for reviewing the application five days prior to a hearing or review date shall be granted without prejudice. Thereafter, the Decision Making Body or Person may make a motion on the application for withdrawal with or without prejudice. Withdrawal with prejudice prohibits the filing of a successive application, which is not materially different, as defined in this Section, for one calendar year. [Ord. 2018-002] [Ord. 2020-020]

D. Denial of Application

1. Denial

When an application is denied with prejudice, an application for a DO for all or a part of the same land shall not be considered for a period of one year after the date of denial. Denial with prejudice prohibits the filing of a successive application, which is not materially different, as defined in this Section, for one calendar year. [Ord. 2018-002]

2. Exceptions

The subsequent application involves a development proposal that is materially different from the prior proposal. For the purposes of this Section, an application for a Development Permit DO shall be considered materially different if it involves a change in intensity or density of 25 percent or more. [Ord. 2018-002]

3. Reconsideration

A majority of the members on the prevailing side of the Decision Making Body that made the final decision on the application determines that the prior denial was based on a material mistake of fact.

Section 11 Violation of Condition of DO

A violation of any condition in a DO shall be considered a violation of this Code. [Ord. 2018-002]

- A. The violation shall be rectified prior to any public hearing, public meeting, or DRO review on the issuance of any subsequent DO for that project, unless the subsequent application seeks to amend the condition that has been violated. Unless otherwise specified in the DO, an approved use must comply with all conditions prior to implementing the approval. [Ord. 2020-020]
- B. The violation shall be subject to any and all enforcement procedures available as provided by Art. 10, Enforcement and by all applicable laws and Ordinances.

Section 12 Outstanding Liens or Fines

A. General

Applications for properties that have outstanding liens or fines owed to PBC shall be restricted as follows: [Ord. 2018-002]

1. Applications Subject to Public Hearing Processes

The approving Decision Making Body shall impose a Condition of Approval requiring the payment of any outstanding liens or fines by a date certain or prior to a specific event; and [Ord. 2009-040] [Ord. 2018-002] [Ord. 2020-020]

2. Applications Subject to Administrative Processes

The DRO shall not approve the application until the payment of any outstanding liens or fines. [Ord. 2017-007] [Ord. 2018-002] [Ord. 2020-020]

B. Contest by the Applicant

In the event litigation contesting the validity of the lien or fine is initiated prior to the application for the DO, the time for payment shall be established only after the conclusion of litigation. In this case, a condition shall be in place that requires the owner/developer to notify the County Attorney at Final Order, and if the lien is upheld, payment of the lien shall occur 35 days after the Final Order. [Ord. 2020-020]

Section 13 Misrepresentation

If there is evidence that an application was considered wherein there was misrepresentation, fraud, deceit, or a deliberate error of omission, the PBC Official responsible for the application shall initiate a rehearing to reconsider the DO. The applicable Authority shall approve, approve with new conditions, or deny the DO at the rehearing based on the applicable Standards. If evidence of misrepresentation, fraud, deceit, or a deliberate error of omission is discovered during the application review and approval process, the application shall be decertified and remanded to DRO for a re-review based on resubmitted information. [Ord. 2018-002]

Section 14 Appeal

A. General

Appeals from Decision Making Bodies and Officials shall be conducted as set forth in this Section unless stated otherwise herein. [Ord. 2011-016] [Ord. 2018-002]

B. Judicial Relief

1. Appeal of BCC Decision

Any Person aggrieved by a decision of the BCC on an application for a DO or Status Report may apply for judicial relief by the filing of a Petition for Writ of *Certiorari* in the Circuit Court of the 15th Judicial Circuit in and for PBC, Florida, within 30-calendar days of the date the Zoning Resolution is filed with the Clerk of the Circuit Court. [Ord. 2018-002]

2. Appeal of Hearing Officer and ZC Variance Decisions

Any Person aggrieved by a decision of the Hearing Officer or the ZC on an application for a Type 2 Variance may apply for judicial relief by the filing of a Petition for Writ of *Certiorari* in the Circuit Court of the 15th Judicial Circuit in and for PBC, Florida, within 30-calendar days of the decision. [Ord. 2006-036] [Ord. 2018-002]

C. Non-Judicial Relief

1. Standards

a. Filing Time

The appeal by the Applicant shall be filed within 20 days after the notice indicating the decision is mailed to the Applicant, unless stated otherwise. A written request for the appeal shall state the grounds for the objection and use established forms and procedures. [Ord. 2011-016] [Ord. 2018-002]

b. Notification

The applicable PBC Official responsible for the decision or an interpretation shall mail a written notification containing the date, time, and place of the appeal hearing to the Applicant, at least ten days prior to the hearing. [Ord. 2011-016] [Ord. 2018-002]

2. Processes

a. Class B Conditional Use

Any Person aggrieved by the decision of the Zoning Commission regarding a Class B Conditional Use may appeal that decision to the BCC according to the following: [Ord. 2011-016]

- 1) The BCC shall consider the appeal petition within 60 days of its filing. [Ord. 2011-016]
- 2) At the hearing, the BCC shall provide the petitioner, the Applicant (if the Applicant is not the petitioner), any Person who appeared before the ZC, and PBC Staff an opportunity to present arguments and testimony. [Ord. 2011-016]
- 3) In making its decision, the BCC shall consider only the record before the ZC at the time of the decision, and the correctness of the findings of fact or any specific Condition of Approval imposed by the ZC. The notice and hearing provisions for a Class A Conditional Use shall govern the appeal. [Ord. 2011-016]
- 4) The BCC shall reverse the decision of the ZC only if there is substantial competent evidence in the record before the ZC that the decision failed to comply with the standards of Art. 2.B.7.B.2, Standards. [Ord. 2011-016]

b. Administrative DO

Any Person seeking a DO approval from the DRO, except for Type 1 Waivers, may appeal that decision, including any Conditions of Approval, to the Hearing Officer according to the following: [Ord. 2005-002] [Ord. 2011-016] [Ord. 2012-027] [Ord. 2018-002] [Ord. 2021-023]

- 1) The Hearing Officer shall consider the appeal petition within 60 days of its filing or a date agreed upon by the Applicant and the DRO. The Zoning Division shall coordinate and establish the date for the hearing. [Ord. 2011-016] [Ord. 2021-023]
- 2) The Hearing Officer may reverse or affirm or modify the decision, including any Conditions of Approval, of the DRO. [Ord. 2011-016] [Ord. 2018-002] [Ord. 2021-023]
- 3) At the hearing, the Hearing Officer shall only consider testimony and argument relating to the application, supporting documentation, and any Staff Report or documentation presented at the time of the DRO decision, including any Conditions of Approval. [Ord. 2011-016] [Ord. 2018-002] [Ord. 2021-023]
- 4) The decision, including any Conditions of Approval, of the DRO shall be presumed correct and the Person seeking the appeal shall have the burden of demonstrating error. The Hearing Officer shall defer to the discretion of the DRO in interpreting this Code and shall not modify or reject the interpretation if it is supported by substantial competent evidence, unless the interpretation is found to be contrary to the Plan, this Code, or the Official Zoning Map. [Ord. 2011-016] [Ord. 2018-002] [Ord. 2021-023]

c. Temporary Use

Any Person aggrieved by a decision of the DRO regarding a Temporary Use may appeal that decision to the Hearing Officer according to the following: [Ord. 2006-036] [Ord. 2011-016] [Ord. 2018-002]

- 1) The DRO shall coordinate and establish the date for the Hearing Officer to consider the appeal which shall be within 40 days of the filing of the appeal. [Ord. 2011-016] [Ord. 2018-002]
- 2) The Hearing Officer may reverse or affirm or modify the decision of the DRO. [Ord. 2011-016] [Ord. 2018-002]
- 3) At the hearing, the Hearing Officer shall only consider testimony and argument relating to the application, supporting documentation, and any Staff Report or documentation presented at the time of the DRO's decision. [Ord. 2011-016] [Ord. 2018-002]
- 4) The decision of the DRO shall be presumed correct and the Person seeking the appeal shall have the burden of demonstrating error. The Hearing Officer shall defer to the discretion of the DRO in interpreting the ULDC and shall not modify or reject the interpretation if it is supported by substantial competent evidence, unless the interpretation is found to be contrary to the Plan, this Code, or the Official Zoning Map. [Ord. 2011-016] [Ord. 2018-002]

a) Adult Entertainment

The appeal process is set forth in Art. 4.B.2.C.1.d, License per Palm Beach County Adult Entertainment Code. [Ord. 2018-002]

d. Interpretations

The Person who sought the interpretation may appeal that interpretation to the Hearing Officer, unless stated otherwise, according to the following: [Ord. 2006-036] [Ord. 2011-016]

- 1) The Agency responsible for the interpretation shall coordinate and establish the date for the Hearing Officer to consider the appeal which shall be within 40 days of the filing of the appeal or a date agreed upon the Applicant and Agency Staff. [Ord. 2011-016]
- 2) The Hearing Officer may reverse or affirm or modify the interpretation. [Ord. 2006-036] [Ord. 2011-016]
- 3) At the hearing, the Hearing Officer shall only consider testimony and argument relating to documentation submitted by the Person seeking the interpretation, and any Staff Report or documentation presented at the time of the interpretation. [Ord. 2011-016]
- 4) The interpretation shall be presumed correct and the Person seeking the appeal shall have the burden of demonstrating error. The Hearing Officer shall defer to the discretion of the applicable authority in interpreting the ULDC and shall not modify or reject the interpretation if it is supported by substantial competent evidence, unless the interpretation is found to be contrary to the Plan, this Code, or the Official Zoning Map. [Ord. 2011-016]

e. Type 1 Variance Decisions

Any Person aggrieved by a decision of the DRO on an application for a Type 1 Variance may appeal to the Hearing Officer according to the following: [Ord. 2006-036] [Ord. 2011-016] [Ord. 2018-002]

- 1) The Zoning Division shall coordinate and establish the date for the Hearing Officer to consider the appeal which shall be within 40 days of the filing of the appeal or a date agreed upon the Applicant and Zoning Staff. [Ord. 2011-016]
- 2) The Hearing Officer may reverse or affirm or modify the decision. [Ord. 2011-016]
- 3) At the hearing, the Hearing Officer shall only consider testimony and argument relating to the application, supporting documentation, and any Staff Report or documentation presented at the time of the Zoning Director's decision. [Ord. 2011-016]
- 4) The Zoning Director's decision shall be presumed correct and the Person seeking the appeal shall have the burden of demonstrating error. The Hearing Officer shall defer to the discretion of the Zoning Director in interpreting the ULDC and shall not modify or reject the interpretation if it is supported by substantial competent evidence, unless the interpretation is found to be contrary to the Plan, this Code, or the Official Zoning Map. [Ord. 2011-016]

f. Type 1 Waiver

1) URAO

Any Person seeking a URAO Type 1 Waiver from the DRO may appeal that decision to the BCC pursuant to the procedures in Art. 2.A.14.C.2.a, Class B Conditional Use. [Ord. 2011-016] [Ord. 2018-002]

2) Other Type 1 Waivers

Any Person seeking a Type 1 Waiver, except for URAO, may appeal that decision to the Zoning Commission subject to the following: [Ord. 2011-016] [Ord. 2012-027] [Ord. 2018-002]

- a) The ZC shall consider the appeal petition within 60 days of its filing. [Ord. 2011-016]
- b) At the hearing, the ZC shall provide the petitioner, the Applicant, and PBC Staff an opportunity to present arguments and testimony. [Ord. 2011-016]
- c) The ZC shall consider only the evidence presented to County Staff at time of the decision and the correctness of findings of fact or any condition imposed by the DRO. [Ord. 2011-016]
- d) The ZC shall modify or reject only if substantial evidence is contrary to the Plan, ULDC, or Official Zoning Map. [Ord. 2011-016]

CHAPTER B PUBLIC HEARING PROCESSES

Section 1 Purpose

To establish procedures and standards for:

- A. Sufficiency determination of applications that are subject to the Public Hearing processes; [Ord. 2018-002]
- B. Submittal, Review, Resubmittal, and Certification of applications that are subject to Table 2.A.2.C, Board of County Commissioners – Legislative and Quasi-Judicial Processes, and Table 2.A.2.C, Zoning Commission – Quasi-Judicial Processes; [Ord. 2018-002]
- C. Public notification as mandated by the Florida Statutes, and courtesy notification provided by the County; [Ord. 2018-002]
- D. Preparation of Staff Reports and recommendations to the Decision Making Bodies; [Ord. 2018-002]
- E. Scheduling and Conduct of Hearings; and, [Ord. 2018-002]
- F. Final decision by the BCC or ZC pursuant to Art. 2.G, Decision Making Bodies. [Ord. 2018-002]

Section 2 Sufficiency Review

A. Sufficiency

The DRO shall ensure the applications meet all Submittal requirements and the requests are consistent with Art. 2.A, General and the Zoning Technical Manual. If the application is determined to be sufficient by the DRO, the DRO shall provide the written notification to the Applicant and the application shall be distributed to the applicable County Agencies for review pursuant to the procedures and standards of this Article. [Ord. 2005-041] [Ord. 2018-002] [Ord. 2020-001]

B. Insufficiency

If an application is determined to be insufficient pursuant to the Zoning Technical Manual, the DRO shall provide written notification to the Applicant specifying the deficiencies. The notification shall be forwarded to the Applicant within 30-calendar days from the date of the Application Submittal. [Ord. 2018-002] [Ord. 2020-001]

- 1. No further action shall be taken on the application until the deficiencies are remedied. [Ord. 2018-002]
- 2. The Applicant shall address all insufficiencies no more than 30-calendar days after the application was determined to be insufficient, and resubmit the application on the Submittal date. [Ord. 2018-002] [Ord. 2020-001]
- 3. If the application is amended and determined to be sufficient by the DRO, the application shall be processed for review. [Ord. 2018-002]
- 4. If the deficiencies are not remedied, the DRO shall issue a second written notification to the Applicant indicating the application shall be considered withdrawn unless a written request for a time extension has been submitted and approved by the Zoning Director, pursuant to Art. 2.B.2.C, Time Extension. [Ord. 2018-002] [Ord. 2020-001]

C. Time Extension

The Applicant may submit a written request for an extension of time to the Zoning Director should additional time be required to address deficiencies of the application. Such request shall be submitted to the Zoning Director no later than five days after the issuance of the second Insufficiency notification. [Ord. 2018-002] [Ord. 2020-001]

D. Administrative Withdrawal

If the Applicant fails to address the insufficiencies or request and receive a time extension, it may result in an Administrative withdrawal of the application. [Ord. 2018-002] [Ord. 2020-001]

Section 3 General

The DRO shall coordinate the review of applications with all the applicable Agencies based on the request(s), and in accordance with Table 2.A.2.C, Board of County Commissioners – Legislative and Quasi-Judicial Processes, and Table 2.A.2.C, Zoning Commission – Quasi-Judicial Processes. For a PO Deviation application, the Applicant shall be responsible to coordinate the review of the application with the applicable Agencies. The application(s) shall be assigned by the DRO to be reviewed through the Full DRO, which consists of all applicable County Agencies. An Applicant may also request a Concurrent Review by the DRO. [Ord. 2018-002] [Ord. 2019-005]

Section 4 Review, Resubmittal, and Certification

Review of an application shall be initiated by the DRO on the date it is deemed sufficient. The deadlines for Staff comments, Resubmittal by the Applicant, and Certification shall be indicated on the Annual Zoning Calendar. [Ord. 2018-002] [Ord. 2020-001]

A. Exception for PO Deviations

PO Deviations shall be submitted to the Zoning Division on the Application Submittal date. Sufficiency review is completed by the DRO to ensure the request complies with Art. 2.B.7.G, Public Ownership (PO) Deviations and PPM #ZO-O-063. The Zoning Division is only responsible for ensuring the correct allowable deviations are being requested and placing the application and Staff summary on a BCC Zoning Agenda. PO Deviations, pursuant to Art. 11, Subdivision, Platting, and Required Improvements, shall be submitted directly to the County Engineer for review. [Ord. 2019-005] [Ord. 2020-001]

B. Review

Staff review shall be based on applications that are deemed sufficient, and any subsequent resubmittals. The DRO shall prepare a list of issues and comments and make it available to the Applicant. The Applicant shall provide a written response and revised documents(s), if applicable, addressing all outstanding issues and comments on the Resubmittal date indicated on the Annual Zoning Calendar. The written responses and revised document(s) shall address the issues and comments prepared by Staff and shall not significantly modify the application that was determined to be sufficient. [Ord. 2018-002] [Ord. 2020-001]

1. Significant modifications shall include, but not limited to the following: [Ord. 2020-001]
 - a. Additional requests to the application. [Ord. 2020-001]
 - b. Modifications to the site layout or resubmitted document(s) that would require new review of the document(s) or impact the timing of a final decision by the ZC or BCC. [Ord. 2020-001]
2. If the DRO determines that the revised requests and documents are significantly modified from the original request that was determined to be sufficient, the DRO shall provide a written notification to the Applicant describing what changes significantly modified the application. The Applicant shall: [Ord. 2020-001]
 - a. revise the requests and modify plans to eliminate the significant modification; [Ord. 2020-001]
 - b. submit a written request for a time extension to the Zoning Director to determine if the application is still sufficient or if a new sufficiency review is required. Both parties may agree to a reasonable request for an extension of time; or, [Ord. 2020-001]
 - c. request withdrawal of the application. [Ord. 2020-001]

C. Non-Certification

If the revised document(s) fail to address all listed outstanding issues and comments, the DRO shall issue a Result List indicating that the application is not certified. [Ord. 2018-002] [Ord. 2020-001]

1. Resubmittal Requirements

The Applicant shall provide a written response, addressing all outstanding issues and comments for those applications that are not certified, in a manner and form acceptable to the DRO. The revised document(s) shall be submitted on the Resubmittal date as established on the Annual Zoning Calendar. [Ord. 2005-041] [Ord. 2008-003] [Ord. 2018-002] [Ord. 2020-001]

2. Time Extension

Applicants who have applications for a DO that are not certified within 120-calendar days of Sufficiency determination by the DRO, must submit a written request and receive approval for an extension of time from the Zoning Director within the 120-calendar day deadline. Both parties may agree to a reasonable request for an extension of time. [Ord. 2020-001]

D. Certification

1. If the resubmitted document(s) satisfy Code requirements and address the DRO's list of outstanding issues and comments, the DRO shall issue a written notification indicating the certification of the application. [Ord. 2018-002] [Ord. 2020-001] [Ord. 2020-020]
2. If the Applicant fails to address the listed outstanding issues and comments within the 120-calendar day deadline, and fails to request and receive approval for a reasonable request for an extension of time, from the Zoning Director, within the 120-calendar day deadline, the application shall be scheduled to proceed to a public hearing to comply with the timeframes enumerated in the F.S. An Applicant may receive a recommendation of denial from Staff for failure to comply with the Standards pursuant to Art. 2.B.7, Types of Applications, including the outstanding issues and comments provided by Staff. [Ord. 2020-001]

E. Application Modification after Certification

Applications shall not be significantly modified after certification, unless requested or agreed to by the DRO. Significant modifications to the certified plan(s) and application(s) within ten days of a scheduled public

hearing date shall result in a postponement, when a decision can be rendered within the timeframe enumerated in the F.S., or if both parties agree to a reasonable request for an extension of time. For the purposes of this Article, a modification shall be considered significant if it exceeds 30 percent or more change from the certified plan or application request. The DRO may consider, but not limited to: intensity, density, land area, or vehicular use areas, to determine whether the certified plans or documents exceed the 30 percent threshold. [Ord. 2005-002] [Ord. 2018-002] [Ord. 2020-001]

Section 5 Notification

A. Applicability

Notice of proposed Zoning applications shall be provided as pursuant to the terms of this Section. [Ord. 2011-016] [Ord. 2015-031] [Ord. 2017-002] [Ord. 2017-025] [Ord. 2018-002] [Ord. 2023-020]

1. Public Hearings

Zoning applications subject to Zoning Commission and Board of County Commissioners Public Hearings shall require Public Notice, Courtesy Notice, and Sign Posting pursuant to this Section. Type 1 Variance notification consists of Courtesy Notice and Sign Posting with no Public Notice requirement. [Ord. 2023-020]

2. Administrative Inquiry

Administrative Inquiry related to a specific development or parcel and not for general direction on a topic requires Courtesy Notice only. [Ord. 2023-020]

3. Mobile Home Park Redevelopment

Proposed redevelopment of occupied Mobile Home Parks requires additional Sign Posting over and above the Notification required by this Section. See Additional Sign Notification Requirements for Redevelopment of Mobile Home Parks within this Section. [Ord. 2023-020]

4. Golf Course Redevelopment

Proposed redevelopment of golf courses within PDDs requires additional Courtesy Notice and Sign Posting over and above the Notification requirements of this Section. See Courtesy Notice in Art. 3.E, Planned Development Districts (PDDs). [Ord. 2023-020]

B. Public Notice

Public hearing public notice shall meet the requirements of F.S. § 125.66 and F.S. ch. 50, as amended from time to time [Ord. 2011-016] [Ord. 2015-031] [Ord. 2018-002] [Ord. 2023-020]

C. Courtesy Notice

A copy of such notice shall be kept available for public inspection during regular business hours at the office of PZB. Courtesy notices shall be mailed a minimum of 15-calendar days prior to the date of the first public hearing by first class mail with an ability to confirm delivery, properly addressed and with postage paid. [Ord. 2023-020]

1. Applicability and Mailing Boundary

a. Property Owners

A courtesy "notice" of a proposed Zoning application shall be sent to all owners of real property located within 500 feet of the boundary of the subject site in the Urban/Suburban, Agricultural Reserve, and Glades Tiers, and within 1,000 feet of the boundary of the subject site in the Exurban and Rural Tiers, whose names and addresses are known by reference to the latest published *ad valorem* tax records of PBC Property Appraiser, except that when real property consists of a condominium, the courtesy notice shall be given to the condominium association and all real Property Owners living within 500 feet. If the area within 500 feet is owned by the Applicant or partner in interest, the 500-foot notification boundary shall be extended from these parcels. Notification shall be sent to each owner as the ownership appears on the last approved tax roll. Administrative Inquiry Courtesy Notice is limited to Inquiries related to a specific development or parcel and not for general direction on a topic. [Ord. 2023-020]

b. POAs and Cooperatives

All POAs and cooperatives located within 500 feet of the boundary of the subject site in the Urban/Suburban, Agricultural Reserve, and Glades Tiers, and within 1,000 feet of the boundary of the subject site in the Exurban and Rural Tiers, shall be notified. The Applicant shall provide the list of all condominium associations, POAs, HOAs, or equivalent within the boundaries. [Ord. 2023-020]

c. Municipalities and Counties

All municipalities and counties within one mile of the boundary of the subject site shall be notified. If a site is located within a future annexation area as identified in a municipality's comprehensive plan, the associated municipality shall be notified. [Ord. 2023-020]

2. Postponements

All applications postponed for three or more consecutive hearings shall require the Applicant to provide a new courtesy notice pursuant to this Section. [Ord. 2010-022] [Ord. 2011-016] [Ord. 2018-002] [Ord. 2023-020]

3. Notice Content

Courtesy notices shall include the following information: [Ord. 2011-016] [Ord. 2018-002]

- a. A general summary of the application; [Ord. 2011-016] [Ord. 2018-002]
- b. A date, time, and place for the Public Hearing(s) or the Public Meeting(s) for Type 1 Variance; [Ord. 2011-016] [Ord. 2018-002]
- c. A general location map of the subject property; [Ord. 2011-016] [Ord. 2018-002]
- d. A statement indicating that interested parties may appear at the Public Hearing or the Public Meeting for the Type 1 Variance to be heard regarding the request; and, [Ord. 2011-016] [Ord. 2018-002]
- e. For PO Deviations, the notice shall state the name, phone number, address, and email address of the Applicant. Responses to any letters from interested parties shall be mailed directly to the Applicant, and the Applicant shall be responsible for notifying the BCC of the responses to the notification at the Public Hearing when the item is discussed. [Ord. 2019-005]

4. Failure to Receive Courtesy Notice

Failure to receive a notice shall not be deemed a failure to comply with Art. 2.B.5, Notification, or be grounds to challenge the validity of any decision made by the approving authority. [Ord. 2011-016] [Ord. 2015-031] [Ord. 2018-002]

D. Signs

1. The land subject to the application shall be posted with a notice of the public hearing by the Applicant on a sign meeting standards and specifications issued by the County at least 15-calendar days in advance of any public hearing. The Applicant shall submit photographs and a written affidavit confirming the signs have been posted. One sign shall be posted for each 250 feet of frontage, or a fraction thereof, along a street up to a maximum of ten signs. All signs shall be: [Ord. 2010-022] [Ord. 2011-016] [Ord. 2012-003] [Ord. 2016-016] [Ord. 2018-002] [Ord. 2023-020]
 - a. Evenly spaced along the street when more than one sign per property is required; [Ord. 2011-016] [Ord. 2012-003] [Ord. 2018-002]
 - b. Set back no more than 25 feet from the property line; and, [Ord. 2011-016] [Ord. 2018-002]
 - c. Erected in full view by the public. [Ord. 2011-016] [Ord. 2018-002]

Signs shall be posted in a location acceptable to the Zoning Director where the land does not have significant frontage on a street. The failure of any such posted notice to remain in place after the notice has been posted shall not be deemed a failure to comply with this requirement, or be grounds to challenge the validity of any decision made by the BCC. The Applicant shall ensure the signs have been removed no later than five days after the final hearing. [Ord. 2010-022] [Ord. 2011-016] [Ord. 2015-031] [Ord. 2018-002] [Ord. 2023-020]

2. Additional Sign Notification Requirements for Redevelopment of Mobile Home Parks

The purpose of this Section is to provide additional notice to a prospective purchaser of a Mobile Home in a Mobile Home Park that has either applied for or received an approval to redevelop the property, potentially to another use. Should a person decide to purchase any Mobile Home in this park, he or she may be required to bear the cost of removing the Mobile Home to another suitable location. An application for a DO that will result in the redevelopment of an existing occupied Mobile Home Park, shall be subject to the following additional notification requirements: [Ord. 2017-025]

a. Standards for Notification

In addition to the sign requirements above, the following additional requirements shall apply: [Ord. 2017-025]

- 1) The Applicant shall post signs within 30 days of an application being deemed sufficient. [Ord. 2017-025]
- 2) Signs shall be prepared by the Applicant using information provided by the Zoning Division, consistent with the requirements of the Zoning Technical Manual, and at a minimum shall be posted in English, Creole, and Spanish, to include the following specific text: "This mobile home park has applied for or has received an approval to redevelop the property, potentially to another use. Should you decide to purchase any mobile home in this park, you may be required to bear the cost of removing the mobile home to another suitable location." [Ord. 2017-025]

- 3) One sign shall be posted for each 250 feet of frontage, evenly spaced, along a street up to a maximum of five signs, and where applicable at the entrance to any park management offices and recreational facilities. [Ord. 2017-025]
- 4) Signs shall remain posted until such time as the application is approved, denied, or withdrawn. [Ord. 2017-025]

b. Standards Applicable to Redevelopment Approvals

Upon approval, the above public information signs shall be updated and reposted in accordance with the following: [Ord. 2017-025]

- 1) The signs shall be posted within 30 days of a Zoning application approval, in accordance with the information above, including number, spacing, location, and language, to include the following text: "This mobile home park has been approved for (specific use). Should you decide to purchase any mobile home in this park, you may be required to bear the cost of removing the mobile home to another suitable location." [Ord. 2017-025]
- 2) The signs shall be maintained until such time as all Mobile Home units within the affected development area have been removed from the park, or the approval is abandoned. [Ord. 2017-025]

c. Compliance with Notice Requirement

The owner of the Mobile Home Park shall be required to submit the form Affidavit of Installation of Notification Signs substantiating that such signage is consistently being maintained, on a quarterly basis, as follows: [Ord. 2017-025]

- 1) To the Zoning Division, for signs required under Art. 2.B.5.D.2.b.1) above; and [Ord. 2017-025]
- 2) To the Monitoring and Compliance Section of the Planning Division, for signs required under Art. 2.B.5.D.2.b.2) above. [Ord. 2017-025]

E. Public Notice of County Initiated Applications

The County shall provide written notification to each Property Owner of property subject to a County Initiated Zoning application to revise the zoning district on the Official Zoning Map a minimum of 30-calendar days prior to the first public hearing. [Ord. 2023-020]

F. Exceptions to Courtesy Notice and Sign Posting

The courtesy mailing notice and sign posting notice requirements shall not apply to a County Initiated Zoning application provided that the Public Notice requirements of this Section and F.S. § 125.66 and F.S. ch. 50 are met, and shall not apply to ABN and Corrective Resolutions. The sign posting notice requirements shall not apply to PO Deviations and Administrative Inquiries. [Ord. 2023-020]

Section 6 Public Hearing Procedures

A. Scheduling

Once an application has been certified by the DRO, the DRO shall schedule a public hearing in accordance with the dates established on the Annual Zoning Calendar and pursuant to F.S. § 125.022. [Ord. 2018-002] [Ord. 2020-001] [Ord. 2023-020]

1. Number of Hearings

Both the ZC and the BCC shall hold at least one public hearing on applications that are subject to the Public Hearing processes, unless otherwise stated herein. [Ord. 2018-002]

2. County Initiated Official Zoning Map Amendment

The ZC shall hold at least one public hearing and the BCC shall hold two public hearings on a proposed amendment to the boundaries of the Official Zoning Map for PBC-initiated applications consisting of ten or more contiguous acres of land. [Ord. 2018-002] [Ord. 2023-020]

3. PO Deviations

The application for public hearing shall be placed on the next available BCC Zoning Hearing for which the public notice requirements can be satisfied. [Ord. 2019-005] [Ord. 2023-020]

B. Staff Report and Recommendation

The DRO or the PBC Official responsible for reviewing the application shall prepare a report for each application. The DRO shall incorporate the analysis and Conditions of Approval of the Agencies who are responsible for reviewing the application, and a recommendation of approval, approval with conditions, or denial based on the applicable Standards. The report shall be made available to the public at least seven-calendar days prior to the hearing date. [Ord. 2018-002] [Ord. 2023-020]

1. PO Deviations

The Applicant is responsible for preparing a Staff Report and recommendation. The report shall include an analysis of the request and Standards, as described in Art. 2.B.7.G, Public Ownership (PO)

Deviations, including any proposed Conditions of Approval. The report shall be available to the public at least seven-calendar days prior to the hearing date. [Ord. 2019-005] [Ord. 2023-020]

C. Board Action

1. Action by ZC

The ZC shall conduct a public hearing on the application, subject to the following procedures: [Ord. 2018-002]

a. Recommendations by the ZC

The ZC shall consider the application where the BCC makes a final decision, including Staff Report, relevant support materials, public testimony, and public testimony given at the hearing. After close of the public hearing, the ZC shall recommend to the BCC that the application be approved, approved with conditions, modified, or denied based upon the applicable Standards in Art. 2.B.7, Types of Applications. [Ord. 2008-003] [Ord. 2011-016] [Ord. 2012-027] [Ord. 2017-007] [Ord. 2018-002] [Ord. 2020-001]

- 1) The ZC may consider an application be remanded, continued, or postponed when a decision can be rendered within the timeframe enumerated in the F.S., or if both parties agree to a reasonable request for an extension of time. If there is no mutual agreement for a time extension, the application shall move forward with a recommendation by the ZC. [Ord. 2020-001]

b. Final Decision by the ZC

The ZC shall consider the application where the ZC makes a final decision, including, Staff Report, relevant support materials, DRO certification, public testimony, and public testimony given at the hearing. After close of the public hearing, the ZC shall by not less than a majority of a quorum present approve, approve with conditions, modify, or deny the application. The actions shall be based upon the applicable and any Standards specific to the use as required in Art. 4.B, Use Classification, thereby adopting a Resolution approving, approving with conditions, or denying the proposed request. The Resolution shall be filed with the Zoning Division. [Ord. 2006-036] [Ord. 2008-003] [Ord. 2018-002] [Ord. 2020-001]

- 1) The ZC may consider an application be remanded, continued, or postponed when a decision can be rendered within the timeframe enumerated in the F.S., or if both parties agree to a reasonable request for an extension of time. If there is no mutual agreement for a time extension, the application shall move forward with a final decision by the ZC. [Ord. 2020-001]

2. Action by BCC

a. Recommendations by the ZC

The BCC shall consider the application, Staff Report, relevant support materials, the recommendation of the ZC, and the public testimony submitted before and given at the hearing. [Ord. 2018-002]

b. Final Decision by the BCC

The BCC shall consider the application, Staff Report, relevant support materials, DRO certification, the ZC recommendation, public testimony submitted before and given at the hearing. After close of the public hearing, the BCC shall by not less than a majority of a quorum present approve, approve with conditions, modify, or deny the application. The actions shall be based upon the applicable and any Standards specific to the use as required in Art. 4.B, Use Classification, thereby adopting a Resolution approving, approving with conditions, or denying the proposed request. The Resolution shall be filed with the Clerk of the Circuit Court. For PO Deviations a written notification, in lieu of a Resolution, is prepared by the DRO, provided to the Applicant, and filed with the Zoning Division. [Ord. 2008-003] [Ord. 2012-027] [Ord. 2017-007] [Ord. 2018-002] [Ord. 2019-005] [Ord. 2020-001] [Ord. 2020-020]

- 1) The BCC may consider an application be: remanded, continued, or postponed when a decision can be rendered within the timeframe enumerated in the F.S., or if both parties agree to a reasonable request for an extension of time. If there is no mutual agreement for a time extension, the application shall move forward with a final decision by the BCC. [Ord. 2020-001]

3. Action by the Hearing Officer

At the public hearing(s), the Hearing Officer shall consider the application, all relevant support materials, Staff Report, testimony given, and evidence introduced into the record at the public hearing(s) and decide to approve, approve with conditions, deny, continue, postpone, modify, or withdraw the request. [Ord. 2006-036] [Ord. 2018-002]

D. Conduct of Hearings

1. Oath or Affirmation

All testimony and evidence shall be given under oath or by affirmation to the body conducting the hearing. [Ord. 2018-002]

2. Rights of All Persons

Any person may appear at a public hearing and submit evidence, either individually or as a representative of an organization. Anyone representing an organization shall present evidence of his/her authority to speak on behalf of the organization in regard to the matter under consideration. Each person who appears at a public hearing shall be identified, state an address, and if appearing on behalf of an organization, state the name and mailing address of the organization. [Ord. 2018-002]

3. Procedures for Public Hearings

The procedures of the hearings shall be in accordance with Art. 2.G.2, General Provisions. The Decision Making Body may adopt by-laws stipulating the manner in which the proceedings will be conducted. The body conducting the hearing may exclude testimony or evidence that it finds to be irrelevant, immaterial, or unduly repetitious formal rules of evidence. Formal rules of evidence shall not apply but fundamental due process shall be observed. The order of the proceedings shall be as follows: [Ord. 2018-002]

- a. The Applicant shall present any information the Applicant deems appropriate. [Ord. 2018-002]
- b. The PBC Official responsible for reviewing the applications shall present a written or oral recommendation, including any report prepared. This recommendation shall address each standard required to be considered by this Code prior to rendering a decision on the application. For PO Deviations, the Applicant shall present a written or oral recommendation, including any report prepared, with no presentation from the PBC Official. This recommendation shall address each standard required to be considered by this Code prior to rendering a decision on the application. [Ord. 2018-002] [Ord. 2019-005]
- c. Public testimony shall be heard. [Ord. 2018-002]
- d. The PBC Official responsible for reviewing the application may respond to any statement made by the Applicant or any public comment. [Ord. 2018-002]
- e. The Applicant may respond to any testimony or evidence presented by the PBC Staff or public at the discretion of the Chair. [Ord. 2018-002]
- f. The Decision Making Body may direct questions to Staff and the Applicant specific to the request. [Ord. 2018-002]
- g. The Decision Making Body shall discuss the facts of the application and make a recommendation. [Ord. 2018-002]

E. Continuance or Postponement of Hearings

The BCC or ZC conducting the public hearing, may on its own motion or at the request of an Applicant, consider an application be continued or postponed when a decision can be rendered within the timeframe enumerated in the F.S., or if both parties agree to a reasonable request for an extension of time. [Ord. 2005-041] [Ord. 2006-036] [Ord. 2018-002] [Ord. 2020-001] [Ord. 2023-020]

1. Postponement by Right

An Applicant shall be allowed a Postponement by Right for an application scheduled for a ZC or BCC public hearing provided that the request for postponement is made in writing at least nine-calendar days prior to the hearing and when a decision can be rendered within the timeframe enumerated in the F.S., or if both parties agree to a reasonable request for an extension of time. If the postponement is requested less than nine-calendar days prior to the date of the scheduled hearing, the request for postponement shall be presented at the hearing and at the discretion of the ZC or BCC. [Ord. 2018-002] [Ord. 2020-001] [Ord. 2023-020]

F. Finalization of Approved DOs

The Applicant shall submit an application to the DRO for finalization of the BCC or ZC-approved DOs in accordance with the procedures in Art. 2.C.3.B, Finalization of BCC or ZC DOs, as applicable. [Ord. 2018-002] [Ord. 2019-005]

G. Other Procedures

Other procedures, which include: Postponement, Remand, Suspension of Development Review, Withdrawal, and Denial of Application are referenced in Art. 2.A.10; Violation of Condition of DO in Art. 2.A.11; Outstanding Liens or Fines in Art. 2.A.12; Misrepresentation in Art. 2.A.13; and, Appeal in Art. 2.A.14. [Ord. 2018-002] [Ord. 2020-001]

Section 7 Types of Applications

A. Official Zoning Map Amendment (Rezoning) to a Standard District

1. Purpose

To provide a means for changing the boundaries of the Official Zoning Map for a parcel of land. This Section is not intended to relieve particular hardships or to confer special privileges or rights on any person, but only to make necessary adjustments in light of changed conditions. In determining whether to grant an amendment, the BCC shall consider, the consistency of the proposed amendment with the intent of the Plan set forth in this Section. [Ord. 2018-002]

2. Standards

When considering an application for Rezoning to a Standard Zoning District with or without a COZ, the BCC and ZC shall utilize Standards a through g indicated below. An amendment which fails to meet any of these Standards shall be deemed adverse to the public interest and shall not be approved. [Ord. 2007-001] [Ord. 2012-003] [Ord. 2017-007] [Ord. 2018-002]

a. Consistency with the Plan

The proposed amendment is consistent with the Plan. [Ord. 2007-001]

b. Consistency with the Code

The proposed amendment is not in conflict with any portion of this Code, and is consistent with the stated purpose and intent of this Code. [Ord. 2007-001]

c. Compatibility with Surrounding Uses

The proposed amendment is compatible, and generally consistent with existing uses and surrounding zoning districts, and is the appropriate zoning district for the parcel of land. In making this finding, the BCC may apply an alternative zoning district. [Ord. 2007-001]

d. Effect on the Natural Environment

The proposed amendment will not result in significantly adverse impacts on the natural environment, including, but not limited to, water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment. [Ord. 2007-001]

e. Development Patterns

The proposed amendment will result in a logical, orderly, and timely development pattern. [Ord. 2007-001]

f. Adequate Public Facilities

The proposed amendment complies with Art. 2.F, Concurrency (Adequate Public Facility Standards). [Ord. 2007-001]

g. Changed Conditions or Circumstances

There are demonstrated changed site conditions or circumstances provided by the Applicant's Justification Statement that necessitate the amendment. [Ord. 2007-001] [Ord. 2018-002]

3. Effect of a Map Amendment

a. General

Approval of a rezoning shall be deemed to authorize only the particular zoning district for which it is approved.

b. Time Limitations

A Rezoning with a COZ may be reviewed pursuant to Art. 2.E, Monitoring of Development Orders (DOs) and Conditions of Approval. [Ord. 2005-002] [Ord. 2018-002]

4. Development Order Amendment to a Standard Zoning District with a COZ

A DO for a Standard Zoning District with a COZ may be modified through a DOA pursuant to the Conditions of Approval established with its original approval, or as otherwise set forth in this Code. The Applicant shall demonstrate and the BCC must find that a change of circumstances or site conditions has occurred which make it necessary or reasonable to amend, extend, vary, or alter the COZ. [Ord. 2005-041] [Ord. 2009-040] [Ord. 2018-002]

5. Rezoning of Mobile Home Parks

Any rezoning of property having an existing Mobile Home Park shall comply with the requirements of F.S. § 723.083, Governmental Action Affecting Removal of Mobile Home Owners. [Ord. 2017-025]

B Conditional Uses and Official Zoning Map Amendment (Rezoning) to a PDD or TDD

1. Purpose

Conditional Uses and Rezoning to a PDD or TDD, require individual review of the subject property's location, proposed design, site configuration, intensity or density to ensure the appropriateness, and compatibility of the use with its surrounding land uses. [Ord. 2007-001] [Ord. 2011-016] [Ord. 2017-007] [Ord. 2018-002]

2. Standards

When considering a DO application for a Rezoning to a PDD or a TDD, or a Conditional Use, excluding Conditional Use requests for Density Bonus pursuant to Art. 5.G.1, Workforce Housing Program (WHP), the BCC or ZC shall utilize the Standards a through h indicated below. An application which fails to meet any of these Standards shall be deemed adverse to the public interest and shall not be approved. [Ord. 2007-001] [Ord. 2011-016] [Ord. 2012-003] [Ord. 2017-007] [Ord. 2018-002] [Ord. 2019-033]

a. Consistency with the Plan

The proposed use or amendment is consistent with the purposes, Goals, Objectives, and Policies of the Plan, including standards for building and structural intensities and densities, and intensities of use. [Ord. 2007-001]

b. Consistency with the Code

The proposed use or amendment is not in conflict with any portion of this Code, and is consistent with the stated purpose and intent of this Code. [Ord. 2007-001] [Ord. 2018-002]

c. Compatibility with Surrounding Uses

The proposed use or amendment is compatible and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development. [Ord. 2007-001]

d. Design Minimizes Adverse Impact

The design of the proposed use minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.

e. Design Minimizes Environmental Impact

The proposed use and design minimizes environmental impacts, including, but not limited to, water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment. [Ord. 2007-001]

f. Development Patterns

The proposed use or amendment will result in a logical, orderly, and timely development pattern. [Ord. 2007-001]

g. Adequate Public Facilities

The extent to which the proposed use complies with Art. 2.F, Concurrency (Adequate Public Facility Standards). [Ord. 2007-001]

h. Changed Conditions or Circumstances

There are demonstrated changed site conditions or circumstances, provided by the Applicant's Justification Statement that necessitate a modification. [Ord. 2007-001] [Ord. 2018-002]

3. Standards

When considering a DO application for a Conditional Use request for Density Bonus pursuant to Art. 5.G.1, Workforce Housing Program (WHP), the BCC shall utilize the Standards indicated in Art. 5.G.1.B.2.e.2)b), Factors for Consideration. [Ord. 2019-033]

4. Effect of an Issuance of a DO or a Map Amendment

a. General

Issuance of a DO for a Conditional Use or a Rezoning to a PDD or TDD shall be deemed to authorize only the particular site configuration, layout, and level of impacts which were approved pursuant to this Code. [Ord. 2018-002] [Ord. 2019-034]

1) Permitted uses may occur in conjunction with or in place of a Conditional Use; and [Ord. 2018-002]

2) Approval of a rezoning shall be deemed to authorize only the particular zoning district for which it is approved. [Ord. 2018-002]

b. Time Limitations

The DO shall be reviewed pursuant to Art. 2.E, Monitoring of Development Orders (DOs) and Conditions of Approval. [Ord. 2018-002]

c. Zoning Plan Compliance and Initiation of Use

Development, benefit, or use of a Conditional Use shall not be permitted until the Applicant has secured and complied with all other DOs and site improvements required by this Code. [Ord. 2017-007] [Ord. 2018-002]

The approval of a DO shall not ensure that subsequent approvals for other Development Permits will be granted unless the relevant and applicable portions of this Code are met. [Ord. 2018-002]

5. Authorized Class A Conditional Uses

Only those uses that are authorized as Class A Conditional Use in the Use Matrices in Art. 4, Use Regulations, may be approved as Class A Conditional Use, unless stated otherwise herein. The designation of a use as a Class A Conditional Use in a district does not constitute an authorization of such use or an assurance that such use will be approved under this Code. [Ord. 2017-007] [Ord. 2018-002]

6. Authorized Class B Conditional Uses

Only those uses that are authorized as Class B Conditional Use in the Use Matrices in Art. 4, Use Regulations, may be approved as Class B Conditional Use. The designation of a use as a Class B Conditional Use in a district does not constitute an authorization of such use or an assurance that such use will be approved under this Code. [Ord. 2017-007]

7. Requested Use

All prior approvals for a Requested Use shall correspond to a Conditional Use. [Ord. 2017-007] [Ord. 2018-002]

C. Development Order Amendment (DOA)

1. Purpose

A DO for a COZ, Conditional Use, PDD, or TDD may be amended only pursuant to the standards and procedures established for its original approval, or as otherwise set forth in this Chapter. A Type 2 Waiver or a Type 2 Variance shall not be amended through a DOA process. [Ord. 2007-001] [Ord. 2011-016] [Ord. 2017-007] [Ord. 2018-002]

2. Standards

Pursuant to the Standards indicated in Art. 2.B.7.B.2, Standards, Conditional Uses and Rezoning to a PDD or TDD. [Ord. 2018-002]

3. Expedited Application Consideration (EAC)

DO amendments may be eligible for expedited consideration and review subject to the following criteria: [Ord. 2016-042] [Ord. 2018-002]

a. Criteria

The application shall meet all of the following criteria in order to be reviewed under the EAC process; [Ord. 2016-042] [Ord. 2018-002]

- 1) Approval of the Zoning Director and the County Engineer shall be obtained prior to submission. The Zoning Director and the County Engineer shall consult with any other Department responsible for the Conditions of Approval. They shall approve or deny the request to obtain expedited consideration based on compatibility of the request with the surrounding area. The magnitude of the requested modification shall also be considered. The County Engineer and the Zoning Director shall only permit expedited consideration for proposals which have minimal site design impact, and which, if approved, will be compatible with surrounding areas; [Ord. 2007-001] [Ord. 2016-042] [Ord. 2018-002]
- 2) The proposed application, if approved, will not increase intensity or density of the project; [Ord. 2007-001]
- 3) Proof of compliance with all previous conditions of development approval; [Ord. 2007-001]
- 4) No change to the threshold certificate, except alteration of legal description, shall occur; [Ord. 2007-001]
- 5) The proposed amendment does not affect uses or intensities/densities within a DRI; [Ord. 2007-001] [Ord. 2016-042] [Ord. 2018-002]
- 6) All impacts shall be internal to the project; and, [Ord. 2007-001] [Ord. 2016-042]
- 7) Addition of land area limited to abandoned R-O-W or easements along the perimeter of the development. [Ord. 2016-042]

b. Procedures

The Applicant shall submit a written request for an EAC to the County Engineer and the Zoning Director ten days prior to the Submittal date of the application. After approval by the County Engineer and the Zoning Director to participate in an EAC process, the application shall be submitted and reviewed pursuant to the applicable development approval procedure, except that: [Ord. 2018-002]

- 1) After the application is certified by the DRO, the proposed modification may proceed directly to the next BCC hearing for which advertising requirements can be met. [Ord. 2007-001]

4. Effect of an Issuance of a DO

Pursuant to Art. 2.B.7.B.4, Effect of an Issuance of a DO or a Map Amendment for Conditional Uses or a Rezoning to a PDD or TDD. [Ord. 2018-002]

D. Type 2 Waiver

1. Purpose

A Type 2 Waiver is to allow flexibility for residential, mixed-use or infill redevelopment projects, or architectural design, site design, or layout, where alternative solutions can be allowed, subject to performance criteria or limitations. Type 2 Waivers are not intended to demonstrate financial viability, except for Community Residences pursuant to the Standards described below, nor circumvent the intent of this Code. A Type 2 Waiver may not be granted if it conflicts with other Sections of this Code, or the Florida Building Code. [Ord. 2011-016] [Ord. 2012-027] [Ord. 2018-002] [Ord. 2021-022] [Ord. 2023-023]

2. Applicability

Requests for Type 2 Waivers shall only be permitted where expressly stated within this Code or indicated below. [Ord. 2011-016] [Ord. 2012-027] [Ord. 2018-002] [Ord. 2021-006] [Ord. 2023-023]

a. Overlays

- 1) Art. 3.B.14.B.1.a, Expansion of Existing Non-Conforming Parking, for WCRAO addition of parking to a non-conforming structure. [Ord. 2018-002] [Ord. 2019-005] [Ord. 2021-006] [Ord. 2023-023]
- 2) Art. 3.B.15.F.6.e.4)a), Residential Setbacks, for IRO minimum residential setbacks from outdoor uses. [Ord. 2018-002] [Ord. 2021-006] [Ord. 2023-023]
- 3) Table 3.B.16.G, Type 1 and 2 URAO Waivers, for URAO Waivers. [Ord. 2018-002] [Ord. 2021-006] [Ord. 2023-023]

b. Planned Developments

- 1) Art. 3.E.1.C.2.a.1)a), Type 2 Waiver – Infill Development, for PDD minimum frontage. [Ord. 2018-002] [Ord. 2023-023]
- 2) Art. 3.E.1.C.2.a.5)b), for PDD cul-de-sac maximum percentage for Local Streets. [Ord. 2018-002] [Ord. 2021-006] [Ord. 2023-023]
- 3) Art. 3.F.4.C.3.a.1), U/S Tier, for TMD maximum building height in the U/S Tier. [Ord. 2021-006] [Ord. 2023-023]
- 4) Art. 3.F.4.D.9.a, Type 2 Waiver, for AGR-TMD block structure. [Ord. 2018-002] [Ord. 2021-006] [Ord. 2023-023]

c. Community Residence, Recovery Community, or Congregate Living Facility

- 1) Art. 4.B.1.C.1.e, Location, for CLF location. [Ord. 2021-022] [Ord. 2023-023]
- 2) Art. 4.B.1.C.3, Family Community Residence – d, Licensing, Certification, or Charter; e, Occupancy; or, f, Location. [Ord. 2021-022] [Ord. 2023-023]
- 3) Art. 4.B.1.C.6.e, Location, for Recovery Community location. [Ord. 2021-022] [Ord. 2023-023]
- 4) Art. 4.B.1.C.9.c.2), Type 2 Waiver, for Transitional Community Residence Use, Location, Licensing, and Occupancy. [Ord. 2021-022] [Ord. 2023-023]

d. Parking, Buffers, and Landscaping

- 1) Art. 3.E.3.B.2.b, Landscape Buffers, for MUPD Type 3 Incompatibility Buffer. [Ord. 2021-006] [Ord. 2023-023]
- 2) Art. 3.F.2.A.2.d.1)a), Type 2 Waiver, for AGR Tier parking structure. [Ord. 2018-002] [Ord. 2021-006] [Ord. 2023-023]
- 3) Art. 6.B.2.A.1.b.1)d), Type 2 Waiver, for Large Scale Commercial Development parking. [Ord. 2018-002] [Ord. 2023-023]
- 4) Table 7.C.2.C, Incompatibility Buffer Landscape Requirements, for Type 3 Incompatibility Buffer landscape barrier wall. [Ord. 2021-006] [Ord. 2022-029] [Ord. 2023-023]
- 5) Art. 6, Parking, Loading, and Circulation and Art. 7, Landscaping, for Employee Housing. [Ord. 2023-023]

e. Location or Dimensional Criteria

- 1) Art. 4.B.2.C.33.i.2), Location, for Medical Marijuana Dispensing Facility minimum distance from an Elementary or Secondary School. [Ord. 2021-006] [Ord. 2023-023]
- 2) Art. 4.B.9.H.5, Type 2 Waiver from Required Dimensional Criteria, for Commercial Communication Tower dimensional criteria. [Ord. 2018-002] [Ord. 2021-006] [Ord. 2023-023]
- 3) Table 5.B.1.A, New, Modified, or Relocated Government Towers Not Subject to an Emergency, for non-emergency Government-Owned Tower dimensional criteria. [Ord. 2021-006] [Ord. 2023-023]

f. Other

- 1) Art. 5.C.1.E.2, Unique Structure, for review process for a Unique Structure. [Ord. 2018-002] [Ord. 2021-006] [Ord. 2023-023]
- 2) Art. 5.E.5.E, Type 2 Waiver, for hours of operation. [Ord. 2018-018] [Ord. 2023-023]

- 3) Table 11.E.2.A, Chart of Minor Streets, for minimum Legal Access for collocated Landscape Service in the AR/RSA and AR/USA Zoning Districts. [Ord. 2020-007] [Ord. 2023-023]
- 4) Table 3.D.1.A Property Development Regulations and Art. 3.D.1.E, Building Height, for setbacks for the redevelopment of RH/RM Zoned Beachfront Properties. [Ord. 2024-014]

3. Standards for a Type 2 Waiver

When considering a DO application for a Type 2 Waiver, the BCC shall utilize Standards a through c indicated below and any other standards specific to a Type 2 Waiver. For a Unique Structure, refer to the Standards listed in Art. 2.B.7.D.4 below; for a Commercial Communication Tower, refer to Art. 4.B.9.H.5.d, Criteria for Granting a Type 2 Waiver; for Minimum Legal Access for Collocated Landscape Service, refer to Art. 11, Subdivision, Platting, and Required Improvements; for a Medical Marijuana Dispensing Facility, pursuant to Art. 4.B.2.C.33.i, refer to Standards a through d indicated below; for a Community Residence, Recovery Community, or Congregate Living Facility, refer to standards listed in Art. 2.B.7.D.5 below and, for the redevelopment of RH/RM Zoned Beachfront Properties, refer to standards listed in Art. 2.B.7.D.6 below. A Type 2 Waiver, which fails to meet any of the Standards, shall be deemed adverse to the public interest and shall not be approved. [Ord. 2011-016] [Ord. 2012-027] [Ord. 2018-002] [Ord. 2020-007] [Ord. 2021-022] [Ord. 2024-014]

- a. The Waiver does not create additional conflicts with other requirements of the ULDC, and is consistent with the stated purpose and intent for the zoning district or overlay; [Ord. 2010-022] [Ord. 2011-016] [Ord. 2012-027] [Ord. 2018-002]
- b. The Waiver will not cause a detrimental effect on the overall design and development standards of the project, and will be in harmony with the general site layout and design details of the development; and, [Ord. 2010-022] [Ord. 2012-027] [Ord. 2018-002]
- c. The alternative design option recommended as part of the Waiver approval, if granted, will not adversely impact adjacent properties. [Ord. 2010-022] [Ord. 2012-027] [Ord. 2018-002]
- d. For the purpose of Medical Marijuana Dispensing Facility in Art. 4.B.2.C.33.i, the BCC shall make the determination that the location of a medical marijuana dispensing facility promotes the health, safety, and welfare of the community. [Ord. 2017-028] [Ord. 2018-002]

4. Standards for a Unique Structure

When considering a DO application for a Unique Structure, the BCC and ZC shall utilize the Standards a through e indicated below in addition to the requirements as stated in Art. 5.C.1.E.2, Design Standards, Unique Structure. A request for a Unique Structure which fails to meet any of these Standards shall be deemed adverse to the public interest and shall not be approved. [Ord. 2009-040] [Ord. 2018-002]

a. Consistency with the Plan

The proposed architectural composition is consistent with the purposes, Goals, Objectives, and Policies of the Plan, including standards for building and structural intensities and densities. [Ord. 2009-040] [Ord. 2018-002]

b. Complies with Other Standards of Code

The proposed architectural composition complies with all standards imposed on it by all other applicable provisions of this Code for use, layout, function, and general development characteristics. [Ord. 2009-040] [Ord. 2018-002]

c. Architectural Compatibility

The proposed architectural composition is consistent with the Architectural Style (see Technical Manual for examples), and generally consistent with the: scale, proportion, unity, harmony, and context of the architecture in the surrounding area. [Ord. 2009-040] [Ord. 2018-002]

d. Design Minimizes Environmental Impact

The proposed architectural composition minimizes environmental impacts, including, but not limited to, water, air, stormwater management, wildlife, vegetation, wetlands, and the natural functioning of the environment. [Ord. 2009-040] [Ord. 2018-002]

e. Circumstances

Whether and to what extent it can be demonstrated that there are any circumstances that support the designation. [Ord. 2009-040] [Ord. 2018-002]

5. Standards for Community Residences, Recovery Communities, or Congregate Living Facilities

When considering a DO application for a Type 2 Waiver for a Family Community Residence, Transitional Community Residence, Recovery Community, or Congregate Living Facility, the BCC and ZC shall make a finding of approval, approval with conditions, or denial, based on the Standards indicated below. The requested Type 2 Waiver by an Applicant constitutes the procedure by which an Applicant shall apply for the additional Reasonable Accommodation for a Family Community Residence, Transitional Community Residence, and Recovery Community. A request for a Community

Residence, Recovery Community, or Congregate Living Facility, which fails to meet any of the applicable Standards below shall be deemed adverse to public interest and shall not be approved: [Ord. 2021-022]

a. Family Community Residence or Transitional Community Residence

- 1) When a proposed Community Residence would be located less than 660 feet or seven lots, whichever is greater, from the nearest existing Community Residence, Recovery Community, or Congregate Living Facility, the Applicant shall demonstrate by the greater weight of evidence that: [Ord. 2021-022]
 - a) The proposed Community Residence will not interfere with the normalization and community integration of the residents of any existing Community Residence, Recovery Community, or Congregate Living Facility and that the presence of other Community Residences, Recovery Community, or Congregate Living Facilities will not interfere with the normalization and community integration of the residents of the proposed Community Residence; and [Ord. 2021-022]
 - b) The proposed Community Residence in combination with any existing Community Residences, Recovery Communities, or Congregate Living Facilities will not alter the residential character of the surrounding neighborhood by creating an institutional atmosphere or by creating or intensifying an institutional atmosphere or *de facto* social service district by clustering Community Residences, Recovery Communities, or Congregate Living Facilities on a block face or concentrating them in a neighborhood. [Ord. 2021-022]
- 2) When the State of Florida does not offer a license or certification for the type of Community Residence proposed and the population it would serve, or the proposed Community Residence is not eligible to be granted an Oxford House Charter, the Applicant shall demonstrate by the greater weight of evidence that: [Ord. 2021-022]
 - a) The proposed Community Residence will be operated in a manner effectively similar to that of a licensed or certified Community Residence; [Ord. 2021-022]
 - b) Staff who reside and/or work in the Community Residence will be adequately trained in accordance with standards typically required by licensing or State certification for a Community Residence; [Ord. 2021-022]
 - c) The Community Residence will emulate a biological family and be operated to achieve normalization and community integration; and, [Ord. 2021-022]
 - d) The rules and practices governing how the Community Residence operates will actually protect the residents from abuse, exploitation, fraud, theft, neglect, insufficient support, use of illegal drugs or alcohol, and misuse of prescription medications. [Ord. 2021-022]
- 3) When an Applicant seeks to provide housing for more than ten unrelated individuals in a Community Residence, the BCC shall not approve a Type 2 Waiver, unless and until it finds that the Applicant: [Ord. 2021-022]
 - a) Specifies by how many individuals it wishes to exceed ten residents and demonstrates by the greater weight of evidence that housing more than ten residents is required to ensure the financial and/or therapeutic viability of the Community Residence; [Ord. 2021-022]
 - b) Demonstrates by the greater weight of evidence that the primary function of the proposed Community Residence is residential where any medical treatment is merely incidental to the residential use of the property; [Ord. 2021-022]
 - c) Demonstrates by the greater weight of evidence that the proposed Community Residence will emulate a biological family and operate as a functional family rather than as a boarding or rooming house, nursing home, short-term rental, continuing care facility, motel, hotel, treatment center, rehabilitation center, institutional use, assisted living facility that does not comport with the definition of "Community Residence," or other non-residential use; and, [Ord. 2021-022]
 - d) Demonstrates by the greater weight of evidence that the requested number of residents in the proposed Community Residence will not interfere with the normalization and community integration of the occupants of any existing Community Residence, Congregate Living Facility, or Recovery Community. [Ord. 2021-022]
- 4) When an Applicant seeks to allow a Transitional Community Residence in the AGR, AR, RE, RT, or RS Zoning Districts, Detached Units Residential Pod of a PUD, or Residential Land Use Zone of a TND; or ZLL or Cottage Homes within CL/CH/CHO-MUPD or IND/L-PIPD Zoning Districts; or the NR Sub-area of the WCRAO, when the use is allowed only by the BCC, pursuant to Art. 4.B.1.C.9.c.2)a), Use Approval, the BCC shall utilize Standards a) through e)

indicated below. An application, which fails to meet any of these Standards shall be deemed adverse to public interest and shall not be approved. [Ord. 2021-022]

- a) The proposed Transitional Community Residence will not interfere with the normalization and community integration of the residents of any existing Community Residence, Recovery Community, or Congregate Living Facility, and that the presence of other Community Residences, Recovery Communities, or Congregate Living Facilities will not interfere with the normalization and community integration of the residents of the proposed Community Residence; [Ord. 2021-022]
- b) The proposed Transitional Community Residence, alone or in combination with any existing Community Residences, Recovery Communities, or Congregate Living Facilities will not alter the residential character of the surrounding neighborhood by creating an institutional atmosphere or by creating or intensifying a *de facto* social service district by clustering Community Residences, Recovery Communities, or Congregate Living Facilities on a block or concentrating them in a neighborhood; [Ord. 2021-022]
- c) The proposed Transitional Community Residence will be compatible with the residential uses allowed as of right in the zoning district; [Ord. 2021-022]
- d) The proposed Transitional Community Residence, alone or in combination with any existing Community Residences, Recovery Communities, or Congregate Living Facilities, will not alter the residential stability of the surrounding neighborhood; [Ord. 2021-022]
- e) The Applicant demonstrates that the State of Florida offers certification or requires a license for this type of Transitional Community Residence and the population it would serve. When the State of Florida does not offer certification or require a license for this type of Transitional Community Residence and the population it would serve, the Applicant shall demonstrate that: [Ord. 2021-022]
 - (1) The proposed Transitional Community Residence will be operated in a manner effectively similar to that of a licensed or certified Community Residence; [Ord. 2021-022]
 - (2) Staff will be adequately trained in accordance with standards typically required by licensing or State certification for a Community Residence; [Ord. 2021-022]
 - (3) The Transitional Community Residence will emulate a biological family and be operated to achieve normalization and community integration; and, [Ord. 2021-022]
 - (4) The rules and practices governing how the Transitional Community Residence operates will actually protect residents from abuse, exploitation, fraud, theft, neglect, insufficient support, use of alcohol or illegal drugs, and misuse of prescription medications. [Ord. 2021-022]

b. Recovery Community or Congregate Living Facility

When a proposed Recovery Community or Congregate Living Facility would be located less than 1,200 feet or ten lots, whichever is greater, from the nearest existing Community Residence, Recovery Community, or Congregate Living Facility, the Applicant shall demonstrate by the greater weight of evidence that: [Ord. 2021-022]

- 1) The proposed Recovery Community or Congregate Living Facility will not interfere with the normalization and community integration of the residents of any existing Community Residences, Recovery Communities, or Congregate Living Facilities, and that the presence of existing Community Residences, Recovery Communities, or Congregate Living Facilities will not interfere with the normalization and community integration of the residents of the proposed Recovery Community; and [Ord. 2021-022]
- 2) The proposed Recovery Community or Congregate Living Facility in combination with any existing Community Residences, Recovery Communities, or Congregate Living Facilities will not alter the residential character of the surrounding neighborhood by creating or intensifying an institutional atmosphere or creating or intensifying a *de facto* social service district by clustering Community Residences, Recovery Communities, or Congregate Living Facilities, on a block face or concentrating them in a neighborhood. [Ord. 2021-022]

6. Standards and Criteria for RH/RM Zoned Beachfront Properties

The RH/RM Zoned Beachfront Properties Type 2 Waiver is limited to parcels proposing redevelopment of existing Multifamily structure(s) greater than three stories and greater than 35 feet in height, that abut the Atlantic Ocean, have existing RM or RH zoning, are not proposing an increase to existing built residential density, and are not proposing residential structures extending eastward of the existing building footprint. The Waiver is limited to a reduction in the additional setbacks in Art. 3.D.1.E.2.a), and a reduction of up to five feet from the minimum front setback, as provided in Table 3.D.1.A, Property

Development Regulations. When considering a DO application for a RH/RM Zoned Beachfront Properties Type 2 Waiver, the BCC and ZC shall utilize the Standards a through d indicated below in addition to Standards a through c as stated in Art. 2.B.7.D.3, Standards for a Type 2 Waiver. A request which fails to meet any of these Standards shall be deemed adverse to the public interest and shall not be approved. [Ord. 2024-014]

a. Consistency with the Plan

The proposed development is consistent with the Goals, Objectives, and Policies of the Plan. [Ord. 2024-014]

b. Consistency with the Code

The proposed development is not in conflict with any portion of this Code, and is not in conflict with any Local, State, and Federal regulations. [Ord. 2024-014]

c. Compatibility with Surrounding Uses

The proposed development is compatible and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development. [Ord. 2024-014]

d. Changed Conditions or Circumstances

There are changed site conditions or circumstances, as demonstrated by the Applicant's Justification Statement, that necessitate a redevelopment of an existing structure in order to address government regulations that have changed since the initial construction. [Ord. 2024-014]

7. Effect of an Issuance of a DO

Pursuant to Art. 2.B.7.B.4, Effect of an Issuance of a DO or a Map Amendment for Conditional Uses or a Rezoning to a PDD or TDD. [Ord. 2018-002]

E. Type 2 Variance

1. Purpose

A Type 2 Variance is to allow adjustment from certain Code requirements as it applies to land development. Type 2 Variances are not intended to relieve specific financial hardship nor circumvent the intent of this Code. [Ord. 2011-001] [Ord. 2018-002]

2. Prohibition

Variance requests for density or intensity beyond the stated limits of the Plan shall be prohibited. In addition, the ZC is not authorized to grant Variances from Code regulations with prohibited provisions, or the following Articles of the ULDC: [Ord. 2006-036] [Ord. 2012-003] [Ord. 2014-001] [Ord. 2018-002]

- a. Art. 1, General Provisions (excluding Art. 1.F.3.D.1, Applicability); [Ord. 2008-003] [Ord. 2018-002]
- b. Art. 2, Application Processes and Procedures; [Ord. 2018-002]
- c. Art. 3.B.3, COZ, Conditional Overlay Zone; [Ord. 2018-002]
- d. Art. 3.B.16, Urban Redevelopment Area Overlay (URAO), except for parking requirements within the URAO; [Ord. 2018-002]
- e. Art. 4, Use Regulations, unless specifically authorized in Art. 4.B, Use Classification; or to allow for a reduction in minimum lot size required for a use, in accordance with Art. 1.G.1.B.6, Lots Reduced by Eminent Domain, Properties Affected by Eminent Domain Proceedings; [Ord. 2007-013] [Ord. 2008-003] [Ord. 2010-022] [Ord. 2014-001] [Ord. 2018-002]
- f. Art. 5.C.1.H.1.f, Design Elements Subject to ZC or BCC Approval; [Ord. 2011-001] [Ord. 2018-002]
- g. Art. 5.C.1.H.1.g, Rural Design Elements, except for Table 5.C.1.H, Rural Roof Design Element; [Ord. 2011-001] [Ord. 2018-002]
- h. Art. 5.C.1.I, Large Scale Commercial Development; [Ord. 2011-001] [Ord. 2018-002]
- i. Art. 5.D, Parks and Recreation – Rules and Recreation Standards, with the exception of Art. 5.D.2.G, Public Park Landscape Standards; [Ord. 2018-002]
- j. Art. 5.F, Legal Documents (excluding provisions in Art. 5.F.2, Easements); [Ord. 2018-002]
- k. Art. 5.G, Density Bonus Programs; [Ord. 2018-002]
- l. All Articles with definitions; [Ord. 2022-029]
- m. Art. 8.F.7, Message Center and Digital Display Signs; [Ord. 2016-020] [Ord. 2018-002] [Ord. 2022-029]
- n. Art. 13, Impact Fees; [Ord. 2018-002]
- o. Art. 14, Environmental Standards; [Ord. 2018-002]
- p. Art. 15, Health Regulations; and, [Ord. 2018-002]
- q. Art. 16, Airport Regulations. [Ord. 2018-002]

3. Type 2 Variance Applications

Type 2 Variance applications include those that are processed by the Zoning Division and the Land Development Division. Variance applications may be submitted concurrently or separately with a request for a DO unless determined by the DRO that the Variance is subject to a Standalone application, and must be approved prior to the submittal of the DO application. [Ord. 2018-002]

a. Zoning Type 2 Variance (ZV)

The ZV shall only apply to applications requesting Variances that exceed the request limitations of Art. 2.C.5.F, Type 1 Variance. [Ord. 2018-002] [Ord. 2020-020]

b. Subdivision Variance (SV)

A Variance from Art. 11, Subdivision, Platting, and Required Improvements, shall be submitted to the County Engineer and shall comply with the application procedures and requirements of this Article. [Ord. 2018-002]

4. Sequence of Submittal

An application for a Variance shall be submitted as a Concurrent or a Standalone Variance, and shall comply with the following: [Ord. 2018-002]

a. Concurrent Variance

A Concurrent Variance shall be submitted with the DO application. The Variance and the DO application shall be scheduled for the same hearings to be considered by the ZC. Approval of a Variance by the ZC shall be obtained prior to Final Plan approval by the DRO, plat recordation, or issuance of a Building Permit, whichever occurs first. [Ord. 2018-002]

b. Standalone Variance

If an application for a DO is contingent upon approval of a Variance, then the Variance shall be submitted as a Standalone Variance application. The approval of the Variance by the ZC shall be obtained prior to certification or Final Approval of the DO by the DRO. [Ord. 2018-002]

5. Application Requirements

a. Description

All properties described in one application must be contiguous. The DRO may require more than one application if the property concerned contains more than 40 acres, or the fee paid for one application would not equal the cost of processing multiple applications. [Ord. 2018-002]

6. Standards for Zoning or Subdivision Variance

The ZC shall consider and find that all seven criteria listed below have been satisfied by the Applicant prior to making a motion for approval, of a Zoning or Subdivision Variance: [Ord. 2006-036]

- a. Special conditions and circumstances exist that are peculiar to the parcel of land, building, or structure, that are not applicable to other parcels of land, structures, or buildings in the same district;
- b. Special circumstances and conditions do not result from the actions of the Applicant;
- c. Granting the Variance shall not confer upon the Applicant any special privilege denied by the Plan and this Code to other parcels of land, buildings, or structures, in the same district;
- d. Literal interpretation and enforcement of the terms and provisions of this Code would deprive the Applicant of rights commonly enjoyed by other parcels of land in the same district, and would work an unnecessary and undue hardship;
- e. Granting the Variance is the minimum Variance that will make possible the reasonable use of the parcel of land, building, or structure;
- f. Granting the Variance will be consistent with the purposes, Goals, Objectives, and Policies of the Plan, and this Code; and,
- g. Granting the Variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

7. Noise Variance

For requests for a Noise Variance, the ZC shall consider in addition to the Standards listed above: [Ord. 2010-022] [Ord. 2018-002]

- a. Additional time is necessary to alter the activity to comply with the provisions of Art. 5.E.4.B, Noise Limitations and Prohibitions; [Ord. 2010-022] [Ord. 2018-002]
- b. The activity, operation, or noise source will be of temporary duration which cannot be done in a manner that complies with Art. 5.E.4.B, Noise Limitations and Prohibitions; [Ord. 2010-022] [Ord. 2018-002]
- c. No reasonable alternative is available. Any Variance granted pursuant to this Section contains all conditions upon which the Variance has been granted, including but not limited to the effective date, time of day, location, sound level, limit or equipment limitation, and duration of the Variance. [Ord. 2010-022] [Ord. 2018-002]

8. Effect of Issuance of a DO

Issuance of a Type 2 Variance DO shall be deemed to authorize any permitted use in the underlying zoning district, unless a specific Condition of Approval limits the specific use for which it is issued. [Ord. 2018-002]

a. Time Limitation

Unless otherwise specified in the DO or a Condition of Approval, construction shall be commenced pursuant to Art. 2.E.2.C, Time Limitations for Commencement, within 12 months of the Variance approval date, otherwise it shall become null and void. If more than one Variance was granted, the use of one of the Variances shall vest the other Variances. Permitted timeframes do not change with successive owners. [Ord. 2018-002]

1) Request for Time Extension

Upon written request, an extension of time for the Variance or any condition thereof may be granted for a maximum of 24 months. No request for an extension shall be considered unless a written application requesting the extension is submitted to the appropriate Department prior to the date the Development Order or condition is to expire. Failure to submit an application for an extension within the time limits established by this Section shall render the Development Order for the Variance null and void. [Ord. 2018-002]

2) Exemption for Applications Not Subject to Building Permit

If a Type 2 Variance is requested that does not require a Building Permit to implement, then the Applicant shall include a written statement with the application requesting a Condition of Approval to grant an exemption from time limitation requirements. Granting of the exemption from time limitations shall be subject to ZC approval of a Condition of Approval specifying that no Building Permit is necessary to vest the Type 2 Variance. [Ord. 2018-002]

b. Conforming

Approval of a Variance by the ZC shall render a parcel of land, building, or the structure to be conforming. Use of the Variance shall be limited to the exact dimensions and configuration of the parcel of land, building, or structure as indicated on the Site Plan as submitted in the application. The parcel of land, building, or structure may not be further expanded, except in accordance with the standards of the Code. [Ord. 2018-002]

F. Development Order Abandonment (ABN)

1. Purpose

A DO for a Conditional Use or similar DO granted under Zoning Resolution No. 3-57, Ordinance No. 73-2, Ordinance No. 92-20, or Ordinance No. 2003-067, as amended, may be abandoned according to the procedures in this Section and pursuant to Art. 2.B, Public Hearing Processes. DOs, that are partially or fully implemented, or have not been implemented may be abandoned subject to the requirements of this Section. [Ord. 2010-022] [Ord. 2018-002] [Ord. 2019-034]

2. Authority

The same Authority that granted the original DO shall render a decision on a request for abandonment. [Ord. 2019-034]

3. Applicability

This Section shall apply to DOs granted by the BCC or ZC, and are requested to be abandoned by an Applicant. DOs granting approval for a rezoning may not be abandoned. A DO for a Rezoning with a Conditional Overlay Zone (COZ), may be processed for an abandonment of the COZ. [Ord. 2019-034]

a. In determining the applicable process for an ABN application, the Applicant shall review the approved DO Resolution, including the Whereas Clauses, Conditions of Approval, and indicate in the application whether a new use will be requested concurrent with the abandonment. An application for an abandonment of a prior approval will be processed based on whether the DO has not been: partially or fully implemented, or has not been implemented. [Ord. 2019-034]

b. Exception

DOs reviewed pursuant to the time requirements, or for failure to comply with Conditions of a DO shall be reviewed under the requirements of Art. 2.E, Monitoring of Development Orders (DOs) and Conditions of Approval. [Ord. 2019-034]

4. Sequence of Submittal

An application for an abandonment may be submitted as follows: [Ord. 2019-034]

a. Concurrent Abandonment

A Concurrent Abandonment may be submitted with a separate application requesting a new DO or a DOA as follows: [Ord. 2019-034]

1) Abandon previous Resolution granting the entire DO and submit concurrently a new DO subject to a Public Hearing approval process; [Ord. 2019-034]

- 2) Abandon previous Resolution granting the entire DO and submit concurrently with a new DO subject to an Administrative or Building Permit approval process; or, [Ord. 2019-034]
- 3) Abandon a DO that was approved with multiple requests, and may include Rezoning and Conditional Uses in the same Resolution. [Ord. 2019-034]
 - a) The ABN application and the Resolution shall clearly identify those use(s) that are subject to the abandonment; [Ord. 2019-034]
 - b) The DOA application shall delete those conditions that are tied to the abandoned use(s); and, [Ord. 2019-034]
 - c) If the multiple requests included a rezoning and were approved under the same Resolution, then the Resolution shall remain in effect for the zoning district of the subject property unless the Applicant is requesting a rezoning of the property to a different zoning district. [Ord. 2019-034]
- b. Standalone Abandonment**
Reviewed for abandonment with no proposed use. Any future use would be subject to the requirements of the Code at time of approval. [Ord. 2019-034]
- 5. Application Requirements**
In addition to the Submittal Requirements pursuant to Art. 2.A.6.A, Zoning Application Requirements, the Applicant shall provide the following: [Ord. 2019-034]
 - a. Consent of all Property Owners of the subject property, if applicable; and [Ord. 2019-034]
 - b. Status of all Conditions of Approval, whether the Conditions are no longer applicable, implemented, or pending implementation. The Applicant must confirm that there are no reliance of other interested parties on additional performance or activities related to the proposed ABN. [Ord. 2019-034]
- 6. Standards**
When considering an ABN application, the BCC and ZC shall consider the Standards indicated below. [Ord. 2019-034]
 - a. Consistency with the Plan**
The proposed abandonment is consistent with the Plan. [Ord. 2019-034]
 - b. Consistency with the Code**
The proposed abandonment, is not in conflict with any portion of this Code, and is consistent with the stated purpose and intent of this Code. The abandonment of a DO does not create any new non-conformities. [Ord. 2019-034]
 - c. Adequate Public Facilities**
The proposed abandonment of the DO shall not impact the approved requirements of Art. 2.F, Concurrency (Adequate Public Facility Standards). When a non-implemented DO is abandoned, all concurrency affiliated with the DO is no longer valid. For implemented DOs, concurrency for the remainder of the non-affected area shall remain. Concurrency for any new uses on the subject property shall be subject to the requirements of Art. 2.F, Concurrency (Adequate Public Facility Standards). [Ord. 2019-034]
 - d. Changed Conditions or Circumstances**
There are demonstrated changed site conditions or circumstances provided by the Applicant's Justification Statement that necessitate the abandonment. Abandonment of the Resolution approving the DO will not impact other DOs approved on the same site. There is no reliance by other parties for additional performances, or tasks to be implemented, that were required in the original DO. [Ord. 2019-034]
- 7. Scheduling of a Hearing**
Once an ABN application has been certified by the DRO, the DRO shall schedule a public hearing in accordance with the dates established on the Annual Zoning Calendar. The scheduling of the application of public hearing shall ensure the public notice requirements are satisfied. [Ord. 2019-034]
 - a. An application for abandonment processed under Art. 2.B.7.F.4.a.2), Concurrent Abandonment or Art. 2.B.7.F.4.b, Standalone Abandonment only need to be reviewed by the board making the final decision, and a Staff Report would not need to be prepared. The Findings of Fact for compliance with the Standards will be contained within the Abandonment DO. [Ord. 2019-034]
 - b. An application for abandonment processed under Art. 2.B.7.F.4.a.3), Concurrent Abandonment, may be processed as an EAC, provided it meets the criteria pursuant to Art. 2.B.7.C.3.a, Criteria. [Ord. 2019-034]

G. Public Ownership (PO) Deviations

1. Purpose

A PO Deviation is to allow adjustment from certain Code requirements as it applies to land development that supports Government Facilities within the PO Zoning District. [Ord. 2019-005]

2. Applicability

Requests for PO Deviations shall only be permitted as indicated in the following Table. [Ord. 2019-005]

Table 2.B.7.G – PO Deviations

Art. 4.B.4.C.10.d, Location and Separation Requirements, for a Homeless Resource Center
Art. 5, Supplementary Standards
Art. 6, Parking, Loading, and Circulation
Art. 7, Landscaping
[Ord. 2019-005]

3. Standards

Development supporting Government Facilities within the PO Zoning District, subject to an application established by the Executive Director of PZB and approval by the BCC utilizing the following Standards: [Ord. 2007-013] [Ord. 2010-022] [Ord. 2019-005]

- the proposed deviation(s) maintains compatibility with the uses and character of land surrounding and in the vicinity of the land proposed for development; [Ord. 2007-013]
- adverse effects on adjacent uses and lands, including but not limited to visual impact, are determined to be minimal or otherwise negligible upon review and consideration of surrounding lands, uses, zoning, future land use (FLU), character, or other preexisting conditions; [Ord. 2007-013]
- special or unique circumstances or factors exist that are applicable to the proposed use, structure, feature, or land proposed for development; [Ord. 2007-013]
- the proposed deviation(s) allows for reasonable or practical use of the land proposed for development; [Ord. 2007-013]
- approval of the deviation(s) is consistent with the purpose, Goals, Objectives, and Policies of the Plan, and this Code; and, [Ord.2007-013]
- approval of the deviation(s) is not injurious to the surrounding area or otherwise detrimental to public health, safety, and general welfare. [Ord. 2007-013]

4. Effect of Issuance of a DO

Issuance of a PO Deviations DO shall be deemed to authorize any permitted use in the underlying zoning district, unless a specific Condition of Approval limits the specific use for which it was issued. [Ord. 2019-005]

Section 8 Conditions of Approval

A. BCC-Approved DOs

The DRO and ZC may recommend, and the BCC may impose, such conditions in a DO that are necessary to accomplish the purposes of the Plan and this Code; to prevent or minimize adverse effects upon the public, the environment, and neighborhoods; and, to ensure compatibility, including, but not limited to, limitations on function, size, bulk, location of improvements and buildings, standards for landscaping, buffering, lighting, adequate ingress and egress, conveyance of property, on-site or off-site improvements, duration, and hours of operation. Conditions shall be included if conventional standards are inadequate to protect the public interest and surrounding land uses or if additional improvements are needed to facilitate a transition between different uses. Conditions are not intended to restate Code provisions. Any Code provision which is expressly restated as a Condition of Approval, shall not be eligible for a Variance unless otherwise specified in the condition. Fixed time periods may be set for compliance with conditions and shall be governed by Art. 2.E, Monitoring of Development Orders (DOs) and Conditions of Approval. [Ord. 2007-001] [Ord. 2011-016] [Ord. 2017-007] [Ord. 2018-002]

B. ZC-Approved DOs

The DRO may recommend, and the ZC may impose, such conditions in a DO for the same purposes as stated in above. [Ord. 2017-007] [Ord. 2018-002]

Section 9 Effect of Issuance of a Development Order

A. General

Issuance of a DO for a Conditional Use, DOA, or a Type 2 Waiver, shall be deemed to authorize only the particular site configuration, layout, and level of impacts which were approved pursuant to this Code, unless the approval is abandoned. Permitted uses may occur in conjunction with or in place of a Conditional Use, provided there are no Conditions of Approval that prohibit the permitted uses to be added to the building or a bay of the building. [Ord. 2011-016] [Ord. 2017-007] [Ord. 2018-002]

1. Zoning Plan Compliance and Initiation of Use

Development, benefit, or use of a Conditional Use or DOA shall not be permitted until the Applicant has secured and complied with all other Development Orders and site improvements required by this Code. [Ord. 2017-007] [Ord. 2018-002]

The approval of a DO shall not ensure that subsequent approvals for other DOs will be granted unless the relevant and applicable portions of this Code are met. [Ord. 2018-002]

B. Type 2 Variance

Issuance of a Type 2 Variance DO shall be deemed to authorize any permitted use in the underlying zoning district, unless a specific Condition of Approval limits the specific use for which it is issued. A DO for a Variance shall run with the land. [Ord. 2018-002]

1. Time Limitation

Unless otherwise specified in the DO or a Condition of Approval, construction shall be commenced pursuant to Art. 2.E.2.C, Time Limitations for Commencement, within 12 months of the Variance approval date, otherwise it shall become null and void. If more than one Variance was granted, the use of one of the Variances shall vest the other Variances. Permitted timeframes do not change with successive owners. [Ord. 2012-027] [Ord. 2018-002]

a. Request for Time Extension

Upon written request, an extension of time for the Variance or any condition thereof may be granted for a maximum of 24 months. No request for an extension shall be considered unless a written application requesting the extension is submitted to the appropriate Department prior to the date the Development Order or condition is to expire. Failure to submit an application for an extension within the time limits established by this Section shall render the Development Order for the Variance null and void. [Ord. 2012-027]

b. Exemption for Applications Not Subject to Building Permit

If a Type 2 Variance is requested that does not require a Building Permit to implement, then the Applicant shall include a written statement with the application requesting a Condition of Approval to grant an exemption from time limitation requirements. Granting of the exemption from time limitations shall be subject to ZC approval of a Condition of Approval specifying that no Building Permit is necessary to vest the Type 2 Variance. [Ord. 2012-027] [Ord. 2018-002]

2. Conforming

Approval of a Variance by the ZC shall render a parcel of land, building, or the structure to be conforming. Use of the Variance shall be limited to the exact dimensions and configuration of the parcel of land, building, or structure as indicated on the Site Plan as submitted in the application. The parcel of land, building, or structure may not be further expanded, except in accordance with the standards of the Code. [Ord. 2006-036]

CHAPTER C ADMINISTRATIVE PROCESSES

Section 1 Purpose

To establish procedures and standards for: [Ord. 2018-002]

- A. Sufficiency determination of applications that are subject to the Administrative processes; [Ord. 2018-002]
- B. Submittal, Review, Resubmittal, and Approval of applications that are subject to Art. 2.C.3.A, Process for Administrative Requests; [Ord. 2018-002]
- C. Finalization of approved BCC or ZC DOs by the DRO; [Ord. 2018-002]
- D. Review and final decisions on requests that are subject to the Administrative processes by the DRO; and, [Ord. 2018-002]
- E. Considerations for other Administrative types of processes that will not result in the issuance of a DO. [Ord. 2018-002]

Section 2 Sufficiency Review

A. Sufficiency

1. The DRO shall ensure the applications meet all Submittal requirements pursuant to the Zoning Technical Manual, and the requests are consistent with Art. 2.A, General. If the application is determined to be sufficient by the DRO, the DRO shall provide written notification to the Applicant and the application shall be distributed to the applicable County Agencies for review pursuant to the procedures and standards of this Article. [Ord. 2018-002] [Ord. 2020-001] [Ord. 2020-020]

2. Exemptions

- a. A DROE application may be exempt from sufficiency review subject to the following: [Ord. 2020-020]
 - 1) The Justification Statement and supporting documents provided as part of the ZC or BCC application approval, previously identified all applicable Type 1 Waivers which were reviewed as part of the approved Preliminary Plans; [Ord. 2020-020]
 - 2) Revisions to the plan(s) are limited to only those amendments to address specific Conditions of Approval due at Final DRO; or any site modifications requested specifically by the Board; [Ord. 2020-020]
 - 3) Revisions are to reflect amendments necessary to address an approved Type 2 Waiver or a Type 2 Variance. [Ord. 2020-020]
- b. BCC or ZC Preliminary Plans such as a Master Plan or Site Plan that are not required to be amended at Final DRO, may be processed and finalized pursuant to Art. 2.C.5.A.2, Exceptions. [Ord. 2020-020]

3. Application Review

- a. A DROE application may be exempted from sufficiency review, if the Applicant indicates at time of application submittal if the application meets any of the exemptions in Art. 2.C.2.A.2, Exemptions. Staff shall determine within five days of submittal if an application meets the exemptions for sufficiency review in order to continue to be processed. Applications not meeting the exemptions shall be subject to sufficiency review. [Ord. 2020-020]
- b. The 120-calendar day review timeframe for DROE applications exempted for sufficiency shall commence on the date when the application is submitted to the Zoning Division. [Ord. 2020-020]

B. Insufficiency

If an application is determined to be insufficient pursuant to the Zoning Technical Manual, the DRO shall provide written notification to the Applicant specifying the deficiencies. The notification shall be forwarded to the Applicant within 30-calendar days from the date of the Application's Submittal. [Ord. 2018-002] [Ord. 2020-001]

1. No further action shall be taken on the application until the deficiencies are remedied. [Ord. 2018-002]
2. The Applicant shall address all insufficiencies no more than 30-calendar days after the application was determined to be insufficient, and resubmit the application on the Submittal date. [Ord. 2018-002] [Ord. 2020-001]
3. If the application is amended and determined to be sufficient by the DRO, the application shall be processed for review. [Ord. 2018-002]
4. If the deficiencies are not remedied, the DRO shall issue a second written notification to the Applicant indicating the application shall be considered withdrawn unless a written request for a time extension has been submitted and approved by the Zoning Director, pursuant to Art. 2.C.2.C, Time Extension. [Ord. 2018-002] [Ord. 2020-001]

C. Time Extension

The Applicant may submit a written request for an extension of time to the Zoning Director should additional time be required to address deficiencies of the application. Such request shall be submitted to the Zoning Director no later than five days after the issuance of the second Insufficiency notification. [Ord. 2018-002] [Ord. 2020-001]

D. Administrative Withdrawal

If the Applicant fails to address the insufficiencies; or request and receive a time extension, it may result in an Administrative withdrawal of the application. [Ord. 2018-002] [Ord. 2020-001] [Ord. 2020-020]

Section 3 General

The DRO shall coordinate the review of applications with all the applicable Agencies based on the request(s), and in accordance with this Section. The application(s) shall be assigned by the DRO to be reviewed either through the Full DRO, which consists of all applicable County Agencies, or the Zoning Agency Review (ZAR), which consists of one to a maximum of five Agencies pursuant to Art. 2.C.4.A.3, Zoning Agency Review (ZAR). An Applicant may also request Concurrent Review by the DRO. [Ord. 2018-002] [Ord. 2020-020] [Ord. 2023-026]

A. Process for Administrative Requests

1. Full DRO

- a. Finalize the BCC or ZC DOs and plans. [Ord. 2018-002] [Ord. 2023-026]
- b. Use subject to Art. 4.A.7.C.2, Development Review Officer (DRO), pursuant to Art. 4.B, Use Classification, Art. 3.B, Overlays, and Art. 5.G, Density Bonus Programs. [Ord. 2018-002] [Ord. 2023-026]
- c. Administrative Modifications to prior DO in accordance with Table 2.C.5.C, Administrative Modifications to Prior DOs. [Ord. 2018-002] [Ord. 2023-026]
- d. Administrative Waiver, when more than five Agencies are affected by the request. [Ord. 2018-002] [Ord. 2023-026]
- e. Subdivision Plan pursuant to Art. 11, Subdivision, Platting, and Required Improvements. [Ord. 2018-002] [Ord. 2023-026]
- f. ABN for prior DO approved by the DRO, when more than five Agencies are affected by the request. [Ord. 2023-026]

2. ZAR That Issues a DO

- a. Use subject to Art. 4.A.7.C.2, Development Review Officer (DRO) with an approved Site or Subdivision Plan for those requests to add a new use or replacement of a use. [Ord. 2018-002] [Ord. 2023-026]
- b. Administrative Modifications to prior DO in accordance with Table 2.C.5.C, Administrative Modifications to Prior DOs with an approved Site or Subdivision Plan for those requests to add a new use or replacement of a use, when five or fewer Agencies are affected by the request. [Ord. 2018-002] [Ord. 2023-026]
- c. Administrative Waiver, when five or fewer Agencies are affected by the request. [Ord. 2018-002] [Ord. 2020-020] [Ord. 2023-026]
- d. Administrative Variance. [Ord. 2018-002] [Ord. 2023-026]
- e. Temporary Use pursuant to Art. 4.B.11, Temporary Uses. [Ord. 2018-002] [Ord. 2023-026]
- f. Special Permits pursuant to Art. 4.B.2.C.31.h.1) or Art. 4.B.2.C.32.f.1), Dog Friendly Dining, or Art. 8.H.2, Billboards. [Ord. 2018-002] [Ord. 2018-018] [Ord. 2022-001] [Ord. 2023-026]
- g. ABN for prior DO approved by the DRO, when five or fewer Agencies are affected by the request. [Ord. 2018-018] [Ord. 2023-026]

3. ZAR That Does Not Issue a DO

- a. Reasonable Accommodation. [Ord. 2018-002] [Ord. 2023-026]
- b. Zoning Confirmation Letter – Community Residence, Recovery Community, or Congregate Living Facility. [Ord. 2021-022] [Ord. 2023-026]
- c. Zoning Confirmation Letter (Formal and Non-Site Specific Formal). [Ord. 2018-002] [Ord. 2023-026]
- d. Zoning Confirmation Letter (Informal). [Ord. 2018-002] [Ord. 2023-026]
- e. Unity of Title or Release of Unity of Title. [Ord. 2018-002] [Ord. 2023-026]

B. Finalization of BCC or ZC DOs

1. After the BCC or ZC hearing and approval of a DO, the Applicant shall submit to the DRO for Final Plan approval subject to Art. 2.C.5.A, Finalization of BCC or ZC DOs. Final Plan approval shall be required for all DOs even for those applications that do not include graphic changes to the plan(s) such as tables required for Variance or Waiver requests and approvals. [Ord. 2018-002] [Ord. 2020-020]

2. DRO Expedited Review (DROE)

Final DRO applications may be expedited when they are consistent with the requirements in Art. 2.C.5.A.1, DRO Expedited Review (DROE). [Ord. 2018-002] [Ord. 2020-020]

3. Concurrent Review

Applications may be reviewed pursuant to Art. 2.A.4.D, Type 2 or 3 Concurrent Review. [Ord. 2018-002] [Ord. 2020-020]

B. Administrative Approval

1. The DRO shall make a final decision on uses pursuant to Art. 3, Overlays and Zoning Districts, and Art. 4, Use Regulations; Administrative applications pursuant to Art. 2.C.3.A, Process for Administrative Requests; or, where required by this Code. [Ord. 2020-020]

2. Concurrent Review

Applications may be reviewed pursuant to the Concurrent Review process, in Art. 2.A.4.D, Type 2 or 3 Concurrent Review. [Ord. 2020-020]

3. All Zoning Plans shall be approved by the DRO prior to applying for a Building Permit; commencing related land development activities; or, utilizing any use subject to DRO approval, unless stated otherwise herein. [Ord. 2018-002] [Ord. 2020-020]

Section 4 Review, Resubmittal, and Final Decision

Review of an application shall be initiated by the DRO on the date it is deemed sufficient. The deadlines for Staff Comments, Resubmittal by the Applicant, and Certification or Final Decision shall be indicated on the Annual Zoning Calendar. [Ord. 2018-002] [Ord. 2020-001]

A. Review

Staff review shall be based on applications that are deemed sufficient, and any subsequent resubmittals. The DRO shall prepare a list of issues and comments and make it available to the Applicant. The Applicant shall provide a written response and revised document(s), if applicable, addressing all outstanding issues and comments and revised document(s) on the Resubmittal date indicated on the Annual Zoning Calendar. The written responses and revised document(s) shall address the issues and comments prepared by Staff and shall not significantly modify the application that was determined to be sufficient. [Ord. 2018-002] [Ord. 2020-001]

1. Significant modifications shall include, but not limited to the following: [Ord. 2020-001]
 - a. Additional requests to the application; or [Ord. 2020-001]
 - b. Modifications to the site layout or submitted document(s) that would require a new review of the document(s) or impact the timing of a final decision by the DRO. [Ord. 2020-001]
2. If the DRO determines that the revised requests and documents are significantly modified from the original request that was determined to be sufficient, the DRO shall provide a written notification to the Applicant describing what changes significantly modified the application. The Applicant shall: [Ord. 2020-001]
 - a. revise the requests and modify plans to eliminate the significant modification; [Ord. 2020-001]
 - b. submit a written request for a time extension to the Zoning Director to determine if the application is still sufficient or if a new sufficiency review is required. Both parties may agree to a reasonable request for an extension of time; or, [Ord. 2020-001]
 - c. request withdrawal of the application. [Ord. 2020-001]

3. Zoning Agency Review (ZAR)

DRO applications may be reviewed through the ZAR process, which requires five or less Agencies to review an application. Based on the application request, the Applicant shall indicate what Agencies may be required to review the ZAR application as contained in the Zoning Technical Manual. Zoning Staff shall verify whether the Agencies to review the application are correct and confirm if the application is subject to ZAR. If it is determined that more than five Agencies are required, the application shall be subject to the Full DRO process, however the Zoning Director shall render the final decision in cases of a dispute between the Applicant and Staff. [Ord. 2020-020]

B. Action by the DRO for DO Administrative Applications, except Type 1 Variance

1. Not Approved

If the revised document(s) fail to address all listed outstanding issues and comments, the DRO shall issue a Result List indicating that the application is not approved. [Ord. 2018-002] [Ord. 2020-001]

a. Resubmittal Requirements

The Applicant shall provide a written response addressing all outstanding issues and comments for those applications that were not approved in a manner and form acceptable to the DRO. The

revised document(s) shall be submitted on the Resubmittal date as established on the Annual Zoning Calendar. [Ord. 2008-003] [Ord. 2018-002] [Ord. 2020-001]

b. Time Extension

Applicants who have applications for a DO that are not approved within 120-calendar days of Sufficiency determination by the DRO, must submit a written request and receive approval for an extension of time from the Zoning Director within the 120-calendar day deadline. Both parties may agree to a reasonable request for an extension of time. [Ord. 2005-002] [Ord. 2018-002] [Ord. 2018-018] [Ord. 2020-001]

c. Failure to Address Issues and Comments

If the Applicant fails to address the listed outstanding issues and comments within the 120-calendar day deadline, and fails to request and receive approval for a reasonable request for an extension of time from the Zoning Director, within the 120-calendar day deadline, the application shall receive a decision of denial from the DRO for failure to comply with the Standards pursuant to Art. 2.C.5, Types of Applications, including the outstanding issues and comments provided by Staff. [Ord. 2020-001]

2. Approved

If the resubmitted document(s) satisfy Code requirements and address the DRO's list of outstanding issues and comments, the DRO shall issue a written notification indicating the approval of the application. [Ord. 2018-002] [Ord. 2020-001] [Ord. 2020-020]

C. Action by the DRO for Type 1 Variance DO Applications

1. Not Certified

If the revised document(s) fail to address all listed outstanding issues and comments, the DRO shall issue a Result List indicating that the application is not certified. [Ord. 2020-001]

a. Resubmittal Requirements

The Applicant shall provide a written response addressing all outstanding issues and comments for those applications that were not certified in a manner and form acceptable to the DRO. The revised document(s) shall be submitted on the Resubmittal date as established on the Annual Zoning Calendar. [Ord. 2020-001]

b. Time Extension

Applicants who have applications for a DO that are not certified within 90-calendar days of Sufficiency determination by the DRO, must submit a written request and receive approval for an extension of time from the Zoning Director. Both parties may agree to a reasonable request for an extension of time. [Ord. 2020-001]

2. Certification

a. If the resubmitted document(s) satisfy Code requirements and address the DRO's list of outstanding issues and comments, the DRO shall issue a written notification indicating the certification of the application. [Ord. 2020-001] [Ord. 2020-020]

b. If the Applicant fails to address the listed outstanding issues and comments within the 90-calendar day deadline, and fails to request and receive approval for a reasonable request for an extension of time from the Zoning Director within the 90-calendar day deadline, the application shall be scheduled to proceed to a public meeting to comply with the timeframes enumerated in the F.S. An Applicant shall receive a recommendation of denial from Staff for failure to comply with the Standards pursuant to Art. 2.C.5.F, Type 1 Variance, including the outstanding issues and comments provided by Staff. [Ord. 2020-001]

3. Application Modification after Certification

Applications shall not be significantly modified after certification, unless requested or agreed to by the DRO. Significant modifications to the certified plan(s) and applications within ten days of a scheduled public meeting date shall result in a postponement when a decision can be rendered within the timeframe enumerated in the F.S., or if both parties agree to a reasonable request for an extension of time. For the purposes of this Article, a modification shall be considered significant if it exceeds 30 percent or more change from the certified plan or application request. The DRO may consider, but not limited to, intensity, density, land area, or vehicular use areas, to determine whether the certified plans or document(s) exceed the 30 percent threshold. [Ord. 2020-001]

D. Public Meeting Procedures for Type 1 Variance

1. Notification

Refer to Art. 2.B.5, Notification. [Ord. 2018-018]

2. Scheduling

Once an application has been certified by the DRO, the DRO shall schedule a public meeting in accordance with the dates established on the Annual Zoning Calendar and pursuant to the F.S. The

scheduling of the application for public meeting shall ensure the public notice requirements are satisfied and a decision is rendered pursuant to F.S. [Ord. 2018-018] [Ord. 2020-001]

a. Number of Meetings

The DRO shall hold at least one public meeting on applications that are subject to the Type 1 Variance process. [Ord. 2018-018]

3. Continuance or Postponement of the Meeting

The DRO conducting the public meeting, may on its own motion or at the request of an Applicant, consider an application be continued or postponed, when a decision can be rendered within the timeframe enumerated in the F.S., or if both parties agree to a reasonable request within the timeframe enumerated in the F.S., or if both parties agree to a reasonable request for an extension of time. The DRO shall determine if an application shall be postponed when an Applicant fails to submit a written request for postponement five days prior to the meeting. All subsequent requests for continuance or postponement shall be granted at the discretion of the DRO. [Ord. 2020-001]

a. Postponement by Right

An Applicant may submit a written request to the Zoning Director, no less than five days prior to the public meeting, for an application be postponed when a decision can be rendered within the timeframe enumerated in the F.S., or if both parties agree to a reasonable request for an extension of time. If the postponement is requested less than five days prior to the date of the scheduled meeting, the request for postponement shall be presented at the hearing and at the discretion of the DRO. [Ord. 2020-001]

Section 5 Types of Applications

A. Finalization of BCC or ZC DOs

Plans approved by the BCC or ZC are required to be submitted to the DRO for Final Approval. The DRO shall review the application under the Full DRO process, and shall ensure the DO is consistent with the BCC or ZC-approved plan and Conditions of Approval. The Final Plan review shall include any DOs that do not involve changes on the plan. All Preliminary Zoning Plans shall be finalized by the DRO prior to the application of a Building Permit; commencement of any related land development activities; or, utilization of any use or approval granted by the BCC or ZC. An Applicant may submit an Expedited Review or for a Concurrent Review under the Full DRO process. [Ord. 2018-002] [Ord. 2020-020]

1. DRO Expedited Review (DROE)

- a. Final DRO applications are considered DROE when they are submitted within the next two submittal dates indicated on the Zoning Calendar, after the final decision date of the BCC or ZC. [Ord. 2018-002] [Ord. 2020-020]
- b. The DROE shall not be utilized for applications that are subject to the Administrative Approval process. [Ord. 2018-002] [Ord. 2020-020]

2. Exceptions

- a. Applications approved by the BCC or ZC may be exempt from the submittal requirements for a DROE or Final DRO when the application meets the following: [Ord. 2020-020]
 - 1) The Preliminary Plans do not require changes other than labeling "Final" Plans; [Ord. 2020-020]
 - 2) The Final Plan is required to reflect the Type 2 Waiver or Type 2 Variance tables that do not result in modifications to the plan(s). [Ord. 2020-020]
- b. After the BCC or ZC approval, the Applicant shall indicate intent to take advantage of this provision to submit the Final Plan(s) and obtain final application approval. An application shall be finalized once the Resolution is signed. [Ord. 2020-020]

B. Administrative Approval

1. Purpose

To establish standards for Administrative Approval of new uses by the DRO; developments that exceed the limitations stated in Table 4.A.9.A, Thresholds for Projects Requiring DRO Approval; or, where a Full DRO process is required by this Code. [Ord. 2018-002] [Ord. 2020-020]

a. New Use

These uses require individual review by the DRO of the subject property's location, proposed design, site configuration, intensity or density to ensure the appropriateness, and compatibility of uses with its surrounding land uses. If there is a previously approved plan, an application for a new use may be reviewed through the ZAR process pursuant to Art. 2.C.4.A.3, Zoning Agency Review (ZAR). [Ord. 2018-002] [Ord. 2020-020]

2. Standards

When considering a DO application that is subject to the Administrative Approval processes, the DRO shall utilize the Standards a through c indicated below: [Ord. 2018-002]

a. Consistency with the Plan

The proposed use is consistent with the purposes, Goals, Objectives, and Policies in the Plan, including standards for densities, and intensities of use. [Ord. 2018-002]

b. Consistency with the Code

The proposed use or amendment is not in conflict with any portion of this Code, and is consistent with the stated purpose and intent of this Code. [Ord. 2018-002]

c. Adequate Public Facilities

The proposed use complies with Art. 2.F, Concurrency (Adequate Public Facility Standards). [Ord. 2018-002]

3. Conditions

The DRO may impose conditions pursuant to Art. 2.C.6, Conditions of Approval. [Ord. 2020-020]

4. Effect of an Issuance of a DO

Shall be in effect pursuant to Art. 2.C.7, Effect of an Issuance of a DO. [Ord. 2009-040] [Ord. 2020-020]

C. Administrative Modifications to Prior DOs

1. Purpose

To establish review criteria for the evaluation of Administrative Modifications to DOs that are approved by the BCC, ZC, or the DRO. [Ord. 2008-003] [Ord. 2010-005] [Ord. 2010-022] [Ord. 2011-001] [Ord. 2018-002] [Ord. 2020-020]

a. Exceptions

1. All Class A or Class B Conditional Uses shall remain in the location consistent with the plan(s) approved by the BCC or ZC; unless a Condition of Approval allows an alternative location on the same site. [Ord. 2018-002]
2. Modifications shall not be allowed if there is a Condition of Approval that prohibits the amendment request. [Ord. 2018-002] [Ord. 2020-020]

2. Modifications to BCC or ZC-Approved Plans

The DRO shall have the authority to approve modifications to a DO approved by the BCC or ZC. The original Final DRO plan(s) shall be used as the controlling document(s) to show proposed modifications, unless stated otherwise. The requests shall meet the intent of the BCC or ZC approval, and comply with the Conditions of Approval. [Ord. 2018-002] [Ord. 2020-020]

3. Standards

When considering a DO request for Administrative Modifications, the DRO shall utilize the same Standards a through c pursuant to Art. 2.C.5.B.2, for Administrative Approval. The DRO shall also consider the criteria stated in Table 2.C.5.C, Administrative Modifications to Prior DOs. [Ord. 2018-002] [Ord. 2020-020]

4. Applicability

The authority of the DRO to modify a prior approval shall include but not be limited to Table 2.C.5.C, Administrative Modifications to Prior DOs. [Ord. 2020-020]

- a. The DRO shall consider the request(s) to determine which Agencies will review the application, and whether the review shall be subject to the Full DRO or ZAR process pursuant to Art. 2.C.4.A.3, Zoning Agency Review (ZAR). A combination of requests may require review through the Full DRO process. In making a decision on the requested modification(s), the DRO shall evaluate the application based on the Table listed below. [Ord. 2020-020]
- b. The Zoning Director shall maintain PPM #ZO-O-029, Administrative Modifications to Final Zoning Agency Review (ZAR) Process, outlining a list of minor amendments and establishing items that are exempt from the Administrative Modifications process. [Ord. 2020-020]

Table 2.C.5.C – Administrative Modifications to Prior DOs

Request/Allowable Modification	Criteria
Relocation of Building Square Footage (1)(2)(5)	<ul style="list-style-type: none"> • Allow relocation of no more than 25 percent of the total approved square footage or other area indicated as being covered by buildings or structures to portions of the site not previously covered; [Ord. 2020-020] • Relocation of square footage to a building shall not enlarge the footprint of the building more than 50 percent of the building area as indicated on the latest applicable BCC or ZC-approved plan; [Ord. 2015-006] [Ord. 2016-016] • Relocated square footage may be requested in conjunction with the increase of square footage; • Relocated square footage shall not be used to create additional freestanding building(s) or structure(s); (4) [Ord. 2009-040] [Ord. 2015-006] • Relocation of square footage may be integrated vertically provided the overall height will not exceed ten percent of the approved height and meet setback requirements; and, • Shall not be relocated or constructed closer to perimeter property lines than what was shown on the latest applicable BCC or ZC-approved plan, unless the FLU designation, zoning district, or existing use of the adjacent parcel is compatible. [Ord. 2009-040] [Ord. 2011-001]
Increase in Square Footage for a Use, Building, Structure, or Outdoor Area that is Considered as Square Footage (1)(2)(4)(5)	<ul style="list-style-type: none"> • Allow an increase of a maximum of five percent or 5,000 square feet of any building, structure, or outdoor area that is considered as square footage; whichever is less; [Ord. 2020-020] • The increase shall not exceed a maximum of 5,000 square feet of the total square feet approved by the BCC or ZC; • The increase shall not exceed a maximum of five percent or 5,000 square feet of any building, structure, or outdoor area considered as square footage, whichever is less; [Ord. 2014-025] [Ord. 2015-006] • The increase shall not be used to create new freestanding building(s) or structure(s); (4) [Ord. 2015-006] • Shall not be relocated or constructed closer to perimeter property lines than what was shown on the BCC or ZC-approved plan, unless the FLU designation, zoning district, or existing use of the adjacent parcel is compatible; • Relocated square footage may be requested in conjunction with the increase of square footage; and, • Subject to Adequate Public Facilities review. [Ord. 2008-003] [Ord. 2009-040] [Ord. 2011-001]
Reduction in Building Size or Elimination of Building Area	<ul style="list-style-type: none"> • The reduction or elimination of building square feet shall not negatively impact the layout and design of the approved plan; and • The approved Adequate Public Facilities (Concurrency) is amended to indicate a reduction in or elimination of square feet. [Ord. 2020-020]
Overall Height Increase of any Building or Structure	<ul style="list-style-type: none"> • Allow a maximum of ten percent. [Ord. 2020-020] • Shall meet setback requirements.
Architectural Elevations	<ul style="list-style-type: none"> • The proposed modifications shall be consistent with the approved Architectural Elevations, and Art. 5.C, Design Standards. [Ord. 2020-020]
Relocation of Site Elements	<ul style="list-style-type: none"> • Change in location of freestanding ground-mounted signs is based on an approved Master Sign Plan. [Ord. 2020-020] • Relocation of parking or loading spaces does not affect pedestrian and vehicular safety. [Ord. 2020-020]
Relocation, Addition, or Deletion of Internal Access Points	<ul style="list-style-type: none"> • Determine whether the proposed location is in proximity to a street intersection; and • Whether the proposed location will not negatively impact the existing sidewalk, and maintain the safety of pedestrians.
Addition of External Access Way for Properties within the URAO	<ul style="list-style-type: none"> • The property is in the UC or UI Zoning District; [Ord. 2018-018] [Ord. 2020-020] • Interconnectivity shall comply with Art. 3.B.16.F.5, Interconnectivity Standards; [Ord. 2018-018] • Interconnectivity shall align with the existing access way located on an adjacent UC or UI parcel; [Ord. 2018-018] • Both parcels shall have a recorded cross-access easement and agreement; [Ord. 2018-018] [Ord. 2020-020] • No significant increase in traffic above that approved by the BCC as determined by the County Engineer; and, [Ord. 2018-018] • Notice to the District Commissioner by the Zoning Division. [Ord. 2018-018] [Ord. 2020-020]

Table 2.C.5.C – Administrative Modifications to Prior DOs

Request/Allowable Modification	Criteria
Addition of External Emergency Access Ways	<ul style="list-style-type: none"> • Required by the PBC Fire Rescue Department; • Notice to the District Commissioner by the Zoning Division; and, • Access point(s) shall be secured by a gate that has the necessary mechanism to ensure it is closed and secured after each Fire Rescue emergency call. [Ord. 2015-006]
Addition of an External Access Way to a Civic Pod	<ul style="list-style-type: none"> • Pod supports a Fire Rescue station, Government-Owned Towers, or a Government Facility; [Ord. 2018-018] [Ord. 2020-020] • Notice to the District Commissioner by the Zoning Division prior to DRO approval; and, [Ord. 2018-018] • No substantial increase in traffic impact above that approved by the BCC as determined by the County Engineer. [Ord. 2018-018]
Relocation of Open Space or Recreation Area(s)	<ul style="list-style-type: none"> • Relocation shall be within the same overall site or pod; • The acreage of the required open space or recreation area(s) shall remain the same; and, • By relocating the open space or recreation area, it will not result an incompatibility issue from the adjacent properties or pods that are internal to the site.
Phase Lines Addition, Deletion, or Modification	<ul style="list-style-type: none"> • The addition or modifications are consistent with the intensity or density of the approved DO; and • Addition or modification of the phase lines shall not exceed the approved concurrency. [Ord. 2020-020]
Phase Lines Relocation	<ul style="list-style-type: none"> • The ZC or BCC DO has approved phase lines; [Ord. 2020-020] • Relocation is allowed if the phase lines are consistent with the intensity or density of the approved DO; and, [Ord. 2020-020] • Relocation of the phase lines shall not exceed the approved concurrency. [Ord. 2020-020]
Addition or Modification of ATM or Freestanding Unmanned Retail Structure	<ul style="list-style-type: none"> • Proposed location shall not impede vehicular or pedestrian traffic circulation.
Reconfiguration of a Type 1B Excavation	<ul style="list-style-type: none"> • Modification shall not bring the excavation closer to the property line.
Increase Number of Renewable Energy Wind Facilities within the AP Zoning District	<ul style="list-style-type: none"> • Allow an increase of ten percent or a maximum of ten Wind Turbines approved by the BCC if the separation or setback requirements from streets, and residential uses and districts as contained for the use in Art. 4, Use Regulations. (3) [Ord. 2011-016] [Ord. 2014-025] [Ord. 2017-007] [Ord. 2020-020]
Relocation of Wind Turbines, Buildings, or Structures of a Renewable Energy Wind Facility within the AP Zoning District	<ul style="list-style-type: none"> • Provided they comply with separation or setback requirements from streets, and residential uses and districts as contained for the use in Art. 4, Use Regulations. (3) [Ord. 2011-016] [Ord. 2017-007]
Density Transfer	<ul style="list-style-type: none"> • Units must be from one Residential Pod to another Residential Pod in the same PDD; and [Ord. 2019-005] • The maximum number of units transferred to a Residential Pod or TDD Neighborhood shall not exceed 30 percent above the number of units approved by the BCC for that pod or TDD Neighborhood. [Ord. 2019-005]
Change in Housing Classification for PDD or TDD (Table 3.E.1.E, Housing Classification)	<ul style="list-style-type: none"> • No height increase from the original BCC DO; and [Ord. 2019-005] • If there is a density transfer along with this request, comply with criteria listed below. [Ord. 2019-005]
Density Decrease	<ul style="list-style-type: none"> • The reduction in the number of units shall not negatively impact the layout and design of the approved plan; and [Ord. 2019-005] • The approved Adequate Public Facilities (Concurrency) is amended to indicate a reduction in the number of units. [Ord. 2019-005] [Ord. 2020-020]
Relocation/Transfer of WHP Between Pods of the Same Project or Off-Site Construction Units	<ul style="list-style-type: none"> • Allow transfer of WHP units between the sending and the receiving projects that have received an approved DO. [Ord. 2020-020] • Both sending and receiving projects for the WHP units shall be submitted concurrently. [Ord. 2020-020]
Type 2 Waiver or Type 2 Variance	<ul style="list-style-type: none"> • Modification of the approved Waiver or Variance shall increase the degree of conformity with the current Code requirements.
[Ord. 2008-003] [Ord. 2009-040] [Ord. 2011-001] [Ord. 2011-016] [Ord. 2013-021] [Ord. 2014-001] [Ord. 2014-025] [Ord. 2015-006] [Ord. 2016-016] [Ord. 2017-007] [Ord. 2018-002] [Ord. 2018-018] [Ord. 2019-005] [Ord. 2020-020]	
Notes:	
1.	Shall not apply to accessory structures which are not subject to concurrency review in accordance with PPM #ZO-O-049, Official List of Specific Permit Types Not Subject to Concurrency. [Ord. 2020-020]
2.	Clubhouse located in the Recreation Pod of a PDD shall be exempt from the relocation thresholds. [Ord. 2016-016]
3.	Applicable to the Project Boundary instead of the individual property lines.
4.	Except for Freestanding ATMs and accessory structures. [Ord. 2020-020]
5.	Relocation and increase of building square footage can be combined between multiple buildings on sites with one single use and ownership for the entire development, as long as the location of buildings adjacent to residential uses keep the setbacks shown on the original Final DRO plan(s) following the BCC or ZC approval. [Ord. 2020-020]

5. Other Modifications

- a. Modifications to plans that were administratively approved by the DRO may be subject to the ZAR process pursuant to Art. 2.C.4.A.3, Zoning Agency Review (ZAR). [Ord. 2020-020]
- b. Additional modifications to a prior DO approved by the DRO may be processed through the ZAR pursuant to PPM #ZO-O-029. [Ord. 2018-002] [Ord. 2020-020]

6. Conditions

The DRO may impose conditions pursuant to Art. 2.C.6, Conditions of Approval. [Ord. 2020-020]

7. Effect of an Issuance of a DO for Administrative Modifications

Shall be in effect pursuant to Art. 2.C.7, Effect of an Issuance of a DO. [Ord. 2018-002] [Ord. 2020-020]

D. Temporary Use

1. Purpose

To create standards and an approval process for certain uses, which are generally temporary in nature, but require monitoring for compliance with Code requirements to ensure compatibility with surrounding land uses. A Temporary Use may be accommodated in a temporary structure or a permanent structure that is legally approved. A Temporary Use shall include, but not limited to those items listed in Art. 4.B.11, Temporary Uses. [Ord. 2007-013] [Ord. 2015-006] [Ord. 2018-002]

2. Prior Approved and Authorized Special Permits

Any prior approved Special Permits that have expired shall be considered invalid, and the Applicant shall be required to submit a new application for a Temporary Use. Special Permits shall be issued only for Type 1 or 2 Restaurants with Dog Friendly Dining or billboards, subject to the applicable standards and Code requirements. [Ord. 2018-002] [Ord. 2022-001]

3. PAA

The Applicant shall request a PAA to meet with Staff prior to the submittal of a Temporary Use application to ensure the proposed use complies with Code requirements, and to determine whether the application is subject to the review and permit process by other County Agencies. [Ord. 2018-002]

4. Sufficiency Determination

All Temporary Use requests are subject to the requirements of Art. 2.C.2, Sufficiency Review. [Ord. 2015-006] [Ord. 2018-002]

5. Review and Final Decision

The application shall be submitted to the DRO subject to the ZAR process. If the request complies with Code requirements and the Standards listed below, and is not subject to Building Permit review, the Applicant shall receive a Temporary Use DO 15 days prior to the date of the event. [Ord. 2018-002]

a. Building Permit Process

The Applicant shall submit any required Permit application to the Building Division a minimum of 30 days prior to the date of the event. Prior to issuance of the DO approval of the Temporary Use, any associated Building Permits shall be secured and all required inspections scheduled with the Building and Code Enforcement Divisions and Fire Department. [Ord. 2007-013] [Ord. 2009-040] [Ord. 2015-006] [Ord. 2018-002]

6. Standards

When considering a DO request for a Temporary Use, the DRO shall utilize the Standards a and b; the DRO shall also consider the limitations and criteria stated for each Temporary Use pursuant to Art. 4.B.11.C, Definitions and Supplementary Use Standards for Specific Uses: [Ord. 2018-002] [Ord. 2018-018]

a. Consistency with the Plan

The proposed use is consistent with the purposes, Goals, Objectives, and Policies in the Plan, including standards for building and structural intensities and densities, and intensities of use. [Ord. 2018-002]

b. Consistency with the Code

The request meets all applicable standards and provisions of this Code, including but not limited to all applicable portions of Art. 4.B, Use Classification, and the proposed location, design, layout, access, and duration of the use will not create potential adverse impacts on surrounding land uses. [Ord. 2018-002]

7. Conditions

The DRO may impose conditions pursuant to Art. 2.C.6, Conditions of Approval. [Ord. 2018-002] [Ord. 2020-020]

8. Limited Timeframe

A Temporary Use shall be limited to the dates of approval shown on the DO. Each Temporary Use shall be reviewed as a new application and subject to the most current Code requirements, unless otherwise stated herein. [Ord. 2018-002]

9. Expiration

Failure to utilize the Temporary Use DO within one year of the date of approval, or by the date specified in the DO or in a Condition of Approval, shall result in the approval becoming null and void. [Ord. 2018-002]

10. Discontinuance

A Temporary Use DO shall expire if the use or activity is discontinued for more than 90 days. [Ord. 2018-002]

11. Abandonment

A Temporary Use may be abandoned by filing a letter to the Zoning Director. [Ord. 2020-020]

12. Violation of Code Requirements or Conditions of Approval

a. Revocation

A Temporary Use DO may be revoked at any time by the Zoning Director if it is determined that the recipient is in violation of the Code or a Condition of Approval. Revocation of a Temporary Use DO shall result in the approval becoming null and void. The use or activity permitted by the DO shall cease immediately and the affected area shall be returned to its original state before the Temporary Use DO was issued. [Ord. 2018-002] [Ord. 2020-020]

b. Withholding Application

If a Temporary Use is found in violation of any condition or Code requirement, the DRO may withhold the Applicant from requesting the same Temporary Use for a period of 24 months. In making a determination to withhold an application, the DRO shall consider the magnitude of the violation of the Conditions of Approval; which includes but not limited to, whether: [Ord. 2018-002] [Ord. 2020-020]

- 1) it is a reoccurring violation; [Ord. 2018-002]
- 2) the violation has created an impact on the surrounding properties or uses; and, [Ord. 2018-002]
- 3) the Applicant has demonstrated an effort to correct the violation. [Ord. 2018-002]

E. Special Permit

1. Authorized Special Permits

Special Permits shall be issued only for Dog Friendly Dining pursuant to Art. 4.B.2.C.31.h.1) or Art. 4.B.2.C.32.f.1), Dog Friendly Dining, or billboards pursuant to Art. 8.H.2, Billboards, subject to the applicable standards and Code requirements. [Ord. 2022-001]

2. Sufficiency Determination

Special Permits are subject to the requirements of Art. 2.C.2, Sufficiency Review, with exception that the Sufficiency review shall be completed within five days of submittal. [Ord. 2022-001]

3. Review Process

The application shall be submitted in a form established by the Zoning Director and shall be consistent with this Code, in accordance with the ZAR process of Art. 2.C.4, Review, Resubmittal, and Final Decision. If the request complies with the Code requirements and the standards of Art. 2.C.5.D.6, Standards, a Special Permit may be approved. [Ord. 2022-001]

4. Conditions

The DRO may impose conditions pursuant to Art. 2.C.6, Conditions of Approval. [Ord. 2022-001]

F. Type 1 Variance

1. Purpose

To allow minor variation from certain standards of this Code when special circumstances peculiar to the property exist, and the literal enforcement of this Code would result in undue and unnecessary hardship; and to provide the DRO the authority to review, approve, deny, and render conditions to an administrative Variance as necessary to accomplish the Goals, Objectives, and Policies of the Plan and this Code, including, but not limited to, limitations on size, bulk, location, requirements for landscaping, buffering, lighting, and provisions of adequate ingress and egress. [Ord. 2018-002]

2. Application Procedures

This Section may not be combined with any other Section that allows variations from the same PDRs. [Ord. 2015-006] [Ord. 2018-002]

3. Variance Request Limitations

Request that exceeds more than five Variances or the following limitations shall be subject to a Type 2 Variance. Variance requests for density or intensity beyond the stated limits of the Plan shall be prohibited. Type 1 Variances may be considered for the following: [Ord. 2006-036] [Ord. 2008-003] [Ord. 2012-003] [Ord. 2018-002]

a. Residential Lots with Three Units or Less

Reductions or increases of PDRs greater than five percent of the minimum or maximum requirement. Reduction or increase of PDRs less than or equal to five percent of the minimum or maximum shall be processed in accordance with Art. 2.C.5.G, Type 1 Waiver. [Ord. 2006-036] [Ord. 2008-003] [Ord. 2012-003] [Ord. 2018-002] [Ord. 2020-020]

b. Accessory Uses and Structures

Relief from Art. 5.B.1.A, Accessory Uses and Structures as follows: General; Fences and Walls; Docks; Entry Features; Fuel, Gas, or Chemical Storage Tanks; Dumpsters; Neighborhood Recreation Facility; Outdoor Recreation Amenities; Screen Enclosures; and, Permanent Generators. [Ord. 2008-003] [Ord. 2013-001] [Ord. 2018-002] [Ord. 2020-020]

c. Relief from Residential Hedge Height in Art. 7.D.4.A.3, Height Measurement. [Ord. 2015-006] [Ord. 2018-002]

d. Relief from Excavation Standards in Art. 4.B.10.C.2, Type 1A Excavation and Art. 4.B.10.C.3, Type 1B Excavation. [Ord. 2008-003] [Ord. 2017-007] [Ord. 2018-002]

e. Non-Residential Projects

1) Setback reduction greater than five percent but not exceeding 15 percent of the minimum requirement. [Ord. 2008-003] [Ord. 2018-002]

2) Reduction in the number of parking spaces not exceeding 15 percent of the minimum requirement for those parcels that do not meet the criteria pursuant to Art. 6.C.1.A.2.a, 15 Percent Reduction. [Ord. 2006-036] [Ord. 2008-003] [Ord. 2018-002] [Ord. 2020-020]

4. Standards

When considering a Type 1 Variance request, the DRO shall consider Standards a through g, indicated below. A Type 1 Variance which fails to meet any of these Standards shall be deemed adverse to the public interest, and shall not be approved. [Ord. 2018-002]

a. Special conditions and circumstances exist that are peculiar to the parcel of land, building, or structure, that are not applicable to other parcels of land, structures, or buildings in the same district; [Ord. 2006-036] [Ord. 2018-002]

b. Special conditions and circumstances do not result from the actions of the Applicant; [Ord. 2006-036] [Ord. 2018-002]

c. Granting the Variance shall not confer upon the Applicant any special privilege denied by the Plan and this Code to other parcels of land, structures, or buildings in the same district; [Ord. 2006-036] [Ord. 2018-002]

d. Literal interpretation and enforcement of the terms and provisions of this Code would deprive the Applicant of rights commonly enjoyed by other parcels of land in the same district, and would work an unnecessary and undue hardship; [Ord. 2006-036] [Ord. 2018-002]

e. Granting the Variance is the minimum Variance that will make possible a reasonable use of the parcel of land, building, or structure; [Ord. 2006-036] [Ord. 2018-002]

f. Granting the Variance will be consistent with the purposes, Goals, Objectives, and Policies of the Plan and this Code; and, [Ord. 2006-036] [Ord. 2018-002]

g. Granting the Variance will not be injurious to the area involved or otherwise detrimental to the public welfare. [Ord. 2006-036] [Ord. 2018-002]

5. Staff Report and Recommendation

The DRO or the PBC Official responsible for reviewing the application shall prepare a report for the application. The DRO shall incorporate the analysis and Conditions of Approval of the Agencies who are responsible for reviewing the application, and a recommendation of approval, approval with conditions, or denial based on the applicable Standards. The report shall be made available to the public at least five days prior to the hearing date. [Ord. 2018-018]

6. Conditions

The DRO may impose Conditions of Approval in a Type 1 Variance DO, as necessary to accomplish the Goals, Objectives, and Policies of the Plan and this Code, including, but not limited to, limitations on size, bulk, location, requirements for landscaping, buffering, lighting, and provisions of adequate ingress and egress. Any violation of the Variance or condition shall be a violation of this Code. [Ord. 2018-002]

7. Time Limitation

Unless otherwise specified in the DO or a Condition of Approval, failure to utilize the Type 1 Variance within one year of issuance, or by the date specified in a Condition of Approval, shall result in the Variance becoming null and void. If more than one Variance was granted in the application, the use of one Variance shall vest all other Variances. Permitted timeframes do not change with successive owners. Applications for extensions shall be submitted a minimum of 30 days prior to expiration. [Ord. 2008-003] [Ord. 2018-002]

8. Effect of a Type 1 Variance DO

Approval of a Type 1 Variance shall render a parcel of land, building, or structure to be conforming. Use of the Variance shall be limited to the exact dimensions and configuration of the parcel of land, building, or structure as indicated on the Site Plan as submitted in the application. The parcel of land, building, or structure may not be further expanded, except in accordance with the standards of the Code. [Ord. 2006-036] [Ord. 2018-002]

G. Type 1 Waiver

1. Purpose

To establish procedures and evaluation standards for a Type 1 Waiver. A Type 1 Waiver is to allow flexibility and minor adjustments to the property development regulations; site design; preservation or incorporation of existing native vegetation; or, for an improved site design where alternative solutions can be permitted subject to the criteria. Waivers are not intended to relieve specific financial hardship nor circumvent the intent of this Code. A Waiver may not be granted if it conflicts with other Sections of this Code, or the Florida Building Code. [Ord. 2011-016] [Ord. 2012-027] [Ord. 2016-042] [Ord. 2018-002]

2. Applicability

Requests for Type 1 Waivers shall only be permitted where expressly stated within this Code or indicated below: [Ord. 2011-016] [Ord. 2012-027] [Ord. 2016-042] [Ord. 2018-002] [Ord. 2019-005] [Ord. 2020-020] [Ord. 2021-006] [Ord. 2024-020]

a. Overlays

- 1) Table 3.B.4.F, Type 1 Waivers for Industrial Pods, for GAO Industrial Pod development standards. [Ord. 2014-025] [Ord. 2018-002] [Ord. 2021-006] [Ord. 2024-020]
- 2) Art. 3.B.7.D, Property Development Regulations (PDRs), for the NEO. [Ord. 2018-002] [Ord. 2021-006] [Ord. 2024-020]
- 3) Table 3.B.8.E, Type 1 Waivers for NBOZ Design Guidelines, for NBOZ Design Guidelines. [Ord. 2016-016] [Ord. 2018-002] [Ord. 2024-020]
- 4) Art. 3.B.14.H.1.c.1), for landscaping for WCRAO Density Bonus Pool projects. [Ord. 2024-020]
- 5) Table 3.B.15.G, Type 1 Waivers, for IRO Waivers. [Ord. 2012-027] [Ord. 2018-002] [Ord. 2024-020]
- 6) Table 3.B.16.G, Type 1 and 2 URAO Waivers, for URAO Waivers. [Ord. 2012-027] [Ord. 2018-002] [Ord. 2021-006] [Ord. 2024-020]

b. Parking, Buffers, and Landscaping

- 1) Art. 3.E.6.F.2, Perimeter Buffer, for RVPD Type 3 Incompatibility Buffer. [Ord. 2021-006] [Ord. 2024-020]
- 2) Art. 4.B.2.C.3.13.f.3)a)(2), for parking proximity for a Type 1 Restaurant with Drive-Through. [Ord. 2012-027] [Ord. 2018-002] [Ord. 2021-006] [Ord. 2024-020]
- 3) Art. 4.B.6.C.17.c.4)b), Loading, for commercial greenhouse loading. [Ord. 2012-027] [Ord. 2018-002] [Ord. 2024-020]
- 4) Art. 4.B.7.C.10.d, Buffer, for Solid Waste Transfer Station landscaping. [Ord. 2012-027] [Ord. 2018-002] [Ord. 2021-006] [Ord. 2024-020]
- 5) Note 10 of Table 6.B.1.B, Minimum Parking and Loading Requirements, for parking for a Community Vegetable Garden. [Ord. 2015-031] [Ord. 2018-002] [Ord. 2024-020]
- 6) Note 12 of Table 6.B.1.B, Minimum Parking and Loading Requirements, for loading space for a CLF, or Skilled Nursing or Residential Treatment Facility with more than 20 beds. [Ord. 2021-006] [Ord. 2024-020]
- 7) Art. 6.C.1.A.2, Type 1 Waiver, for parking spaces. [Ord. 2020-001] [Ord. 2024-020]
- 8) Art. 6.E.2.B.3, Type 1 Waiver – Reduction of Minimum Number of Required Loading Spaces, for loading spaces. [Ord. 2016-042] [Ord. 2018-002] [Ord. 2020-001] [Ord. 2024-020]
- 9) Art. 6.E.4.A.1.d, Type 1 Waiver – Reduction of Loading Space Width or Length, for loading space width or length. [Ord. 2016-042] [Ord. 2018-002] [Ord. 2020-001] [Ord. 2024-020]
- 10) Table 7.B.4.A, Type 1 Waivers for Landscaping, for landscaping. [Ord. 2016-042] [Ord. 2018-002] [Ord. 2024-020]

c. Other

- 1) Table 3.D.1.A, Property Development Regulations, for structural setback. This Waiver shall only be utilized for detached housing types on individual lots, and shall not be utilized for multiple lots under one application, i.e. “blanket” application or reductions exceeding five percent less than the minimum requirement. [Ord. 2018-002] [Ord. 2021-006] [Ord. 2024-020]
- 2) Art. 5.C.1.E.3, Type 1 Waiver – Green Architecture, for Green Architecture. [Ord. 2012-027] [Ord. 2018-002] [Ord. 2024-020]
- 3) Art. 8.G.3.B, PUD or Residential Subdivision Informational Signs, for PUD or Residential Subdivision Informational signs. [Ord. 2015-031] [Ord. 2018-002] [Ord. 2022-029] [Ord. 2024-020]
- 4) Art. 8.H.2.D.4, Replacement, for billboard location. [Ord. 2012-027] [Ord. 2018-002] [Ord. 2024-020]

3. Standards

When considering a DO application for a Type 1 Waiver, the DRO shall consider the following Standards in addition to any other Standards applicable to the specific Waiver as contained in this Code. For a Waiver application that requires the submittal of an ALP, the Applicant shall comply with additional standards pursuant to Art. 7.B.4, Type 1 Waiver for Landscaping. [Ord. 2010-022] [Ord. 2011-016] [Ord. 2012-027] [Ord. 2016-042] [Ord. 2018-002]

- a. The Waiver does not create additional conflicts with other requirements of the ULDC, and is consistent with the stated purpose and intent for the zoning district or overlay; [Ord. 2010-022] [Ord. 2011-016] [Ord. 2012-027] [Ord. 2018-002]
- b. The Waiver will not cause a detrimental effect on the overall design and development standards of the project, and will be in harmony with the general site layout and design details of the development; and, [Ord. 2010-022] [Ord. 2012-027] [Ord. 2018-002]
- c. The alternative design option recommended as part of the Waiver approval, if granted, will not adversely impact adjacent properties. [Ord. 2010-022] [Ord. 2012-027] [Ord. 2018-002]

4. Conditions

The DRO may impose conditions pursuant to Art. 2.C.6, Conditions of Approval. [Ord. 2018-002] [Ord. 2020-020]

5. Effect of a Type 1 Waiver DO

Shall be in effect pursuant to Art. 2.C.7, Effect of an Issuance of a DO. [Ord. 2020-020]

H. Development Order Abandonment (ABN)

1. General

An Administrative DO granted under a prior Ordinance, may be abandoned according to the procedures in this Chapter. DOs, that are partially or fully implemented, or have not been implemented may be abandoned subject to the requirements of this Section. [Ord. 2018-002] [Ord. 2019-034]

2. Authority

The same Authority that granted the original DO shall render a decision on a request for abandonment. [Ord. 2019-034]

3. Applicability

This Section shall apply to all DOs for uses approved by the DRO, or similar DOs granted by the DRO, and requested by the Applicant. DOs reviewed pursuant to Art. 2.E, Monitoring of Development Orders (DOs) and Conditions of Approval for time requirements identified in Art. 2.E.2.C, Time Limitations for Commencement, or failure to comply with Conditions of a DO shall be reviewed under the requirements of Art. 2.E, Monitoring of Development Orders (DOs) and Conditions of Approval. [Ord. 2019-034]

4. Sequence of Submittal

An application for an abandonment may be submitted as follows: [Ord. 2019-034]

a. Concurrent Abandonment

A Concurrent Abandonment may be submitted with a separate application requesting a new DO as follows: [Ord. 2019-034]

- 1) Abandon previous DO approved by the DRO, for the entire DO and submit concurrently with a new DO through an Administrative Approval process; or [Ord. 2019-034]
- 2) Abandon previous DO approved by the DRO, for the entire DO and submit concurrently with a new DO through a Building Permit approval process. [Ord. 2019-034]

b. Standalone Abandonment

Reviewed for abandonment with no proposed use. Any future use would be subject to the requirements of the Code at time of approval. [Ord. 2019-034]

5. Application Requirements

In addition to the submittal requirements pursuant to Art. 2.A.6.A, Zoning Application Requirements, the Applicant shall provide status of all DRO Conditions of Approval as outlined in the DRO notifications. The Applicant shall state whether these conditions are no longer applicable, implemented, or pending implementation. The Applicant must confirm that there is no reliance of other interested parties on additional performance activities related to the proposed abandonment. Staff shall determine if the conditions are satisfied, if not, Staff shall notify the Applicant to coordinate with the Agency that imposed the condition, and determine the action to achieve compliance. If the Applicant is seeking a new DO, Staff shall determine if the current conditions should be carried forward under the new DO request. [Ord. 2020-020]

6. Standards

When considering an ABN application, the DRO shall utilize the Standards indicated below. A request for an ABN which fails to meet any of these Standards shall be deemed adverse to the public and shall not be approved. An application for a DO abandonment to a Temporary Use shall demonstrate compliance with only Art. 2.C.5.H.6.d, Changed Conditions or Circumstances. [Ord. 2019-034] [Ord. 2020-020]

a. Consistency with the Plan

The proposed abandonment is consistent with the Plan. [Ord. 2019-034]

b. Consistency with the Code

The proposed abandonment, is not in conflict with any portion of this Code, and is consistent with the stated purpose and intent of this Code. The abandonment of a DO does not create any new non-conformities. [Ord. 2019-034]

c. Adequate Public Facilities

The proposed abandonment of the DO shall not impact the approved requirements of Art. 2.F, Concurrency (Adequate Public Facility Standards). When a non-implemented DO is abandoned, all concurrency affiliated with the DO is no longer valid. For implemented DOs, concurrency for the remainder of the non-affected area shall remain. Concurrency for any new uses on the subject property shall be subject to the requirements of Art. 2.F, Concurrency (Adequate Public Facility Standards). [Ord. 2019-034]

d. Changed Conditions or Circumstances

There are demonstrated changed site conditions or circumstances provided by the Applicant's Justification Statement that necessitate the abandonment. Abandonment of the Resolution approving the DO will not impact other DOs approved on the same site. There is no reliance by other parties for additional performances, or tasks to be implemented, that were required in the original DO. [Ord. 2019-034]

Section 6 Conditions of Approval

A. DRO Authority

The DRO shall have the authority to impose Conditions of Approval for administrative DOs. Conditions of Approval may be imposed to: [Ord. 2009-040] [Ord. 2018-002] [Ord. 2020-020]

1. Ensure compliance with Code requirements; [Ord. 2009-040]
2. Ensure compatibility of the proposed development or use with surrounding land uses, address the location of uses on the site to minimize potential adverse off-site impacts, and ensure on-site safety; [Ord. 2009-040]
3. Require the execution of a Unity of Control, shared parking, and other legal documentation necessary to satisfy requirements of this Code; [Ord. 2009-040] [Ord. 2021-006]
4. Require road construction necessary to mitigate project impacts including but not limited to drainage, turn lanes, sidewalks, and signalization; [Ord. 2009-040]
5. Reduce negative impacts from agricultural uses in the Urban Service Area on surrounding properties including but not limited to: controlling objectionable odors, fencing, sound limitations, inspections, reporting or monitoring, preservation areas, mitigation, and/or limits of operation; and, [Ord. 2009-040]
6. Allow specific requirements of the Code to be waived, provided the proposed development meets the specific requirements for a Type 1 Waiver. [Ord. 2009-040] [Ord. 2012-027]

B. Condition Limitations

1. Conditions imposed by the DRO shall be reasonable, not be contrary to law, limited to on-site improvements, except for off-site road improvements or conveyances specifically attributable to the project's impact.

2. Conditions shall not amend BCC or, ZC-imposed conditions or affect previously approved conditions. [Ord. 2018-002]
3. For modifications or additions to previously approved DOs, conditions shall only be imposed to address the specific impacts of the new use or development. [Ord. 2018-002]
4. Conditions shall not restrict land uses otherwise permitted by the Code, unless necessary for parking or concurrency purposes, or require payment of any fees not otherwise required.

C. Completion of Conditions

A DO with Conditions of Approval imposed by the DRO that are required to be completed prior to a specific date, event, or action, shall comply with the procedures established in Art. 2.E.3.D, Decision of the DRO. [Ord. 2020-020]

Section 7 Effect of an Issuance of a DO

A DO approved by the DRO shall have the following effect and authority: [Ord. 2009-040] [Ord. 2020-020]

- A. Any Permitted by Right uses may occur in conjunction with or in place of a DRO-approved use, provided there are no Conditions of Approval that prohibit the permitted use to be added to site; [Ord. 2018-002] [Ord. 2020-020]
- B. Issuance of a DO approved by the DRO shall be deemed to authorize only the particular site configuration, layout, design, level of impacts, and intensity or density which were approved pursuant to this Code, unless the approval is abandoned, expired, or revoked; [Ord. 2018-002] [Ord. 2020-020]
- C. A DO may only be amended pursuant to the procedures and standards in Art. 2.C.5.C, Administrative Modifications to Prior DOs; [Ord. 2018-002] [Ord. 2020-020]
- D. The approval of a DO shall not ensure that subsequent approvals for other Development Permits will be granted unless the relevant and applicable portions of the Code are met; and, [Ord. 2020-020]
- E. Time Limitation for a DO shall be reviewed pursuant to Art. 2.E, Monitoring of Development Orders (DOs) and Conditions of Approval. [Ord. 2020-020]

Section 8 Applications Not Issuing a Development Order

A. Zoning Confirmation Letter (ZCL)

1. Purpose

Confirmation of information regarding a particular parcel of land, or interpretation of how the Code applies to a given parcel, may be obtained through an Informal ZCL, Formal ZCL, Site Specific or Non-Site Specific, or Confirmation for a Community Residence, Recovery Community, or Congregate Living Facility from the DRO pursuant to the procedures in this Section. The scope of the ZCL shall be limited to those matters under the authority of the Executive Director of PZB pursuant to Art. 1.B.1.A, Authority. [Ord. 2018-002] [Ord. 2020-020] [Ord. 2021-022]

2. Types of ZCL

The request for a ZCL by an Applicant may be in form of an Informal ZCL, a Non-Site Specific Formal ZCL, or a Formal ZCL. [Ord. 2018-002]

a. Informal ZCL

Any individual may request standard land use and zoning information that exists as a matter of record pertinent to a parcel of land. The response from the Zoning Division shall provide a summary of the requested information, including but not limited to FLU designation, zoning district, any prior approvals, and whether the property conforms to applicable Code requirements. The Informal ZCL request may include plans or other relevant documents pertinent to the parcel of land. The Informal ZCL is not considered a final action of the Zoning Division and therefore, is not subject to appeal. [Ord. 2018-002]

b. Non-Site Specific ZCL

Any individual may request a Non-Site Specific ZCL to determine how the Code may apply in a particular zoning district, overlay, or other zoning designation. The Non-Site Specific ZCL may contain the same information contained in the Informal ZCL, but may also include a request for clarification or interpretation of Code requirements, prior approvals, or other similar matters. The Non-Site Specific ZCL is not considered a final action of the Zoning Division and therefore, is not subject to appeal. [Ord. 2018-002]

c. Formal ZCL

An owner of a parcel of land, any person with a contractual interest in a parcel of land, or any person submitting a DO application for a parcel of land, may request a Formal ZCL to determine how the Code applies to that parcel of land based on an existing DO or a specific plan to seek a

DO for a particular use. The Formal ZCL may contain the same information contained in the Informal ZCL, but may also include a request for clarification or interpretation of Code requirements, existing Conditions of Approval, prior approvals, or other matters pertinent to the parcel of land. A request for a Formal ZCL is subject to a mandatory PAA. A Formal ZCL is subject to appeal pursuant to Art. 2.A.14, Appeal. [Ord. 2018-002]

d. Confirmation for a Community Residence, Recovery Community, or Congregate Living Facility

An owner of a parcel of land, any person with a contractual interest in a parcel of land, or any person submitting a DO application for a parcel of land, shall request confirmation to determine if a proposed Community Residence, Recovery Community, or Congregate Living Facility, may be allowed for a specific parcel of land. The Applicant shall provide documentation on how the Community Residence will comply with the Location, Maximum Number of Residents, and Licensing/Certification or Charter requirements pursuant to Art. 4.B.1.C.3, Family Community Residence and Art. 4.B.1.C.9, Transitional Community Residence; or documentation on how the Recovery Community or Congregate Living Facility complies with the Location requirements pursuant to Art. 4.B.1.C.1, Congregate Living Facility (CLF) or Art. 4.B.1.C.6, Recovery Community. [Ord. 2021-022]

3. Processing

Applicants requesting a ZCL shall submit the application to the DRO subject to the ZAR process. All applications are subject to sufficiency review pursuant to Art. 2.C.2, Sufficiency Review. The BCC may establish an administrative fee by Resolution for processing ZCLs. [Ord. 2018-002] [Ord. 2021-022]

4. ZCL Response

a. Informal ZCL Response

Within 30 days after the date of which the request is deemed sufficient for review, the DRO shall provide a response to the Applicant. [Ord. 2018-002]

b. Formal ZCL and Non-Site Specific ZCL Response

Within 60 days after the date of which the request is deemed sufficient for review, the DRO shall provide a response or render an interpretation to the Applicant. A response by the DRO may be extended, based on the complexity of the request(s). During the review, the Applicant may be required to submit additional information to assist the DRO in preparing the response. Resubmittal of information to the DRO will restart the response period. [Ord. 2018-002]

c. Confirmation for a Community Residence, Recovery Community, or Congregate Living Facility

Within 30 days after the date the request is deemed sufficient for review, the DRO shall provide a response to the Applicant. During the review, the Applicant may be required to submit additional information to assist in preparing the response. Resubmittal of information will restart the response period. Upon demonstration, by the Applicant, that the use and site can comply with the requirements, the Applicant shall be issued a provisional approval. [Ord. 2021-022]

The Applicant shall provide proof of final licensure or certification from the State of Florida, or issuance of an Oxford House Charter within six months of the provisional approval. A written request for an extension of time to the Zoning Director may be requested if the Applicant is unable to obtain its appropriate license, certification, or charter within the six-month provisional approval time. The letter for the provisional approval will advise the Applicant that Type 2 Waiver(s) may be required, if approvals from the State are not completed prior to other Community Residences, Recovery Communities, or Congregate Living Facilities being approved during the same timeframe, and would affect the location requirements pursuant to Art. 4.B.1.C.1, Congregate Living Facility (CLF), Art. 4.B.1.C.3, Family Community Residence, Art. 4.B.1.C.6, Recovery Community, Location, and Art. 4.B.1.C.9, Transitional Community Residence requirements. Upon receipt of the license, certification, or charter the Applicant shall provide the Zoning Division proof of licensure, certification, or charter. Failure to provide proof of final licensure or certification from the State of Florida, or an Oxford House Charter will result in revocation of the provisional approval for the use. [Ord. 2021-022]

1) Annual Notification of License, Certificate, or Charter

The Applicant shall provide proof of the valid license, certification, or charter annually to the DRO. Failure to provide proof of annual licensure or certification from the State of Florida, or an Oxford House Charter will result in revocation of the approval for the use. [Ord. 2021-022]

B. Administrative Inquiry (AI)

1. Purpose

To establish procedures for PBC Officials when submitting inquiries to the BCC asking for direction on procedural matters or to resolve an inconsistency in a DO. [Ord. 2011-016] [Ord. 2018-002] [Ord. 2020-020] [Ord. 2023-020]

2. Applicability

An inquiry is not a public hearing, but is subject to the notice requirements of Art. 2.B.5, Notification. The decision of the BCC shall be final. [Ord. 2011-016] [Ord. 2018-002]

3. Procedures

An AI may be made by a public agency through the Zoning Director using forms and procedures established by the Zoning Division. The AI shall be placed on the BCC agenda by the Zoning Division for the date the inquiry is intended to be presented. Courtesy notice pursuant to Art. 2.B.5, Notifications, is required for an AI applicable to a parcel for a specific inquiry or to provide development status not monitored by the provisions in Art. 2.E, Monitoring of Development Orders (DOs) and Conditions of Approval. [Ord. 2011-016] [Ord. 2017-002] [Ord. 2018-002]

C. Reasonable Accommodation

1. Purpose

The purpose of this Section is to establish procedures for processing requests for Reasonable Accommodation from the County's Unified Land Development Code and related rules, policies, practices, and procedures, for persons with disabilities as provided by the Federal Fair Housing Amendments Act (42 U.S.C. 3601 *et seq.*) (FHA), or Title II of the Americans with Disabilities Act (42 U.S.C. 12131 *et seq.*) (ADA). Any person who is disabled, or qualifying entities, may request a Reasonable Accommodation, pursuant to the procedures set out in this Section. [Ord. 2011-016] [Ord. 2018-002] [Ord. 2020-020]

2. Applicability

An Applicant shall be required to apply for all applicable development review processes available in the ULDC prior to filing a request for Reasonable Accommodation, unless compliance with available development review processes would deprive the Applicant, or persons with disabilities served by the Applicant, of an equal opportunity to use and enjoy housing. Art. 2.B.7.D.5, Standards for Community Residences, Recovery Communities, or Congregate Living Facilities, Type 2 Waiver sets forth the procedure to seek a Reasonable Accommodation for a Family Community Residence, Transitional Community Residence, Recovery Community, or Congregate Living Facility and the provisions set forth herein do not apply to those uses. [Ord. 2015-006] [Ord. 2018-002] [Ord. 2021-022]

3. Notice to the Public of Availability of Accommodation

The County shall endeavor to provide notice to the public, advising that disabled individuals or qualifying entities may request a Reasonable Accommodation. [Ord. 2011-016] [Ord. 2018-002]

4. Application Procedures

The application forms and requirements for submitting a request for Reasonable Accommodation shall be on forms specified by the County Administrator or designee. [Ord. 2011-016] [Ord. 2018-002]

a. Application Contents

The following considerations shall be applicable for any application information or documentation required: [Ord. 2011-016] [Ord. 2018-002]

1) Confidential Information

Upon submittal of any medical information or records, including but not limited to condition, diagnosis, or history related to a disabled individual, an Applicant may request that the County, to the extent allowed by law, treat the information or records as confidential. The County shall thereafter endeavor to provide notice to the disabled individual, or their representative, of any request received by the County for disclosure of the medical information or documentation previously requested to be treated as confidential. The County will cooperate with the disabled individual, to the extent allowed by law, in actions initiated by such individual to oppose the disclosure of such medical information or documentation, but the County shall have no obligation to initiate, prosecute, or pursue any such action, or to incur any legal or other expenses, whether by retention of outside counselor, or allocation of internal resources in connection therewith, and may comply with any judicial order without prior notice to the disabled individual. [Ord. 2011-016] [Ord. 2018-002]

2) Address of Applicant

Address of the Applicant is requested, unless governed by 42 U.S.C. 290dd, in which case the address shall not be required, but the Applicant may be requested to provide documentation to substantiate a claim verifying applicability. [Ord. 2011-016] [Ord. 2015-006] [Ord. 2018-002]

3) Address of Housing

Address of housing or other location at which accommodation is requested, unless governed by 42 U.S.C. 290dd, in which case address shall not be required, but the Applicant may be requested to provide documentation to substantiate a claim verifying applicability. [Ord. 2011-016] [Ord. 2018-002]

b. Sufficiency Determination

The County Administrator or designee shall determine whether the application is sufficient or insufficient within ten days of submittal by reviewing the information required in the application. If Staff determines the application is not sufficient, a written notice shall be sent to the Applicant specifying the deficiencies within the ten-day determination timeframe set forth herein. [Ord. 2015-006] [Ord. 2018-002]

c. Fee

There shall be no fee imposed by the County for a request for Reasonable Accommodation under this Section or an appeal of a determination on such request, and the County shall have no obligation to pay an Applicant's, or an appealing party as applicable, attorneys' fees or costs in connection with the request, or an appeal. [Ord. 2011-016] [Ord. 2015-006] [Ord. 2018-002]

d. County Assistance

The County shall provide such assistance and accommodation as is required pursuant to FHA and ADA in connection with a disabled person's request for Reasonable Accommodation, including assistance with reading application questions, and responding to questions related to completing application or appeal forms, among others, to ensure the process is accessible. [Ord. 2011-016] [Ord. 2018-002]

e. Findings for Reasonable Accommodation

In determining whether the Reasonable Accommodation request shall be granted or denied, the Applicant shall be required to establish that they are protected under the FHA or ADA by demonstrating that they are handicapped or disabled, as defined in the FHA or ADA. Although the definition of disability is subject to judicial interpretation, for purposes of this Ordinance the disabled individual must show: [Ord. 2011-016] [Ord. 2015-006] [Ord. 2018-002]

- 1) a physical or mental impairment which substantially limits one or more major life activities; [Ord. 2011-016] [Ord. 2018-002]
- 2) a record of having such impairment; or, [Ord. 2011-016] [Ord. 2018-002]
- 3) that they are regarded as having such impairment. [Ord. 2011-016] [Ord. 2018-002]

The Applicant shall demonstrate that the proposed accommodations being sought are reasonable and necessary to afford disabled persons equal opportunity to use and enjoy housing. The foregoing, as interpreted by the courts, shall be the basis for a decision upon a Reasonable Accommodation request made by the appropriate PBC Official. [Ord. 2011-016] [Ord. 2015-006] [Ord. 2018-002]

f. Authority

The determination of which appropriate PBC Official has the authority to consider and act on requests, or appeals of a decision for Reasonable Accommodation, shall be consistent with Art. 1.B.1.A, Authority. [Ord. 2011-016] [Ord. 2018-002]

g. Action by Appropriate PBC Official

A written response shall be issued within 45 days of the date of sufficiency advising the Applicant of the PBC Official's action. [Ord. 2011-016] [Ord. 2015-006] [Ord. 2018-002]

1) Request for Additional Information Timeframes

If additional information is required to make a final decision, the following shall apply: [Ord. 2011-016] [Ord. 2015-006] [Ord. 2018-002]

- a) Within 45 days of Sufficiency determination, a written notice requesting additional information may be requested, specifying what information is required. [Ord. 2011-016] [Ord. 2015-006] [Ord. 2018-002]
- b) The Applicant shall have 15 days from the date of the written notice to respond to the request for additional information not to exceed 60 days from the date of the Sufficiency determination. [Ord. 2011-016] [Ord. 2015-006] [Ord. 2018-002]
 - (1) If the additional information provided by the Applicant satisfies Staffs' request, a written determination shall be issued within 30 days. [Ord. 2011-016] [Ord. 2015-006] [Ord. 2018-002]
 - (2) If the Applicant fails to provide the requested additional information within the 15-day period, a notification shall be issued to the Applicant advising the Applicant that the

application is considered withdrawn. [Ord. 2011-016] [Ord. 2015-006] [Ord. 2018-002]
[Ord. 2020-020]

2) Determination

In accordance with Federal law, the appropriate PBC Official, shall: [Ord. 2011-016] [Ord. 2018-002]

- a) grant the accommodation request; [Ord. 2011-016] [Ord. 2018-002]
- b) grant a portion of the request and deny a portion of the request; [Ord. 2011-016] [Ord. 2018-002]
- c) impose conditions upon the grant of the request; or, [Ord. 2011-016]
- d) deny the request. Any such denial shall be in writing and shall state the grounds therefore. [Ord. 2011-016] [Ord. 2018-002]

3) Notice of Proposed Decision

All written determinations shall give notice of the right to appeal. The notice of determination shall be sent to the requesting party (i.e., the disabled individual or his/her representative) by certified mail, return receipt requested. [Ord. 2011-016] [Ord. 2018-002]

h. Appeal

Within 30 days after the appropriate PBC Official has rendered a decision on a Reasonable Accommodation, the Applicant may appeal the decision. This timeframe shall be based upon the date of the letter mailed to the requesting party. All appeals shall contain a statement containing sufficient detail of the grounds for the appeal. Appeals shall be to a Hearing Officer as set forth in this Code. The Hearing Officer shall, after duly noticing the Applicant of the public hearing for appeal, render a determination as soon as reasonably practicable, but in no event later than 60 days after an appeal has been filed. Such hearing shall be *de novo*. A Hearing Officer's decision may be appealed to the 15th Judicial Circuit Court by Petition for Writ of *Certiorari*. [Ord. 2011-016] [Ord. 2018-002]

i. Stay of Enforcement

While an application for Reasonable Accommodation, or appeal of a determination of same, is pending before the County, the County will not enforce the subject ULDC requirement, or related rules, policies, practices, or procedures, against the Applicant. [Ord. 2011-016] [Ord. 2018-002]

j. Time Limitation

A determination granting, partially granting, or granting with conditions, a Reasonable Accommodation, may remain valid either for one year from the date of issuance, or by the date specified in a DO or associated Condition of Approval, otherwise it shall become null and void. This provision shall retroactively apply to all prior determinations for a Reasonable Accommodation prior to the effective date of this Ordinance. [Ord. 2017-002] [Ord. 2018-002] [Ord. 2020-020]

k. Change of Owner/Operator

When a facility that has received a Reasonable Accommodation approval changes ownership, the new owner/operator must apply for new Reasonable Accommodation. The County will review the request and make a new case-by-case determination based on an individualized assessment. [Ord. 2019-034]

D. Unity of Title and Release of Unity of Title

1. Purpose

Execution and recording of a Unity of Title by a Property Owner allows an owner's real property be considered as one unified lot or parcel, pursuant to the requirements of Art. 5.F.1, Maintenance and Use Documents. In addition, to establish procedures for Applicants submitting requests to release a previously approved, executed, and recorded Unity of Title. [Ord. 2021-006] [Ord. 2023-026]

2. Authority

A proposed Unity of Title is subject to the review and approval of the Zoning Director. A Unity of Title shall be released by the BCC, ZC, or the PZB Executive Director as specified in the original Unity of Title document. [Ord. 2021-006] [Ord. 2023-026]

3. Application Procedures

A Unity of Title or Release of Unity of Title application shall be submitted using the forms and supporting documents established by the Zoning Division, and pursuant to the Zoning Technical Manual. [Ord. 2021-006] [Ord. 2023-026]

CHAPTER D ULDC PRIVATELY PROPOSED REVISION

Section 1 Purpose and Intent

The PPR is a discretionary process that allows an Applicant to request privately proposed revisions to the ULDC for the BCC to consider for initiation (Phase 1), and, if initiated, for the BCC to consider for adoption (Phase 2). [Ord. 2018-002] [Ord. 2024-001]

Under no circumstance will a PPR be processed that is in violation of State, Federal, or other applicable Local Government laws, or where inconsistent with the Comprehensive Plan, except where submitted with a concurrent amendment to the Plan. [Ord. 2018-002] [Ord. 2024-001]

Section 2 Authority

Acceptance of a PPR application to amend the ULDC shall be at the discretion of the responsible PBC Official as specified in Art. 1.B.1.A, Authority, in consultation with the Zoning Director. [Ord. 2018-002] [Ord. 2024-001]

Section 3 Reserved for Future Use

Section 4 Mandatory Pre-Application Appointment (PAA)

A. Applicability

A Pre-Application Appointment (PAA) with the applicable responsible PBC Official and the Zoning Division is mandatory for any request for a PPR, including a PPR resulting from a privately proposed Plan amendment that will require an amendment to the ULDC. [Ord. 2018-002] [Ord. 2024-001]

B. PAA Requirements

The Applicant shall provide a Justification Statement and any necessary supporting documentation outlining the rationale for the proposed amendment, and information regarding any proposed concurrent text amendment to the Plan. The Applicant shall submit this information to the applicable responsible PBC Official and the Zoning Division a minimum of five working days prior to the PAA. [Ord. 2018-002] [Ord. 2024-001]

C. Acceptance Finding

Within seven working days after the PAA, the applicable responsible PBC Official shall provide a written response stating whether the PPR will be accepted for processing, or if additional information is required by the Applicant prior to acceptance for processing. Other options may be applicable, including whether the responsible PBC Official would support, as an alternative to the PPR, the proposed ULDC revision being incorporated into a County-initiated revision to the ULDC. [Ord. 2018-002] [Ord. 2020-001] [Ord. 2024-001]

Section 5 Application Procedures

As the PPR is a discretionary process, acceptance of an application is typically determined through a higher level of collaboration between the Applicant and applicable PBC Official, or designee. Upon completion of the PAA and affirmation by the responsible PBC Official that the PPR may be accepted for processing, the PPR application shall be submitted in accordance with the Application Procedures established in the Technical Manual, Development Review Procedures Section, and as provided below. [Ord. 2018-002] [Ord. 2020-001] [Ord. 2024-001]

A. Review Phases

The PPR is comprised of two phases. [Ord. 2018-002] [Ord. 2024-001]

1. Phase 1 – Pre-BCC Initiation

Phase 1 PPR describes the period of time between the acceptance of the application for processing and the presentation to the BCC to consider the ULDC revisions for initiation. The responsible PBC Official shall review the PPR and prepare a Staff Report which shall include a preliminary analysis and recommendation on whether the proposed ULDC revisions should be approved for initiation. The Zoning Division shall schedule the PPR for appropriate public hearings as described in this Section upon the completion of the review and analysis of the PPR by the responsible PBC Official. A Phase 1 PPR that is denied for initiation by the BCC does not move forward to Phase 2. [Ord. 2018-002] [Ord. 2024-001]

2. Phase 2 – Post-BCC Initiation

Phase 2 PPR describes the period of time between the BCC approval of the initiation and the presentation to the BCC to consider the ULDC revisions for adoption. The Phase 2 PPR requires the Applicant to coordinate with the responsible PBC Official, the Zoning Division, Staff, and any interested

parties, and requires a more detailed analysis with supporting documentation to substantiate the request. The responsible PBC Official shall review the PPR and prepare a Staff Report which shall include an analysis and recommendation on whether the proposed ULDC revisions should be adopted, adopted with modifications, or not adopted. The Zoning Division shall schedule the PPR for appropriate public hearings applicable to adoption of ULDC revisions upon the completion of the review and analysis of the PPR by the responsible PBC Official. [Ord. 2018-002] [Ord. 2020-001] [Ord. 2024-001]

B. Staff Report and Recommendation

The responsible PBC Official reviewing the application shall prepare a Staff Report with analysis and recommendations for Phase 1 and for Phase 2 as provided below. [Ord. 2024-001]

1. Phase 1 Staff Report

The Phase 1 PPR Staff Report shall include, but not be limited to, the following: [Ord. 2024-001]

- a. A finding that the proposed ULDC revision does not violate State, Federal, or other Local Government laws; [Ord. 2024-001]
- b. A preliminary analysis demonstrating consistency with the Plan; [Ord. 2024-001]
- c. An analysis and finding of internal consistency within the ULDC, with the identification of any other ULDC revisions that may be necessary to ensure internal consistency; [Ord. 2024-001]
- d. A preliminary identification of properties that may be affected by the proposed ULDC revisions; [Ord. 2024-001]
- e. An evaluation of the availability of other alternatives to the proposed ULDC revisions, and if other alternatives are available, a demonstration of why those alternatives are not being pursued; and, [Ord. 2024-001]
- f. Staff recommendation on whether the proposed ULDC revisions should be initiated, initiated with modifications, or denied. [Ord. 2024-001]

2. Phase 2 Staff Report

The Phase 2 PPR Staff Report shall include, but not be limited to, the following: [Ord. 2024-001]

- a. A finding that the proposed ULDC revision does not violate State, Federal, or other Local Government laws; [Ord. 2024-001]
- b. An analysis demonstrating consistency with the Plan, with the inclusion of any proposed Plan amendments being reviewed concurrently; [Ord. 2024-001]
- c. An analysis and finding of internal consistency within the ULDC, with inclusion of any other ULDC revisions that may be necessary to ensure internal consistency; [Ord. 2024-001]
- d. An identification of properties that may be affected by the proposed ULDC revisions, and an analysis of the implications of the proposed revisions; [Ord. 2024-001]
- e. An analysis of Identification of examples of similar land development regulations adopted in other jurisdictions under the same circumstances, such as similar FLU designation or zoning districts, compatibility, buffering, roadway frontage, and other similar site considerations; and, [Ord. 2018-002] [Ord. 2024-001]
- f. Staff recommendation on whether the proposed ULDC revisions should be approved, approved with modifications, or denied. [Ord. 2024-001]

Section 6 Notification

A. Applicability

The minimum requirements for notification shall be in accordance with F.S. § 125.66. [Ord. 2018-002] [Ord. 2024-001]

Section 7 Advisory Board Hearings

A. Phase 1 Advisory Board Review and Recommendation

The responsible PBC Official shall present the Phase 1 PPR to the applicable advisory board established by BCC to make recommendations for those provisions proposed to be revised. If the PPR is being processed concurrently with a text amendment to the Plan, a Phase 1 advisory board review and recommendation is not required. [Ord. 2018-002] [Ord. 2024-001]

1. Meeting

The advisory board shall consider the PPR, Staff Report, relevant support materials, and public 44 testimony given at the meeting. [Ord. 2024-001]

2. Recommendation

The advisory board shall recommend to the BCC to initiate, initiate with modifications, or deny the PPR. [Ord. 2024-001]

B. Phase 2 Advisory Board Review and Recommendation

The responsible PBC Official shall present the Phase 2 PPR to the advisory board established by BCC to make recommendations for those provisions proposed to be revised. [Ord. 2024-001]

1. Meeting

The advisory board shall consider the PPR, Staff Report, relevant support materials, and public testimony given at the meeting. [Ord. 2018-002] [Ord. 2024-001]

2. Recommendation

The advisory board shall recommend to the BCC that the PPR be approved, approved with modifications, or denied. [Ord. 2018-002] [Ord. 2024-001]

C. LDRC

The responsible PBC Official and the Zoning Division shall present the Phase 2 PPR to the LDRC, which shall make a recommendation regarding its consistency with the Plan. [Ord. 2018-002] [Ord. 2024-001]

Section 8 Action by the BCC

A. Phase 1 BCC Initiation

The responsible PBC Official and the Zoning Division shall present the Phase 1 PPR to the BCC following the review and recommendation by the applicable advisory board, except if there is a concurrent Plan text amendment as described below. [Ord. 2018-002] [Ord. 2024-001]

1. Public Hearing

At the public hearing(s), the BCC shall consider the PPR, Staff Report, relevant support materials, the recommendation of the applicable advisory board, the testimony given, and the evidence introduced into the record at the public hearing(s). If the PPR is being processed concurrently with a text amendment to the Plan, the BCC shall consider the initiation of both items at the same meeting. [Ord. 2024-001]

2. Decision

The BCC may elect to initiate the PPR amendment, initiate with additional modifications or stipulations, or deny the request. [Ord. 2018-002] [Ord. 2024-001]

B. Phase 2 BCC Final Action

The responsible PBC Official and the Zoning Division shall present the Phase 2 PPR to the BCC in accordance with ULDC revision policies and procedures, statutory requirements, and as described below. [Ord. 2024-001]

1. Public Hearing

A Phase 2 PPR shall require one or more Public Hearings in compliance with F.S. § 125.66. At the public hearing(s), the BCC shall consider the PPR, Staff Report, relevant support materials, the recommendation of the applicable advisory board(s), the testimony given, and the evidence introduced into the record at the public hearing(s). [Ord. 2018-002] [Ord. 2020-001] [Ord. 2024-001]

2. Decision

The BCC may approve, approve with modifications, or deny the PPR. Approval of the ULDC revisions shall be by Ordinance. [Ord. 2018-002] [Ord. 2020-001] [Ord. 2024-001]

C. Postponements, Continuance, or Remand

The BCC shall have the discretion to postpone or continue any PPR application at any time, or remand the application back to the applicable advisory board(s). [Ord. 2018-002] [Ord. 2024-001]

D. Conduct at Hearing

Shall be in accordance with Art. 2.B.6.D, Conduct of Hearings. [Ord. 2018-002]

Section 9 Appeals

The PPR process is discretionary and not subject to appeals. [Ord. 2018-002] [Ord. 2024-001]

CHAPTER E MONITORING OF DEVELOPMENT ORDERS (DOs) AND CONDITIONS OF APPROVAL

Section 1 General

A. Purpose and Intent

The purpose of this Chapter is to establish procedures to ensure compliance with Development Orders (DOs) and Conditions of Approval in a timely manner, through a mandatory review process. The procedures create a system that ensures compliance with Conditions of Approval, timely commencement and completion of development, and revocation or modification of development approvals. The intent of monitoring DOs and Conditions of Approval (including buildout) is to preserve the availability of public facilities and services for proposed future development, require compliance with improved performance and site design standards, and ensure that DOs are implemented in a timely manner. The intent of monitoring Community Development District (CDD) and FLUA Ordinance conditions is to ensure that conditions imposed by the BCC are met in a timely manner and to provide a mechanism to address the violation [Ord. 2020-001]

B. Applicability

1. This Chapter shall apply to: [Ord. 2020-001]
 - a. All DOs with a time limitation for Conditions of Approval, or as a part of the development process as required by specific Articles of this Code; [Ord. 2020-001]
 - b. All DOs as required by the ULDC; [Ord. 2020-001]
 - c. All CDD Ordinances with Conditions of Approval; and, [Ord. 2020-001]
 - d. All FLUA Ordinances with Conditions of Approval. [Ord. 2020-001]

2. Responsibilities

- a. The Applicant or owner shall communicate with the responsible Agency, and demonstrate completion of the applicable Conditions of Approval. [Ord. 2020-001]
- b. Upon completion of the Conditions of Approval, PZB will allow issuance of the Building Permit or relevant event to occur. [Ord. 2020-001]
- c. Projects not meeting the Conditions of Approval due dates or event action shall be subject to the provisions set forth in Art. 2.E.3, Procedures for Compliance. [Ord. 2020-001]

C. Exemptions

1. Any DOs in whole or in part, that apply to lands that are owned by a unit of Local, State, and/or Federal Government, provided the DO is utilized for buildings or facilities that are owned by a government entity and support customary government operations and/or delivery of public services; [Ord. 2020-001]
2. Any DOs for a rezoning of a single lot to a residential zoning district for a Single Family residential use; and, [Ord. 2020-001]
3. A Rezoning to a Standard Zoning District, unless it has a COZ. [Ord. 2020-001]

Section 2 Monitoring Elements

A. Commencement of Development

Approved DOs shall be monitored for commencement of development. Commencement of development shall consist of the following requirements: [Ord. 2020-001]

1. For development with a single building, the first inspection approval for the foundation of the structure; [Ord. 2020-001]
2. For development with multiple buildings, the first inspection approval for the first component of the primary structure; [Ord. 2020-001]
3. For residential development, the subdivision of land into parcels through the recordation of a plat; or, [Ord. 2020-001]
4. For Type 3 Excavation sites, extraction of minerals for commercial purposes. [Ord. 2020-001]

B. Commencement of Development is Not

1. Demolition of a structure; [Ord. 2020-001]
2. Deposit of refuse, solid, or liquid waste; or fill on the parcel, unless the DO is exclusively and specifically for such a use; or, [Ord. 2020-001]
3. Clearing of land. [Ord. 2020-001]

C. Time Limitations for Commencement

1. All DOs shall comply with a time limitation requirement for commencement as follows: [Ord. 2020-001]
 - a. The first phase of a DO shall commence within four years of the adoption date. Each subsequent phase shall commence within four years of commencement of the preceding phase. [Ord. 2020-001] [Ord. 2021-006]
 - b. Standalone Variances shall be utilized within one year, unless stated otherwise by the Resolution or Result Letter. [Ord. 2020-001] [Ord. 2021-006]
2. Projects not meeting the time limitations for commencement shall be subject to the provisions set forth in Art. 2.E.3, Procedures for Compliance. [Ord. 2020-001]

D. Phasing Limitations

1. The maximum number of development phases is four unless otherwise indicated below: [Ord. 2021-006]
 - a. PUDs, TNDs, PIPDs in the GAO, residential uses in other PDDs, or other Standard Zoning Districts have no maximum number of phases. [Ord. 2021-006]
 - b. TMDs in the AGR, Exurban, and Rural Tiers shall have a maximum of two phases. [Ord. 2021-006]
 - c. The maximum number of phases and duration of each phase for a Type 3 Excavation shall be established by a Condition of Approval. [Ord. 2021-006]

E. Time Limitations for Buildout

The Buildout Period shall be determined by Art. 12.C.1.B.3, Projected Buildout Period, and monitored for compliance. However, Conditions of Approval with a time-certain Project Buildout date may be provided an additional 90 days if a complete Building Permit application has been submitted to the Building Division prior to this deadline. [Ord. 2020-001]

F. DOs with Conditions of Approval

1. All DOs with Conditions of Approval that must be completed prior to a date, event, or action shall be monitored for compliance. [Ord. 2020-001]
2. All monitoring DOs shall comply with the provisions of Art. 2.E.3, Procedures for Compliance. [Ord. 2020-001]

G. Community Development District Ordinances with Conditions of Approval

1. All Community Development District (CDD) Ordinances with Conditions of Approval that must be satisfied prior to a date or action shall be monitored for compliance. [Ord. 2020-001]
2. No Administrative Time Extensions may be applied to CDD Ordinances. [Ord. 2020-001]
3. In the event of a failure to comply with a CDD Ordinance Condition of Approval, the Planning Director, or designee, shall: [Ord. 2020-001]
 - a) Notify Applicant of potential violation and enforcement procedures as established in Art. 10, Enforcement; or [Ord. 2020-001]
 - b) Prepare a Status Report per Art. 2.E.3.C, Status Reports. [Ord. 2020-001]

H. FLUA Ordinances with Conditions of Approval

1. All FLUA Ordinances with Conditions of Approval that must be satisfied prior to a date or action shall be monitored for compliance. [Ord. 2020-001]
2. No Administrative Time Extensions may be applied to FLUA Ordinances. [Ord. 2020-001]
3. Failure to comply with a FLUA Ordinance Condition of Approval shall require the Planning Director, or designee, to bring the item before the BCC at the next regularly scheduled Planning or Zoning Public Hearing for consideration of non-compliance. [Ord. 2020-001]

I. Notification Prior to a Due Date

No later than 30 days prior to a due date for any of the above items, a letter shall be issued to the address of the owner of record as it appears in the official records of the PBC Property Appraiser's Office. [Ord. 2020-001]

Section 3 Procedures for Compliance

A. General

An Applicant, not in compliance with this Chapter, may utilize and exhaust all procedures established in this Chapter in order to comply with the Conditions of Approval and commencement of development that must be satisfied prior to a date of action. [Ord. 2020-001]

B. Administrative Extension of Time

1. The Applicant may file for an Administrative Time Extension to the Executive Director, or designee. The Executive Director, or designee, may grant an extension of time to comply with a requirement and shall consider changed circumstances or mitigating factors that prevent compliance. [Ord. 2020-001]
2. An Administrative Time Extension may be applied to an expiring buildout condition due date. The application must be accompanied by a traffic study. [Ord. 2020-001]
4. The maximum duration of an Administrative Time Extension is as follows: [Ord. 2020-001]
 - a. **Commencement of Development Public Hearing DO**
24 months, unless stated otherwise. [Ord. 2020-001]
 - b. **Commencement of Development Administrative DO**
Each separate Administrative Time Extension shall not exceed 12 months. [Ord. 2020-001]
 - c. **Buildout Conditions**
Extension will reflect the results of the traffic review. [Ord. 2020-001]
 - d. **Conditions of Approval Not Requiring the Posting of Performance Security**
 - 1) 12 months, unless stated otherwise in the Condition of Approval. [Ord. 2020-001]
 - 2) Subsequent applications may be filed; however, the total administrative extensions approved shall not exceed 24 months for the current DO. [Ord. 2020-001]
 - e. **Conditions of Approval Requiring the Posting of Performance Security**
A one-time Administrative Time extension not to exceed six months shall be the maximum. [Ord. 2020-001]
5. When the Executive Director of PZB, or designee, approves an extension of time for completion of a time-certain requirement, the Property Owner may be required to guarantee the completion by furnishing a cash deposit, letter of credit, or surety bond. [Ord. 2020-001]
6. A time extension for a government-caused delay shall not exceed 24 months. [Ord. 2020-001]
 - a. It is the responsibility of the Property Owner to notify Staff in writing of the reason and cause of the delay. [Ord. 2020-001]
 - b. No application or fee will be required. [Ord. 2020-001]
 - c. If the delay prevents compliance with this Chapter, an additional extension may be granted. [Ord. 2020-001]

C. Status Reports

1. General

An application for a Status Report may be requested by the Property Owner, or initiated by the Executive Director of PZB, or designee, if one of the following occurs: [Ord. 2020-001]

- a. A Property Owner fails to comply with a time limitation and has not requested a time extension. [Ord. 2020-001]
- b. The project received a Public Hearing approval and has exhausted all available administrative extensions. [Ord. 2020-001]

2. Scheduling

- a. PZB shall advertise a Status Report public hearing for the Decision Making Bodies that approved the DO. [Ord. 2020-001]
- b. A Status Report may be requested by a Property Owner, but a request for a time extension may not be made prior to six months before commencement due date. [Ord. 2020-001]

3. Staff Report and Recommendation

The PZB Director, or designee, shall prepare a Status Report for each application. The report shall incorporate the analysis and Conditions of Approval in question and a recommendation of approval, approval with conditions, or denial based on the applicable standards for the BCC to consider. [Ord. 2020-001]

4. Status Report Submittal and Review Criteria

- a. The Property Owner/Applicant shall submit to the Monitoring Section the following:
 - 1) summary of the background and current status of the development including any documentation provided to Staff of efforts to comply with the requirement, or circumstances beyond the control and cause of the Property Owner, other than economic conditions, which have prevented compliance; [Ord. 2020-001]
 - 2) a description of any Code violations; [Ord. 2020-001]
 - 3) a description of any uncompleted condition or time-certain requirements. [Ord. 2020-001]
- b. Summary of items to be reviewed by Staff: [Ord. 2020-001]
 - 1) a review of previous extensions of time (for a Status Report prepared for non-compliance with a time-certain requirement); [Ord. 2020-001]
 - 2) evaluate and consider any changed circumstances and mitigating factors; and, [Ord. 2020-001]
 - 3) a determination of whether the Development Order is consistent with the Plan and is consistent with the Code. [Ord. 2020-001]

5. Procedures

Consideration of all actions permitted by Art. 2.E.3.B, Administrative Extension of Time, except a rezoning, shall occur in the following manner: [Ord. 2020-001]

a. Public Hearing

- 1) At least one public hearing shall be held by the ZC or by the BCC, as applicable. [Ord. 2020-001]
- 2) If the project involves a rezoning for ten acres or more, two public hearings shall be held by the BCC. [Ord. 2020-001]

b. Mail Notice

The owner of record shall be notified in writing of the Status Report and recommendation to the BCC or ZC. Written notice shall consist of a letter sent at least 14-calendar days prior to the hearing by certified mail; 30-calendar days for a rezoning, return receipt requested, to the last known address of the owner of record as it appears in the records of the PBC Property Appraiser's Office. In the event that the owner fails to acknowledge receipt of mail notice or the notice is returned unopened, newspaper publication in accordance with F.S. § 125.66(2)(a) shall be deemed sufficient notice, published at least ten days prior to the hearing. [Ord. 2020-001]

6. Decision of the BCC or ZC

The BCC or ZC shall consider the factors enumerated in Art. 2.E.3.C.4, Status Report Submittal and Review Criteria above and the recommendation of Staff. After deliberation, the BCC or ZC shall take one or more of the following actions: [Ord. 2020-001]

a. Grant a Time Extension

- 1) To commence development, utilize a Conditional Use, or record a plat for a period not to exceed 36 months from the date of BCC or ZC approval. [Ord. 2020-001]
- 2) To comply with a Condition of Approval for a period not to exceed 24 months from the date of the BCC or ZC approval with the exception of time-certain Project Buildout date condition(s) as mandated by the Traffic Performance Standards. A Project Buildout date condition may receive approval of a time extension up to the Buildout Period assumed in the traffic study. [Ord. 2020-001]
- b. Adopt a Resolution which will rezone the property to an appropriate zoning district; [Ord. 2020-001]
- c. Adopt a Resolution which will revoke or amend the approval for all or a portion of the Conditional Use, Special Exception, or Development Order Amendment; [Ord. 2020-001]
- d. Adopt a Resolution which will impose additional or modified conditions, voluntary commitments, or permit the Property Owner to initiate an application to add or modify conditions or voluntary commitments, as directed by the BCC or ZC. New or modified conditions or voluntary commitments shall include bringing the development into conformity with current codes and regulations; [Ord. 2020-001]
- e. Direct Staff to cite the Property Owner for violating the provisions of this Code; [Ord. 2020-001]
- f. Adopt a Resolution to amend or revoke the Development Order or Map Amendment for the undeveloped or unplatted portion of the project; [Ord. 2020-001]

- g. Exempt from further review of any DO which rezoned property to a district which does not exceed the density or intensity permitted by the future land use designation, provided there is no Concurrency Reservation or exemption for the property. This exemption may be applied to any advertised Status Report after adoption of this amendment; and/or, [Ord. 2020-001]
- h. Deny or revoke a Building Permit; issue a stop work order; deny or revoke a Certificate of Occupancy (CO) on any building or structure; revoke any concurrency; deny or revoke any permit, license, or approval for any developer, owner, lessee, or user of the subject property. [Ord. 2020-001]

D. Decision of the DRO

A Property Owner may submit an application for a time extension to the DRO for any Condition of Approval imposed by the DRO. The DRO must receive the application prior to the compliance deadline stated in the Condition of Approval. [Ord. 2020-001]

- 1. The DRO shall consider changed circumstances or mitigating factors. [Ord. 2020-001]
- 2. The DRO may take the following action: [Ord. 2020-001]
 - a. Grant a time extension not to exceed 12 months; [Ord. 2020-001]
 - b. Revoke the approval of DO; [Ord. 2020-001]
 - c. Amend or delete the Condition of Approval; or, [Ord. 2020-001]
 - d. Direct Code Enforcement Staff to seek enforcement procedures. [Ord. 2020-001]

E. Failure to Use Variance

If a Property Owner fails to utilize a Variance within the timeframes as provided, the Variance shall become invalid. [Ord. 2020-001]

Section 4 Non-Compliance

A. General

If the procedures for compliance are exhausted and a Property Owner continues to violate a Condition of Approval, suspension of all development activity authorized by a DO shall occur. Once the matter is compliant, development activity may resume. [Ord. 2020-001]

B. Suspension of Development Orders

Suspension of DOs may occur upon failure to comply with one or more time limitations or failure to comply with a Condition of Approval. [Ord. 2020-001]

1. Expiration of Time Periods

Upon expiration of any time period established by this Chapter or failure to comply with, or continued violation of a Condition of Approval, no new DOs affecting the property shall be issued by PBC, and no action to vest the DO shall be permitted, until a final determination is made by the Executive Director, or BCC or ZB pursuant to Art. 2.E.3, Procedures for Compliance. This suspension of development rights shall not preclude the Property Owner from filing a new application for the subject property to amend or supersede an existing Development Order, or the BCC or ZC from approving this application. [Ord. 2020-001]

2. Effect of Suspension

The suspension of development rights shall have the following effect on new applications and Code Enforcement actions: [Ord. 2020-001]

- a. If a Property Owner files a new application, no new DOs shall be issued until the completion of the Zoning process to resolve the non-compliance, except the DO which approves the application. [Ord. 2020-001]
- b. If the Property Owner is referred to Code Enforcement for violating the provisions of the DO, no new DOs shall be issued until the alleged violation has been ruled upon by the Code Enforcement Special Master, and any enforcement action is completed, or penalty is satisfied. This shall not, however, preclude compliance with the specific condition cited in the Status Report after the BCC or ZC has directed the Code Enforcement Division to cite the Property Owner for non-compliance with that condition. [Ord. 2020-001]

CHAPTER F CONCURRENCY (ADEQUATE PUBLIC FACILITY STANDARDS)

Section 1 General

A. Purpose and Intent

The purpose and intent of this Chapter is to ensure that adequate potable water, sanitary sewer, solid waste, drainage, park, road and mass transit public facilities, and fire-rescue are available to accommodate development concurrent with the impact of development on such public facilities, consistent with the LOS standards for those public facilities adopted in the Plan. This objective is accomplished by (1) establishing a management and monitoring system to evaluate and coordinate the timing and provision of the necessary public facilities to service development; and (2) by establishing a regulatory program that ensures that each public facility is available to serve development concurrent with the impacts of development on public facilities. [Ord. 2018-002]

B. Authority

The BCC has the authority to adopt this Chapter pursuant to Art. VIII, § 1, Fla. Const., the PBC Charter, F.S. § 125.01 *et seq.*, F.S. § 163.3161(8), F.S. § 163.3177(10)(h), and F.S. § 163.3202(2)(g).

C. Applicability

1. General

Concurrency shall be obtained for all Development Orders and subsequent Development Orders unless the project is exempt from the requirements of this Chapter.

D. Exemptions

The following shall be exempt from the requirements of this Chapter:

1. All Development Orders that have received a Concurrency Exemption Certificate or Concurrency Exemption Extension Certificate, pursuant to the "Concurrency Exemption Ordinance of Palm Beach County, Florida" and the "Concurrency Exemption Extension Ordinance of Palm Beach County, Florida;"
2. A lot of record which (1) meets the density requirements of the Plan, as amended; or (2) qualifies for an administrative order exempting it from the density requirement of the Plan;
3. An alteration or expansion of a development that does not create additional impact on public facilities;
4. The construction of accessory buildings and structures that does not create additional impact on public facilities;
5. The replacement of a dwelling unit within one year of its removal; and,
6. The official list of additional specific permit types as established by the Zoning Director which are deemed to have no impact on public facilities.

E. Unified Planning Area

1. If a unified planning area is adopted and implemented by the BCC, through Resolution, such unified planning area shall be considered concurrent through the date specified in the Resolution, provided:
 - a. The terms of the Resolution adopting and implementing the unified planning area are being met in good faith; and
 - b. The impacts of the unified planning area on the public facilities have been addressed.
2. Adequate public facility standards for the unified planning area shall be maintained providing Art. 2.F.1.E.1.a, Art. 2.F.1.E, Unified Planning Area, have been met, regardless of the impact of subsequently approved or background traffic that may generate traffic in the unified planning area, on affected roadways or other public facilities.

Section 2 LOS Standards

The LOS standards for public facilities are contained in the Plan and shall apply in the review of development pursuant to the procedures and standards of this Chapter.

Section 3 Review for Adequate Public Facilities

A. General

To ensure that adequate potable water, sanitary sewer, solid waste, drainage, park and recreation, road, mass transit, and fire-rescue public facilities are available concurrent with the impacts of development on each public facility, PBC shall establish the following development review procedures. [Ord. 2018-002]

B. Procedure for Review of Application for a Concurrency Reservation

1. Submission of Application

a. Concurrency Reservation

An application for a Concurrency Reservation shall be submitted jointly with an application for a Development Order (joint review), to the Zoning Director in a form established by the Zoning Director and made available to the public. If the proposed development does not require Site Plan approval, the application shall be submitted at scheduled intake times (separate review) as specified on the Annual Zoning Division Calendar. The application shall be accompanied by a fee established by the BCC for the filing and processing of each application. The fee shall be non-refundable. [Ord. 2006-055]

b. WHP Traffic Concurrency Hall Pass

A WHP Traffic Concurrency Hall Pass is a provisional traffic concurrency approval that may be used for Projects subject to Art. 5.G.1, Workforce Housing Program (WHP). A WHP Traffic Concurrency Hall Pass Certificate shall be considered a traffic Concurrency Reservation only for the purposes of Art. 12.C.1.C.4.c, TPS Database, and shall be valid for a period of not more than 90 days.

An application for a WHP Traffic Concurrency Hall Pass may be submitted separate from an application for a Development Order to the Traffic Director in a form established by the Traffic Director and made available to the public. The application may be submitted at any time and shall be accompanied by a fee established by the BCC for the filing and processing of each application. The fee shall be non-refundable. [Ord. 2006-055]

2. Determination of Sufficiency

a. Separate Review

Upon receipt of the application, the Zoning Director (or Traffic Director, in the case of a WHP Traffic Concurrency Hall Pass) shall initiate a review and within ten days determine whether the application is sufficient. If it is determined that the application is not sufficient, written notice shall be sent to the Applicant specifying the deficiencies. The Zoning Director (or Traffic Director, in the case of a WHP Traffic Concurrency Hall Pass) shall take no further action on the application unless the deficiencies are remedied. If the deficiencies are not remedied within 20 days of written notification, the application shall be considered withdrawn. [Ord. 2006-055]

b. Joint Review

Sufficiency determination is subject to the regulations for the specific Development Order requested as outlined in Art. 2.B.7.C, Development Order Amendment (DOA). Insufficiency of any portion of an application submitted under joint review shall result in the insufficiency of the concurrency application.

3. Determination of Review

The Zoning Director shall also determine whether all Service Providers are required to review the application. If the Director determines that two or less public facilities are impacted by the proposed development, the application may be eligible for a reduced concurrency review fee. The Zoning Director, where appropriate, shall consult with the Service Providers in making such determination.

4. Review and Recommendation

a. Separate Review

Within ten days of submittal or resubmittal, the application shall be forwarded to the PBC Departments and Service Providers for review. Within 15 working days of its receipt, the appropriate PBC Departments and Service Providers shall file a statement with the Zoning Director as to whether or not adequate public facilities are available, pursuant to the standards of Art. 2.F.3.C, Standards for Review of Application for Adequate Public Facilities Determination and Concurrency Reservation. In the case of an application for a WHP Traffic Concurrency Hall Pass, the same review timeframes shall apply and the statement as to whether or not adequate public facilities are available pursuant to the standards of Art. 2.F.3.C, Standards for Review of Application for Adequate Public Facilities Determination and Concurrency Reservation, shall be filed with the Traffic Director, with a copy to the Zoning Director. [Ord. 2006-055]

b. Joint Review

The application shall be distributed to the PBC Departments and Service Providers for review together with application for Development Order.

5. 90-Day Negotiation

a. Separate Review

If the Zoning Director (or Traffic Director, in the case of a WHP Traffic Concurrency Hall Pass) determines that an application fails to meet any one of the public facility component standards of Art. 2.F.3.C, Standards for Review of Application for Adequate Public Facilities Determination and Concurrency Reservation, the Applicant shall be notified of such deficiency(s) in writing. If the Applicant does not notify the Zoning Director (or Traffic Director, in the case of a WHP Traffic Concurrency Hall Pass) in writing that he/she wishes to withdraw the application, the application shall be entered into a 90-day negotiation period with the Service Provider. [Ord. 2006-055]

- 1) If during the 90-calendar day negotiation period, the Applicant addresses the deficiencies, the application shall be reconsidered by the Zoning Director (or Traffic Director, in the case of a WHP Traffic Concurrency Hall Pass) and approved or denied consistent with the standards of this Chapter. [Ord. 2006-055]

- 2) If the deficiencies are not resolved within 90-calendar days, the application shall be denied.

b. Joint Review

The timing and review of an application shall be consistent with the timing and review procedures outlined in this Article, for the requested Development Permit. Approval of the Development Permit shall not be granted until Concurrency is approved. [Ord. 2010-022]

c. Extension of 90-Day Negotiation Period

Prior to expiration of a reservation, if it is documented that a government delay caused the failure of a Development Order to be issued, the Zoning Director shall grant such extensions as necessary to offset government-caused delays, not necessarily equal to the time of the delay. Each extension shall be based only on a delay that has already occurred.

6. Approval

a. Separate Review

If it is determined by the Service Providers that adequate public facilities are available, the Zoning Director shall review the statements and the application for compliance with all the public facility component standards of Art. 2.F.3.C, Standards for Review of Application for Adequate Public Facilities Determination and Concurrency Reservation, and the density requirements of the Plan, and shall issue a Certificate for Concurrency Reservation. [Ord. 2005-002]

b. Joint Review

Concurrency approval shall be indicated directly on the certified plan pursuant to the DRO Technical Standards, for projects that require Site Plan approval. For projects that do not require Site Plan approval, a reservation shall be issued.

c. WHP Traffic Concurrency Hall Pass Certificate

If it is determined that adequate public facilities are available in compliance with Art. 2.F.3.C.3, Traffic Facilities, the Traffic Director shall issue a Hall Pass Certificate. An application for a Concurrency Reservation in conjunction with a Development Order application shall be submitted within 90 days of issuance of the Traffic Concurrency Hall Pass Certificate or else it shall expire. [Ord. 2006-055]

C. Standards for Review of Application for Adequate Public Facilities Determination and Concurrency Reservation

The following standards for each facility shall be used in deciding whether to approve or deny a Concurrency Reservation.

1. Potable Water, Sanitary Sewer, Solid Waste, Park and Recreation and Linked Open Space, and Fire-Rescue Facilities

Facilities to provide the proposed development sufficient services based on the LOS for facilities are in place, or under construction and bonded; or the subject of a binding and executed contract; or are included in PBC's Capital Improvement Annual Budget or the Service Provider's annual budget; or the PBCHD has verified and approved that capacity is available.

2. Drainage Facilities

The drainage component shall be approved if the proposed development has a legal right to convey stormwater to a point of legal positive outfall or meets the exemption provisions of Art. 5.E.3, Drainage.

3. Traffic Facilities

The roads component shall be approved if the proposed Development complies with Art. 12, Traffic Performance Standards. In determining whether the road component meets the requirements of this Subsection, the Five-Year Road Improvement Schedule in the Capital Improvement Element may be considered only if the Development proposed in the application is phased so that the impacts of the proposed Development and the capacity provided by the road projects in the Five-Year Road Improvement Schedule will occur concurrently. The phasing of development and transportation improvements to ensure the LOS for road facilities is met may be addressed through a Development or Road Agreement. [Ord. 2006-055]

4. Mass Transit Facilities

The mass transit component shall be approved if the travel demand of the proposed development does not deteriorate the LOS for mass transit facilities below the adopted LOS for mass transit facilities.

D. Rules of General Applicability for a Concurrency Reservation

1. Expiration

Unless revoked by the BCC or the ZC reservation is valid for the life of a specific Development Order pursuant to this Chapter, or shall expire one year from the date of issuance of the reservation, whichever is applicable. If the Concurrency Reservation was based upon a converted WHP Traffic Concurrency Hall Pass, then the reservation shall be valid for one year from the date of issuance of the Traffic Concurrency Hall Pass Certificate or for the life of the specific Development Order pursuant to this Chapter, whichever is applicable. If the required Development Order is a Building Permit, then the application for the Building Permit must be submitted prior to the expiration date of the reservation. In such cases, the Building Permit must be issued within six months from the date of intake of the Building Permit application, or the reservation shall expire. If a reservation either expires or becomes invalid, the public facility capacity reserved by the reservation expires, and becomes additional available public facility capacity. An Applicant cannot apply for a new reservation until the previous reservation has expired. The expiration or revocation of a Development Order shall result in the automatic expiration or revocation of the reservation. A reservation shall not expire if an application for a specific Development Order is pending. All Concurrency Reservations shall be issued for the number of units or square footage shown on the approved Site Plan or Master Plan most recently certified by the DRO. For any Master Plan or Site Plan, which was approved for acreage only, the capacity for the approved use shall be calculated by the Applicant and affirmed by the Zoning Division and each Service Provider. Any Concurrency Reservation shall be adjusted accordingly. Any increase in units or square footage above that shown on the current Site Plan/Master Plan shall be subject to concurrency review. [Ord. 2006-055]

2. Effect

Reservation will remain valid provided:

- a. the Development Order for which the certificate was approved has not expired or been revoked or abandoned;
- b. all annual fees necessary to maintain the reservation are paid each year;
- c. the development is not altered to increase the impact of the development on public facilities;
- d. the reservation is not revoked by the BCC or the ZC.

3. Assignability and Transferability

A reservation may be assignable or transferable, within the same approved development or to successors in interest for the same property.

4. Extension of a Reservation

Prior to expiration of a reservation, if it is documented that a government caused the failure of a Development Order to be issued, the Zoning Director shall grant such extensions as necessary to offset government-caused delays, not necessarily equal to the time of the delay. Each extension shall be based only on a delay that has already occurred.

5. Phasing of a Reservation

In determining whether an application for a reservation complies with the requirements of Art. 2.F.3.C, Standards for Review of Application for Adequate Public Facilities Determination and Concurrency Reservation, the Zoning Director may consider the phasing of development and its coordination with public facility capital improvements for a period of up to five years, or some other period consistent with the terms of an agreement.

6. Receipt of a Concurrency Reservation with Conditions

If the appropriate Service Provider can ensure there will be adequate public facilities with condition(s) or an agreement approved by the Zoning Director, the Certificate of Concurrency Reservation shall be approved. The issuance of a Building Permit shall be based upon compliance with the conditions contained on certified Site Plan or the Concurrency Reservation.

a. Consideration in Conjunction with an Agreement

- 1) If an agreement is to be part of an application for a Development Order, then prior to the proposed Development Order application being considered for consistency, the agreement shall be:
 - a) found to be in sufficient form and contain sufficient information by the County Attorney and the Zoning Director; and
 - b) accompanied by applicable fee, as set forth in the adopted Fee Schedule.
- 2) If the Zoning Director determines that the standards of Art. 2.F.3.C, Standards for Review of Application for Adequate Public Facilities Determination and Concurrency Reservation, are met if the agreement is approved, a Certificate of Concurrency Reservation shall be issued, conditioned on the approval of the agreement with the express terms related to the provision of the public facilities for the proposed development.
- 3) Upon approval of the agreement by the BCC, the Concurrency Reservation shall become final. If the agreement is denied, then the Certificate of Concurrency Reservation shall expire.

b. Performance Security Required

- 1) In accordance with Art. 12.C.2, Conditions, a Concurrency Reservation with conditions may be granted to ensure compliance with the TPS. Performance Security to install improvements resulting from the impact of the project may be required to be posted within six months from the date the Development Order is approved. The Performance Security shall be in a form acceptable to the DEPW.
- 2) A one-time six-month Administrative Time Extension in accordance with Art. 2.E.3.B, Administrative Extension of Time, or a six-month BCC time extension in accordance with Art. 2.F.2, LOS Standards, of this Code, may be permitted, provided the following standards are met:
 - a) The project is located on a roadway, which did not meet the TPS prior to a Concurrency Reservation being issued for the project;
 - b) The traffic approval was based solely on the posting of security for roadway improvements; and,
 - c) The project approval does not delay any other Property Owner from development since no capacity was available for the project, therefore, no trips had been reserved for the project.
- 3) If an Administrative Time Extension is not requested and granted, or a previously approved time extension expires without security being posted, the Development Order shall be subject to the review requirements of Art. 2.F.2, LOS Standards and this Section. If the BCC revokes the Development Order, the Certificate of Concurrency Reservation shall immediately expire. The Development Order shall be revoked if security is not posted within 12 months of approval of the Development Order.

c. Extension of Date-Certain Conditions Prior to Issuance of Development Order

Prior to the expiration of a date-certain condition, one extension of the condition up to nine months may be provided by the Service Provider imposing the condition, if it is determined that a valid public governmental purpose will be achieved by granting the extension. In no other case may an extension be granted.

7. Amendment of Certificate of Concurrency Reservation

An amendment to a Concurrency Reservation shall be required prior to the approval of any amendment to a Development Order which results in a change to the impact on public facilities addressed by this Chapter. The amendment of a Concurrency Reservation shall only require reservation of the additional public facility capacity demanded by the proposed development or modification of the reservation of the public facility capacity if the demand is decreased.

8. Revision of a Concurrency Reservation

A revision to a Concurrency Reservation shall be required prior to the approval of any reduction in approved square footage on the certified plan.

9. Effect of Agreement in Conjunction with a Certificate of Concurrency Reservation

A developer may enter into an agreement with PBC and relevant Service Providers, for those public facilities specifying that an agreement is acceptable, in conjunction with the approval of a Development Order and a Certificate of Concurrency Reservation, to ensure adequate public facilities are available concurrent with the impacts of development on the public facility. The effect of the agreement shall be to bind PBC and the developer pursuant to the terms and duration of the agreement to its determination pursuant to Art. 2.F.4, Entitlement Density and Entitlement Intensity, that adequate public facilities are available to serve the proposed development concurrent with the impacts of the development on the public facilities. Any public facility capital improvement in the Six Year Capital Improvement Schedule in the CIE on which such a Concurrency Reservation is made in conjunction with the approval of a Development Order and an agreement, shall not be delayed, deferred, or removed from the Six Year Capital Improvement Schedule in the CIE, except that any capital improvement may be deferred by one year if the deferral is identified pursuant to the terms of an agreement.

E. Procedure for Equivalency Determination

1. Submission of Application

An application for an equivalency determination shall be submitted jointly with an application for a specific Development Permit. If the equivalency is for a use or uses that do not require Site Plan approval, it may be submitted separately at scheduled intake times as specified on the Annual Zoning Division Calendar. The Applicant shall complete the Equivalency Matrix in the concurrency supplemental application itemizing the following in the appropriate column:

- a. All approved and existing uses for the development shall be listed;
- b. All proposed uses including those uses that are not changing; and,
- c. The amount of change for those uses that did change.

2. Review and Recommendation

a. Separate Review

Within ten days of submittal or resubmittal, the application shall be forwarded to the PBC Departments and Service Providers for review. Within 15 working days of its receipt, the PBC Departments and Service Providers shall file a statement with the Zoning Director as to whether or not adequate public facilities are available, pursuant to the standards of Art. 2.F.3.C, Standards for Review of Application for Adequate Public Facilities Determination and Concurrency Reservation.

b. Joint Review

The application is distributed to the PBC Departments and Service Providers for review with the distribution of the application for Development Permit.

3. Approval of Equivalency

a. Separate Review

If it is determined by the providers that the approved existing uses are equivalent to the proposed uses, the Concurrency Section will either:

- 1) Amend and reissue the existing reservation or exemption to include the new uses, or
- 2) Issue an Administrative Exemption if the development exists and there is no valid reservation or exemption.

b. Joint Review

Concurrency approval shall be indicated directly on the certified plan pursuant to the DRO Technical Standards for projects that require Site Plan approval. For projects that do not require Site Plan approval, a reservation shall be issued.

4. Denial of Equivalency

If it is determined by one or more of the providers that the proposed uses are equivalent to the approved/existing uses, the Applicant shall apply for a reservation for those proposed uses, which will require additional capacity.

Section 4 Entitlement Density and Entitlement Intensity

A. General

If after an appeal on an application for a Concurrency Reservation is denied by the PZB Executive Director and that decision is affirmed by the DRAB, the Applicant may submit an application for Entitlement Density or Entitlement Intensity pursuant to the procedural and substantive requirements of this Section. [Ord. 2011-016]

B. Submission of Application

An application for Entitlement Density or Entitlement Intensity shall be submitted to the PZB Executive Director on a form established by the PZB Executive Director and made available to the public. The application shall be accompanied by a fee established by the BCC from time to time for the filing and processing of each application. The fee shall be non-refundable. [Ord. 2011-016]

C. Determination of Sufficiency

The PZB Executive Director shall initiate review of an application for Entitlement Density or Entitlement Intensity upon receipt of the application, and within 15 working days, determine whether the application is sufficient and includes data necessary to evaluate the application. [Ord. 2011-016]

1. If it is determined that the application is not sufficient, written notice shall be sent to the Applicant specifying the deficiencies. The Zoning Director shall take no further action on the application unless the deficiencies are remedied.
2. If the application is determined sufficient, the Zoning Director shall notify the Applicant in writing of the application's sufficiency, and that the application is ready for review pursuant to the procedures and standards of this Section.

D. Decision by PZB Executive Director

Within 30 working days after the PZB Executive Director determines the application is sufficient, the PZB Executive Director shall review the application and shall approve, approve with conditions, or deny the application based upon whether it complies with the standards in Art. 2.F.4.E, Standards for Entitlement Density and Entitlement Intensity. [Ord. 2011-016]

E. Standards for Entitlement Density and Entitlement Intensity

1. An Entitlement Density for the proposed development must be consistent with the Entitlement Densities permitted in the FLUE of the Plan or a minimum of one dwelling unit, provided that the maximum density (dwelling unit per gross acre) as depicted on Figure 2 of the FLUA of the Plan is not exceeded. [Ord. 2011-016]
2. An Entitlement Intensity for the proposed development must be consistent with the Entitlement Intensities permitted in the FLUE of the Plan provided the square footage does not exceed two and one-half percent of the maximum square footage allowed under this Code. [Ord. 2011-016]
3. If the above conditions are met, an Entitlement Density or Entitlement Intensity for the proposed development shall be granted if: [Ord. 2011-016]
 - a. A Concurrency Reservation has been denied for the proposed development pursuant to the requirements of Art. 2.F.3.C, Standards for Review of Application for Adequate Public Facilities Determination and Concurrency Reservation, and an appeal to the DRAB has affirmed that decision;
 - b. The LOS for drainage facilities for the development proposed in the application is met pursuant to the requirements of Art. 2.F.3.C, Standards for Review of Application for Adequate Public Facilities Determination and Concurrency Reservation;
 - c. A plan demonstrates how the proposed development will be designed (1) at its Entitlement Density or Entitlement Intensity; and (2) at its allowable density or Entitlement Intensity under the Plan and this Code at the time the necessary public facilities are available to adequately serve the development. Any Development Order issued for an application for Development Permit for which Entitlement Density or Entitlement Intensity has been approved shall be consistent with the plans for development in this Subsection. The review of a plan for development at the allowable density or intensity under this Section shall in no way reserve capacity for public facilities; [Ord. 2011-016]
 - d. Approval of the Entitlement Density or Entitlement Intensity is conditioned on the initiation of development of the proposed project at its allowable density or intensity subject to receipt of a Concurrency Reservation within two years of the time the necessary public facilities are available to serve the proposed development at its allowable density or intensity; and,
 - e. In the USA, Development Orders for development proceeding at Entitlement Densities or Entitlement Intensities may be permitted at rural LOS for potable water and sanitary sewage while the development is at its Entitlement Density or Entitlement Intensity. [Ord. 2011-016]

Section 5 Administrative Appeal Process

A. General

An Applicant may appeal a decision of the PZB Executive Director denying an application for a Concurrency Reservation, Entitlement Density, Entitlement Intensity, or a Concurrency Exemption Extension by filing a petition with the Zoning Director appealing the decision to the DRAB within 20 days of the rendition of the decision by the Zoning Director. [Ord. 2011-016]

B. Procedure

The DRAB shall consider the appeal petition within 60-calendar days of filing. In considering the appeal, the DRAB shall consider only the record before the Zoning Director at the time of the decision, testimony of the petitioner and the petitioners' agents, and testimony of PBC Staff.

C. Standard

The DRAB shall reverse the decision of the Zoning Director only if there is competent substantial evidence in the record that the application complies with the standards of Art. 2.F.3.C, Standards for Review of Application for Adequate Public Facilities Determination and Concurrency Reservation.

D. Written Order

The decision of the DRAB shall be in writing and a copy of the decision shall be forwarded to the appealing party.

E. Appeal to Circuit Court

An Applicant may appeal a final decision of the DRAB within 30-calendar days of the rendition of the decision by filing a Petition for Writ of *Certiorari* in Circuit Court of the 15th Judicial Circuit in and for PBC.

CHAPTER G DECISION MAKING BODIES

Section 1 Board of County Commissioners

A. Powers and Duties

In addition to any authority granted to the Board of County Commissioners (BCC) by general or special law, the BCC shall have the following powers and duties under the provisions of this Code:

1. to initiate, hear, consider, and approve, approve with conditions, or deny applications to amend the text of the Plan;
2. to initiate, hear, consider, and approve, approve with conditions, or deny applications for Site Specific amendments to the FLUA of the Plan;
3. to initiate, hear, consider, and approve, or deny requests to amend the text of this Code; [Ord. 2009-040]
4. to initiate, hear, consider, and approve, approve with conditions, or deny applications for DOs to amend the Official Zoning Map of this Code; [Ord. 2018-002]
5. to hear, consider, and approve, approve with conditions, or deny applications for DOs for Class A Conditional Uses; [Ord. 2018-002]
6. to initiate, hear, consider, and approve, approve with conditions, or deny applications for Transfer of Development Rights (TDRs) and Workforce Housing Program (WHP) Programs; [Ord. 2018-002]
7. to hear, consider, and approve, approve with conditions, or deny applications for DOAs and EACs; [Ord. 2018-002]
8. to hear, consider, and approve, approve with conditions, or deny applications for DOs for Preliminary Plans for those specific PDDs, TDDs, or Class A Conditional Uses pursuant to Art. 2.A.6.B, Plan Requirements; [Ord. 2018-002]
9. to hear, consider, and approve, approve with conditions, or deny applications for ABNs; [Ord. 2018-002]
10. to hear, consider, and approve, approve with conditions, or deny applications for Status Reports of prior approved DOs; [Ord. 2018-002]
11. to review, hear, consider, and approve, approve with conditions, or deny requests for PO Deviations described in Art. 2.B.7.G, Public Ownership (PO) Deviations; [Ord. 2018-002] [Ord. 2019-005]
12. to hear, consider, and approve, approve with conditions, or deny applications for Type 2 Waivers; [Ord. 2018-002]
13. to hear, consider, and approve, approve with conditions, or deny applications for Unique Structures; [Ord. 2018-002]
14. to hear and consider Releases of Agreements; [Ord. 2018-002]
15. to hear and consider Als; [Ord. 2018-002]

16. to review, hear, consider, and approve, or deny applications for Corrective Resolutions; [Ord. 2018-002]
17. to establish fees for the review of applications for Development Orders or permits, and appropriate funds to defray the costs of administering this Code; [Ord. 2018-002]
18. to act to ensure compliance with Development Orders or permits as approved and issued; [Ord. 2018-002] [Ord. 2019-005]
19. to hear and consider appeals from, and affirm or reverse decisions of the Zoning Commission on applications for Development Permits for Class B Conditional Uses; [Ord. 2018-002]
20. to hear, consider, and decide appeals from decisions of the DRO on applications for URAO Type 1 Waivers; [Ord. 2018-002]
21. to designate and appoint Hearing Officers to make decisions as the BCC may deem appropriate; [Ord. 2018-002]
22. to appoint other advisory boards that are determined necessary to assist in the implementation of this Code or the Plan; and, [Ord. 2018-002]
23. to take such other action not delegated to the Decision Making Bodies set forth in this Article or other Officials of PBC Departments, as the BCC may deem desirable and necessary to implement the provisions of the Plan and this Code. [Ord. 2009-040] [Ord. 2018-002]

Section 2 General Provisions

Unless otherwise noted, the following provisions shall apply to each appointed body described in this Article. In addition, each board shall be governed by PBC Resolution No. R-2013-0193. In case of conflict between the general provisions in this Section, and the specific provisions of each appointed body, the specific provisions shall prevail. [Ord. 2014-001]

A. Board Membership

1. Qualifications

Unless otherwise noted, each member of a board described in this Article, shall be a qualified elector of PBC for at least two years prior to appointment. No member of the BCC, BCC aide, or PBC employee shall serve on a board described herein.

2. Term of Office

The term of office for each member shall be three years. All members serving on a board on the effective date of this Code shall complete their terms according to their prior appointments.

3. Vacancy

- a. The BCC shall fill a vacancy within 60 days.
- b. When a person is appointed to fill out the term of a departing member, that person's term shall end at the same time the departing member's term would have ended.

4. Maximum Number of Boards

The maximum number of boards a person may serve on at one time shall be three. [Ord. 2006-004]

5. Elected Office

Members shall not be prohibited from qualifying as a candidate for elected office.

B. Appointments and Termination

1. Appointments

a. Individual BCC Appointments

A board member shall serve at the pleasure of the member of the BCC who appointed that member and may be removed by the BCC member without cause at any time.

b. At-Large BCC Appointments

A board member shall serve at the pleasure of the BCC and may be removed by the BCC without cause at any time.

c. Attendance

Members of boards shall be automatically removed for lack of attendance. Lack of attendance is defined as a failure to attend three consecutive meetings or a failure to attend at least two-thirds of the meetings scheduled during a calendar year. Participation for less than three-fourths of a meeting shall be the same as a failure to attend a meeting. Only regular meetings shall be counted towards the attendance requirements. Special meetings shall not be counted towards the attendance requirements.

d. Termination

In the event that any board member is no longer a qualified elector, or the member is convicted of a felony, or an offense involving moral turpitude while in office, the BCC shall terminate the appointment of the member.

e. Immediate Removal

Members removed pursuant to Art. 2.G.2.B.1, Appointments through Art. 2.G.2.B.1.d, Termination, above, shall not continue to serve on the board and such removal shall create a vacancy.

C. Conflict of Interest

1. Substantive Conflict

No board member shall have any interest, financial or otherwise, direct or indirect, or engage in any business transaction or professional activities, or incur any obligation of any nature which is in substantial conflict with the proper discharge of duties as a board member.

2. Provisions Related to Conflict of Interest

To implement this policy, members are directed to:

- a. be governed by the applicable provisions of State and Local law;
- b. not accept any gift, favor, or service that might reasonably tend to improperly influence the discharge of official duties;
- c. make known by written or oral disclosure, on the record at a meeting, any interest which the member has in any pending matter before that board, before any deliberation on that matter;
- d. abstain from using membership on the board to secure special privileges or exemptions;
- e. refrain from engaging in any business or professional activity which might reasonably be expected to require disclosure of information acquired by membership on the board not available to members of the general public, and to refrain from using such information for personal gain or benefit;
- f. refrain from accepting employment which might impair independent judgment in the performance of responsibilities as a member of the board; and,
- g. refrain from participation in any matter in which the member has a personal investment which will create a substantial conflict between private and public interests.

3. Board Action

Willful violation of this Section which affects a vote of a board member shall render that action voidable by the BCC.

D. Officers

1. Chair and Vice-Chair

At an annual organizational meeting, each board shall elect a Chair and Vice-Chair from among the members. The term of the Chair and Vice-Chair's terms shall be one year. The Chair shall administer oaths, be in charge of all procedures before the board, and shall take such action as shall be necessary to preserve the order and integrity of all proceedings before the board. In the absence of the Chair, the Vice-Chair shall act as Chair and shall have all the powers of the Chair.

E. Rules of Procedure

1. Quorum and Voting

The presence of a majority of the members of the board shall constitute a quorum necessary to take action and transact business. All actions shall require a simple majority of the quorum present and voting at the meeting. In the event of a tie vote, the motion shall fail. No member shall abstain from voting unless the member has a voting conflict pursuant to State of Florida law.

2. Robert's Rules of Order

All meetings shall be governed by Robert's Rules of Order. Each board may by majority vote of the entire membership adopt additional rules of procedure for the transaction of business and shall keep a record of meetings, Resolutions, findings, and determinations.

3. Meetings

- a. The location of all meetings shall be in PBC, Florida.
- b. If a matter is postponed due to lack of a quorum, the item shall be rescheduled to the next meeting.
- c. All meetings and public hearings shall be open to the public.
- d. All meetings shall be set for time certain after due public notice. Due public notice shall include notification that a record is required to appeal a final decision of the board pursuant to F.S. § 286.0105.

4. County Attorney's Office

The County Attorney's Office shall provide counsel and interpretation on legal issues.

F. Compensation

Board members shall receive no compensation for their services with exception of Code Enforcement Special Master and Hearing Officers who may be compensated for their services at discretion of the BCC. Travel reimbursement for members shall be limited to expenses incurred only for travel outside PBC necessary to fulfill the responsibilities of membership on the particular board. Travel reimbursement shall be made only when sufficient funds have been budgeted and are available, and upon prior approval of the BCC. No other expenses are reimbursable except documented long-distance telephone calls to PBC Staff

that are necessary to fulfill the responsibility of membership on the particular board. [Ord. 2006-036] [Ord. 2024-001]

Section 3 Appointed Bodies

A. Reserved for Future Use

B. Code Enforcement Special Master

1. Creation and Appointment

Code Enforcement hearings pursuant to this Code shall be conducted by designated Special Masters. Applications for Special Master positions shall be directed to the County Administrator pursuant to a notice published in a newspaper of general circulation. The BCC shall select a pool of candidates from the applications filed with the County Administrator on the basis of experience and qualifications. The County Administrator shall appoint Special Masters to conduct hearings from the pool of candidates selected by the BCC as necessary. For a period of two years from the date of termination as holder of office, a former Special Master shall not act as agent or attorney in any proceeding before any Decision Making Body of PBC on any matter that was the subject of a proceeding which was considered by the former Special Master. [Ord. 2015-006]

2. Qualification

Special Masters shall have the following minimum qualifications:

- a. be a graduate of a law school accredited by the American Bar Association;
- b. demonstrate knowledge of administrative law, land use law, and Local Government regulations and procedures;
- c. be a current member, in good standing, of the Florida Bar Association;
- d. have such other qualifications that may be established by Resolution of the BCC; and,
- e. in the event the County Administrator does not receive a sufficient number of applications from qualified members of the Florida Bar Association, the BCC may select attorneys who are not members of the Florida Bar Association as candidates for Special Master. Among those attorneys who are not members of the Florida Bar Association, the BCC and County Administrator shall give preference to those attorneys who have prior experience in a judiciary capacity, or as a hearing officer, mediator, or special master. No attorney, who has been disciplined by the Florida Bar Association or a bar association of any other jurisdiction, shall be appointed as a Special Master.

3. Rules of Procedure

The BCC shall have the authority prescribe rules of procedure for the conduct of hearings before the Special Master by Resolution.

4. Term

Special Masters shall serve a term of one year from the date of appointment by the County Administrator. Special Masters may be reappointed at the discretion of the County Administrator. There shall be no limit on the number of terms a person may serve as a Special Master.

5. Removal

At any time during the appointment, the County Administrator shall have the authority to remove a Special Master with or without cause upon ten days' written notice.

6. Vacancy

If any Special Master resigns or is removed prior to expiration of his or her term or the County Administrator determines that the Special Master should not be reappointed, the County Administrator shall appoint a Special Master from the pool of candidates previously selected by the BCC to fill the vacancy within 30 days.

7. Conflicts of Interest

Special Masters shall not be considered outside or special counsel and shall not be subject to PPM #CW-O-52 relating to outside counsel conflicts of interest.

8. Meetings

a. Scheduling

The Code Enforcement Division shall be responsible for scheduling meetings of Special Masters. In the case of an alleged violation as set forth in Art. 10.B.1, Procedure, a hearing may be called as soon as practical.

b. Operating Procedures

All cases brought before Special Masters shall be presented by either the Code Enforcement Division or an attorney representing the Division.

C. Development Review Appeals Board

1. Establishment

There is hereby established a Development Review Appeals Board (DRAB).

2. Powers and Duties

The DRAB shall have the following powers and duties under the provisions of this Code:

- a. to hear, consider, and decide appeals from decisions of the Zoning Director on applications for Certificates of Concurrency Reservation and Concurrency Exemption Extension; and
- b. to hear, consider, and decide appeals from decisions of the Planning Director on applications for Entitlement Density and WHP. [Ord. 2007-013] [Ord. 2018-002] [Ord. 2021-023]

3. Board Membership

The DRAB shall consist of the Executive Director of PZB, County Engineer, and County Attorney or Deputy County Attorney.

4. Officers and Staff

a. Chair and Vice-Chair

The Executive Director of PZB shall be the Chair of the DRAB.

b. Staff

PZB Staff shall be the professional staff for the DRAB.

5. Meetings

a. General

General meetings of the DRAB shall be held as needed to dispose of matters properly before the DRAB. Special meetings may be called by the Chair or in writing by two members of the DRAB. Staff shall provide 24-hour written notice to all DRAB members.

D. Environmental Appeals Board

1. Establishment

There is hereby established an Environmental Appeals Board (EAB).

2. Powers and Duties

The EAB has the following powers and duties:

- a. to hear appeals from certain requirements, interpretations, or determinations of Art. 15, Health Regulations, made by the PBCHD or the Environmental Control Officer.

3. Board Membership

a. Qualifications

The EAB shall be composed of five members appointed by the Environmental Control Board (ECB). The membership of the EAB shall consist of one Professional Engineer registered by the State of Florida and nominated by the Palm Beach branch of the American Society of Civil Engineers, one water resource professional employed by SFWMD, one drinking water engineer employed by the FDEP, one member of the Gold Coast Builders Association, and one attorney nominated by the PBC Bar Association. [Ord. 2011-016]

b. Terms of Office

All EAB members shall serve a term of three years. Beginning on or after March 2, 2013, no person shall be appointed or reappointed to this Board for more than three consecutive terms. [Ord. 2014-001]

4. Officers

a. Secretary

The PBC Environmental Control Officer shall provide a staff person to the EAB and that staff member shall be designated as Secretary of the EAB.

b. Staff

The PBCHD shall be the professional staff of the EAB.

5. Meetings

a. General or Special Meetings

General meetings of the EAB shall be held no less frequently than once every 60 days. Special meetings may be called by the Chair of the EAB, or in writing by a majority of the members of the Board. Staff shall provide 24-hour written notice to each EAB member for a special meeting.

E. Environmental Control Hearing Board

1. Establishment

There is hereby established an Environmental Control Hearing Board (ECHB).

2. Powers and Duties

The ECHB has the following powers and duties:

- a. to conduct hearings into the merits of alleged violations to Sections promulgated under Chapter 77-616, Special Acts, Laws of Florida, and PBC Ordinance No. 78-5, as amended; and
- b. after due public hearing, to reach a decision setting forth such findings of fact and conclusions of law as are required in view of the issues presented. The decision shall contain an order which may be framed in the manner of a writ of injunction requiring the violator to conform to either or both of the following requirements:
 - 1) to refrain from committing, creating, maintaining, or permitting the violations;
 - 2) to take such affirmative action as the ECHB deems necessary and reasonable under the circumstances to correct such violation;
 - 3) to issue orders imposing civil penalties of up to 500 dollars for each day of violation;
 - 4) to issue subpoenas to command the appearance of any person before a hearing at a specified time and place to be examined as a witness. Such subpoenas may require such person to produce all books, papers, and documents in that person's possession or under that person's control, material to such hearings; and,
 - 5) to administer oaths to any or all persons who are to testify before the ECHB.

3. Qualifications

The ECHB shall be composed of five members. The membership of the ECHB shall consist of one attorney recommended by the PBC Bar Association; one medical doctor recommended by the PBC Medical Society; one engineer recommended by the PBC Chapter of the Florida Engineering Society; and, two citizens at large.

4. Officers

a. Secretary

The Environmental Control Officer shall serve as Secretary of the ECHB.

b. Staff

The PBCHD shall be the professional staff of the ECHB.

5. General or Special Meetings

General meetings of the ECHB shall be held no less frequently than every 45 days. The ECHB may set the date of future meetings during any meeting. Special meetings may be called by the Chair of the ECHB, or in writing by a majority of the members of the Board. Staff shall provide 24-hour written notice to each ECHB member for a special meeting.

6. Term Limits

Beginning on or after March 2, 2013, no person shall be appointed or reappointed to this Board for more than three consecutive terms. [Ord. 2014-001]

F. Groundwater and Natural Resources Protection Board

1. Establishment

There is hereby established a Groundwater and Natural Resources Protection Board (GNRPB).

2. Powers and Duties

The GNRPB shall have the following powers and duties:

- a. to hold hearings as necessary to enforce Art. 14, Environmental Standards. ERM may refer alleged violations of Art. 14, Environmental Standards, and applicable Art. 4.B.10, Excavation Uses, Ordinance No. 2003-020, Petroleum Storage Systems, Ordinance No. 2003-021, Petroleum Contamination Cleanup Criteria, Ordinance No. 2004-050, Stormwater Pollution Prevention, Ordinance No. 94-13, Natural Areas, and Ordinance No. 93-3, Water and Irrigation Conservation as amended to the GNRPB, if there has been a failure to correct a violation within the time specified by the Code Inspector, if the violation has been repeated, or is of such a nature that it cannot be corrected; [Ord. 2006-004] [Ord. 2010-022] [Ord. 2017-007]
- b. to adopt rules of procedure for the conduct of hearings;
- c. to issue subpoenas compelling the presence of persons at Board hearings. Subpoenas may be served by the PBC Sheriff's Department, or other authorized persons consistent with Florida law;
- d. to issue subpoenas compelling the provision of evidence at GNRPB hearings;
- e. to take testimony under oath;
- f. to issue orders having the force of law commanding whatever steps are necessary to achieve compliance with the violation of Art. 14, Environmental Standards;
- g. to lien property; and,

h. to assess administrative fines and costs pursuant to Art. 14, Environmental Standards.

3. Board Membership

a. Qualifications

The GNRPB shall be composed of seven members appointed by the BCC upon a recommendation by the organization listed in Table 2.G.3.F, GNRPB Membership. The membership of the Board shall consist of a Professional Engineer registered by the State of Florida, an attorney licensed to practice in Florida, a hydrologist or a hydrogeologist, a citizen possessing expertise and experience in managing a business, a biologist or a chemist, a member of an environmental organization, and a concerned citizen. [Ord. 2011-001]

Table 2.G.3.F – GNRPB Membership

Affiliation	Organizations
Professional Engineer	Palm Beach Chapter Florida Engineering Society
Attorney	Palm Beach County Bar Association
Hydrologist or Hydrogeologist	Florida Association of Professional Geologists Society
Citizen with Business Management Expertise	At Large
Biologist or Chemist	Florida Association of Environmental Professionals
Environmental Organization	Native Plant Society
Concerned Citizen	At Large
[Ord. 2011-001]	

b. Terms of Office

All members shall serve a term of three years. Beginning on or after March 2, 2013, no person shall be appointed or reappointed to this Board for more than three consecutive terms. [Ord. 2014-001]

4. Secretary and Staff

The Director of ERM shall serve as Secretary of the GNRPB. ERM shall be the professional staff of the GNRPB.

5. Meetings

a. General

General meetings of the GNRPB shall be held no more frequently than once every month. Special meetings may be called by the Chair of the GNRPB, or in writing by a majority of the members of the Board. Staff shall provide 24-hour written notice to each Board member prior to a special meeting.

G. Hearing Officers

1. Creation and Appointment

The County Administrator may, from a pool selected by the BCC, appoint one or more Hearing Officers to hear and consider such matters as may be required under any provision of this Code or under any provision of any other PBC Ordinance as may be determined to be appropriate by the BCC from time to time. Such Hearing Officers shall be selected pursuant to the procedures and minimum qualifications provided for in Art. 2.G.3.B, Code Enforcement Special Master, and shall serve at the pleasure of the BCC for such period as is determined by the Board. Code Enforcement Special Masters may serve *ex officio* as Hearing Officers as set forth in this Section. [Ord. 2010-022] [Ord. 2015-006] [Ord. 2021-023]

2. Powers and Duties

A Hearing Officer shall have the following powers and duties under the provisions of this Code: [Ord. 2021-023]

- to conduct hearings and issue administrative orders on such matters as may be requested by the BCC;
- to issue subpoenas to compel the attendance of witnesses and production of documents, and to administer oaths to witnesses appearing at the hearing;
- to perform such other tasks and duties as the BCC may assign; and,
- to hear and decide appeals of any DRO decision, including Conditions of Approval, unless stated otherwise. [Ord. 2021-023]

H. Historic Resources Review Board

1. Establishment

There is hereby established a Historic Resources Review Board (HRRB).

2. Powers and Duties

The HRRB shall have the following powers and duties under the provisions of this Code:

- a. develop, administer, and update an accurate inventory of historic resources in unincorporated PBC and on PBC-owned property in municipalities. The inventory shall be used to formulate a map of historic district boundaries and historically significant properties meriting protection to be incorporated into the Land Use Element of the Plan;
- b. pursuant to Art. 9.B, Historic Preservation Procedures, nominate and accept nominations for public and private properties for designation and regulate and administer such properties, structures, buildings, sites, districts, etc. so designated as historic sites and/or districts. The Department, in conjunction with the HRRB, shall establish a schedule for nominations for public and private properties for designation;
- c. participate in the National Register program in Florida to the greatest possible extent, as defined by the 1981 and subsequent amendments to the National Historic Preservation Act of 1966 and regulations and rules drafted pursuant to those amendments by the National Park Service and the Florida State Bureau of Historic Preservation;
- d. act as a regulatory body to approve, deny, or modify Certificates of Appropriateness as specified by Art. 9, Archaeological and Historic Preservation;
- e. make recommendations concerning amendments to the Plan, this Code, Building, and other development-related codes as they relate to the preservation of historic resources;
- f. make recommendations regarding historic and archeological resources on property owned by PBC;
- g. pursuant to Art. 9.B.4.B, Waiver of the Code Provisions, review and comment to the BCC concerning waiver of Code provisions for properties within historic districts and for properties designated as historic or archaeological sites or listed on the PBC Register of Historic Places; [Ord. 2012-027]
- h. develop, establish, and administer guidelines concerning contemporaneous architectural styles, colors, building materials, and so forth for historic sites and historic districts. Such guidelines will be subject to approval by the BCC;
- i. coordinate with other entities to support increased public awareness of the value of historic preservation;
- j. after PBC qualifies as a Certified Local Government, make recommendations to the PBC Commission concerning the use of grants from Federal and State agencies, to augment PBC funding in order to promote the preservation and conservation of archaeological sites of historic significance, historic sites, and historic districts;
- k. cooperate and coordinate with Property Owners, public and private organizations, businesses, and other individuals to help ensure the conservation and preservation of archaeological sites, contents within said sites, buildings, structures, and districts of historic significance, especially those for which demolition or destruction is proposed;
- l. create and approve the design of standardized historic markers and plaques and issue recognition to designated historic sites and historic districts within PBC;
- m. execute any other needed and appropriate historic resource preservation functions which may be approved by the BCC;
- n. develop and administer a Historic Preservation Manual for PBC to help Property Owners fulfill the regulations and requirements of this Ordinance;
- o. hear, consider, and approve, approve with conditions, or deny applications for Certificate to Dig;
- p. make recommendations to the BCC regarding proposed amendments to the Map of Known Archeological Sites;
- q. initial resources shall be dedicated to those functions which shall qualify PBC as a Certified Local Government;
- r. make every effort to be represented at meetings, conferences, and workshops pertaining to the functions of the HRRB scheduled by the State Historic Preservation Offices or the Florida Conference of Preservation Boards and Commissions;
- s. seek expertise or proposals of matters requiring evaluation by a professional of a discipline not represented on the HRRB; and,
- t. the HRRB's responsibilities shall be complementary to the powers of the State Historic Preservation Office.

3. Board Membership

a. Qualifications

There shall be nine members of the HRRB. Members of the HRRB shall be residents of PBC, Florida and demonstrate an interest in local history. One member with professional experience shall be appointed from each of the following five professional disciplines: history, architecture, archeology, architectural history, and historic architecture. Other historic preservation-related disciplines, such as urban planning, American studies, American civilization, cultural geography, or cultural anthropology shall be considered when choosing appointments for these five of the nine members of the HRRB. Each of these five positions shall meet the requirements outlined in the Professional Qualifications Standards of the Florida Certified Local Government Guidelines. In addition to the above five positions, there shall be a sixth person with a demonstrated interest, degree, or experience in one of the above professional disciplines who is also a resident of the area of PBC west of Twenty Mile Bend, including any of the incorporated or unincorporated communities in proximity to Lake Okeechobee. There are no specific requirements for the other three positions as a prerequisite to appointment but consideration shall be given to the following with a demonstrated interest in history, architecture, or related disciplines: businessperson, engineer, contractor in a construction trade, landscape architect, urban planner, attorney, and resident of areas identified by the 1990 PBC Historic Sites Survey as containing 25 or more structures with potential for historic preservation. Persons seeking appointment to the HRRB shall be willing to invest time to assist Staff in site evaluations, establishing priorities, public education efforts, survey and planning activities of the Certified Local Government Program, and the other responsibilities of the HRRB. Board members shall attend pertinent educational conferences and seminars.

b. Appointment

The members of the HRRB shall be appointed at large by the BCC.

c. Terms of Office

Each appointment shall be made for a term of three years. Any member may be reappointed upon approval of the BCC as provided for herein. [Ord. 2013-001]

4. Secretary and Staff

a. Secretary

The Planning Director of the PZB shall serve as Secretary to the HRRB.

b. Staff

The Planning Division shall be the professional staff of the HRRB. The Board shall make every effort to minimize demands on staffing in consideration of budgetary constraints.

5. Meetings

a. General

General meetings of the HRRB shall be held at least four times per year. Special meetings may be called by the Chair of the HRRB, or in writing by a majority of the members of the Board. Staff shall provide 24-hour written notice to each Board member prior to a special meeting. [Ord. 2020-001]

b. Quorum

The presence of a majority of the appointed members of the HRRB shall constitute a quorum necessary to take action and transact business. [Ord. 2020-001]

I. Impact Fee Review Committee

1. Establishment

There is hereby created an Impact Fee Review Committee (IFRC).

2. Powers and Duties

The IFRC shall have the following powers and duties under the provisions of this Code:

- a. submit a Report to the BCC whenever PBC conducts a full review or update of the impact fee system relating to:
 - 1) the implementation of Art. 13, Impact Fees;
 - 2) actual levels of service for the impact fees exacted in Art. 13, Impact Fees;
 - 3) the collection, encumbrance, and expenditure of all impact fees collected pursuant to Art. 13, Impact Fees;
 - 4) the validity and assumptions in the technical memoranda used to support the impact fee schedules in Art. 13, Impact Fees; and,
 - 5) any recommended amendment to Art. 13, Impact Fees.
- b. review amendments to Art. 13, Impact Fees prior to their consideration by the BCC; and,
- c. perform such other duties as the BCC deems appropriate.

3. Board Membership

a. Qualifications

The IFRC shall be composed of nine members and three alternate members appointed by the BCC. The membership of the IFRC shall include three representatives from municipalities within PBC, four representatives from the business community (one of which is designated for a representative from the Florida East Coast Chapter of Associated General Contractors of America), and two members selected at large. The voting membership of the IFRC shall include three representatives from municipalities within PBC, four representatives from the business community, and two members selected at large (one of which is designated for a resident of unincorporated Palm Beach County). The alternate members shall include one representative from each of the three categories above. An alternate member shall be authorized to vote in place of an absent voting member appointed from the same category and shall count toward a quorum. [Ord. 2023-024]

4. Officers

a. Secretary

The Impact Fee Manager shall serve as Secretary of the IFRC. [Ord. 2022-026]

5. Meetings

a. General or Special Meetings

General meetings of the IFRC shall be held as needed consistent with its powers and duties. Special meetings may be called by the Chair of the IFRC, or in writing by a majority of appointed members of the IFRC. 24-hour written notice shall be given to each IFRC member for a special meeting.

6. Term Limits

Beginning on or after July 24, 2023, there shall be no limit on the number of terms a person may serve on this Committee. [Ord. 2014-001] [Ord. 2023-24]

J. Planning Commission

1. Establishment

There is hereby established a Planning Commission (PLC). [Ord. 2008-003]

2. Powers and Duties

- a. to serve as the Local Planning Agency (LPA) per F.S. § 163.3174, and to provide recommendations on the preparation of the Plan, or any Element or portion thereof, and any text amendments thereto to the BCC;
- b. to initiate, review, hear, consider, and make recommendations to the BCC to approve, approve with conditions, approve with modifications, or deny applications to amend the Plan, including Site Specific (Future Land Use Map) amendments to the Plan; [Ord. 2018-002] [Ord. 2018-002]
- c. to make its special knowledge and expertise available upon written request and authorization of the BCC to any official, department, board, commission, or agency of PBC, the State of Florida, or Federal Governments;
- d. to make additional or amended rules of procedure not inconsistent with this Section to govern the PLC's proceedings; [Ord. 2008-003]
- e. to make studies of the resources, possibilities, and needs of PBC and to report its findings and recommendations, with reference thereto, from time to time, to the BCC;
- f. to submit an Annual Report to the BCC summarizing its annual activities; and,
- g. to review and make recommendations to the BCC on Transportation Concurrency Management Areas (TCMAs) and Constrained Roadways at Lower Levels of Service (CRALLS) or a Major Thoroughfare on which a lower LOS is set pursuant to Art. 12, Traffic Performance Standards.

3. Board Membership

a. BCC-Appointed Members

The PLC shall be comprised of 16 members; 15 BCC-appointed members and one representative of the School District of PBC. [Ord. 2008-003]

1) Qualifications

Although no specific experience requirements shall be necessary as a prerequisite to appointment, consideration shall be given to applicants who have experience or education in planning, law, architecture, natural resource management, real estate, and related fields.

2) Appointment

Each member of the BCC shall appoint two members to the PLC. One member of the PLC shall be appointed at large by a majority vote of the BCC. [Ord. 2008-003]

3) Terms of Office

Members of the PLC shall hold office until the first Tuesday after the first Monday in June of the year their term expires. Beginning on or after March 2, 2013, no person shall be appointed or reappointed to this Board for more than three consecutive terms. [Ord. 2008-003] [Ord. 2014-001]

b. School District Member

The School District of PBC shall appoint a representative to attend those meetings at which the PLC will consider a Plan amendment which would, if approved, increase residential density of the property that is the subject of the application. The school member shall be a non-voting member and shall not count toward quorum. [Ord. 2008-003]

4. Officers, Secretary, and Staff

a. Chair and Vice-Chair

The Chair and Vice-Chair positions shall rotate annually and shall only be held by regular members. No Board member shall serve consecutive terms as Chair or Vice-Chair. [Ord. 2008-003]

b. Secretary

The Planning Director of PZB shall serve as Secretary of the PLC. The Secretary shall keep minutes of all proceedings, which minutes shall be a summary of all proceedings before the PLC, which shall include the vote of all members upon every question, and be attested to by the Secretary. The minutes shall be approved by a majority of the PLC members voting. In addition, the Secretary shall maintain all records of PLC meetings, hearings, proceedings, and the correspondence of the PLC. The records of the PLC shall be stored with the Agency serving as Secretary herein, and shall be available for inspection by the public, upon reasonable request, during normal business hours. [Ord. 2008-003]

c. Staff

The Planning Division of PZB shall be the professional staff of the PLC. The Planning Division Staff shall be responsible for, providing a recommendation to the PLC on all items scheduled for its consideration. Plan amendments, including amendments to any maps included as part of the Plan. [Ord. 2008-003]

5. Rules Applicable to Local Planning Agency

a. The agenda of the PLC sitting as the LPA shall be as prepared and presented by the PBC Planning Division and such agenda shall not be deviated from without a two-thirds vote of a quorum of the LPA. [Ord. 2008-003]

b. Failure of the LPA to make a recommendation on any Plan amendment to the BCC prior to the final transmittal hearing of the amendments shall constitute the item being sent to the BCC with an LPA recommendation of denial pursuant to F.S. § 163.3174, as may be amended from time to time.

c. Quorum and Voting

The presence of a majority of the appointed members of the Board shall constitute a quorum necessary to take action and transact business. All actions shall require a simple majority of the quorum present and voting at the meeting. In the event of a tie vote, the motion shall fail. No member shall abstain from voting unless the member has a voting conflict pursuant to State of Florida law. [Ord. 2020-001]

6. Meetings

General meetings of the PLC shall be held as needed to dispense of matters properly before the PLC. Special meetings may be called by the Chair or in writing by a majority of the members of the PLC. Staff shall provide 24-hour written notice to each PLC member before a special meeting is convened. [Ord. 2008-003]

K. Traffic Performance Standards Appeals Board

1. Establishment

There is hereby established a Traffic Performance Standards Appeals Board (TPSAB).

2. Powers and Duties

The TPSAB shall have the following powers and duties under the provisions of this Code:

- a. to hear and decide appeals from decisions of the PBC Engineer or a Municipal Engineer pursuant to Art. 12, Traffic Performance Standards; and
- b. to issue subpoenas to compel attendance of witnesses and production of documents.

3. Board Membership

a. Qualifications

There shall be five members of the TPSAB appointed by the BCC. They shall consist of the Director of the Metropolitan Planning Organization (MPO), a professional traffic engineer employed by a Municipality in PBC as a traffic engineer, a professional traffic engineer employed by another

Florida county, a professional traffic engineer employed by FDOT District IV, and a professional traffic engineer who generally represents developers. Any person serving on the TPSAB shall not be a person who participated in the decision being appealed, or shall not work for or be retained by a party to an appeal, or be a person who would be directly affected by the matter being appealed. The members of this Board do not have to be PBC residents.

b. Terms of Office

All TPSAB members shall serve a term of four years.

c. Vacancy

When a TPSAB member resigns or is removed, the BCC shall fill the vacancy within 20 working days.

4. Officers

a. Staff

The County Engineer's office shall be the professional staff of the TPSAB.

5. Meetings

a. General or Special Meetings

General meetings of the TPSAB shall be held as needed to dispense of matters properly before the TPSAB. Special meetings may be called by the Chair of the TPSAB, or in writing by three members of the Board. Staff shall provide 24-hour written notice to each TPSAB member for a special meeting.

L. Zoning Commission

1. Establishment

There is hereby established a Zoning Commission (ZC).

2. Powers and Duties

The ZC shall have the following powers and duties under the provisions of this Code:

- a. to initiate, review, hear, consider, and make recommendations to the BCC to approve, approve with conditions, or deny applications to amend the Official Zoning Map, a Class A Conditional Use, Development Order Amendment (DOA) of a prior DO approved by the BCC, Type 2 Waiver, and Unique Structure; [Ord. 2009-040] [Ord. 2019-005]
- b. to review, hear, consider, and approve, approve with conditions, or deny applications for Development Permits for Class B Conditional Uses and Type 2 Variance applications; [Ord. 2006-036] [Ord. 2018-002] [Ord. 2019-005]
- c. to review, hear, consider, and approve, approve with conditions, or deny applications for Development Orders for DOA for a prior approved DO approved by the ZC; [Ord. 2018-002] [Ord. 2019-005]
- d. to review, hear, consider, and approve, approve with conditions, or deny applications for ABN; [Ord. 2018-002]
- e. to review, hear, consider, and approve, approve with conditions, or deny applications for Status Reports; [Ord. 2018-002]
- f. to review, hear, consider, and approve, approve with conditions, or deny applications for Unique Structures; [Ord. 2018-002]
- g. to review, hear, consider, and approve, or deny applications for Corrective Resolutions; [Ord. 2018-002]
- h. to make its special knowledge and expertise available upon request of the BCC to any official, department, board, commission, or agency of PBC, the State of Florida, or Federal Government;
- i. to make studies of the resources, possibilities, and needs of PBC and to report its findings and recommendations, with reference thereto, from time to time, to the BCC;
- j. to recommend to the BCC additional or amended rules of procedure not inconsistent with this Section to govern the ZC's proceedings; [Ord. 2006-036]
- k. to consider and render a final decision on appeals of Green Architecture application; [Ord. 2009-040] [Ord. 2011-016] [Ord. 2018-002]
- l. to hear, consider, and decide appeals from decisions of the DRO on applications for Type 1 Waivers, except URAO; [Ord. 2011-016] [Ord. 2012-027]
- m. to periodically review the provisions to this Code that are not reviewed by another advisory board established by BCC for that purpose, and to make recommendations to the BCC for those provisions reviewed; [Ord. 2024-001]
- n. to serve as the Land Development Regulation Commission (LDRC) as provided by F.S. § 163.3164 and F.S. § 163.3194; and, [Ord. 2019-005] [Ord. 2024-001]
- o. to serve as the Airport Zoning Commission pursuant to F.S. § 333.05(2). [Ord. 2019-005] [Ord. 2024-001]

3. Commission Membership

a. BCC-Appointed Members

The ZC shall be composed of nine members appointed by the BCC. [Ord. 2009-040] [Ord. 2024-001]

1) Qualifications

Consideration shall be given to applicants who have experience or education in planning, law, architecture, landscape architecture, natural resource management, real estate, engineering, and related fields. [Ord. 2009-040] [Ord. 2024-001]

2) Appointment

Each member of the BCC shall appoint one member to the ZC. Two members of the ZC shall be appointed at large by a majority vote of the BCC. [Ord. 2009-040] [Ord. 2024-001]

3) Terms of Office

Members of the ZC shall hold office until the first Tuesday after the first Monday in February of the year their term expires. Beginning on or after March 2, 2013, no person shall be appointed or reappointed to this Board for more than three consecutive terms. [Ord. 2009-040] [Ord. 2014-001]

4. Officers, Quorum, and Voting

a. Chair and Vice-Chair

No member shall serve as Chair for more than two consecutive terms.

b. Quorum and Voting

1) General

All actions shall require a simple majority of the quorum present and voting at the meeting. In the event the ZC fails to make a final decision due to a tie vote, the petition shall be continued to the next meeting. After a second tie, the proposed motion shall be considered to have failed. [Ord. 2024-001]

5. Meetings

a. General

General meetings of the ZC shall be held as needed to dispense of matters properly before the ZC. Special meetings may be called by the Chair or in writing by a majority of the members of the ZC. Staff shall provide 24-hour written notice to each ZC member before a special meeting is convened.

Section 4 Staff Officials

A. Building Official

1. Creation and Appointment

The Building Director of PZB shall be the Division head of the Building Division of PZB, and shall be appointed and serve at the pleasure of the Executive Director of PZB, subject to the provisions of Chapter 1, Scope and Administration of the Florida Building Code with PBC Amendments.

2. Jurisdiction, Authority, and Duties

In addition to the jurisdiction, authority, and duties which may be conferred upon the Building Official of PZB by other provisions of the PBC Code, the Building Official of PZB shall have the following jurisdictions, authority, and duties under this Code: [Ord. 2011-016]

- a. to interpret Art. 18, Flood Damage Prevention when the Building Official is also the Floodplain Administrator; [Ord. 2011-016] [Ord. 2024-024]
- b. to interpret Art. 5.B.1.C, Temporary Structures; [Ord. 2019-005]
- c. to review and approve, approve with conditions, or deny applications for Development Permits for Building Permits; and,
- d. to review and approve, approve with conditions, or deny applications for Development Permits for Certificates of Occupancy or Completion.

B. Code Enforcement Director

1. Creation and Appointment

The Code Enforcement Director shall be the head of enforcement of this Code, and shall be appointed and serve at the pleasure of the Executive Director of PZB.

2. Jurisdiction, Authority, and Duties

In addition to the jurisdiction, authority, and duties which may be conferred upon the Code Enforcement Director of PZB by other provisions of the PBC Code, the Code Enforcement Director of PZB shall have the following jurisdictions, authority, and duties under this Code:

- a. to monitor and assist in the enforcement of this Code; and
- b. to ensure compliance with conditions of a Development Order.

C. County Administrator

1. Creation and Appointment

The PBC Administrator shall be the head of the PBC Staff, and shall be appointed and serve at the pleasure of the BCC.

2. Jurisdiction, Authority, and Duties

In addition to the jurisdiction, authority, and duties which may be conferred upon the PBC Administrator by other provisions of the PBC Code and PBC Charter, the County Administrator shall have the following jurisdiction and authority under this Code:

- a. to administer PBC administrative officials charged with regulatory authority under this Code;
- b. to appoint Hearing Officers as set forth in Art. 2.G.3.G, Hearing Officers; and,
- c. to approve, approve with conditions, or deny, applications for murals. [Ord. 2013-021]

D. County Attorney

1. Jurisdiction, Authority, and Duties

In addition to the jurisdiction, authority, and duties which may be conferred upon the County Attorney by other provisions of the PBC Code and PBC Charter, the County Attorney and his/her designated Staff shall have the following jurisdictions, authority, and duties under this Code:

- a. to review and approve as to form and legal sufficiency all orders and Resolutions issued by all Decision Making and Administrative Bodies described in this Article;
- b. to review and approve as to form agreements, PDD agreements, easements, declarations of covenants, letters of credit, performance bonds, or other such documentation in connection with any requirement of this Code; and,
- c. to advise the BCC, PBC Departments, and the Decision Making and Administrative Bodies, in regard to the legal issues which may arise in the implementation of this Code and the Plan.

E. County Engineer

1. Creation and Appointment

The County Engineer shall be the Agency head of the Department of Engineering and Public Works (DEPW), and shall be appointed and serve at the pleasure of the County Administrator.

2. Jurisdiction, Authority, and Duties

In addition to the jurisdiction, authority, and duties which may be conferred upon the County Engineer by other provisions of the PBC Code and PBC Charter, the County Engineer shall have the following jurisdictions, authority, and duties under this Code:

- a. to review and render interpretations to Art. 6.B.3.A.2.a.3), Driveways and Access, Art. 11, Subdivision, Platting, and Required Improvements, and Art. 12, Traffic Performance Standards;
- b. to review and approve or deny applications for Technical Compliance for subdivision;
- c. to review applications and approve Development Orders for Land Development Permits;
- d. to review and acknowledge the completion of required improvements for subdivision;
- e. to review and approve or deny applications for Development Permits for Final Plats of subdivisions, including replats of lands within record plats previously approved for recording by Resolution of the BCC, and approve such plats on behalf of PBC for recordation in the Public Records. Said approval authority may be delegated only as follows:
 - 1) to either the Deputy County Engineer or the Assistant County Engineer during a prearranged absence of the County Engineer, such as for vacation or seminar attendance, for a period of five or more consecutive days, provided that said delegation shall be in writing and signed by the County Engineer; or
 - 2) to the Deputy County Engineer in the event that the County Engineer is absent or otherwise incapacitated for a period of five or more days due to an emergency or other unforeseen circumstances, provided that said delegation shall be in writing and signed by the County Administrator.

The Clerk of the Circuit Court shall be notified of each incident of delegation made pursuant to the above, and said delegation shall terminate upon the County Engineer's return to normal duty;

- f. to review, consider, and approve, approve with conditions, or deny requests for deviations from Art. 11, Subdivision, Platting, and Required Improvements within the PO Zoning District; and, [Ord. 2007-013]
- g. to accept maintenance responsibility on behalf of PBC for those streets dedicated to the BCC on a duly approved plat of record and constructed pursuant to a Land Development Permit for subdivision required improvements.

F. PBC Health Department Director

1. Creation and Appointment

The PBC Health Department Director shall be the Agency head of the PBC Health Department (PBCHD) and shall be appointed by the Secretary of the Department of Health after consultation with the State Health Officer and the District Administrator, and concurrence by the BCC.

2. Jurisdiction, Authority, and Duties

In addition to the jurisdiction, authority, and duties which may be conferred upon the PBC Health Department Director by other provisions of the PBC Code, the PBC Health Department Director shall have the following jurisdictions, authority, and duties under this Code:

- a. to review, consider, enforce, and render interpretations to Art. 15, Health Regulations; and
- b. to review and approve, approve with conditions, or deny all applications for Development Permits pursuant to Art. 15, Health Regulations.

G. Development Review Officer (DRO)

1. Establishment

There is hereby established a Development Review Officer (DRO).

2. Powers and Duties

The DRO shall have the following powers and duties under the provisions of this Code:

- a. to coordinate all PACs and PAAs; [Ord. 2018-002]
- b. to accept, review, approve, and update all applicable application requirements; [Ord. 2018-002]
- c. to accept and determine sufficiency of applications for review, certify, and prepare Staff Reports recommending approval, approval with conditions, or denial of applications for Rezoning, Class A and Class B Conditional Uses, Type 2 Waivers, and Type 2 Variances; [Ord. 2017-007] [Ord. 2018-002]
- d. to accept applications for review and approve, approve with conditions, or deny applications for applications subject to Administrative processes pursuant to Art. 2.C.3.A, Process for Administrative Requests; [Ord. 2018-002]
- e. to request other PBC Officials and other Agencies to provide factual information on applications for Development Permits as is deemed appropriate; [Ord. 2011-016] [Ord. 2018-002]
- f. to review, consider, and finalize Zoning Plans that were approved by the BCC or ZC; [Ord. 2018-002]
- g. to hear, review, consider, and approve, approve with conditions, or deny applications for Development Orders for Final Subdivision or Site Plans; [Ord. 2018-002]
- h. to hear, review, consider, and approve, approve with conditions, or deny applications for TDRs for subdivisions requesting a two-unit per acre or less density increase pursuant to Art. 5.G.3, Transfer of Development Rights (TDRs) – Special Density Program; and, [Ord. 2018-002]
- i. to recommend to the BCC additional or amended rules of procedure not inconsistent with this Section to govern the DRO. [Ord. 2011-016] [Ord. 2018-002]

3. Comments and Recommendations

- a. The DRO may seek comments and recommendations from the following PBC Departments and Divisions, as well as other Local Government and State Government agencies, as deemed appropriate by the DRO: [Ord. 2008-037]
 - 1) Zoning Division;
 - 2) Department of Airports; [Ord. 2018-002] [Ord. 2021-006]
 - 3) Department of Environmental Protection (DEP) for Type 3 Excavation; [Ord. 2018-002]
 - 4) Engineering Department; [Ord. 2018-002]
 - 5) Environmental Resources Management Department; [Ord. 2018-002]
 - 6) Fire Rescue Department; [Ord. 2018-002]
 - 7) Housing and Community Development (HCD); [Ord. 2018-002]
 - 8) Lake Worth Drainage District; [Ord. 2018-002]
 - 9) Parks and Recreation Department; [Ord. 2018-002]
 - 10) PBCHD; [Ord. 2018-002]
 - 11) PBC School Board; [Ord. 2018-002]
 - 12) Planning Division; [Ord. 2018-002]
 - 13) PREM; and, [Ord. 2018-002]
 - 14) Water Utilities Department. [Ord. 2018-002]
- b. Recommendations and comments shall be forwarded to the DRO no less frequently than two times a month to dispose of matters properly and may be called for by the DRO.

4. Procedures

a. DRO

The Executive Director of PZB shall designate a DRO for overseeing different types of Zoning applications and processes. [Ord. 2018-002]

b. Secretary

The DRO shall designate a Secretary. The Secretary shall maintain all records of the DRO. The records shall be stored with the Agency serving as Secretary herein, and shall be available for inspection by the public, upon reasonable request, during normal business hours.

c. Staff

The Zoning Division of PZB shall be the professional staff for the DRO.

d. Certification for Public Hearing Processes

All actions by the DRO shall be in accordance with the procedures established in Art. 2.A, General and Art. 2.B, Public Hearing Processes. [Ord. 2018-002] [Ord. 2020-001]

e. Approval for Administrative Processes

All actions by the DRO shall be in accordance with the procedures established in Art. 2.A, General and Art. 2.B, Public Hearing Processes. [Ord. 2018-002] [Ord. 2020-001]

f. Record of DRO

Upon request, the DRO may provide, at cost, copies of recommendations upon which a decision is based.

g. Appeal

Appeal of any decision, including Conditions of Approval, of the DRO shall be scheduled before the Hearing Officer based on the requirements in Art. 2.A.14.C.2.b, Administrative DO, unless stated otherwise. [Ord. 2011-016] [Ord. 2021-023]

H. Director of ERM

1. Creation and Appointment

The Director of the Department of Environmental Resources Management (ERM) shall be the Agency head of the ERM, and shall be appointed and serve at the pleasure of the County Administrator.

2. Jurisdiction, Authority, and Duties

In addition to the jurisdiction, authority, and duties which may be conferred upon the Director of ERM by other provisions of the PBC Code and PBC Charter, the Director of ERM shall have the following jurisdictions, authority, and duties under this Code:

- a. to review, consider, and render interpretations to Art. 14, Environmental Standards;
- b. to review and approve, approve with conditions, or deny applications for development or permits for sea turtle protection and sand preservation, wetlands protection, wellfield protection, upland vegetation preservation and protection, Agricultural Excavation in the WCAA, water and irrigation conservation, stormwater pollution prevention, and other Ordinances as may be assigned by the BCC; [Ord. 2017-007]
- c. to initiate enforcement action pursuant to Art. 14, Environmental Standards, whenever evidence has been obtained or received establishing that a violation has been committed. The Director of ERM shall issue a notice to correct the violation, a citation to cease the violation, or a notice of violation and cause same to be served upon the violator;
- d. to terminate an investigation or an enforcement action commenced under the provisions of Art. 14, Environmental Standards, and to resolve the alleged violations by execution of a written consent (settlement) agreement between PBC and the person(s) who is/are the subject of the investigation or action. The consent agreement shall provide written assurance of voluntary compliance with all the applicable provisions of the Code by said person(s). The consent agreement may, at the discretion of the Director of ERM, provide the following: remedial or corrective action; environmental mitigation; compensatory damages; punitive damages; civil penalties; costs and expenses of PBC in tracing the source of any discharge, in controlling and abating the source of the pollutants and the pollutants themselves, and in restoring the waters and property, including animal, plant, and aquatic life of PBC to their former conditions; and, costs of PBC for investigation, enforcement, testing, monitoring, and litigation executed written consent agreements are hereby deemed to be lawful orders or contracts of PBC; and,
- e. to refer unresolved violations to the appropriate Enforcement Board or to make recommendations to the BCC for initiation of suits in the appropriate courts of competent jurisdiction.

I. Director of Land Development

1. Creation and Appointment

The Director of the Land Development Division of the DEPW shall be the Division head of the Land Development Division of DEPW, and shall be appointed and serve at the pleasure of the County Engineer.

2. Jurisdiction, Authority, and Duties

In addition to the jurisdiction, authority, and duties which may be conferred upon the Director of the Land Development Division by other provisions of the PBC Code, the Director of the Land Development Division shall have the jurisdiction, authority, and duty under this Code to administer PBC Staff review of Art. 11, Subdivision, Platting, and Required Improvements.

J. Director of Parks and Recreation

1. Creation and Appointment

The Director of the Parks and Recreation Department shall be the Agency head of the PBC Parks and Recreation Department and shall be appointed and serve at the pleasure of the PBC Administrator.

2. Jurisdiction, Authority, and Duties

In addition to the jurisdiction, authority, and duties which may be confirmed upon the Director of Parks and Recreation by other provisions of the PBC Code and PBC Charter, the Director of Parks and Recreation shall have the following jurisdiction, authorities, and duties under this Code:

- a. to review and render interpretations on park-related land development regulations and to assure park-related land development regulations are met; and
- b. to administer the Parks and Recreation Department, including the Parks Division and the Recreation Division.

K. Executive Director of Planning, Zoning and Building

1. Creation and Appointment

The Executive Director of PZB shall be the Agency head of the PZB, and shall be appointed and serve at the pleasure of the County Administrator.

2. Jurisdiction, Authority, and Duties

In addition to the jurisdiction, authority, and duties which may be conferred upon the Executive Director of PZB by other provisions of the PBC Code and PBC Charter, the Executive Director of PZB shall have the following jurisdiction, authorities, and duties under this Code:

- a. to review and render interpretations to all provisions of this Code and the Official Zoning Map, except for those Articles listed under Art. 1.B.1.A, Authority. The PZB Executive Director may delegate interpretation of Articles subject to his/her authority and the Official Zoning Map to the appropriate Division Director within the Department; [Ord. 2011-016]
- b. to administer PBC's TDR Program including accepting applications, and reviewing and preparing Staff Reports recommending approval, approval with conditions, or denial of applications for receiving area designation;
- c. to administer the PZB Department, including the Planning Division, the Zoning Division, the Building Division, the Code Enforcement Division, the Contractors Certification Division, and the Administration Division; [Ord. 2012-027] [Ord. 2018-002]
- d. to waive or modify development review fees upon demonstration that the Applicant is indigent pursuant to PBCHD standards, or the Applicant can demonstrate review fees are in excess of actual Staff costs; and, [Ord. 2012-027] [Ord. 2018-002]
- e. to waive certain requirements as may be stated within this Code when a State of Emergency is declared. [Ord. 2012-027]

L. Impact Fee Manager

1. Creation and Appointment

The Impact Fee Manager shall be responsible for the administration of PBC's impact fee program, and shall be appointed and serve at the pleasure of the Director of the Office of Financial Management and Budget. [Ord. 2022-026]

2. Jurisdiction, Authority, and Duties

In addition to the jurisdiction, authority, and duties which may be conferred upon the Impact Fee Manager by other provisions of the PBC Code, the Impact Fee Manager shall have the following jurisdictions, authority, and duties under this Code: [Ord. 2022-026]

- a. to review and render interpretations to Art. 13, Impact Fees;
- b. to administrate Art. 13, Impact Fees;
- c. to review and approve or deny applications for independent calculation studies pursuant to Art. 13, Impact Fees;

- d. to review and approve or deny applications for credit pursuant to Art. 13, Impact Fees, with the input, assistance, and approval of the PBC Department or Agency receiving the impact fees for which the credit is sought;
- e. to provide assistance to the IFRC;
- f. to present appeals to the IFAB;
- g. to coordinate PBC, municipalities, and agencies receiving impact fee funds; and,
- h. to provide technical assistance and advice to the municipalities in their administration of Art. 13, Impact Fees.

M. Planning Director

1. Creation and Appointment

The Planning Director of PZB shall be the Division head of the Planning Division of PZB, and shall be appointed and serve at the pleasure of the Executive Director of PZB.

2. Jurisdiction, Authority, and Duties

In addition to the jurisdiction, authority, and duties which may be conferred upon the Planning Director of PZB by other provisions of the PBC Code, the Planning Director of PZB shall have the following jurisdictions, authority, and duties under this Code:

- a. to undertake the current and long-range comprehensive planning responsibilities of PBC under F.S. § 163.3161 *et seq.*, as amended;
- b. to review the Plan every seven years;
- c. to recommend annually any necessary amendments to the Plan;
- d. to accept, review, and prepare Staff Reports recommending approval, approval with conditions, approval with modifications, or denial of applications for Site Specific (FLUA) amendments to the Plan; [Ord. 2018-002]
- e. to administer the process of Development of Regional Impact (DRI) review for projects within municipalities in PBC;
- f. to review and render interpretations of Art. 5.G, Density Bonus Programs; [Ord. 2019-033]
- g. to interpret and decide on application for Entitlement Density and Intensity and Density for Workforce Housing Program (WHP) and Affordable Housing Program (AHP); and, [Ord. 2011-016]
- h. to interpret the Agricultural Enclave Overlay (AGEO) Conceptual Plan. [Ord. 2011-016]

N. Zoning Director

1. Creation and Appointment

The Zoning Director of PZB shall be the Division head of the Zoning Division of PZB, and shall be appointed and serve at the pleasure of the Executive Director of PZB.

2. Jurisdiction, Authority, and Duties

In addition to the jurisdiction, authority, and duties which may be conferred upon the Zoning Director by other provisions of the PBC Code, the Zoning Director shall have the following jurisdictions, authority, and duties under this Code:

- a. to set the Annual Zoning Calendar, as required by Art. 2.A, General; [Ord. 2020-001]
- b. to recommend annually any necessary amendments to this Code;
- c. to submit AIs to the BCC pursuant to Art. 2.C.8.B, Administrative Inquiry (AI). [Ord. 2011-016] [Ord. 2018-002]
- d. to review and approve or deny applications for Adequate Public Facilities (Concurrency); [Ord. 2016-016]
- e. to revoke or suspend, if necessary, any Development Order or Permit which was issued in violation of this Code; [Ord. 2016-016] [Ord. 2018-002]
- f. to oversee the preservation and maintenance of vegetation not covered under the provisions of Art. 14, Environmental Standards, through design review, Conditions of Approval, and inspections; [Ord. 2016-016]
- g. review and approve or deny requests for time extensions described under Art. 2.A, General, Art. 2.B, Public Hearing Processes, Art. 2.C, Administrative Processes, and Art. 2.D, ULDC Privately Proposed Revision; and, [Ord. 2020-001]
- h. review and confirm evidence provided by an Applicant for a Development Order for a Community Residence or Recovery Community that a Community Residence or Recovery Community has been granted and maintains a license or certification from the State of Florida, or an Oxford House Charter, or other license or certification that is the equivalent of a State license or certification. [Ord. 2021-022]

CHAPTER H FLU PLAN AMENDMENTS

Section 1 General

A. Purpose

The purpose of this Chapter is to establish a review process for proposed Site Specific amendments to change future land use (FLU) designations on the FLUA of the Palm Beach County Comprehensive Plan. [Ord. 2009-040] [Ord. 2012-027] [Ord. 2018-002]

B. Authority

Pursuant to F.S. § 163.3184, the BCC may adopt Site Specific FLUA amendments to change the FLU subject to the provisions of this Section. [Ord. 2012-027] [Ord. 2018-002]

C. Initiation

An application for a Site Specific FLUA amendment shall be initiated only by the Property Owner of the parcel, the authorized Agent of the Property Owner, or the BCC. An application for a Site Specific FLUA amendment may also include a request for an associated text amendment to the Comprehensive Plan subject to an additional fee set by the BCC. In order for the requested text amendment to be processed, it must be initiated by the BCC and the associated FLUA amendment application must be submitted and found sufficient. [Ord. 2009-040] [Ord. 2012-027] [Ord. 2018-002]

D. Established Dates and Fees

1. Timing

The County accepts privately proposed applications for Large and Small Scale Amendments up to four times per year as scheduled by the Planning Director. Scheduled intake dates shall be announced in advance by the Planning Director. Additional amendment intake dates outside the scheduled rounds require approval by a supermajority vote of the BCC. [Ord. 2009-040] [Ord. 2012-027] [Ord. 2018-002]

2. Fees

The application for a FLUA amendment, and any associated text amendment, shall be accompanied by a fee established by the BCC. Any request for a refund shall be in writing, based upon the current PZB refund policy, and approval by the Planning Director. [Ord. 2012-027] [Ord. 2018-002]

E. Pre-Application Meeting

The purpose of the pre-application meeting is to identify issues relating to the proposed application prior to the intake date. A pre-application meeting with the Planning Division prior to the FLUA amendment intake is mandatory. [Ord. 2012-027] [Ord. 2018-002]

F. Application Procedures

An application for a Site Specific amendment shall be submitted to the Planning Director along with application fees established by the BCC. [Ord. 2012-027] [Ord. 2018-002]

1. Concurrent Small Scale Amendments

If a Small Scale land use amendment requires a Rezoning, Conditional Use, Development Order Amendment, or Abandonment application(s), all applications shall be reviewed concurrently and considered by the BCC at the same public hearing. The Applicant shall submit a Site Plan or Conceptual Site Plan as part of the Zoning application(s). The complete Zoning application must be submitted at a scheduled Zoning application intake within 45-calendar days of receipt of the Small Scale land use amendment application. If a complete Zoning application is not timely submitted, the Small Scale land use amendment shall be administratively withdrawn immediately. [Ord. 2009-040] [Ord. 2018-002]

2. Contents of Application

a. General

The application shall be submitted in a form established by the Planning Director. The application must contain applicable data and analysis to substantiate any claims made within the application. Failure of an Applicant to disclose relevant information shall serve as grounds for postponement by the board holding the public hearing. [Ord. 2009-040] [Ord. 2018-002]

b. Amendments to the Application

After the amendment is determined to be sufficient for processing, applications shall not be significantly modified unless requested by the Planning Division. Significant changes to the application submitted following a finding of sufficiency shall serve as grounds for administrative postponement by the Planning Director to the next amendment round. Significant changes to the application include, but are not limited to, changes to the proposed future land use designation, changes to proposed Conditions of Approval, changes to associated private text amendments. Information provided by an Applicant following the distribution of the Staff Report to the LPA shall serve as grounds for postponement, as appropriate, of the public hearings by the board holding the public hearing. [Ord. 2009-040] [Ord. 2018-002]

3. Sufficiency Review

The Planning Director shall determine whether the application is sufficient or insufficient within ten days of submittal by reviewing the information required in the application and any additional data necessary to evaluate the application. The determination of sufficiency shall be based upon whether or not the application responds to all the requested information and meets minimum application criteria, as provided by the Planning Director in the application instructions. [Ord. 2009-040] [Ord. 2012-027] [Ord. 2018-002]

a. Sufficiency

If the application is determined to be sufficient, it shall be reviewed pursuant to the procedures and standards of this Article. [Ord. 2012-027] [Ord. 2018-002]

b. Insufficiency

If an application is determined to be insufficient, the Planning Director shall provide a written notice to the Applicant specifying the deficiencies within ten working days of the receipt of the application. The Planning Director shall take no further action on the application until the deficiencies are remedied. If the deficiencies are not remedied within ten working days of the notice of insufficiency, the application shall be administratively withdrawn. [Ord. 2012-027] [Ord. 2018-002]

4. Review, Report, and Recommendation by Planning Director

When the application is determined sufficient, the Planning Director shall review the application, consult with other Agencies, prepare a Staff Report (which incorporates the comments of the other Agencies), and make a recommendation of approval, approval with conditions, approval with modifications, or denial based on applicable data and analysis and consistency with the Palm Beach County Comprehensive Plan. The Planning Director shall publish a copy of the Staff Report online at least five working days prior to the LPA public hearing. [Ord. 2009-040] [Ord. 2012-027] [Ord. 2018-002]

5. Notification

Notice of a proposed amendment for any public hearing shall be provided as pursuant to the terms of this Section. The Planning Director shall notify the Intergovernmental Plan Amendment Review Committee (IPARC) of proposed land use amendments pursuant to the Plan Amendment Coordinated Review Interlocal Agreement. [Ord. 2009-040] [Ord. 2012-027] [Ord. 2018-002] [Ord. 2023-020]

a. Public Notice

Public hearing public notice shall meet the requirements of F.S. § 163.3174(4)(a) for the LPA, F.S. § 163.3184(11)(b) for the BCC, and F.S. § 125.66(4)(b)2 and F.S. ch. 50, as amended from time to time. [Ord. 2012-027] [Ord. 2018-002] [Ord. 2023-020]

b. Courtesy Notice

A copy of such notice shall be kept available for public inspection during regular business hours at the office of PZB. If the property is undergoing a simultaneous land use change and rezoning, the notice for the rezoning may be included in the notice required for the land use change. Courtesy notices shall be mailed a minimum of 15-calendar days prior to the date of the first public hearing by depositing such notice in the mail by first class mail, properly addressed and postage. [Ord. 2012-027] [Ord. 2018-002]

1) Applicability and Mailing Boundary

a) Property Owners

A courtesy "notice" of a proposed Plan amendment shall be sent to all owners of real property located within 500 feet of the periphery of the subject site in the Urban/Suburban, Agricultural Reserve, and Glades Tiers, and within 1,000 feet of the periphery of the subject site in the Exurban and Rural Tiers, whose names and addresses are known by reference to the latest published *ad valorem* tax records of PBC Property Appraiser, except that when real property consists of a condominium, the courtesy notice shall be given to the condominium association and all real Property Owners living within 500 feet. If the area within 500 feet is owned by the Applicant or partner in interest, the 500-foot notification boundary shall be extended from these parcels. Notification shall be sent to each owner as the ownership appears on the last approved tax roll. [Ord. 2012-027] [Ord. 2018-002]

b) POAs and Cooperatives

All POAs and cooperatives located within 500 feet of the periphery of the subject site in the Urban/Suburban, Agricultural Reserve, and Glades Tiers, and within 1,000 feet of the periphery of the subject site in the Exurban and Rural Tiers, shall be notified. [Ord. 2012-027] [Ord. 2018-002]

c) Municipalities and Counties

All municipalities and counties within one mile of the subject site shall be notified. If a site is located within a future annexation area as identified in a municipality's comprehensive plan, the associated municipality shall be notified. [Ord. 2012-027] [Ord. 2018-002]

d) Interested Parties

A courtesy notice of all public hearings may be sent upon request to all organizations, associations, and other interested persons or groups known to the Planning Director. An annual fee may be assessed to defray the cost. [Ord. 2012-027] [Ord. 2018-002]

2) Notice Content

All notices shall include the following information: [Ord. 2012-027] [Ord. 2018-002]

- a) a general summary of the application; [Ord. 2012-027] [Ord. 2018-002]
- b) a date, time, and place for the public hearings; [Ord. 2012-027] [Ord. 2018-002]
- c) a general location map indicating the subject site including major streets; and, [Ord. 2012-027] [Ord. 2018-002]
- d) a statement that interested parties may appear at the public hearing and be heard regarding the amendment. [Ord. 2012-027] [Ord. 2018-002]

3) Failure to Receive Courtesy Notice

Failure to receive a courtesy notice shall not be deemed a failure to comply with this requirement, and shall not be grounds to challenge the validity of any decision made by BCC. [Ord. 2012-027] [Ord. 2018-002]

c. Signs

- 1) The land subject to the application shall be posted with a notice of the public hearing by the Applicant on a sign meeting standards and specifications issued by the County within 45-calendar days of the determination that the application is sufficient for processing. The Applicant shall submit photographs and a written affidavit confirming the signs have been posted. One sign shall be posted for each 500 feet of frontage along a street up to a maximum of ten signs. All signs shall be: [Ord. 2012-027] [Ord. 2018-002]
 - a) Evenly spaced along the street or in a location acceptable to the Planning Director. [Ord. 2012-027] [Ord. 2018-002]
 - b) Set back no more than 25 feet from the property line fronting the street. [Ord. 2012-027] [Ord. 2018-002]
 - c) Erected in full view of the public. [Ord. 2012-027] [Ord. 2018-002]

Signs shall be posted in a location acceptable to the Planning Director, where the land does not have significant frontage on a street. The failure of any such posted notice to remain in place after the notice has been posted shall not be deemed a failure to comply with this requirement, or be grounds to challenge the validity of any decision made by the BCC. The Applicant shall ensure the signs have been removed no later than five days after the final hearing. [Ord. 2012-027] [Ord. 2018-002]

d. Public Notice of County Initiated Amendments

The County shall provide written notification to each Property Owner of property subject to a County Initiated future land use change a minimum of 30-calendar days prior to the first public hearing. [Ord. 2018-002]

e. Exceptions to Mailing and Posting

The courtesy mailing notice and posting notice requirements shall not apply to a County Initiated Site Specific FLUA amendment for a land use change to a Conservation (CON) designation following acquisition by a public agency or a corrective land use change. [Ord. 2012-027] [Ord. 2018-002]

6. Action by the Planning Commission Sitting as the Local Planning Agency (LPA)

The LPA public hearing shall be held on a weekday after notice is published pursuant to F.S. § 163.3174(4)(a), as amended from time to time. The LPA shall conduct a public hearing on the application pursuant to the procedures in Art. 2.H.1.F.8, Conduct of Hearings, and make recommendations regarding the proposed amendments to the BCC. At the public hearing, the LPA shall review the application, the Staff Report, the relevant support materials, and public testimony given at the hearings. At the close of the public hearing, the LPA shall vote on its recommendations (approval, approval with conditions, or denial). [Ord. 2009-040] [Ord. 2012-027] [Ord. 2023-020]

7. Action by BCC

Action by the BCC shall be governed by F.S. § 163.3184, as amended from time to time. [Ord. 2012-027]

a. Transmittal Public Hearing

Large Scale Amendments require a transmittal public hearing. The transmittal public hearing shall be held on a weekday at least seven-calendar days after notice is published pursuant to F.S. § 163.3184(11)(b)1, as amended from time to time, pursuant to the procedures in Art. 2.H.1.F.8, Conduct of Hearings. At the public hearing, the BCC shall consider the application, the Staff Report, the relevant support materials, the recommendations of the LPA, and the public testimony given at the public hearing, and by an affirmative vote of a majority of the members of the BCC present at the hearing, vote to approve, approve with conditions, or deny the transmittal of the application. Failure of the BCC to approve the transmittal of an application for a Site Specific amendment shall be deemed a denial of the proposed Site Specific amendment. [Ord. 2009-040] [Ord. 2012-027]

b. Adoption Public Hearing

The adoption public hearing shall be on a weekday at least five-calendar days after the notice for the public hearing is published pursuant to F.S. § 163.3184(11)(b)2, as amended pursuant to the procedures in Art. 2.H.1.F.8, Conduct of Hearings. At the public hearing, the BCC shall consider the application, the Staff Report, the relevant support materials, the State Land Planning Agency comments, and the public testimony given at the public hearing, and by affirmative vote of a majority of the members of the BCC present at the meeting, vote to adopt, adopt with conditions, or not to adopt an Ordinance making a Site Specific amendment. Small Scale Development Amendments shall require only one public hearing before the BCC, which shall be an adoption public hearing, pursuant to F.S. § 163.3187(2), and provisions of F.S. § 125.66(4)(a) and F.S. ch. 50, as amended from time to time. Actions approving Site Specific Plan amendments shall be adopted by Ordinances pursuant to F.S. § 163.3187, as amended from time to time. [Ord. 2009-040] [Ord. 2012-027] [Ord. 2018-002] [Ord. 2023-020]

8. Conduct of Hearings

a. Rights of All Persons

Any person may appear at a public hearing and submit evidence, either individually or as a representative of an organization. Anyone representing an organization shall present evidence of their authority to speak on behalf of the organization in regard to the matter under consideration. Each person who appears at a public hearing shall be identified, state an address, and if appearing on behalf of an organization, state the name and mailing address of the organization. [Ord. 2012-027] [Ord. 2018-002]

b. Due Order of Proceedings

The order of the proceedings shall be pursuant to Art. 2.B.6.D, Conduct of Hearings. [Ord. 2018-002]

c. Postponement of Public Hearing for Small Scale Amendments

1) Administrative Postponements

- a) An Applicant shall have the right to request and be granted one administrative postponement, of no more than 60 days, of the LPA public hearing without an additional fee; provided that the request is made in writing at least 20 days prior to the hearing and is submitted along with an additional set of the required courtesy notice envelopes. [Ord. 2012-027] [Ord. 2018-002] [Ord. 2023-020]
- b) An Applicant shall have the right to request and be granted one entitlement continuance, of no more than 60 days, of the BCC Adoption public hearing; provided that the request is made in writing at least 20 days prior to the hearing and is submitted along with an additional set of the required courtesy notice envelopes. [Ord. 2009-040] [Ord. 2012-027] [Ord. 2018-002] [Ord. 2023-020]

2) LPA or BCC Public Hearing Continuances

The body conducting the public hearing may by its own motion, or at the request of any Applicant or the Planning Director, continue the public hearing or meeting to a fixed date, time, and place. Such continuances shall be granted at the discretion of the body conducting the hearing only upon good cause shown. The Applicant may be required to provide an additional set of the required courtesy notice envelopes and may be subject to a fee as established by the BCC. [Ord. 2009-040] [Ord. 2012-027] [Ord. 2018-002]

d. Postponement of Large Scale Amendments

In order to provide most current data, the Applicant of an amendment postponed to the next round shall submit the fee with an updated application including a new traffic analysis on the intake date of the next round, along with a new set of courtesy notices. Failure to submit the fee and an updated application will result in the amendment being administratively withdrawn. [Ord. 2018-002]

1) Administrative Postponements

An Applicant shall have the right to request and be granted one administrative postponement, to a subsequent amendment round and will be subject to a fee as established by the BCC; provided that the request is made in writing at least 20 days prior to the LPA public hearing. The Planning Director may approve administrative postponements provided that the request is made in writing at least five days prior to the publication of the agenda for the public hearing. [Ord. 2009-040] [Ord. 2012-027] [Ord. 2018-002]

2) Non-Administrative Postponements

Following the publication of the agenda for a public hearing, postponements shall be granted at the discretion of the body conducting the hearing and shall be subject to a fee established by the BCC. The LPA may continue a public hearing within the same amendment round. The LPA may postpone an amendment to a subsequent amendment round at the request of an Applicant provided that the BCC public hearing has not been advertised. [Ord. 2012-027] [Ord. 2018-002]

9. Withdrawal of Applications and Refunds

An Applicant shall have the right to withdraw an application for a Site Specific amendment at any time prior to the advertised adoption public hearing by the BCC. Any request for a refund shall be in writing, based upon the current PZB refund policy, and approval by the Planning Director. [Ord. 2009-040] [Ord. 2012-027] [Ord. 2018-002]

CHAPTER I COORDINATED SCHOOL PLANNING

Section 1 Purpose

The purpose of this Chapter is to establish a mechanism for collaborative planning and decision making with the Palm Beach County School District and Palm Beach County to measure district school capacity available to accommodate new development pursuant. [Ord. 2018-002]

Section 2 Authority

The Board of County Commissioners has the authority to adopt this Chapter pursuant to the PBC Charter, and F.S. § 163.01, F.S. § 163.3177(6)(h), F.S. § 1013.33, the PBC Comprehensive Plan, and the Interlocal Agreement for Coordinated Planning (Resolution No. R-2015-1864). [Ord. 2018-002]

Section 3 Applicability

The requirements of the Interlocal Agreement for Coordinated Planning, as amended, shall apply to all DOs for the safe, convenient, orderly, and adequate provision of public school facilities. [Ord. 2018-002]

Section 4 School Capacity Availability Determination

The County shall notify the School District of any land use or rezoning applications that may increase residential FLUE Designation or density at least 30 days prior to the date of the applicable public hearing. The County will transmit to School District all applicable support material, and the date, time, and place of the applicable public meeting. Within 20 days of receipt of completed application, the School District shall submit to the County a school capacity availability determination providing the District's findings and recommendations. [Ord. 2018-002]

Amendment History:

[Ord. 2003-067; January 1, 2004] [Ord. 2005-002; February 2, 2005] [Ord. 2005-041; September 1, 2005] [Ord. 2006-004; March 1, 2006] [Ord. 2006-036; August 29, 2006] [Ord. 2006-055; December 1, 2006] [Ord. 2007-001; January 25, 2007] [Ord. 2007-013; September 4, 2007] [Ord. 2008-003; January 30, 2008] [Ord. 2008-037; September 4, 2008] [Ord. 2009-040; October 28, 2009] [Ord. 2010-005; February 2, 2010] [Ord. 2010-022; September 1, 2010] [Ord. 2011-001; February 4, 2011] [Ord. 2011-016; September 6, 2011] [Ord. 2012-003; February 1, 2012] [Ord. 2012-027; August 31, 2012] [Ord. 2013-001; January 31, 2013] [Ord. 2013-021; August 30, 2013] [Ord. 2014-001; February 3, 2014] [Ord. 2014-025; September 3, 2014] [Ord. 2015-006; February 3, 2015] [Ord. 2014-031; July 7, 2015] [Ord. 2015-031; September 3, 2015] [Ord. 2016-016; February 2, 2016] [Ord. 2016-020; March 24, 2016] [Ord. 2016-042; September 22, 2016] [Ord. 2017-002; January 31, 2017] [Ord. 2017-007; March 2, 2017] [Ord. 2017-009; March 2, 2017] [Ord. 2017-016; April 27, 2017] [Ord. 2017-025; August 28, 2017] [Ord. 2017-028; September 28, 2017] [Ord. 2018-002; February 1, 2018] [Ord. 2018-018; August 29, 2018] [Ord. 2019-005; January 29, 2019] [Ord. 2019-034; August 27, 2019] [Ord. 2019-033; September 29, 2019] [Ord. 2020-001; January 28, 2020] [Ord. 2020-007; June 10, 2020] [Ord. 2020-020; September 3, 2020] [Ord. 2021-006; March 2, 2021] [Ord. 2021-022; September 3, 2021] [Ord. 2021-023; September 3, 2021] [Ord. 2022-001; February 4, 2022] [Ord. 2022-029; November 2, 2022] [Ord. 2022-026; January 1, 2023] [Ord. 2023-020; May 30, 2023] [Ord. 2023-023; June 23, 2023] [Ord. 2023-024; July 11, 2023] [Ord. 2023-026; July 26, 2023] [Ord. 2024-001; January 29, 2024] [Ordinance No. 2024-014; July 18, 2024] [Ord. 2024-020; October 7, 2024] [Ord. 2024-024; December 20, 2024]