

ARTICLE 2

DEVELOPMENT REVIEW PROCESS

	Page
CHAPTER A GENERAL	7
Section 1 Applicability	7
A. Applicability	7
B. Definitions	7
C. Established Dates and Fees	7
D. Authority	7
1. Processes	7
E. Pre-Application Conference	8
1. Site Plan Review	8
2. Sufficiency and Insufficiency	8
3. Review Summary	8
F. Initiation of Development Review Process	8
G. Application Procedures	8
1. General	8
2. Application Requirements	8
3. Sufficiency Review	8
H. Consolidated Application	9
1. Small Scale, TMD and MLU Amendments	9
2. Zoning Applications	9
I. Review and Certification	9
1. Review	9
2. Certification	9
3. Non-certification	9
4. Application Modification After Certification	9
J. Notification	9
1. Publication	9
2. Courtesy Mailing	9
3. Posting	10
K. Public Hearing Procedures	10
1. Scheduling	10
2. Staff Report and Recommendation	10
3. Board Action	10
4. Conduct of Hearing	11
L. Actions by Decision Making Bodies or Persons	12
1. General	12
2. Administrative Processes	12
3. Conditions	12
4. Findings	12
5. Continuance or Postponement	12
6. Notification of Decision	12
M. Withdrawal	13
N. Denial of Application	13
1. Denial	13
2. Exceptions	13
O. Suspension of Development Review Proceedings	13
P. Violation of Condition of Development Order	13
Q. Development Order Abandonment	13
1. General	13
2. Development Orders Not Implemented	13
3. Implemented Development Orders	13

4. Additional Guidelines	14
R. Misrepresentation	14
S. Appeal	14
1. Non-Judicial Relief	14
2. Judicial Relief	15
T. Outstanding Liens or Fines	15
1. General	15
2. Contest by the Applicant.....	15
CHAPTER B PUBLIC HEARING PROCEDURES	15
Section 1 Official Zoning Map Amendment (Rezoning).....	15
A. Purpose	15
B. Standards	15
1. Consistent with Plan.....	15
2. Consistent with Code	15
3. Compatible with Surrounding Uses	16
4. Changed Conditions	16
5. Effect on Natural Environment	16
6. Development Patterns	16
7. Consistency with Neighborhood Plan	16
8. Adequate Public Facilities.....	16
C. Effect of a Map Amendment	16
1. General	16
2. Time Limitations.....	16
D. Development Order Amendment to a PDD, TDD or COZ	16
Section 2 Conditional and Requested Uses	16
A. Purpose	16
B. Standards	16
1. Consistent with Plan.....	16
2. Supplementary Use Standards	16
3. Compatibility	16
4. Design Minimizes Adverse Impact	16
5. Adequate Public Facilities.....	16
6. Design Minimizes Environmental Impact	17
7. Development Patterns	17
8. Other Standards	17
9. Consistency with Neighborhood Plans	17
10. Changed Circumstances.....	17
C. Class A Conditional Use	17
1. Authorized Class A Conditional Uses.....	17
D. Requested Use.....	17
1. Authorized Requested Uses	17
E. Class B Conditional Use	17
1. Authorized Class B Conditional Uses.....	17
F. Conditions of Approval.....	17
1. Class A Conditional/Requested Use	17
2. Class B Conditional Use.....	17
G. Development Order Amendment	17
1. General	17
2. Expedited Application Consideration (EAC).....	18
3. Procedures	18
H. Effect of Issuance of a Development Order.....	18
1. General	18
2. Site Plan Compliance/Initiation of Use	18

Section 3	Type II Variance	18
A.	Purpose	18
B.	Application Procedure	18
1.	Subdivision Variance	18
2.	Noise Variance	18
3.	Sequence of Submittal	18
C.	Application Requirements	19
1.	Description	19
D.	Review and Recommendation	19
1.	Zoning and Subdivision Variances	19
2.	Airport Variance	19
E.	Standards	19
F.	Conditions	19
1.	Request for Time Limitation Waiver	19
G.	Effect of Development Order	20
1.	General	20
2.	Time Limitation	20
3.	Conforming	20
CHAPTER C	FLU PLAN AMENDMENTS	20
Section 1	General	20
A.	Purpose	20
B.	Authority	20
C.	Initiation	20
D.	Procedure	20
1.	Pre-Application Conference	20
2.	Timing	21
3.	Submission of Application	21
4.	Contents of Application	21
5.	Determination of Sufficiency	21
6.	Review, Report and Recommendation by Planning Director	21
7.	Notice	21
8.	Action by the LUAB sitting as the Local Planning Agency (LPA)	22
9.	Action by BCC	23
10.	Standards	23
11.	Conduct of Hearing	23
CHAPTER D	ADMINISTRATIVE PROCESS	25
Section 1	Development Review Officer	25
A.	Purpose	25
B.	Application Types	25
C.	Review Procedures	25
1.	Staff Review	25
2.	Action by the DRO	25
3.	Resubmittal Requirements	25
D.	Application Requirements	26
1.	Plan Requirements	26
2.	Subdivision Plan	26
3.	Effect of a Development Order Approved by the DRO	26
E.	Standards	26
1.	Consistency with the Plan	26
2.	Consistency with Neighborhood Plans	26
3.	Other Relevant Codes	26
F.	Conditions	26

1. DRO Authority	26
2. Condition Limitations	26
G. Plan Amendments	27
1. Expedited DRO Applications (EDA - Signature Only)	27
2. Administrative Amendments	27
3. Amendments to BCC/ZC Approvals.....	27
Section 2 Special Permit.....	28
A. Purpose	28
B. Authorized Special Permits	28
C. Procedure	28
1. Contents of Application.....	28
D. Standards	28
E. Conditions	28
F. Renewal	28
G. Expiration	28
H. Discontinuance.....	28
I. Revocation	28
Section 3 Type IA and Type IB Administrative Variances	29
A. Purpose	29
B. Type IA Administrative Variances.....	29
1. Structural Encroachments into Setbacks.....	29
2. Preservation of Vegetation	29
3. Native Ecosystem Overlay District (NEO)	29
4. Vacant Lots.....	29
C. Type IB Administrative Variances.....	29
1. Single or Multi Family Residential Projects	29
2. Non Residential Projects.....	29
D. Limitations.....	30
E. Conditions	30
F. Time Limitation	30
G. Standards	31
1. Type IA	31
2. Type IB	31
H. Effect of Development Order.....	31
CHAPTER E MONITORING	31
Section 1 General	31
A. Purpose and Intent	31
B. Applicability	32
Section 2 Procedures	32
A. Suspension of Development Orders	32
B. Administrative Extension of Time.....	33
C. Appeal	35
D. Failure to Comply with Conditions or Time Requirements other than for a DRO Imposed Condition of Approval.....	35
1. Scheduling of Status Reports.....	35
2. Status Report Review Criteria	35
3. Status Report – Additional Criteria	35
4. Staff Recommendations	35
5. Procedures	35
6. Procedures for Rezoning Less than Ten Acres.....	36
7. Procedure for Rezoning Ten or more Acres	36

8.	Decision of the BCC or ZC for Failure to Comply with the Following:	37
9.	Decision of the BCC or ZC for Failure to Comply with a Condition of Approval Which Requires the Posting of Performance Security Pursuant to Art. 12.C.2, Conditions	38
E.	Failure to Comply with Conditions of Approval Imposed by the DRO	38
F.	Expiration of Time Extensions Granted by the BCC	38
G.	Fees	38
Section 3	Supplementary Regulations for Classes of Development Orders	38
A.	Classes of Development Approvals	38
B.	Effect of Phasing on Time Frames for Receipt of a Required Permit or Commencement of a Required Action	38
1.	Residential District (Non-PDD or TDD) PUD and TND Districts	38
2.	Conditional and Requested Uses, PDDs other than PUDs, TTDs and TMDs	38
3.	Effect of Modification to a Development Order on the Time Requirements of this Section	39
	Table 2.E.3.B-1 - Time Limitation of Development Order for Each Phase	39
CHAPTER F	CONCURRENCY (ADEQUATE PUBLIC FACILITY STANDARD)	40
Section 1	General	40
A.	Purpose and Intent	40
B.	Authority	41
C.	Applicability	41
1.	General	41
D.	Exemptions	41
E.	Unified Planning Area	41
Section 2	LOS Standards	41
Section 3	Review For Adequate Public Facilities	41
A.	General	41
B.	Procedure for Review of Application for a Concurrency Reservation	41
1.	Submission of Application	41
2.	Determination of Sufficiency	42
3.	Determination of Review	42
4.	Review and Recommendation	42
5.	90 Day Negotiation	42
6.	Approval	42
C.	Standards for Review of Application for Adequate Public Facilities Determination and Concurrency Reservation	43
1.	Potable Water, Sanitary Sewer, Solid Waste and Park and Recreation and Linked Open Space and Fire Rescue Facilities	43
2.	Drainage Facilities	43
3.	Traffic Facilities	43
4.	Mass Transit Facilities	43
5.	Public School Facilities	43
D.	Rules of General Applicability for a Concurrency Reservation	43
1.	Expiration	43
2.	Effect	43
3.	Assignability and Transferability	44
4.	Extension of a Reservation	44
5.	Phasing of a Reservation	44
6.	Receipt of a Concurrency Reservation with Conditions	44
7.	Amendment of Certificate of Concurrency Reservation	45
8.	Revision of a Concurrency Reservation	45
9.	Effect of Agreement in Conjunction with a Certificate of Concurrency Reservation	45
E.	Procedure for Equivalency Determination	45

1. Submission of Application.....	45
2. Review and Recommendation	45
3. Approval of Equivalency	45
4. Denial of Equivalency	45
Section 4 Entitlement Density and Entitlement Intensity	46
A. General	46
B. Submission of Application	46
C. Determination of Sufficiency.....	46
D. Decision by Zoning Director.....	46
E. Standards for Entitlement Density.....	46
Section 5 Administrative Appeal Process.....	47
A. General	47
B. DRAB Membership	47
C. Procedure	47
D. Standard	47
E. Written Order.....	47
F. Appeal to Circuit Court	47
Section 6 Monitoring Program	47
A. General	47
B. Annual Public Facilities Update Report (AUR).....	47
C. Amendments	48
Section 7 Public School Concurrency.....	48
A. Short Title	48
B. Authority.....	48
C. Definitions	48
D. Applicability	48
1. Area of Jurisdiction	48
2. Time of Application of Ordinance	48
3. Applications Requiring Concurrency Review	48
4. Exemptions.....	48
E. Standard	48
1. LOS.....	48
2. Concurrency Service Areas	49
3. Three Year Rule.....	49
4. Adjacent CSA Capacity	49
F. Review of Residential Development	49
1. Application.....	49
G. Development Order Approval.....	50
H. Appeals.....	50

ARTICLE 2

DEVELOPMENT REVIEW PROCEDURES

CHAPTER A GENERAL

Section 1 Applicability

A. Applicability

The provisions in this Article shall apply to all development order applications unless otherwise specified. Development Orders run with the land and may be transferred to new owners unless otherwise stipulated.

B. Definitions

See [Art. 1.1, Definitions and Acronyms](#).

C. Established Dates and Fees

1. The Zoning Director shall publish an Annual Zoning Calendar, as may be amended, providing application dates and deadlines consistent with the specifications of this Code. This calendar shall govern all dates in the development review process.
2. A development order application shall be accompanied by a fee established by the BCC. Any request for a refund of fees shall be in writing, based on the current PZB refund policy, and subject to approval by the Zoning Director.

D. Authority

1. Processes

For the purposes of this Article, the authority of the BCC, ZC, DRO and Zoning Director shall be limited to the development order applications specified below. **[Ord. 2006-036]**

a. Board of County Commissioners (BCC)

The BCC, in accordance with the procedures, standards and limitations of this Article shall consider the following types of development order applications:

- 1) Official Zoning Map Amendment (Rezoning);
- 2) Class A conditional use;
- 3) Requested use;
- 4) Development Order Amendment (DOA);
- 5) Abandonment; and
- 6) Status Report.

b. Zoning Commission (ZC)

The ZC shall consider the following types of development order applications:

- 1) Class B conditional use;
- 2) DOA;
- 3) Abandonment, **[Ord. 2006-036]**
- 4) Status Reports; and **[Ord. 2006-036]**
- 5) The ZC is also granted the authority to consider, take action, and make decisions on applications for Type II variances. The ZC is not authorized to grant variances from the following Articles of the ULDC: **[Ord. 2006-036]**
 - a) [Art. 1, General Provisions](#);
 - b) [Art. 2, Development Review Procedures](#);
 - c) [Art. 3.B.3, COZ, Conditional Overlay Zone](#);
 - d) [Art. 4, Use Regulations](#) (excluding provisions in Art. 4.D.5.C, Type IA Excavation, and Art. 4.D.5.D, Type IB Excavation);
 - e) [Art. 5.D, Park and Recreation](#) – Rules and Recreation Standards;
 - f) [Art. 5.F, Legal Documents](#) (excluding provisions in Art. 5.F.2, Easements);
 - g) [Art. 5.G, Density Bonus Programs](#);
 - h) [Art. 13, Impact Fees](#);
 - i) [Art. 14, Environmental Standards](#);
 - j) [Art. 15, Health Regulations](#);
 - k) [Art. 17, Decision Making Bodies](#); and
 - l) [Art. 1.1, Definitions and Acronyms](#). **[Ord. 2005-002] [2006-036]**

c. Development Review Officer (DRO)

The DRO, in accordance with the procedures, standards and limitations of this Article and Art. 2.D, Administrative Process, shall consider the following types of development order applications: **[Ord. 2006-036]**

- 1) Master Plan; **[Ord. 2006-036]**
- 2) Site Plan; **[Ord. 2006-036]**
- 3) Subdivision Plan; and **[Ord. 2006-036]**
- 4) Uses indicated as “D” in Table 4.A.3.A-1, Use Matrix. **[Ord. 2006-036]**

d. Zoning Director

The Zoning Director, in accordance with the procedures, standards and limitations of this Article, shall approve, approve with conditions, withdraw, deny or revoke the following types of development order applications: **[Ord. 2006-036]**

- 1) Special Permit;
- 2) Alternative Landscape Plan (ALP);
- 3) Administrative Variances (Type IA and Type IB); **[Ord. 2006-036]**
- 4) Alternative Sign Plan (ASP); and
- 5) Administrative Development Order Abandonment.

E. Pre-Application Conference

The purpose of the pre-application conference is to provide the applicant with an opportunity to submit a preliminary application and conceptual site plan for review by the Zoning Division. The preliminary application and conceptual site plan will be reviewed for compliance with applicable Codes, and to determine the appropriate review processes required for the proposed development.

1. Site Plan Review

The applicant shall specify in the application whether the pre-application conference is requested for a conceptual site plan review. **[Ord. 2005 – 002]**

2. Sufficiency and Insufficiency

The application shall follow the procedures as provided in [Article 2.A.1.G, Application Procedures](#).

3. Review Summary

Within five days of the pre-application conference, the DRO shall provide the applicant with a written summary of the preliminary issues, findings, and necessary approvals required for the application.

F. Initiation of Development Review Process

An application for any development order may be submitted 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.

G. Application Procedures

1. General

An application shall be submitted for all development orders regulated by this Code. Applications require sufficiency review prior to being placed on the agenda for a public hearing or meeting, or proceeding to the subsequent step in the development review process, unless otherwise specified in this Code. **[Ord. 2005-041]**

2. Application Requirements

The application form and requirements for a development order shall be submitted as specified by the PBC official responsible for reviewing the application. **[Ord. 2005-041]**

3. Sufficiency Review

The appropriate PBC official responsible for reviewing the application shall determine whether or not 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. **[Ord. 2005-041]**

a. Sufficiency

If the application is determined to be sufficient, it shall be reviewed by the appropriate PBC official pursuant to the procedures and standards of this Article. The application shall then be placed on the next available agenda consistent with the established dates published in the Annual Zoning Calendar, or proceed to the next subsequent step in the development review process. The agenda shall be made available to the public no less than five days prior to the applicable hearing or review date. **[Ord. 2005-041]**

b. Insufficiency

If an application is determined to be insufficient, staff shall provide a written notice to the applicant specifying the deficiencies. The notice shall be mailed within ten days of receipt of the application.

- 1) No further action shall be taken on the application until the deficiencies are remedied.

- 2) If amended and determined to be sufficient, the application shall be processed in accordance with [Art. 2.A.1.G.3.a, Sufficiency](#). [Ord. 2005-041]
- 3) If the deficiencies are not remedied within 20 days the application shall be considered withdrawn. [Ord. 2005-041]

H. Consolidated Application

1. Small Scale, TMD and MLU Amendments

If a land use amendment requires a rezoning, conditional use, requested use, development order amendment or abandonment application, the applications shall be reviewed and considered by the BCC concurrently. An application for a Type II variance may be submitted concurrently or separately. Applications that are contingent upon the approval of variances must be submitted separately. The applicant shall submit a master plan and/or site plan as part of the zoning application. The zoning application shall be submitted within 45 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]

2. Zoning Applications

Applications for development orders may be consolidated for review, subject to approval by the Zoning Director. When applications for development orders are consolidated the review period shall not be less than the time frame established for the application with the longest review period.

I. Review and Certification

1. Review

All rezoning, conditional use, requested use and development order amendment, and concurrent Type II variance applications, shall be reviewed and certified by the DRO. [Ord. 2006-036]

2. Certification

The application shall meet all minimum Code requirements and standards pursuant to this Code and other applicable standards prior to certification by the DRO. An application shall not be certified until it meets all certification standards. The DRO shall prepare a list of certification issues and make it available to the applicant at least five days prior to the DRO review date meeting. An applicant shall be given three days following the DRO review date to satisfy any outstanding certification issues. Certified applications shall be scheduled for the first hearing, or a subsequent hearing in accordance with the annual Zoning Calendar or as is mutually agreed upon by the applicant and the DRO.

3. Non-certification

If the application is not certified, the applicant shall receive a letter outlining outstanding certification issues. The letter shall be made available no less than five days after review by the DRO. If the issues are not satisfied within that time period, the application will be rescheduled for the next scheduled DRO review date.

a. Resubmittal Requirements

The applicant shall provide a written response addressing all outstanding certification issues in a manner and form acceptable to the Zoning Division. The revised documents shall be submitted to all DRO agencies for review and comment a minimum of 15 calendar days prior to the next scheduled DRO review date. [Ord. 2005-041]

4. Application Modification After Certification

Applications shall not be significantly modified after certification, unless requested or agreed to by PBC. Significant modifications to proposed site or master plans within ten days of a scheduled public hearing date shall result in a postponement. For the purposes of this Article, a modification shall be considered significant if it exceeds 30 percent or more change from the certified plan. [Ord. 2005 – 002]

J. Notification

Notice for any required public hearing shall be provided by publication of an advertisement, mailed notice and posting of property in accordance with this Section.

1. Publication

Public notice shall be published in a newspaper of general circulation in PBC in accordance with the following standards:

a. ZC and BCC

Notice shall be required in accordance with [F.S. §125.66](#) and [Chapter 163](#).

2. Courtesy Mailing

a. A notice shall be mailed to all property owners within 300 feet for Type IB and Type II variance applications, and appeals being heard before the Hearing Officer, and within 500 feet or greater for all other public hearings, as required by the Zoning Director. This distance shall be measured from the property line of the affected area and shall include: [Ord. 2006-036]

- 1) All owners of real property, whose names and addresses are known by reference to the latest published ad valorem tax records of the PBC Property Appraiser;
 - 2) Condominium associations and all real property owners when real property consists of a condominium;
 - 3) All Property Owners Associations (POAs), Homeowners Associations (HOAs) and cooperatives within the affected area; and
 - 4) All counties and municipalities within one mile of the request.
- b. An extended 300-500 foot notice notification boundary areas that a municipality has identified as a future annexation area within one mile of the request;
 - c. If the area within 300 or 500 feet is owned by the applicant or a related entity, the 300 or 500-foot notification boundary shall be extended from these parcels;
 - d. A larger notification boundary may be required by the Zoning Director for properties located in the Exurban or Rural tiers.
 - e. The notice shall:
 - 1) State the substance of the proposal;
 - 2) Include a date, time and place for the public hearing;
 - 3) Include a general location map of the subject property; and
 - 4) Include a statement that interested parties may appear at the public hearing and be heard regarding the request.
 - f. No Notice
The failure to receive a courtesy notice by any property owner shall not be deemed a failure to comply with this requirement, or be grounds to challenge the validity of any decision made by the approving authority.

3. Posting

The land subject to the application shall be posted by the applicant with a notice of the public hearing on a sign provided by the PBC at least 15 days in advance of any public hearing. One sign shall be posted for each 100 feet of frontage along a street up to a maximum of ten signs. All signs shall be evenly spaced along the street or in a location acceptable to the Zoning Director. All signs shall be setback no more than 25 feet from the property line. All signs shall be erected in full view of the public. Where land does not have significant frontage on a street, signs shall be in a location acceptable to the Zoning Director. The failure of any such posted notice to remain in place after it 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 approving authority.

a. Exceptions

Signs posted by a public agency or the BCC may be posted on the nearest street or at major intersections leading to and within the subject property.

K. Public Hearing Procedures

1. Scheduling

If an application has been certified by the DRO and a public hearing is required, the responsible PBC official shall schedule a public hearing in accordance with the dates established in the annual Zoning Calendar.

a. Number of Hearings

Both the ZC and the BCC shall hold at least one public hearing on a proposed amendment to the boundaries of the Official Zoning Map for non-PBC initiated applications and PBC initiated applications for properties consisting of less than ten contiguous acres of land.

b. Exception

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.

2. Staff Report and Recommendation

a. Report

The PBC official responsible for reviewing the application shall prepare a report for each application which incorporates the comments of the agencies 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.

3. Board Action

a. Action by ZC

The ZC shall conduct a public hearing on the application pursuant to the procedures in [Article 2.B, PUBLIC HEARING PROCEDURES](#).

1) Scheduling

After DRO certification, the application shall be considered at the next available regularly scheduled public hearing by the ZC, or such time as is mutually agreed upon between the applicant and the Zoning Director. The scheduling of the application for public hearing shall ensure the public notice requirements are satisfied.

2) Rezoning; Class A Conditional Use; Requested Use; DOA

The ZC shall consider the application, the staff report, the relevant support materials, the DRO certification 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, continued, postponed or denied based upon the standards in [Article 2.B.1.B, Standards](#), and [Article 2.B.2.B, Standards](#), applicable to all Conditional and Requested Uses.

3) Class B Conditional Use and Type II Variance

The ZC shall consider the application, staff report the relevant support materials, the DRO certification, and the public testimony, and evidence for the public record and given at the hearing. An application for a development permit for a Class B conditional use, which does not receive the required rezoning, shall be decertified. At the close of the public hearing, the ZC shall by not less than a majority of a quorum present approve, approve with conditions, modify, postpone, or deny the application based on [Art. 2.B.2.B](#) and [Art. 2.B.3.E, Standards](#), applicable to all Conditional and Requested Uses, and any standards specifically applicable to the use as required in [Art. 4.B, Supplementary Use Standards](#), thereby adopting a resolution approving, approving with conditions, or denying the proposed use or Type II variance. The resolution shall be filed with the Clerk of the Circuit Court. **[Ord. 2006-036]**

b. Action by BCC

1) Scheduling

After the review and recommendation of the ZC, the application shall be considered at the next available regularly scheduled public hearing by the BCC, or such time as is mutually agreed upon between the applicant and the Zoning Director. The scheduling of the application for public hearing shall ensure the public notice requirements are satisfied.

2) Public Hearing(s)

At the public hearing(s), the BCC shall consider the application, all relevant support materials, the recommendation of the ZC, the testimony given and the evidence introduced into the record at the public hearing(s).

3) Decision

At the conclusion of the final public hearing, the BCC shall approve, approve with conditions, modify, postpone, withdraw, or deny the proposed development order based on the standards in [Article 2.B.1.B, Standards](#), and [Article 2.B.2.B, Standards](#), applicable to all Conditional and Requested Uses thereby adopting a resolution approving, approving with conditions, or denying a proposed request by not less than a majority of a quorum present. The resolution shall be filed with the Clerk of the Circuit Court.

4) Remand

If at any time during the public hearing, the ZC or BCC determines that the application is based upon incomplete, inaccurate information or misstatements of fact, it may refer the application back to the ZC or DRO for further review and a revised staff report.

c. 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]**

4. Conduct of Hearing

a. Oath or Affirmation

All testimony and evidence shall be given under oath or by affirmation to the body conducting the hearing.

b. 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.

c. Order of Proceedings

Robert's Rules of Order shall be observed during the proceeding in accordance with [Article 17.B, GENERAL PROVISIONS](#). The governing body may adopt bylaws 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:

- 1) The PBC official responsible for reviewing the application shall present a written and or oral recommendation, including any report prepared. This recommendation shall address each standard required to be considered by this Code prior to approval of the application.
- 2) The applicant shall present any information the applicant deems appropriate.
- 3) Public testimony shall be heard.
- 4) The PBC official responsible for reviewing the application may respond to any statement made by the applicant or any public comment.
- 5) The applicant may respond to any testimony or evidence presented by the PBC staff or public at the discretion of the Chair.
- 6) The governing body may direct questions to staff and the applicant specific to the request.
- 7) The governing body shall discuss the facts of the petition and make a recommendation.

L. Actions by Decision Making Bodies or Persons

1. General

All decision making persons and bodies shall act in accordance with the time limits established in this Code.

2. Administrative Processes

a. Action by DRO

The DRO, in accordance with the procedures, standards and limitations of this Code and [Article 2.D, ADMINISTRATIVE PROCESS](#), shall approve, approve with conditions, revoke, deny or administratively withdraw an application based upon the recommendation of the reviewing agencies.

b. Action by Zoning Director

The Zoning Director, in accordance with the procedures, standards and limitations of this Code, shall approve, approve with conditions, withdraw, deny or revoke an application for a development permit.

3. Conditions

Conditions may be imposed to ensure the uses or site plan of development approved by the decision-making body or person is implemented accordingly.

4. Findings

All decisions shall be in writing and shall include the following elements:

- a. A statement of specific findings of fact; and
- b. A statement of approval, approval with conditions, or denial with or without prejudice. If there is a decision for denial, it shall be with prejudice unless determined otherwise by the decision making body or person.

5. Continuance or Postponement

a. BCC and ZC

The body conducting the public hearing may, on its own motion or at the request of an applicant, continue the public hearing to a fixed date, time and place. An applicant shall be granted one postponement to the next regularly scheduled hearing if requested in writing five days prior to the hearing. The body conducting the hearing shall determine if an application shall be postponed when an applicant fails to submit a request for postponement five days prior to the hearing. All subsequent request for continuance or postponement shall be granted at the discretion of the decision making body. **[Ord. 2005-041] [Ord. 2006-036]**

b. DRO

Applications for a development order continued or postponed for more than six months by the DRO must obtain approval from the Zoning Director. All applications that have been continued or postponed for more than six months without approval from the Zoning Director, shall be administratively withdrawn. **[Ord. 2005 – 002]**

6. Notification of Decision

Notification to the applicant of the final action by a decision making body or person shall be provided by the PBC official responsible for reviewing the application within five days of the final decision. A copy of the decision shall be made available to the public.

M. Withdrawal

The applicant shall have the right to withdraw an application for a development order 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 governing body may make a motion on the application for withdrawal with or without prejudice.

N. Denial of Application

1. Denial

When an application is denied with prejudice, an application for a development order for all or a part of the same land shall not be considered for a period of one year after the date of denial. Withdrawal with prejudice prohibits the filing of a successive application, which is not materially different, as defined in this Section, for one calendar year.

2. Exceptions

- a. 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 shall be considered materially different if it involves a change in intensity or density of 25 percent or more.
- b. 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.

O. Suspension of Development Review Proceedings

An application for a development order may be suspended during the pendency of a Code Enforcement proceeding pursuant to [Article 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.

P. Violation of Condition of Development Order

A violation of any condition in a development order shall be considered a violation of this Code.

1. The violation shall be rectified prior to any public hearing or meeting on the issuance of any subsequent development order for that project, unless the subsequent application seeks to amend the condition that has been violated. Unless otherwise specified in the development order, an approved use must comply with all conditions prior to implementing the approval.
2. The violation shall be subject to any and all enforcement procedures available as provided by [Article 10, ENFORCEMENT](#), and by all applicable laws and ordinances.

Q. Development Order Abandonment

1. General

A development order for a conditional use or similar development order granted under [Ordinance 1957-003](#), [Ordinance 1973-002](#) or [Ord. No.1992-002](#) may be abandoned according to the procedures in this Section.

2. Development Orders Not Implemented

All development orders which were never implemented shall be either: **[Ord. 2005 – 002]**

a. Abandoned

Abandoned simultaneously with issuance of a subsequent development order;

b. Administratively Abandoned

Administratively abandoned upon demonstration to the Zoning Director that the development order was not implemented; or

c. Reviewed for Revocation

Reviewed for revocation pursuant to [Article 2.E, MONITORING](#).

3. Implemented Development Orders

Certain implemented development orders qualify for administrative abandonment. Other implemented development orders require legislative abandonment by the BCC.

a. Administrative Abandonment

A development order, which was used, implemented or benefited from, may be administratively abandoned by filing an application with the Zoning Director demonstrating that the following criteria are met;

- 1) All conditions of approval have been met;
- 2) There is no reliance by other parties on additional performance; and
- 3) Consent of all property owners has been received.

b. Legislative Abandonment

A development order, which was used, implemented or benefited from, may be abandoned simultaneously with the issuance of a subsequent development order issued by the BCC or the property owner may elect to petition the BCC to abandon the development order through expedited application review process, pursuant to [Article 2.B.2.G.2, Expedited Application Consideration \(EAC\)](#).

c. Unpaid Status Fees

A development order shall not be abandoned, either administratively or by approval of a subsequent development order, until all unpaid status report fees imposed by action pursuant to [Article 2.E, MONITORING](#), have been paid.

4. Additional Guidelines

In determining whether a development was used, implemented or benefited from, consideration shall be given to the following factors:

- a. Whether any construction or additional construction authorized in the development order has commenced.
- b. Whether a physical or economic use of the development order has occurred, including physical or economic expansion.

R. Misrepresentation

If there is evidence that an application for a development order was considered wherein there was misrepresentation, fraud, deceit, or a deliberate error of omission, PBC shall initiate a rehearing to reconsider the development order. PBC shall approve, approve with new conditions, or deny the development order 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 sufficiency review.

S. Appeal

1. Non-Judicial Relief

a. Class B Conditional Use

An appeal of any ZC decision shall be made to the BCC within ten working days after the notice, indicating the decision, is mailed to the applicant. A Person with a contractual interest or is directly affected by the proposal may contest the decision by filing an appeal to the BCC using the established procedures.

1) Procedure

The BCC shall consider the appeal petition within 45 days of its filing. The Zoning Director shall notify the petitioner, the applicant (if the petitioner is not the applicant), a Person with a contractual interest or is directly affected by the proposal. 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. 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.

2) Standards

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 [Article 2.B.2.B, Standards](#).

b. DRO Appeal

Appeal of any DRO decision shall be made to the DRAB within ten days after the notice indicating the decision is mailed to the applicant. DRAB review shall be in accordance with rules and procedures in [Article 17.A, BOARD OF COUNTY COMMISSIONERS](#). [Ord. 2005-002]

c. Special Permit

Any person aggrieved by a decision of the Zoning Director on an application for a special permit shall appeal to the Hearing Officer within ten days from the date of the decision using the application and procedure established by the Zoning Director. [Ord. 2006-036]

d. Interpretations and Decisions

The Hearing Officer shall hear and decide appeals from interpretation or decisions of the Zoning Director, County Engineer, or Airport Director pursuant to the procedures and standards in [Article 2, DEVELOPMENT REVIEW PROCESS](#). Within ten days of an interpretation or decision, an aggrieved person may contest the decision by filing an appeal to the Hearing Officer using the applicable forms and procedures. [Ord. 2006-036]

- 1) The Hearing Officer may reverse or affirm, wholly or partly, or may modify the interpretation or decision made by the applicable authority pursuant to this Code. **[Ord. 2006-036]**
 - 2) The interpretation or decision of the applicable authority shall be presumed to be correct and the applicant shall have the burden to demonstrate the error.
 - 3) When an appeal from an interpretation or decision of the Zoning Director has been filed with the Hearing Officer all proceedings and work on the premises shall be stayed unless the Zoning Director certifies to the Hearing Officer that a stay would cause imminent peril to life or property. **[Ord. 2006-036]**
- e. Type IA and Type IB Administrative Variance Decisions**
Any person aggrieved by a decision of the Zoning Director on an application for a Type IA or Type IB administrative variance shall appeal to the Hearing Officer within 30 days of the decision. **[Ord. 2006-036]**
- 2. Judicial Relief**
- a. Appeal of BCC Decision**
Any person aggrieved by a decision of the BCC on an application for a development order or Status Report may apply for judicial relief by the filing of a Petition for Writ of Certiorari in the Circuit Court of the Fifteenth 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.
 - b. 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 II variance may apply for judicial relief by the filing of a Petition for Writ of Certiorari in the Circuit Court of the Fifteenth Judicial Circuit in and for PBC, Florida, within 30 calendar days of the decision. **[Ord. 2006-036]**
- T. Outstanding Liens or Fines**
- 1. General**
Development order applications for properties that have outstanding liens or fines owed to PBC shall be restricted as follows:
 - a. Rezoning, Conditional Use, Development Order Amendment and Variances**
The approving body shall impose a condition of approval or voluntary commitment requiring the payment of any outstanding liens or fines by a date certain or prior to a specific event;
 - b. Applications for uses designated as a “D” in [Table 4.A.3.A-1, Use Matrix](#)**
The DRO shall not approve the application until the payment of any outstanding liens or fines; and
 - c. Time extension approved by the ZC or BCC**
The “Notice of Intent to Withhold Development Permits” required by [Article 2.E, MONITORING](#), shall not be released until payment of any outstanding liens or fines.
 - 2. Contest by the Applicant**
In the event litigation contesting the validity of the lien or fine is initiated prior to the application for the development order, 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.

CHAPTER B PUBLIC HEARING PROCEDURES

Section 1 Official Zoning Map Amendment (Rezoning)

A. Purpose

The purpose of this Section is to provide a means for changing the boundaries of the Official Zoning Map. 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.

B. Standards

When considering a development order application for a proposed amendment, the BCC or ZC shall consider the following standards 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.

1. Consistent with Plan

Whether the proposed amendment is consistent with the Plan.

2. Consistent with Code

Whether the proposed amendment is in conflict with any portion of this Code, and is consistent with the stated purpose and intent of this Code.

3. Compatible with Surrounding Uses

Whether and the extent to which the proposed amendment is compatible, and generally consistent with existing uses and zones surrounding the subject land, and is the appropriate zoning district for the land. In making this finding, the BCC may apply an alternative zoning district.

4. Changed Conditions

Whether and the extent to which there are any changed conditions or circumstances that require an amendment.

5. Effect on Natural Environment

Whether and the extent to which the proposed amendment would 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.

6. Development Patterns

Whether and the extent to which the proposed amendment would result in a logical, orderly, and timely development pattern.

7. Consistency with Neighborhood Plan

Whether and to what extent the proposed district is consistent with applicable neighborhood plans in accordance with Board policy, and

8. Adequate Public Facilities

The extent to which the proposed rezoning complies with [Article 2.F, CONCURRENCY](#).

C. Effect of a Map Amendment

1. General

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

2. Time Limitations

A rezoning shall be reviewed pursuant to [Art. 2.E, Monitoring](#). [Ord. 2005 – 002]

D. Development Order Amendment to a PDD, TDD or COZ

A development order for a PDD, TDD or COZ may be amended, extended, varied or altered either pursuant to the conditions established with its original approval, or as otherwise set forth in this Code. Prior to any PDD, TDD or COZ being amended, extended, varied or altered, the applicant shall demonstrate and the ZC/BCC must find that a change of circumstances or conditions has occurred which make it necessary or reasonable to amend, extend, vary or alter the PDD, TDD or COZ. [Ord. 2005-041]

Section 2 Conditional and Requested Uses

A. Purpose

Conditional and requested uses are generally compatible with the other uses permitted in a district, but require individual review of their location, design, configuration, intensity and/or density and may require the imposition of conditions to ensure the appropriateness and compatibility of the use at a particular location.

B. Standards

When considering a development order application for a conditional or requested use, the BCC and ZC shall consider the following standards indicated below. A conditional or requested use which fails to meet any of these standards shall be deemed adverse to the public interest and shall not be approved.

1. Consistent with Plan

The proposed use 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.

2. Supplementary Use Standards

The proposed use complies with all applicable portions of [Article 4.B, SUPPLEMENTARY USE STANDARDS](#).

3. Compatibility

The proposed use is compatible and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.

4. 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.

5. Adequate Public Facilities

The extent to which the proposed use complies with [Article 2.F, CONCURRENCY](#).

6. Design Minimizes Environmental Impact

The proposed use minimizes environmental impacts, including, but not limited to, water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.

7. Development Patterns

Whether and to what extent to which the proposed development will result in a logical, orderly and timely development pattern.

8. Other Standards

The proposed use complies with all standards imposed on it by all other applicable provisions of this Code for use, layout, function, and general development characteristics.

9. Consistency with Neighborhood Plans

Whether and to what extent the proposed development is consistent with applicable neighborhood plans.

10. Changed Circumstances

Whether and the extent it can be demonstrated that there are any changed circumstances that require a modification.

C. Class A Conditional Use

1. Authorized Class A Conditional Uses

Only those uses that are authorized as Class A conditional uses in [Table 4.A.3.A-1, Use Matrix](#), may be approved as Class A conditional uses. 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.

D. Requested Use

1. Authorized Requested Uses

Only those uses that are authorized as requested uses in [Table 3.E.1.B-21, PDD Use Matrix](#), may be approved as requested uses. The designation of a use as a requested use in a planned development does not constitute an authorization of such use or an assurance that such use will be approved under this Code.

E. Class B Conditional Use

1. Authorized Class B Conditional Uses

Only those uses that are authorized as Class B conditional uses in [Table 4.A.3.A-1, Use Matrix](#), may be approved as Class B conditional uses. The designation of a use as a Class B conditional use in a standard district does not constitute an authorization of such use or an assurance that such use will be approved under this Code.

F. Conditions of Approval

1. Class A Conditional/Requested Use

The DRO and ZC may recommend, and the BCC may impose, such conditions in a development order for a Class A conditional use or requested use 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 [Article 2.E, MONITORING](#).

2. Class B Conditional Use

The DRO may recommend, and the ZC may impose, such conditions in a development order for a Class B conditional use as stated in [Article 2.B.2.F.1, Class A Conditional/Requested Use](#), above.

G. Development Order Amendment

1. General

A development order for a Class A conditional use, requested use or Class B conditional use may be amended, extended, varied or altered only pursuant to the standards and procedures established for its original approval, or as otherwise set forth in this Section. Before any conditional/requested use is amended, extended, varied or altered, the applicant shall demonstrate and the ZC/BCC shall find that a change of circumstances or conditions has occurred which make it necessary to amend, extend, vary or alter the conditional/requested use.

2. Expedited Application Consideration (EAC)

Certain minor development order amendments may be eligible for expedited consideration and review.

a. Criteria

The application shall meet all of the following criteria in order to be reviewed, in an EAC process;

- 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;
- 2) The proposed application, if approved, will not increase intensity or density of the project;
- 3) Proof of compliance with all previous conditions of development approval;
- 4) No change to the threshold certificate, except alteration of legal description, shall occur;
- 5) The proposed amendment does not affect uses or intensities/densities within a DRI (Development of Regional Impact); and
- 6) All impacts shall be internal to the project.

3. Procedures

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:

- a. 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.

H. Effect of Issuance of a Development Order

1. General

Issuance of a development order for a conditional use, requested use, or DOA 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 or requested use.

2. Site Plan Compliance/Initiation of Use

Development, benefit, or use of a conditional use, requested 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.

The approval of a development order shall not ensure that subsequent approvals for other development permits will be granted unless the relevant and applicable portions of this Code are met.

Section 3 Type II Variance

A. Purpose

To allow a deviation from certain standards of this Code when special circumstances or conditions peculiar to the property exist and the literal enforcement of this Code would result in undue and unnecessary hardship. A Type II variance is required when deviations are requested for: any project that is subject to BCC or ZC approval; any project requesting 5 or more variances; any variance request greater than 15 percent of a required standard; and any airport zoning variance as described in [Art. 2.B.3.D.2, Airport Variance](#). [Ord. 2006-036]

B. Application Procedure

1. Subdivision Variance

A variance from [Article 11, SUBDIVISION, PLATTING, AND REQUIRED IMPROVEMENTS](#), shall be submitted to the County Engineer and shall comply with the application procedures and requirements of this Chapter. The County Engineer shall review the application and forward a copy to the applicable agencies for review and comment within 15 days after the application is determined sufficient.

2. Noise Variance

See [Article 5.E, PERFORMANCE STANDARDS](#).

3. Sequence of Submittal

An application for a variance shall comply with the following:

- a. Approval of a variance shall be obtained prior to master plan, site plan or subdivision plan approval by the DRO, plat recordation, or issuance of a building permit, whichever occurs first.
- b. If an application for a development order is contingent upon approval of a variance, then the variance shall be obtained prior to certification by the DRO.
- c. Application for a variance from the Airport Zoning regulations shall comply with the review procedures in [Article 16, AIRPORT REGULATIONS](#).

C. Application Requirements

1. Description

All properties described in one application must be contiguous. The Zoning Director 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.

D. Review and Recommendation

1. Zoning and Subdivision Variances

The applicable PBC Departments shall review the application and forward a report to the Zoning Director within 15 working days after the application is determined sufficient. The staff report shall contain recommended findings of fact and conclusions of law, and a recommendation of approval, approval with conditions, or denial with or without prejudice based on the standards in [Art. 2.A.1.L, Actions by Decision Making Bodies or Persons](#).

2. Airport Variance

A variance from [Art. 16, Airport Regulations](#), shall require the applicant to submit a copy of the application by certified mail to the FDOT Aviation Section and DOA. The FDOT and DOA shall have 45 days from receipt of the application to provide comments to the applicant and ZC, after which the right to comment is waived. The ZC may proceed with consideration of an application only upon receipt of FDOT and DOA comments or upon the applicant's filing a copy of a certified mail return receipt showing the 45 days have elapsed, demonstrating FDOT's and DOA's intent to waive the right to comment. **[Ord. 2005-002] [Ord. 2006-036]**

- a. When reviewing variances from the [Art. 16, Airport Regulations](#), the ZC may approve, approve with conditions, postpone, or deny with or without prejudice a variance for the erection, alteration, or modification of any structure which would cause the structure to exceed the Federal obstruction standards as contained in 14 C.F.R. ss. 77.21, 77.23, 77.25, 77.28, and 77.29. The variance may not always be evaluated or granted solely on the basis that the proposed will not exceed Federal obstruction standards. Except as otherwise provided in Chapter 333, Fla. Stat., the standards in [Art. 2.B.3.E, Standards](#), shall be used to evaluate the variance application. **[Ord. 2006-036]**

E. Standards

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]**

1. 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;
2. Special circumstances and conditions do not result from the actions of the applicant;
3. 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;
4. 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;
5. Granting the variance is the minimum variance that will make possible the reasonable use of the parcel of land, building or structure;
6. Granting the variance will be consistent with the purposes, goals, objectives, and policies of the Plan and this Code; and
7. Granting the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

F. Conditions

The Zoning Director, or County Engineer, or Airport Director, whichever is appropriate, may recommend, and the ZC may impose, such conditions in a development order for a variance as are necessary to accomplish the goals, objectives and policies of the Plan and this Code, including limitations on size, bulk, location, requirements for landscaping, buffering, lighting, and provisions of adequate ingress and egress. Any violation of the variance or a condition shall be a violation of this Code. **[Ord. 2006-036]**

1. Request for Time Limitation Waiver

If a variance is requested for property that does not require a building permit to implement the use, then the applicant may request a waiver from [Article 2.B.3.F.1, Request for Time Limitation Waiver](#), of this Chapter. If a waiver from the time limitation is requested, the applicant shall specifically request the waiver simultaneous with submittal of the application and provide a written justification for the request. The BA shall review the justification and if sufficient make a finding, as a condition of approval, that the variance is not subject to the time limitations of this Section or may require compliance with the variance approval by a specified time, as deemed appropriate.

G. Effect of Development Order

1. General

Issuance of a development order for a variance 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 development order for a variance shall run with the land.

2. Time Limitation

Unless otherwise specified in the development order or a condition of approval, construction shall be commenced pursuant to [Table 2.E.3.B-1, Time Limitation of Development Order for Each Phase](#), 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 time frames do not change with successive owners. 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.

3. 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 FLU PLAN AMENDMENTS

Section 1 General

A. Purpose

The purpose of this section is to provide a means for changing the boundaries or designations of the FLU by means of site specific amendments to the Plan. It is not intended to relieve particular hardships, nor 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 a requested amendment, the BCC shall consider, in addition to the factors set forth in this section, the consistency of the proposed amendment with the intent of the Plan, Treasure Coast Regional Policy Plan, State of Florida Comprehensive Growth Management Plan, [F.S. Chapter 163](#), and [Rules 9J-5 and 9J-11, F.A.C.](#)

B. Authority

The BCC may amend the boundaries or designations of the FLU of the Plan upon compliance with the provisions of this Section.

C. Initiation

Amendments may be proposed by the BCC, the Local Planning Agency (LPA), or the owner of the land to be affected by a proposed amendment.

D. Procedure

1. Pre-Application Conference

A potential applicant for a site specific amendment may request in writing an optional pre-application conference with the Planning Director. Prior to the optional pre-application conference, the applicant shall provide to the Planning Director a description of the character, location and magnitude of the proposed amendment and any other information the potential applicant deems relevant. The purpose of the pre-application conference is to acquaint the potential applicant with the requirements for a site specific amendment. The substance of the optional pre-application conference shall be recorded in a summary prepared by the Planning Director. The letter shall be mailed to the applicant by the Planning Director within seven working days after the optional pre-application conference. The letter shall set forth the subjects discussed at the pre-application conference and PBC's position in regard

to the subject matters discussed as well as the review procedures and timelines that generally apply to the proposed development.

2. Timing

An application by a property owner for a site specific amendment shall be accepted for review and processing twice each year. That date shall be announced four months in advance by the BCC. There shall be two exceptions to this timing requirement. An amendment shall be considered at any time if it is directly related to a DRI, including a substantial deviation for a DRI. Small scale amendments will be processed on a quarterly basis with the closing deadlines in February, May, August, and October. Nothing in this Section shall be deemed to require favorable consideration of the amendment solely because it is related to a DRI or because it is a small scale development amendment.

3. Submission of Application

An application for a Site Specific amendment shall be submitted to the Planning Director along with a nonrefundable application fee that is established by the BCC.

a. Small Scale Amendments

If a small scale land use amendment requires a rezoning, conditional use, development order amendment or abandonment application(s), the two applications shall be reviewed and considered by the BCC concurrently. 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 within 45 calendar days of receipt of the small scale land use amendment application. If a complete zoning application is not submitted, the small scale land use amendment shall be administratively withdrawn.

4. Contents of Application

a. General

The application shall be submitted in a form established by the Planning Director. The application must contain justification for the proposed amendment citing at least one of the standards contained in [Article 2.C.1.D.10, Standards](#), and a demonstration of need. 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.

b. Amendments to the Application

Any information provided by an applicant following the distribution of the staff report to the LUAB shall serve as grounds for postponement, as appropriate, of the public hearings by the board holding the public hearing.

5. Determination of Sufficiency

The Planning Director shall determine whether the application is sufficient and includes data necessary to evaluate the application. The determination of sufficiency shall apply to the submission and shall be based upon whether or not the application responds to all the requested information, as provided in the application checklist.

a. If it is determined that the application is not sufficient, written notice shall be delivered 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 considered withdrawn.

b. If or when the application is determined sufficient, the Planning Director will proceed to review the application pursuant to the procedures and standards of this Section.

6. 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, or disapproval based on the standards in [Article 2.C.1.D.10, Standards](#). The Planning Director shall send a copy of the staff report to the applicant by mail on the day the staff report is completed which shall be at least five working days prior to the LUAB public hearing, along with written notification of the time and place the application will be considered by the LUAB.

7. Notice

Notice of a proposed amendment for any public hearing shall be provided by publication of advertisement, mailed notice and posting as pursuant to the terms of this Section. The Planning Director shall notify the Intergovernmental Plan Amendment Review Clearinghouse (IPARC) of

proposed land use amendments pursuant to the Plan Amendment Coordinated Review Interlocal Agreement.

a. Advertisement

The required advertisements shall meet the requirements of [F.S. §163.3184\(15\)\(e\)](#) and [F.S. §.125.66\(4\)\(b\)2](#), as amended from time to time.

b. Courtesy Mailing

A courtesy “notice” of a proposed plan amendment shall be mailed to all owners of real property located within 500 feet of the periphery of the land to be affected by the requested change, 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. All POA’s and cooperatives within the area as well as all counties and municipalities within one mile of the area shall be notified. Areas that a municipality has identified as a future annexation area shall also give notice to the municipality. The notice shall state the substance of the proposal and shall set a date, time and place for the public hearing. The notice shall contain a location map clearly indicating the area covered by the proposal including major streets, and a statement that interested parties may appear at the public hearing and be heard regarding transmittal or adoption of the amendment. Such notice shall be given approximately 15 to 30 calendar days prior to the date set for the first public hearing by depositing such notice in the mail by certified or first class mail, properly addressed and postage prepaid, to each owner as the ownership appears on the last approved tax roll. 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.

c. Posting

The land subject to the application shall be posted with a notice of the public hearing on a sign provided by the County at least 15 calendar days in advance of any public hearing. One sign shall be posted for each 100 feet of frontage along a street up to a maximum of ten signs. All signs shall be evenly spaced along the street or in a location acceptable to the Planning Director. All signs shall be setback no more than 25 feet from the street. All signs shall be erected in full view of the public. Signs shall be posted in a location acceptable to the Planning Director, where the land does not have significant frontage on a street. The signs shall be removed by the applicant after the BCC transmittal hearing date (adoption hearing date for small scale development amendments). 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.

d. Other Courtesy Notice

A courtesy notice of all public hearings may be mailed 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 of such mailings.

e. Exceptions to Mailing and Posting

The mailing and posting notice requirements shall not apply to actions by the BCC initiating any of the following:

- 1) A site specific land use change subsequent to a land use action resulting from [Art. 5.G.1](#), Workforce Housing Program (WHP) or [Art. 5.G.2](#), Transfer of Development Rights- Special Density Program; **[Ord. 2005 – 002]**
- 2) A land use change to a Conservation (CON) designation following acquisition by a public agency;
- 3) A site-specific land use change initiated by the BCC, to reflect existing conditions;
- 4) A site-specific land use change initiated by the BCC, to comply with previous approved projects; and
- 5) A site-specific land use change as deemed appropriate by the BCC.

At the time the land use change is initiated by the BCC, the Planning Director shall make a recommendation as to the level of notification for the specific change. The BCC shall direct the Planning Director to notice the land use change, as deemed appropriate, by advertisement, mail or posting in accordance with the terms herein.

8. Action by the LUAB sitting as the Local Planning Agency (LPA)

The LPA public hearing shall be advertised in a newspaper of general circulation in accordance with requirements set forth in [F.S. §163.3164\(18\)](#), as amended from time to time. The LPA shall conduct a public hearing on the application pursuant to the procedures in [Article 2.C.1.D.11, Conduct of Hearing](#), 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) and findings based on the standards [Article 2.C.1.D.10, Standards](#).

9. Action by BCC

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\(15\)\(b\) 1](#), as amended from time to time. Prior to transmittal to DCA, the BCC shall conduct one transmittal public hearing on the application pursuant to the procedures in [Article 2.C.1.D.11, Conduct of Hearing](#). 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 based on the standards in [Article 2.C.1.D.10, Standards](#), 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 for transmittal 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.

b. Adoption Public Hearing

The adoption public hearing shall be on a weekday at least five calendar days after the day the notice for the public hearing is published pursuant to [F.S. §163.3184\(15\)\(b\)\(2\)](#), as amended. Pursuant to the time frames in [F.S. §163.3184\(15\)\(b\)\(2\)](#) the BCC shall conduct at least one adoption public hearing on the application pursuant to the procedures in [Article 2.C.1.D.11, Conduct of Hearing](#). At the public hearing, the BCC shall consider the application, the staff report, the relevant support materials, the DCA comments, and the public testimony given at the public hearing, and based on the standards in [Article 2.C.1.D.10, Standards](#), vote to adopt, adopt with conditions, or not to adopt an ordinance making a site specific amendment. A decision to adopt an ordinance making a site specific amendment shall require a majority vote of the members of the BCC present at the hearing.

c. Small Scale Development Amendments

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\(1\)\(c\)\(3\)](#), and content provisions of [F.S. §125.66\(4\)\(a\)](#) as amended from time to time.

d. Actions by the BCC

Actions approving Site Specific Plan amendments shall be by Ordinances pursuant to [F.S. §163.3187](#), as amended from time to time.

10. Standards

The adoption of an Ordinance to make a site specific amendment shall be based on one or more of the following factors, and a demonstrated need to amend the FLUA, as long as the Plan maintains its internal consistency. A demonstration of need may be based upon market conditions indicating that there is a demand for the proposed land use designation or a demonstration that the current land use designation is no longer appropriate. Appropriate data and analysis to demonstrate a need for the amendment must be provided within the application. Additionally, all amendments shall be reviewed at the maximum intensity or density permitted under the requested future land use designation. Data and analysis must be provided within the application to substantiate at least one of the following:

- a. Changed projections (e.g., regarding public service needs) in the Plan, including but not limited to amendments that would ensure provision of public facilities;
- b. Changed assumptions (e.g., regarding demographic trends or land availability) in the Plan, including but not limited to the fact that growth in the area, in terms of the development of vacant land, new development, and the availability of public services has altered the character such that the proposed amendment is now reasonable and consistent with the land use characteristics;
- c. Data errors, including errors in mapping, vegetative types and natural features in the Plan;
- d. New issues that have risen since adoption of the Plan;
- e. Recognition of a need for additional detail or comprehensiveness in the Plan; or
- f. Data updates.

11. Conduct of Hearing

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.

b. Due Order of Proceedings

The order of the proceedings shall be as follows:

- 1) The Planning Director shall present a narrative and graphic description of the application, a written and oral recommendation, and the staff report. The recommendation shall address each factor required to be considered by this Code prior to approval of the application for a site-specific Plan amendment. The recommendation of the Planning Director shall be made available to the applicant at least five working days prior to the public hearing, unless extended by mutual agreement;
- 2) The applicant shall present any information the applicant deems appropriate;
- 3) Public testimony shall be heard;
- 4) The Planning Director, the County Attorney and any other PBC staff may respond to any statement made by the applicant or any public comment; then
- 5) The applicant may respond to any testimony or evidence presented by PBC staff or the public.

c. Continuance or Postponement of Public Hearing for Small Scale Amendments

1) Entitlement Continuances

An applicant shall have the right to request and be granted one entitlement continuance, 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 working days prior to the hearing. Additionally, 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 working days prior to the hearing and is submitted along with an additional set of the required 500 foot public notice envelopes [Art. 2.C.1.D.7.b, Courtesy Mailing](#). The Planning Division will honor entitlement continuances administratively.

2) Non-Entitlement Continuances

The body conducting the public hearing may on 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. All non-entitlement continuances shall be granted at the discretion of the body conducting the hearing only upon good cause shown. The applicant shall be subject to a fee as established by the BCC upon the second non-entitlement continuance. The applicant shall be required to provide an additional set of the required 500-foot public notice envelopes.

3) Concurrent Rezoning Petitions

Delays in zoning applications being certified by the DRO shall result in an administrative postponement of the BCC public hearing until such time that the item is certified.

d. Continuance or Postponement of Large Scale Amendments

1) Entitlement Continuances

An applicant shall have the right to request and be granted one entitlement continuance, to 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 working days prior to the LPA public hearing. In order to provide most current data, the applicant of an amendment postponed to the next round shall be required to submit a revised application with new traffic and market analysis upon the next window closing date.

2) Non-entitlement Continuances

Only one non-entitlement continuance into the next amendment round shall be permitted and will be subject to a fee as established by the BCC. The body conducting the public hearing may on its own motion, or at the request of any applicant or the Planning Director, postpone the amendment to the next round. All non-entitlement continuances shall be granted at the discretion of the body conducting the hearing only upon good cause shown. In order to provide the most current data, the applicant of an amendment postponed to the next round shall be required to submit a revised application with new traffic and market analysis upon the window closing date.

3) Administrative Withdrawal

Any application not heard by the BCC in the following amendment round will be administratively withdrawn by the Planning Director, unless otherwise determined by the BCC.

e. Withdrawal of Applications

An applicant shall have the right to withdraw an application for a site specific amendment at any time prior to the adoption public hearing by the BCC. Applicants shall not be entitled to the return of application fees. Additionally, applicants shall not be entitled to the return of application materials.

CHAPTER D ADMINISTRATIVE PROCESS

Section 1 Development Review Officer

A. Purpose

The purpose of this Section is to establish a review process for all developments requiring approval by the DRO based upon comments and recommendations from appropriate PBC departments PBC divisions and other local government agencies to establish standards for review, standards for approval, to set limits on the administrative authority of the DRO to modify BCC or ZC approvals, and an appeal process.

B. Application Types

1. The following types of development shall require approval of a master plan, site plan or subdivision plan by the DRO prior to the issuance of a building permit, commencement of any related land development activity, utilization of any use or approval granted by the BCC or ZC, or utilization of any use requiring approval by the DRO:
 - a. Conditional Use/Requested Use;
 - b. All development in a PDD or TDD;
 - c. "D" uses in [Table 4.A.3.A-1, Use Matrix](#);
 - d. New commercial, industrial and residential development of more than two dwelling units in the WCRA;
 - e. All new construction that creates, meets or exceeds the thresholds in [Table 4.A.3.A-2, Threshold for Project Requiring DRO Approval](#);
 - f. Amendments or changes to any previously approved special exception, conditional use or other development which required approval of a site plan or subdivision by [Ord. No.1957-003](#), [Ord. No.1973-002](#), or [Ord. No.1992-020](#) as amended;
 - g. Any use governed by [Art. 1.F.2, Nonconforming Use](#);
 - h. Any amendment to a previously approved site plan; and
 - i. All subdivision of land, unless exempt.
2. If any of the these development types do not require construction of additional square feet, complete implementation of the DRO approval prior to utilization of any of the development types shall occur.

C. Review Procedures

1. Staff Review

At least five days prior to the DRO review date, each applicant shall be provided a written list of issues, if any, which must be addressed prior approval of the application.

a. Expedited DRO Applications (EDA - Signature Only)

Expedited applications will not receive written comments from the DRO. Previously postponed items will receive updated comment letters only.

2. Action by the DRO

On the review date established by the DRO, the DRO shall inform each applicant of the revisions necessary for the application to receive approval. Each applicant shall be provided a maximum of three working days to revise the application or a plan of development. Within five working days after the review date the DRO shall approve, approve with conditions, not approve, deny, withdraw or postpone each application on the agenda after reviewing the recommendations and comments provided by the agency officers. The DRO shall not approve a plan of development until the plan meets all applicable Code requirements, standards, policies, and conditions of approval.

3. Resubmittal Requirements

The applicant shall provide a written response addressing all outstanding certification issues for applications which were not approved in a manner and form acceptable to the Zoning Division. The revised documents shall be submitted a minimum of seven working days prior to the next scheduled review date.

D. Application Requirements

All applications to the DRO shall contain a plan of development, which graphically and in tabular form provides sufficient information for a decision to be rendered in accordance with the standards in Section.

1. Plan Requirements

At a minimum, all site plans and subdivision plans submitted to the DRO shall:

- a. Comply with the Technical Manual Requirements published by the Zoning Division;
- b. Comply with the Land Design Manual published by the Land Development Division; and
- c. Comply with all applicable requirements in this Code.

2. Subdivision Plan

All subdivision of land shall receive approval of a subdivision plan by the DRO prior to submission of a plat or other approval required by [Article 11, SUBDIVISION, PLATTING, AND REQUIRED IMPROVEMENTS](#).

a. Exception

A minor subdivision may be exempt from this Section subject to the approval of a Plat Waiver pursuant to [Article 11, SUBDIVISION, PLATTING, AND REQUIRED IMPROVEMENTS](#).

3. Effect of a Development Order Approved by the DRO

A development order approved by the DRO shall have the following effect and authority:

- a. Any permitted uses may occur in conjunction with or in place of the approval use;
- b. A development order for a site plan or a subdivision plan shall apply to only the land legally described in the application submitted to, and found sufficient by, the DRO and shall run with the land for the life of the development order;
- c. A development order for a site plan or subdivision plan shall authorize only the particular site configuration, layout, design, level of impacts, and intensity/density which were approved by the DRO pursuant to the standards of this Code; and
- d. A development order for a site plan or subdivision may only be amended pursuant to the procedures and standards in this Section.

E. Standards

Prior to approval by the DRO, a site plan or subdivision plan shall comply with the following standards:

1. Consistency with the Plan

Shall be consistent with the purposes, goals, objectives, and policies in the Plan.

2. Consistency with Neighborhood Plans

The plan of development shall be consistent with applicable neighborhood plans.

3. Other Relevant Codes

The site plan or final subdivision plan shall comply with the PBC's health, fire and building standards and all other relevant and applicable provisions of this Code.

F. Conditions

1. DRO Authority

The DRO shall have the authority to impose conditions on a development order which:

a. Code Compliance

Ensure compliance with Code requirements;

b. Minimize Impacts

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;

c. Legal Documents

Require the execution of a unity of title, unity of control, shared parking and other legal documentation necessary to satisfy requirements of this Code;

d. Traffic Performance Standards

Require road construction necessary for the project to meet TPS including drainage, turn lanes, sidewalks, and signalization;

e. Agricultural Uses in the Urban Services Area (USA)

Reduce negative impacts 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

f. Waiver

Allows specific requirements of the Code to be waived, provided the proposed development meets the specific requirements for the waiver.

2. Condition Limitations

- a. 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.
- b. Conditions shall not amend BCC, ZC or BA imposed conditions or affect previously approved conditions.
- c. For modifications or additions to previously approved development orders, conditions shall only be imposed to address the specific impacts of the new use or development.
- d. 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.

G. Plan Amendments

The DRO may approve minor amendments to site plans and subdivision plans in accordance with the following procedures.

1. Expedited DRO Applications (EDA - Signature Only)

Amendments to a site plan or subdivision plan which require recommendation and comment by five or fewer agencies as determined by the DRO, may be submitted in accordance with the Zoning calendar and placed on the next available DRO agenda, subject to approval by the Zoning Director. An EDA application shall be submitted in accordance with [Article 2.A.1, Applicability](#), and reviewed in accordance with the standards in [Article 2.D.1.C, Review Procedures](#).

In addition to the standards in [Article 2.A.1, Applicability](#), the applicant shall be responsible for obtaining the recommendations from the affected PBC departments or other agencies, in a form and manner acceptable to the Zoning Division, a minimum of two working days before the scheduled DRO review date.

2. Administrative Amendments

Minor corrections, additions and amendments to an approved site plan or subdivision plan, which do not require recommendation and comment from an agency other than the Zoning Division, may be approved administratively by the DRO. Administrative Amendments permitted include, but are not limited to, a change in sign location, minor modifications to parking areas (such as the relocation of handicapped parking spaces), relocation of terminal islands to accommodate trees or utility lines, addition of phase lines reduction in building size, addition of canopies, removal of excess parking, minor revisions to lot lines to be consistent with a plat, temporary sales trailers, and other minor structures. An application for an Administrative Amendments shall be submitted in accordance with [Article 2.A.1, Applicability](#), and reviewed in accordance with the standards in [Article 2.D.1.C, Review Procedures](#).

3. Amendments to BCC/ZC Approvals

The DRO shall have the authority to approve minor modifications to a plan of development approved by the BCC or ZC. An application for a modification shall be submitted in accordance with [Article 2.A.1, Applicability](#), and reviewed in accordance with the standards in [Article 2.D.1.C, Review Procedures](#), and the additional standards below. The authority of the DRO to modify a BCC or ZC approved plan shall be limited to the following:

- a. The 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.
 - 1) Relocated square footage shall not be used to create additional freestanding buildings or structures; and
 - 2) Buildings and structures shall not be relocated closer to perimeter property lines than shown on the plan approved by the BCC or ZC.
- b. An increase of no more than five percent in the total floor area of any building or structure, provided that no increase shall exceed 1,000 square feet whichever is less;
- c. An overall increase of not more than ten percent of the height of any structure;
- d. Relocation of access points;
- e. Relocation of open space or recreation areas, provided that such changes do not result in a substantial change in the amount, configuration, or character of open space or recreation approved by the BCC or ZC;
- f. The redesignation of phasing provided the redesignation meets the intent of the development order;
- g. The modification shall not substantially change or increase the impacts of the development originally anticipated;
- h. The modification shall not result in any substantial increase in traffic or access, as determined by the PBC; and

- i. Requested uses in a PDD shall remain in the location approved by the BCC.

Section 2 Special Permit

A. 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. These uses shall require approval of a special permit by the Zoning Division prior to issuance of a CO, occupational license, building permit, or commencement of activity.

B. Authorized Special Permits

Only the uses identified in [Table 4.A.3.A-1, Use Matrix](#), or [Article 4.B, SUPPLEMENTARY USE STANDARDS](#), by an "S" shall require a special permit. This designation in [Table 4.A.3.A-1, Use Matrix](#), does not constitute an authorization of such use or an assurance that such use will be approved under this Code. Each proposed special permit application shall be evaluated by the Zoning Director for compliance with the standards and conditions set forth in this Section, and the applicable district.

C. Procedure

1. Contents of Application

The application shall be submitted in a form established by the Zoning Director and made available to the public. An occupational license must be obtained and all permits must be posted on the site prior to commencement of operation. If a survey is required, the survey shall indicate:

- a. Location of existing and proposed signage;
- b. Square footage of the designated area;
- c. Location, setback, and footprint of tent, if applicable;
- d. Required setbacks for products (trees, etc); and
- e. Location where permit will be posted.

D. Standards

The following standards shall apply to all special permits:

1. Compliance with the goals policies and objectives in the Plan;
2. Compliance with the applicable property development regulations of the zoning district in which the use is located;
3. Compliance with all applicable portions of this Code, including, but not limited, concurrency, parking, and landscaping; and
4. Utilization of the location, design, layout, access, and duration of the use to minimize potential adverse impacts on surrounding land uses.

E. Conditions

The Zoning Division shall have the authority to apply conditions to the special permit which ensure compliance with Code requirements, time limitations, and the standards above. If a special permit is found in violation of any condition or Code requirement, the Zoning Division may withhold future special permits from the applicant for a period of 24 months.

F. Renewal

Certain special permits are required to be renewed annually.

1. Special permits requiring annual renewal shall be subject to the following:
 - a. Renewal shall occur on or prior to the date the original permit was issued, or a new permit shall be applied for;
 - b. Renewal permit shall be subject to the regulations in effect at the time of renewals; and
 - c. Renewal fee as provided in the fee schedule.
2. Failure to renew a special permit shall result in the permit becoming null and void. The use or activity permitted by the special permit shall cease immediately and the affected area returned to its pre-permit state.

G. Expiration

Failure to utilize a special permit within one year of issuance, or by the date specified in a condition of approval, shall result in the permit becoming null and void.

H. Discontinuance

A special permit shall expire if the use or activity is discontinued for more than 90 days.

I. Revocation

A special permit may be revoked at any time by the Zoning Director if it is determined that the recipient is in violation of the Code, a related standard, or a condition of approval. Revocation of a special permit shall result in the permit becoming null and void. The use or activity permitted by the special permit shall cease immediately and the affected area shall be returned to its pre-permit state.

Section 3 Type IA and Type IB Administrative Variances

A. Purpose

To allow minor deviation from certain standards of this Code when special circumstances or conditions peculiar to the property exist, and the literal enforcement of this Code would result in undue and unnecessary hardship; and to provide the Zoning Director 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. This Section may not be combined with any other Section that allows variations from the same PDRs.

B. Type IA Administrative Variances

Type IA variances may be considered for the following: [Ord. 2006-036]

1. Structural Encroachments into Setbacks

A variance may be requested for a setback reduction up to five percent of the minimum requirement. [Ord. 2006-036]

2. Preservation of Vegetation

Variance requests that will accommodate the preservation of existing native tree(s) pursuant to [Article 14.C, VEGETATION PRESERVATION AND PROTECTION](#), as follows: [Ord. 2006-036]

- a. Up to five percent of a required setback; and
- b. Up to five percent of the required number of parking spaces.

3. Native Ecosystem Overlay District (NEO)

A variance may be issued from off-street parking, off-street loading, density-intensity, heights and setbacks provided the following criteria are met pursuant to the extent permitted [Article 3.B.8, NEO, Native Ecosystem Overlay](#).

a. Procedure

- 1) A NEO variance application shall be submitted in a form and established by the Zoning Director and made available to the public.
- 2) The application shall be reviewed by ERM to ensure the property is located in an established NEO district. ERM may conduct a site visit to verify the NEO and impact of the proposed development. A written determination by ERM shall be sent to the Zoning Division regarding the proposed preservation.

b. Restrictive Covenant

A restrictive covenant shall be recorded in order to preserve the native vegetation identified in the application prior to issuance of an administrative variance. A restrictive covenant shall be recorded in the PBC Public Records on a form established by the County Attorney, to ensure the preservation of native vegetation in perpetuity. The NEO administrative variance shall not be issued until a copy of the recorded restrictive covenant is submitted to the Zoning Division.

4. Vacant Lots

The owner of a lot that is subject to the requirement in [Art. 7.E.4.B, Vacant Lots](#), may apply to the Zoning Director for a variance from the time frames, landscaping, and amount of coverage required based on consideration of the following criteria: [Ord. 2005 – 002] [Ord. 2006-036]

- a. The length of time the lot has been maintained as a vacant lot;
- b. Whether the applicant intends to redevelop the lot within one year of the demolition of the home;
- c. Whether literal interpretation of the terms of the requirements would create an unnecessary and undue hardship, and the applicant can demonstrate that the demolition does not significantly diminish the residential character of the neighborhood;
- d. The existence of special conditions that mitigate the detrimental effect of the vacant lot on the character of the residential neighborhood; and
- e. Whether granting the variance will be consistent with the purposes goals, objectives, and policies of the Plan and this Code.

C. Type IB Administrative Variances

Type IB variances may be considered for the following: [Ord. 2006-036]

1. Single or Multi Family Residential Projects

A variance may be requested for a setback reduction greater than five percent but not exceeding 15 percent of the minimum requirement. [Ord. 2006-036]

2. Non Residential Projects

A variance may be requested for a setback reduction greater than five percent but not exceeding fifteen percent of the minimum requirement, and for reductions in the number of parking spaces not exceeding fifteen percent of the minimum requirement. [Ord. 2006-036]

D. Limitations

This Section may not be combined with any other Section that allows variations from the same PDRs.

E. Conditions

The Zoning Director may recommend conditions in a development order for 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. Any violation of the variance or condition shall be a violation of this Code.

F. Time Limitation

Unless otherwise specified in the development order or a condition of approval, failure to utilize an administrative variance within one year of issuance, or by 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 time frames do not change with successive owners. No request for an extension shall be considered unless submitted 30 days prior to expiration.

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G. Standards

The Zoning Director shall consider and find that all criteria listed below have been satisfied by the applicant prior to making a final decision regarding an application for a administrative variance.

1. Type IA

- 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]**
- b. 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]**
- c. 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]**
- d. All viable options to address the situation have been exhausted; **[Ord. 2006-036]**
- e. The request is the minimum variance necessary to make possible a reasonable use of the parcel of land. **[Ord. 2006-036]**

2. Type IB

- 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]**
- b. Special conditions and circumstances do not result from the actions of the applicant; **[Ord. 2006-036]**
- 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]**
- 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]**
- 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]**
- f. Granting the variance will be consistent with the purposes, goals, objectives, and policies of the Plan and this Code; and **[Ord. 2006-036]**
- g. Granting the variance will not be injurious to the area involved or otherwise detrimental to the public welfare. **[Ord. 2006-036]**

H. Effect of Development Order

Approval of a 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]**

CHAPTER E MONITORING

Section 1 General

A. Purpose and Intent

1. It is the intent of the BCC to provide for the public health, safety and welfare by establishing procedures for mandatory review of certain development orders. [F.S. Chapter 163, Part II](#), entitled "Local Government Comprehensive Planning and Land Development Regulations Act" provides that all development regulations shall be consistent with the adopted Plan. F.S. Chapter 163 further provides that public facilities and services shall be available concurrent with the impacts of development. Pursuant to [F.S Chapter 163](#), the Plan requires that the applicant for all development orders or permits must demonstrate that the necessary public facilities and services are available. To ensure the availability of facilities and services to proposed developments, it is necessary that developments that have reserved capacity proceed in the prescribed time. Systematic monitoring and subsequent review of approved development orders will help implement the goals within the Plan by:
 - a. Preserving the availability of public facilities and services for proposed development by removing capacity reserved for inactive development;

- b. Minimizing the creation of an artificially inflated inventory of residential, commercial, and industrial development;
 - c. Enhancing the value and use of land in unincorporated PBC by identifying and providing a system to eliminate obsolete approvals which distort the official land use inventory;
 - d. Requiring compliance with improved performance and site design standards by providing a system whereby approved, but unbuilt, developments are subject to periodic review;
 - e. Ensuring that development orders are timely performed and complied with at all times; and
 - f. Ensuring that outstanding debts due to the PBC are paid in a timely manner.
2. To protect the public welfare, it is the intent of the BCC to ensure compliance with the conditions of development orders and with specific time requirements for the completion of activities associated with said approvals or with this Code. The BCC recognizes that unforeseen factors may interfere with the established schedule. This Article creates an administrative program to monitor and provide extensions for activities which must be completed within a certain time period pursuant to a development order or pursuant to this Code, and to ensure that conditions are met and not violated.
 3. The BCC recognizes that development is a complicated process. Despite efforts on the part of developers to proceed according to plans, unforeseen factors may interfere with the schedule of development and compliance with conditions of approval. The review procedure created in this Article establishes a system for administrative review and approval of time extensions.
 4. To meet the intent of this Article, the BCC may review development orders issued prior to the adoption of this Code for compliance with the time requirements of this Code and for compliance with conditions of approval.
 5. When the BCC or any provision of this Code has imposed a condition of development approval or time limit for the completion or duration of a specific activity or phase of development, the property owner shall be responsible for compliance.

B. Applicability

1. This Article shall apply to:
 - a. All development orders with a time requirement for completing one or more actions as identified in [Table 2.E.3.B-1, Time Limitation of Development Order for Each Phase](#), or in the development process as required by specific Articles of this Code; and
 - b. All development orders identified in [Table 2.E.3.B-1, Time Limitation of Development Order for Each Phase](#), with conditions of approval.
2. The following are exempt from this Article:
 - a. Any development order for rezoning to the Public Ownership District (PO) or publicly owned land in the Conservation District (CON) which does not have an approved conditional use; **[Ord. 2005 – 002]**
 - b. Any development order initiated by staff at the direction of the BCC after a review pursuant to this Article; and
 - c. Any development order for a rezoning of a single lot to a residential zoning district that corresponds to the minimum density permitted in the Plan Future Land Use designation for that lot, provided there is no concurrency reservation or concurrency exemption for the property.
3. For development orders which are subject to the requirements of this Article, the time limitations shall apply to those approved prior to or subsequent to the effective date of this amendment.

Section 2 Procedures

A. Suspension of Development Orders

1. Upon expiration of any time period established by this Code or for any failure to comply with, or continued violation of a condition of development approval, except for a condition imposed by the DRO or a condition for which a complete administrative time extension application has been submitted, no new development orders affecting the property shall be issued by PBC, and no action which might tend to vest the development order shall be permitted, except as permitted by [Art. 2.E.2.D.5, Procedures for Rezoning](#), until a final determination is made by the Executive Director, or BCC or ZC pursuant to [Article 2.E.2.B, Administrative Extension of Time](#), and [Article 2.E.2.D, Failure to Comply with Conditions](#) or Time Requirements other than for a DRO Imposed Condition of Approval, herein. This suspension of development rights shall not preclude the property owner from filing a new petition for the subject property to amend or supersede an existing development order, or the BCC or ZC from approving this petition. This suspension of development orders shall also apply to any failure to comply with, or continued violation of, a condition of development approval, if a status

report public hearing is scheduled pursuant to [Article 2.E.2.D, Failure to Comply with Conditions](#) or Time Requirements other than for a DRO Imposed Condition of Approval.

2. This suspension of development rights shall have the following effect on new petitions and code enforcement actions:
 - a. If the property owner files a new petition, no new development orders shall be issued until the completion of the zoning process except the development order which approves the petition.
 - b. If the BCC or ZC directs staff to cite the property owner for violating the provisions of the development order, no new development orders shall be issued until the alleged violation has been ruled upon by the Code Enforcement Special Masters, 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 noncompliance with that condition.
3. Upon the expiration of any time period except for a time period to comply with a condition of approval imposed by the DRO, or when a complete administrative time extension application for a time certain condition of approval has been submitted, or upon reasonable cause to believe that a property owner has not complied with a condition or a condition of development approval has been violated, a document shall be filed with the clerk of the circuit court to be placed with the records governing title to the affected property except as provided in [Art. 2.E.2.A, Suspension of Development Orders](#), herein. This document may apply only to that portion of the property related to the expired time period, or any condition violated. The document shall give record notice that: **[Ord. 2005 – 002]**
 - a. A condition of development has been violated or a time certain activity has not proceeded as required;
 - b. A review of the project will be conducted pursuant to terms of this Section;
 - c. Until the review is completed, no new development orders shall be issued by PBC; and no action which might tend to vest the development order shall be permitted; and
 - d. Such other information as may be reasonable and necessary to afford adequate record notice of the effect of this Section on the rights of property owners.
4. If the BCC, ZC, or the Executive Director of PZB approves further development pursuant to [Article 2.E.2.B, Administrative Extension of Time](#), and [Article 2.E.2.D, Failure to Comply with Conditions](#), or Time Requirements other than for a DRO Imposed Condition of Approval, herein, a second document shall be filed with the clerk of the circuit court to be placed with the records governing title to the property indicating:
 - a. That the rights to develop have been restored;
 - b. Such other information as may be reasonable and necessary to afford adequate record notice of the effect of this Section on the rights of property owners; and
 - c. This document shall only be recorded upon 1) payment of all status report fees as established from time to time by the BCC; 2) payment of any outstanding liens or debts owed on the subject property to PBC (not required for administrative time extensions for time certain conditions of approval); and 3) reinstatement of an expired standard development agreement if required to comply with adequate public facility standards. **[Ord. 2005 – 002]**

The status report fee may be waived if:

 - 1) the property owner is a government agency;
 - 2) the property owner is prevented from complying by a government-caused delay or by litigation that would prevent action by the property owner to bring the approval into compliance.
 - a) In the event litigation contesting the validity of lien or fine is initiated or pending prior to the time this payment is due, the document shall be recorded and payment of the lien or fine, if upheld by the court, shall be deferred until 35 days after Final Order. If the lien or fine is upheld by the court but the fine is not paid on or before the 35th day, a new notice of intent to withhold development permits shall be filed.
5. There will be no suspension of development rights if the only recommendation in the status report to the BCC or ZC is to delete a condition of approval.

B. Administrative Extension of Time

1. The owner of record, the current agent, or mortgagor demonstrating a secured interest in the property which is not being protected by the owner may file an application with the Executive Director of PZB for an administrative extension of time. The application shall be made upon such forms and in such a manner, including payment of fees, as prescribed by the PZB.
2. Upon the filing of an application for an administrative extension of time, the Executive Director, or other person designated by this Code, may grant an extension of time to comply with a requirement.

A time extension shall commence upon the expiration of the date to comply with the time requirement, or the expiration of the last extension, whichever is applicable. The maximum duration of an administrative time extension is as follows:

a. Development Order

[Table 2.E.3.B-1](#), Time Limitations of Development Order for Each Phase, provides the maximum length of each administrative time extension for each development order governed by this Code except when there is a government caused delay. When such a delay is documented, the Executive Director of PZB shall grant such extensions as necessary to offset government caused delays, not necessarily equal to the time of the delay, and each extension shall be based only on a delay that has already occurred. It is the responsibility of the property owner to notify staff in writing of the delay, and document the cause of the delay, however, no application or fee will be required.

b. Conditions of Approval not Requiring the Posting of Performance Security Pursuant to [Article 12.C.2, Conditions](#)

An administrative extension shall not exceed 12 months shall be the maximum. Subsequent applications may be filed, however, the total administrative extensions approved shall not exceed 24 months except when government-caused delays can be documented as the reason for failure to meet required deadlines. The Executive Director of PZB shall grant such extensions as necessary to offset government-caused delays, not necessarily equal to the time of delay, and each extension shall be based only on a delay that has already occurred. It is the responsibility of the property owner to notify staff in writing of the delay, and document the cause of the delay, however, no application or fee will be required. If the BCC has previously approved a time extension, any administrative extensions of time shall not extend more than 24 months from the original date for compliance except when there have been government-caused delays. If government caused delay has prevented compliance with a condition of approval which is due prior to the issuance of a building permit or certificate of completion, the compliance deadline may be extended to a specific date. The condition will then be subject to the review requirements of this Section for time certain conditions of approval.

c. Conditions of Approval Requiring The Posting of Performance Security pursuant to [Article 12.C.2, Conditions](#)

A one-time administrative time extension not to exceed six months shall be the maximum. Conditions of approval that provide a deadline for obtaining building permits 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. 2005 – 002]**

3. In reviewing applications for administrative time extensions for requirements other than conditions of approval, the Executive Director of PZB shall approve a time extension provided there are no current Code violations or outstanding liens or fines and the development order;
 - a. Is consistent with the Plan;
 - b. Is consistent with the Code; and
4. In reviewing applications for administrative time extensions for compliance with conditions of approval, the Executive Director of PZB shall consider the following:
 - a. Attempts by the applicant to complete the unfulfilled condition;
 - b. The reliance by other parties on the timely performance of activity;
 - c. Any changed circumstances, which may have interfered with the ability of the property owner to meet the time certain requirement;
 - d. Actions of other parties that may have precluded compliance;
 - e. The existence of extraordinary mitigating factors; and
 - f. Compliance with the review criteria in [Article 2.F.3.D.6.b, Performance Security Required](#) and [Article 2.E.2.B, Administrative Extension of Time](#), for posting of performance security for a concurrency reservation.
5. When the extension of time is for the payment of fees, the amount due shall increase by an interest payment equal to the rate established by [F.S. §55.03](#). The interest rate established at the time an extension is approved shall remain the same until the fee is paid. If the extension covers a period less than a year, then the interest shall be prorated.
6. When the Executive Director of PZB approves an extension of time for completion of a time certain requirement, he/she may require the property owner to guarantee the completion by furnishing a cash deposit, letter of credit, or surety bond.

C. Appeal

An appeal of a denial of an administrative time extension may be made to the BCC for development orders approved by the BCC or ZC, and to the DRAB for conditions imposed by the DRO. An appeal shall be made upon forms prescribed by the department within 30 days of the mailing of the notice that the request for an administrative extension has been denied.

1. The appeal shall be set on the BCC agenda within 60 days of receipt by the department. The BCC shall either affirm the decision of the department or grant an extension of time. This decision shall be made within 65 days of the date the appeal first appears on an agenda of the BCC unless a longer postponement is requested by the property owner. An extension of time may be granted only upon a finding by the BCC that the requirements of [Article 2.E.2.B, Administrative Extension of Time](#).
2. An appeal to the DRAB shall be made pursuant to [Article 2.D.1.G.2, Administrative Amendments](#).

D. Failure to Comply with Conditions or Time Requirements other than for a DRO Imposed Condition of Approval

1. Scheduling of Status Reports

If a property owner fails to comply with a time requirement and has not received a time extension, staff shall advertise a status report public hearing for the agenda of the body which approved the subject development order (BCC or ZC). If a property owner violates a condition of approval, staff may advertise a status report public hearing for the agenda of the body which approved the subject development order (BCC or ZC). The hearing shall be held within 90 days of the filing of the notice required by [Article 2.E.2.A, Suspension of Development Orders](#). Staff may delay the scheduling of the status report public hearing if, prior to the most recent deadline for compliance, the property owner files for an amended or new development order which may affect the time requirement or any condition being violated. If the new petition is approved and the time requirement has not been affected, or if the petition is denied, staff will place the status report on a BCC or ZC agenda within 65 days. Staff will not delay scheduling of staff report when there has been a failure to comply with concurrency reservation or development order conditions which are required for the Development Order to comply with [Art. 12.C.1, Traffic Impact Studies](#).

2. Status Report Review Criteria

The status report shall contain:

- a. a description of the development order;
- b. a 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;
- c. a description of any Code violations;
- d. a description of any uncompleted conditions or time certain requirements;
- e. a review of criteria set forth in [Article 2.E.2.B.4, Administrative Extension of Time](#), for status reports prepared for failure to comply with a condition of approval;
- f. a description of any violation of a condition of approval and circumstances related to the violation; and
- g. a determination of whether the development order is consistent with the Plan and is consistent with the Code.

3. Status Report – Additional Criteria

After the expiration of time extensions totaling four or more years approved by the BCC or ZC, the BCC or ZC may consider changed circumstances and compatibility issues.

4. Staff Recommendations

Based on the factors identified in [Art. 2.E.2.D.2, Status Report Review Criteria](#), and [Art. 2.E.2.D.3, Status Report – Additional Criteria](#), staff shall make a recommendation for one or more of the actions identified in [Art. 2.E.2.D.8.b. \[Ord. 2005 – 002\]](#)

5. Procedures

Consideration of all actions permitted by [Art. 2.E.2.D.8.b](#), except a rezoning shall occur in the following manner: **[Ord. 2005 – 002]**

a. Public Hearing

At least one public hearing shall be held by the ZC or by the BCC, as applicable.

b. Mail Notice

The owner of record shall be notified in writing of the Executive Director's 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, return receipt requested, to the last known address of the owner of record as it appears in the official records of the PBC Property

Appraiser's Office. Proof of the receipt shall be presented at the hearing. In the event that the owner fails to acknowledge receipt of mail notice or the notice is returned unopened, newspaper publication, as set forth below, shall be deemed sufficient notice. Written notice shall include:

- 1) A statement that the time period has expired or that a condition of approval has been violated and that the development shall be subject to review;
- 2) The Executive Director's recommendation to the BCC or ZC;
- 3) A statement that review may result in one or more of the actions identified in [Art. 2.E.2.D.8.b. \[Ord. 2005 – 002\]](#)
- 4) Notice of the date, time, and place of the hearing before the BCC or ZC, during which the report and recommendation of the Executive Director of PZB will be heard;
- 5) A statement of the owner's right to appear and to present relevant information to rebut or to supplement the report of the Executive Director of PZB; and
- 6) Such other information as may be necessary and appropriate to accomplish the goals of this Section.

c. Newspaper Publication

Notice of the hearing shall be published in a newspaper of general circulation in accordance with [F.S. §125.66\(2\)\(a\)](#). Notice shall be published at least ten days prior to the hearing.

6. Procedures for Rezoning Less than Ten Acres

Consideration of all rezonings on properties less than ten contiguous acres, by the BCC, shall occur in the following manner: **[Ord. 2005-002]**

a. Public Hearing

The BCC shall hold at least one public hearing on a proposed amendment to the boundaries of the Official Zoning Map.

b. Mail Notice

The owner of record shall be notified in writing of the Executive Director's status report and recommendation to the BCC and shall be noticed in accordance with [F.S. §125.66\(4\)\(b\)3](#). Written notice shall consist of a letter sent at least 30 calendar days prior to both the first and second hearings by certified mail, return receipt requested to the last known address of the owner of record as it appears in the official records of the PBC Property Appraisers Office. In the event that the owner fails to acknowledge receipt of mail notice or the notice is returned unopened, newspaper publication, as set forth below, shall be deemed sufficient notice. Written notice shall include the items as stated in [Art. 2.E.2.D.5.b.1\)-6\)](#).

c. Newspaper Publication

In addition to the notice mailed to the owner of record, notice of the hearing shall be published in a newspaper of general circulation in accordance with [F.S. §125.66\(2\)](#). Notice shall be published at least ten days prior to the hearing.

7. Procedure for Rezoning Ten or more Acres

Prior to consideration of all rezonings on properties of ten or more contiguous acres by the BCC, notice to the owner of record and advertisement of the proceedings shall occur in the following manner: **[Ord. 2005-002]**

a. Public Hearing

The BCC shall hold two public hearings on a proposed amendment to the boundaries of the Official Zoning Map when the amendment would affect ten or more contiguous acres of total unincorporated land area. The second public hearing shall be held at least ten calendar days after the first public hearing in accordance with [F.S. §125.66\(4\)\(b\)1](#).

b. Mail Notice

The owner of record shall be notified in writing of the Executive Director's status report and recommendation to the BCC and shall be noticed in accordance with [F.S. §125.66\(4\)\(b\)3](#). Written notice shall consist of a letter sent at least 30 calendar days prior to both the first and second hearing by certified mail, return receipt requested, to the last known address of the owner of record as it appears in the official records of the PBC Property Appraisers Office. In the event that the owner fails to acknowledge receipt of mail notice or the notice is returned unopened, newspaper publication, as set forth below, shall be deemed sufficient notice. Written notice shall include the items as stated in [Art. 2.E.2.D.3.b.1\)-6\)](#) above.

c. Newspaper Publication

In addition to the notice mailed to the owner of record, notice shall be published in a newspaper of general circulation in the PBC. Notice shall be published once for each hearing; the first publication shall be at least seven calendar days prior to the date of the first hearing and the second publication shall be at least five calendar days prior to the second hearing. The notice shall

state the date, time, and place of the hearing; the proposed action; and the place within the PBC where the status report and recommendation may be inspected by the public. The notice shall advise that interested parties may appear at the hearing and be heard with respect to the report and recommendation. A copy of such notice shall be kept available for public inspection at the PZB during regular business hours.

8. Decision of the BCC or ZC for Failure to Comply with the Following:

Time requirements to commence development, utilize a conditional or requested use or record a plat; or Non-performance security conditions (those not required by [Article 12.C.2](#), Conditions). **[Ord. 2005-002]**

- a. The BCC or ZC shall consider the factors enumerated in [Art. 2.E.2.D.2, Status Report](#), Review Criteria above, and the recommendation of PZB. **[Ord. 2005-002]**
- b. After deliberation, the BCC or ZC shall take one or more of the following actions:
 - 1) Grant a time extension:
 - a) To commence development, utilize a conditional or requested use, or record a plat for a period not to exceed 24 months. The term of the time extension shall commence upon the expiration of the date to complete the time certain activity, or the expiration of the last extension, whichever is applicable. A time extension shall only be granted if the development order is consistent with the Plan and the Code. Options, which may be used to cause the Development Order to be consistent, include revocation of Concurrency and the amendment of Conditions of Approval. **[Ord. 2005-002]**
 - b) To comply with a condition of approval for a period not to exceed 24 months. The term of the time extension shall commence upon the expiration of the date to complete the time certain activity, or the expiration of the last extension, whichever is applicable. When the BCC or ZC approves an extension of time for the payment of fees, the amount due shall increase by an interest payment equal to the rate established by [F.S. §55.03](#). The interest rate established at the time an extension is approved shall remain the same until the fee is paid. If the extension covers a period less than a year, the interest shall be prorated.
 - 2) Adopt a resolution which will rezone the property to an appropriate zoning district;
 - 3) Adopt a resolution which will revoke or amend the approval for all or a portion of the conditional or requested use, special exception or development order amendment;
 - 4) Adopt a resolution which will impose a limit such that no development order shall be issued permitting construction which exceeds entitlement density or entitlement intensity as established by the FLU Atlas of the Plan;
 - 5) Adopt a resolution, which will impose additional or modified conditions, voluntary commitments, or permit the property owner to initiate a petition 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;
 - 6) Direct staff to cite the property owner for violating the provisions of this Code;
 - 7) Adopt a resolution to amend or revoke the development order or map amendment for the undeveloped or unplatted portion of the project;
 - 8) Exempt from further review of any development order which rezoned property to a district which does not exceed the density or intensity permitted by the Plan 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
 - 9) Deny or revoke a building permit; issue a stop work order; deny or revoke a 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.
- c. If the BCC or ZC fails to act on staff recommendations within the prescribed time period, or if the Executive Director of PZB grants an administrative time extension, the issuance of new development orders shall immediately resume.
- d. The decision of the BCC or ZC shall be rendered within 65 days of the originally advertised public hearing, provided that the property owner has not requested a postponement of the matter. A postponement approved at the request of the property owner may not exceed 12 months from the due date for compliance.
- e. If a developer's agreement for the commitment of utility services has expired prior to the expiration of any deadline to commence development or record a plat, the notice required by

[Article 2.E.2.A](#), Suspension of Development Orders, shall not be recorded until a new developer's agreement has been executed.

9. Decision of the BCC or ZC for Failure to Comply with a Condition of Approval Which Requires the Posting of Performance Security Pursuant to Art. 12.C.2, Conditions.

The BCC or ZC shall take one or more of the following actions: [Ord. 2005-002]

- a. Approve a time extension not to exceed six months based on the criteria of [Article 2.F.3.D.6](#), Receipt of a Concurrency Reservation with Conditions, and [Article 2.E.2.B](#), Administrative Extension of Time, if an administrative time extension was not approved. The term of the time extension shall commence upon the expiration of the date to post performance security. In no case shall the total time to post performance security exceed 12 months from the date of the development order, which imposed the condition to post performance security;
- b. Adopt a resolution to revoke any special exception or conditional use;
- c. Adopt a resolution to rezone the property to the lowest zoning district consistent with the property's FLU designation if the concurrency reservation applied to a development order which rezoned the property; and/or
- d. Adopt a resolution to amend the condition in compliance with [Article 12.C.2](#), Conditions.

E. Failure to Comply with Conditions of Approval Imposed by the DRO

1. If a property owner has not received an administrative time extension prior to the deadline to comply with a condition, or has exhausted all administrative time extensions, a time extension application may be submitted to the DRO. The application must be received by the DRO prior to the compliance deadline. The DRO shall consider the criteria set forth in [Article 2.E.2.B](#), [Administrative Extension of Time](#), based on these criteria, the DRO shall:
 - a. Revoke the certification of the site plan or subdivision plan;
 - b. Amend or delete the condition; or
 - c. Direct staff of the Code Enforcement Division to cite the property owner for failure to comply with the condition.
2. If a property owner fails to submit an application pursuant to [Article 2.E.2.E](#), [Failure to Comply with Conditions of Approval Imposed by the DRO](#), shall direct staff of the Code Enforcement Division to cite the property owner for failure to comply with the condition.
3. Decisions of the DRO made pursuant to this Section may be appealed to DRAB pursuant to [Article 17.C](#), [APPOINTED BODIES](#).

F. Expiration of Time Extensions Granted by the BCC

In the event that the property owner has not complied with the condition of development approval or time certain activity at the expiration of a time extension, the development order shall be subject to the requirements of [Art. 2.E.2.B](#), [Administrative Extension of Time](#), [Art. 2.E.2.D](#), [Failure to Comply with Conditions or Time Requirements](#) other than for a DRO Imposed Condition of Approval, or [Art. 2.E.2.E](#), [Failure to Comply with Conditions of Approval Imposed by the DRO](#), herein, as appropriate. [Ord. 2005 – 002]

G. Fees

Fees to implement this Section shall be established by the BCC.

Section 3 Supplementary Regulations for Classes of Development Orders

A. Classes of Development Approvals

Unless otherwise established in the development order, the time frames provided in [Table 2.E.3.B-1](#), Time Limitation of Development Order for Each Phase, apply. Permitted time frames do not change with successive owners.

B. Effect of Phasing on Time Frames for Receipt of a Required Permit or Commencement of a Required Action

1. Residential District (Non-PDD or TDD) PUD and TND Districts

The development order and master plan or final subdivision plan for the Residential District (Non-PDD or TDD) PUD, or TND Districts, may provide for phasing. [Table 2.E.3.B-1](#), Time Limitation of Development Order for Each Phase, provides time requirements for recording plats.

2. Conditional and Requested Uses, PDDs other than PUDs, TTDs and TMDs

The Final site plan/Final Subdivision plan for conditional and requested uses, PDDs other than PUDs, TTDs, or TMDs, may provide for phasing. [Table 2.E.3.B-1](#), Time Limitation of Development Order for Each Phase, provides the maximum number of phases permitted for each type of development order. If there are multiple phases, each of the first two phases shall contain a minimum of 20 percent of the land area unless otherwise approved in the development order approved by the BCC or ZC. A TMD

in the U/S Tier shall include a minimum of 25 percent of the total project. Table 2.E.3.B-1, Time Limitation of Development Order for Each Phase, also provides time requirements for commencement of development. [Ord. 2006-004]

3. Effect of Modification to a Development Order on the Time Requirements of this Section

a. PDD or Conditional Use

- 1) Administrative modification of site plan does not alter original time certain requirement.
- 2) BCC or ZC modification to development orders may include a condition of approval which provides a new time for commencement of development or to record a plat (up to the maximum time permitted for a new development order) if the modification and all undeveloped areas of the project are determined to meet all requirements for approval of a development order for a new project.

b. Final Site Plan or Final Subdivision Plan

A modification to a site plan or subdivision plan shall only establish a new time to commence development or record a plat as provided in Table 2.E.3.B-1, Time Limitation of Development Order for Each Phase, if the site plan or subdivision plan is certified based on a determination of compliance with all current Code requirements, including concurrency.

Table 2.E.3.B-1 - Time Limitation of Development Order for Each Phase

TYPE OF DEVELOPMENT ORDER	MAXIMUM NUMBER OF PHASES	NEXT REQUIRED ACTION OR DEVELOPMENT ORDER	MAXIMUM TIME TO RECEIVE DEVELOPMENT PERMIT OR COMMENCE DEVELOPMENT	MAXIMUM LENGTH OF ADMINISTRATIVE TIME EXTENSION ⁴	ACTION UPON FAILURE TO COMPLY WITH TIME REQUIREMENT WITHOUT AN APPROVED TIME EXTENSION	
REZONING RESIDENTIAL-NON-PLANNED DIST. (PDD) or TRADITIONAL DEV. DIST. (TDD)	2	Record plat or affidavit of plat waiver or commence development ¹	Three years ^{2,7}	no extensions permitted	BCC review pursuant to subsections Article 2.E.2.A, Suspension of Development Orders and Article 2.E.2.D, Failure to Comply with Conditions herein	
REZONING NONRESIDENTIAL-Non-PDD or TDD	2	Commence development ¹	Three years ^{2,7}	12 months	BCC review pursuant to subsections Article 2.E.2.A, Suspension of Development Orders and Article 2.E.2.D, Failure to Comply with Conditions herein	
CONDITIONAL USES CLASS A AND CLASS B, REQUESTED USES INCLUDING THOSE IN PDDs, and TDDs	2 ⁵	Commence development or utilize Conditional Use or Requested Use if no construction is required ¹	Three years ^{2,7}	12 months	Pursuant to subsections Article 2.E.2.A, Suspension of Development Orders and Article 2.E.2.D, Failure to Comply with Conditions herein: Class A - BCC review; Class B - Zoning Commission review	
PDD: NON PLANNED UNIT DEV. (PUD)	4	Commence development ¹	Three years ^{2,7}	12 months	BCC review pursuant to subsections Article 2.E.2.A, Suspension of Development Orders and Art.2.E.2.D herein	
PDD: PUD; TDD:TRADITIONAL NEIGHBORHOOD DEV. (TND)	no maximum	Record plat ⁶	Three years ^{2,7}	no extensions permitted	BCC review pursuant to subsections Article 2.E.2.A, Suspension of Development Orders and Article 2.E.2.D, Failure to Comply with Conditions herein	
TDD	TMD IN THE AGR TIER	1	Commence development ¹	Three years ^{2,7}	12 months	BCC review pursuant to subsections Article 2.E.2.A, Suspension of Development Orders and Article 2.E.2.D, Failure to Comply with Conditions herein
	TMD IN THE U/S TIER	4				
	TMD IN ALL OTHER TIERS AND TDD	No maximum				

Table 2.E.3.B-1 - Time Limitation of Development Order for Each Phase Con't

TYPE OF DEVELOPMENT ORDER		MAXIMUM NUMBER OF PHASES	NEXT REQUIRED ACTION OR DEVELOPMENT ORDER	MAXIMUM TIME TO RECEIVE DEVELOPMENT PERMIT OR COMMENCE DEVELOPMENT	MAXIMUM LENGTH OF ADMINISTRATIVE TIME EXTENSION ⁴	ACTION UPON FAILURE TO COMPLY WITH TIME REQUIREMENT WITHOUT AN APPROVED TIME EXTENSION
DEVELOPMENT ORDERS WHICH AT THE TIME OF CERTIFICATION ARE NOT ASSOCIATED WITH ANY OTHER DEVELOPMENT ORDER WHICH IS SUBJECT TO THE REQUIREMENTS OF Art. 2.E (THOSE LISTED ABOVE):	SITE PLAN	2	Commence development ¹	Four years ^{3,7}	no extensions permitted	Plan null and void for the undeveloped phases of a site plan, and unplatted phases of a subdivision plan.
	FINAL SUBDIVISION PLAN: NON-RESIDENTIAL	2	Commence development ¹	Four years ^{3,7}		
	FINAL SUBDIVISION PLAN: RESIDENTIAL	no maximum	Record plat	three years ^{3,7}		

[Ord. 2005 – 002] [Ord. 2006-004]

Notes:

1. Commencement of development shall consist of:
 - a. Receipt of a building permit and first inspection approval of first component of the primary structure(s) for a) the entire development, as defined by the certified site plan or certificate of concurrency for those development orders which do not require the certification of a site plan or b) all of the next phase if phasing is provided by the development order and final Master Plan pursuant to [Art. 2.E.3.B.3.b, Final Site Plan or Final Subdivision Plan](#) herein; or
 - b. The installation of significant site improvements such that the improvements would only permit the development of the approved project, and any other pattern of development would require extensive changes to the installed improvements.

Commencement of development shall not consist of:

- a. The dividing of land into parcels, unless the determination of commencement is to be made for property in a residential zoning district which is not a PDD and for which there is no conditional use/special exception and this division is accomplished through the recordation of a plat or plat waiver; or
 - b. Demolition of a structure; or
 - c. Deposit of refuse, solid or liquid waste, or fill on the parcel unless the development order is exclusively and specifically for such; or
 - d. Clearing of land.
2. From resolution adoption date for first phase, and from date of commencement of development of last phase, or last plat recordation date, for subsequent phases. The maximum time to commence development for each phase of a Type III excavation shall be established by a condition of approval.
 3. From plan certification date for first phase, and from date of commencement of development of last phase, or last plat recordation date, for subsequent phases.
 4. All administrative time extensions listed in this table are to be approved or denied by the Executive Director of PZB.
 5. The maximum number of phases and duration of each phase for a Type III excavation shall be established by a condition of approval.
 6. The recordation of a plat for the preservation area of an AGR-PUD shall not qualify as meeting this requirement.
 7. An additional 90 days will be provided if prior to the expiration of any time period established by this Code, staff is notified by the property owner that either a complete building permit application has been submitted, or technical compliance for a plat has been received, as appropriate, and development will commence, or the plat will be recorded, within 90 days of the deadline. If the required action does not occur within the 90 days, reservation or development order conditions which are required for the Development Order to comply with [Art. 12.C.2, Conditions](#). [Ord. 2005-002]

CHAPTER F CONCURRENCY (ADEQUATE PUBLIC FACILITY STANDARD)

Section 1 General

A. Purpose and Intent

The purpose and intent of this Section is to ensure that adequate potable water, sanitary sewer, solid waste, drainage, public school, 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.

B. Authority

The BCC has the authority to adopt this article pursuant to Art. VIII, Sec. 1, Fla. Const., the PBC Charter, [F.S. §125.01](#), et al 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 Article.

D. Exemptions

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

1. All development orders that have received a concurrency exemption certificate or concurrency exemption extension certificate, pursuant to the “Concurrency Exemption Ordinance of PBC” and the “Concurrency Exemption Extension Ordinance”;
2. A lot of record which (a) meets the density requirements of the Plan, as amended, or (b) 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 [Article 2.F.1.E.1.a](#), [Article 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 Article.

Section 3 Review For Adequate Public Facilities

A. General

To ensure that adequate potable water, sanitary sewer, solid waste, drainage, public school, parks 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. To ensure public schools are available concurrent with the impacts of development, PBC has adopted the “Public School Concurrency Ordinance of PBC” which is codified in [Article 2.F.7](#), [Public School Concurrency](#).

B. Procedure for Review of Application for a Concurrency Reservation

1. Submission of Application

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.

2. Determination of Sufficiency

a. Separate Review

Upon receipt of the application, the Zoning Director 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 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.

b. Joint Review

Sufficiency determination is subject to the regulations for the specific development order requested as outlined in [Article 2.B.2.G, Development Order Amendment](#). 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 re-submittal, 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 Concurrency Reservation](#).

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 determines that an application fails to meet any one of the public facility component standards of [Article 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 in writing that he/she wishes to withdraw the application, the application shall be entered into 90 day negotiation period with the service provider.

1) If during the 90 calendar day negotiation period, the applicant addresses the deficiencies, the application shall be reconsidered by the Zoning Director and approved or denied consistent with the standards of this Chapter.

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 [Article 2, DEVELOPMENT REVIEW PROCESS](#), for the requested Development Permit/Order. Approval of the Development Permit/Order shall not be granted until Concurrency is approved.

c. Extension of 90 Day Negotiation Period

Prior to expiration of a reservation, if it is documented that a government-caused delay 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 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. 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 and 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 PBCs 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 [Article 5.C, DESIGN STANDARDS](#).

3. Traffic Facilities

The roads component shall be approved if the proposed development complies with [Article 12, TRAFFIC PERFORMANCE STANDARDS](#). In determining whether the road component meets the requirements of this subsection, the Six Year Capital Improvement Schedule in the Capital Improvements 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 Six 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.

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.

5. Public School Facilities

The public school component for the proposed development shall be subject to the application and review procedures set forth in the Public School Concurrency Ordinance of PBC, which is codified in [Article 2.F.7, Public School Concurrency](#).

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 [Article 2.F, CONCURRENCY](#), or shall expire one year from the date of issuance of the reservation, 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.

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, 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 [Article 2.F.3.C, Standards for Review of a Application 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 [Article 2.F.3.C, Standards for Review of Application for 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 [Article 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 [Article 2.E.2.B, Administrative Extension of Time](#), or a six month BCC time extension in accordance with [Article 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 [Article 2.F.2, LOS Standards](#) and [Article 2.F.3, Review for Adequate Public Facilities](#). 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 [Article 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 in 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 re-submittal, 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 [Article 2.F.3.C, Standards for Review](#) of Application for 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 re-issue 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 Zoning 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.

B. Submission of Application

An application for entitlement density or entitlement intensity shall be submitted to the Zoning Director on a form established by the Zoning Director and made available to the public. The application shall be accompanied by a Zoning fee established by the BCC from time to time for the filing and processing of each application. The fee shall be non-refundable.

C. Determination of Sufficiency

The Zoning 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.

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 Zoning Director

Within 30 working days after the Zoning Director determines the application is sufficient, the Zoning Director shall review the application and shall approve, approve with conditions, or deny the application based upon whether it complies with the standards in [Article 2.F.5.C, Procedure](#).

E. Standards for Entitlement Density

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.

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 one-half percent of the maximum square footage allowed under this Code.

If the above conditions are met, an entitlement density or entitlement intensity for the proposed development shall be granted if;

1. A concurrency reservation has been denied for the proposed development pursuant to the requirements of [Article 2.F.3.C, Standards for Review](#) of Application for Concurrency Reservation, and an appeal to the DRAB has affirmed that decision;
2. The LOS for drainage facilities for the development proposed in the application is met pursuant to the requirements of [Article 2.F.3.C, Standards for Review](#) of Application for Adequate Public Facilities Determination and Concurrency Reservation;
3. A plan demonstrates how the proposed development will be designed (a) at its entitlement density or entitlement intensity and (b) 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;
4. 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
5. 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.

Section 5 Administrative Appeal Process

A. General

An applicant may appeal a decision of the Zoning Director denying an application for a concurrency reservation, Entitlement Density, or a Concurrency Exemption Extension by filing a petition with the Zoning Director appealing the decision to the DRAB within ten days of the rendition of the decision by the Zoning Director.

B. DRAB Membership

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

C. 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.

D. 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 [Article 2.F.3.C, Standards for Review of Application for Concurrency Reservation](#).

E. Written Order

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

F. 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 Fifteenth Judicial Circuit in and for PBC.

Section 6 Monitoring Program

A. General

To ensure that adequate potable water, sanitary sewer, solid waste, drainage, public school, park and recreation and linked open space, traffic, mass transit, and fire-rescue public facilities are available concurrent with the impacts of development on public facilities, the PBC shall establish the following management and monitoring practices. Their purpose is to evaluate and coordinate the timing, provision, and funding of the public facilities so that:

1. they are being adequately planned for and funded to maintain the LOS for public facilities and
2. to evaluate the capacity of the public facilities for use in the regulatory program to ensure:
 - a. there are no development orders issued unless there are adequate public facilities available to serve the development concurrent with the impacts of development on the public facilities, or
 - b. no development orders are issued unless they are conditioned on the availability of public facilities to serve the development concurrent with the impacts of development on public facilities.

B. Annual Public Facilities Update Report (AUR)

By March 1 of each year, the Executive Director of PZB shall submit to the Office of Management and Budget (OFMB) an AUR. The AUR shall (a) determine the existing conditions of all potable water, sanitary sewer, solid waste, drainage, public school, park, road, mass transit, and fire-rescue public facilities, (b) determine and summarize the available capacity of these public facilities based on their LOS, and (c) forecast the capacity of existing and planned capital improvements identified in the five year capital improvement schedule for each of the five succeeding years. The forecasts shall be based on the most recently updated schedule of capital improvements for each public facility. The AUR shall also revise relevant population projections. Specifically, the AUR shall include:

1. A summary of development exempted pursuant to [Article 2.F.3.C, Standards for Review of Application for Concurrency Reservation](#).
2. A summary of development activity.
3. An evaluation of public facilities (potable water, sanitary sewer, solid waste, drainage, public school, park and recreation, road, mass transit, and fire-rescue facilities) indicating:
 - a. The capacity available for each at the beginning of the reporting period and the end of the reporting period;
 - b. An evaluation of the LOS for each public facility; and
 - c. A forecast of the capacity for each public facility based upon the most recent updated schedule of capital improvements in the CIE.

C. Amendments

Based upon analysis of the AUR, OFMB shall propose to the BCC each year, any necessary amendments to the CIE, and any proposed amendments to the PBC's annual budget for public facilities.

Section 7 Public School Concurrency

A. Short Title

This Section shall be known as, and may be cited as, "the Public School Concurrency Ordinance of PBC, Florida."

B. Authority

The BCC of PBC has the authority to adopt this ordinance pursuant to the [PBC Charter](#); [F.S. Chapter 125](#) and [F.S. Chapter 163](#), and the Agreement.

C. Definitions

See [Article 1.I, Definitions and Acronyms](#), for Public School Concurrency definition specific to [Article 2.F.7, Public School Concurrency](#).

D. Applicability

1. Area of Jurisdiction

- a. This Section shall apply in the unincorporated area of PBC.
- b. This Section shall also apply within those Municipalities that have opted into this Section by not adopting an implementing ordinance within the time frame specified in the agreement. Any such Municipality may opt out of this Section at any time by adopting its own implementing ordinance consistent with the agreement. Once a Municipality has opted out of this Section, this Section shall not apply within that Municipality.

2. Time of Application of Ordinance

- a. This Section shall not apply to Proposed New Residential Development until the commencement of the school concurrency program as specified in [Art. V, Section A](#), of the Agreement.
- b. This Section shall not apply to Proposed New Residential Development whenever and wherever the school concurrency program is suspended pursuant to the terms of the Agreement.
- c. This Section shall terminate, or its effect shall be suspended; in the event termination or suspension of the school concurrency program occurs as set forth in the Agreement.

3. Applications Requiring Concurrency Review

Unless otherwise provided herein, this Section shall apply to all Site Specific development orders for Proposed New Residential Development.

4. Exemptions

The following are exempt from the school concurrency requirements contained in this Section:

- a. Single family lots of record, existing as such at the time this Section is adopted.
- b. Any Residential Development that received final approval of a Site Specific development order prior to the commencement of the school concurrency program, as specified in [Art. V, Section A](#), of the Agreement, is considered vested for that which was previously approved and shall not be considered as Proposed New Residential Development for purposes of school concurrency. Any Residential Development which is exempt from school concurrency under Local Government's concurrency regulations shall not be considered as Proposed New Residential Development for purposes of school concurrency.
- c. Any Proposed New Residential Development that has filed a complete application prior to the commencement of the school concurrency program, as specified in [Art. V, Section A](#) of the Agreement.
- d. Any amendment to any previously approved Residential Development which does not increase the density of the development.
- e. Any previously approved Residential Development or any other previously approved Development with a residential component located within any existing "Transportation Concurrency Exception Area," as defined in [F.S. §163.3180\(5\)](#).

E. Standard

1. LOS

The PBC Public School Facilities Element, the Municipalities' Plans, and the agreement establish the adopted LOS set forth below. The actual LOS (utilization) for all schools of each type of school in each CSA and each individual school shall be established each year by the first student count of the second semester.

- a. Tiered LOS shall be in force pursuant to the Tiered LOS Table in the public school facilities element until August 1, 2004. Individual schools of each type may exceed the tiered LOS during

- the period in which tiered LOS are in effect, provided that the CSA's tiered LOS is not exceeded. However, each individual school's LOS which exceeds the tiered LOS, during the time that the tiered LOS is in effect, shall not exceed the utilization standards for that school type as shown in the maximum utilization table of the public school facilities element. During the time that the tiered LOS standard is in effect, the School District shall initiate necessary program and/or boundary adjustments so that the tiered LOS is not exceeded in each CSA.
- b. After August 1, 2004, the following LOS standards shall be established for all schools of each type within each CSA and each individual school:
 - 1) Ten percent of capacity (utilization) as determined by the (FISH); or
 - 2) A higher LOS up to 120 percent of FISH capacity (utilization/LOS) for individual schools if a school capacity study (SCS) undertaken pursuant to the agreement determines that the school can operate at the higher LOS.
2. **Concurrency Service Areas**
School concurrency shall be measured and applied on the basis of 21 CSA's as described in the public school facilities element.
 3. **Three Year Rule**
In determining whether capacity is available, the School District shall consider any new capacity which will be in place or under actual construction in the first three years of the School District 5 Year Capital Facilities Plan.
 4. **Adjacent CSA Capacity**
In determining whether capacity is available, the School District shall consider adjacent CSA capacity as specified in the agreement.
- F. Review of Residential Development**
1. **Application**
At the time of and in conjunction with the application for an adequate public facilities review in accordance with the Code, or in the case of a Municipality, in accordance with its public facilities review process, the applicant for a Proposed New Residential Development shall submit to the appropriate Local Government a request for a school concurrency determination.
 - a. The request for school concurrency determination shall contain the following information: location of the development; the build out time frame of the development; and the number, type and size of all the residential units anticipated to be occupied each calendar year. The applicant shall include with its request for school concurrency determination, a non-refundable fee established by the School District. PBC, or any Municipality that provides initial review, shall review the request for completeness and shall in addition determine whether the project is exempt from school concurrency as set forth in [Article 2.F.1.D, Exemptions](#). Notwithstanding the foregoing, this fee shall be returned to the applicant if PBC, or any Municipality that provides initial review, determines that the applicant is exempt and that no further review is required by the School District.
 - b. If the project is in the unincorporated area and found not exempt PBC, PBC shall review the request for completeness and submit the request to the School District within ten days of finding the request complete. The PBC shall collect the required fees submitted with all requests for school concurrency determination and shall transmit these fees, less two percent for administrative costs, to the School District on a monthly basis. For projects located within a Municipality, the Municipality may follow the same process set forth in the sentence above. In the alternative, the Municipality may, after reviewing the request for completeness and determining that the project is not exempt, instruct the applicant to submit the request and the required fee directly to the School District.
 - c. The School District shall review the application in accordance with the provisions of [Art. V, Section A](#) of the Agreement.
 - d. Within the times set forth in [Art. V, Section F](#), of the Agreement, the School District shall review the application and notify the applicant and the local Government of its determination. For projects located in the unincorporated area, notice by the School District determining the development to be in compliance shall specify that the date of issuance of the letter of determination of school concurrency shall be the same as the date of issuance of PBCs concurrency reservation, adequate public facilities agreement, or equivalency determination, as appropriate. Letter of determination of school concurrency determining the development to be in compliance shall be valid for one year from the date of issuance. Once the local Government site-specific development order is issued, the concurrency determination shall run with the development order.

G. Development Order Approval

1. No development order for a Proposed New Residential Development shall be approved unless there is a valid letter of determination of concurrency from the School District finding the Development in compliance.
2. If the letter of determination of concurrency requires conditions or mitigation to be placed on the development, the development order issued by PBC or the Municipality shall incorporate those conditions.
3. If the letter of determination of concurrency requires the development to be phased to mitigation, the conditions of approval of the development order shall implement the phasing requirements by specifying that Building Permits will be withheld if the conditions are not fulfilled.

H. Appeals

Applicants seeking relief from School District decisions shall appeal such decisions as provided for by law.

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]