



**PALM BEACH COUNTY
PLANNING, ZONING AND BUILDING DEPARTMENT
ZONING DIVISION**

POLICY AND PROCEDURES

FROM: Jon MacGillis, ASLA, Zoning Director
SUBJECT: Procedures for Processing Zoning Completion Agreements
PPM #: ZO-O-034

<u>ISSUE DATE</u>	<u>EFFECTIVE DATE</u>
2/9/2021	2/9/2021

PURPOSE:

To establish guidelines and procedures for accepting, processing, and enforcing Zoning Completion Agreements related to Final Landscape Inspections during the Building Permit review and inspection processes.

ULDC REFERENCES:

Unified Land Development Code (ULDC) Articles 5.E.4.E. - Outdoor Lighting; Article 6 – Parking, Loading and Circulation; Article 7 – Landscaping; and Article 8 - Signage.

GUIDELINES:

When an Applicant¹ is unable to complete or to satisfy a specific requirement of the ULDC during building permit review or permit processes related to site lighting, landscaping, or any other required site elements, then the final landscape inspection will be marked “Fail” by the Landscape Inspector. Below are the two options available to the applicant to allow the issuance of a Temporary Certificate of Occupancy, upon agreement with the Zoning Division:

1) Granting a Temporary Certificate of Occupancy (TCO) or Temporary Certificate of Completion (TCC) with conditions:

Where the incomplete requirement does not result in a health and safety issue, then the inspection may receive a “qualified pass” and the Building Division may issue a TCO or TCC. The Building Division, upon approval from the Zoning Division, may process the TCO/TCC Agreement, which may include specific conditions to be met prior to Final Certificate of Occupancy (CO), or Completion Certificate (CC) and within a specified timeline (i.e. 30 days, 60 days, or 90 days).

2) Granting Completion Agreement supported with an Escrow Agreement or Bond:

The Applicant¹ may request a Final CO or CC after receiving a failed inspection when Zoning allow a Completion Agreement to be submitted, provided it is supported by a guarantee of an Escrow Agreement or a Surety Bond. Zoning and Building Staff shall be in agreement on the established conditions and timelines for compliance, to allow the necessary corrections or completions of the outstanding requirements to address the failed inspection.

PROCEDURES:

The following procedures are establish for the Applicant¹ and Zoning Staff when accepting and processing a Completion Agreement:

A. Applicability:

The Zoning Completion Agreement **shall not** be considered if one or more of the following conditions exists:

1. Staff has determined that there are health and safety issues involved;
2. There is an existing BCC Condition of Approval requiring the specific site element or landscaping to be completed on a specific date; or,
3. The Contractor has previously requested a Completion Agreement within the past 12 months.

B. Procedures for accepting and processing a Completion Agreement:

1. The Applicant¹ shall meet with the Zoning Senior Landscape Inspector (SLI) and/or Building Staff to discuss the issue(s) and possible resolutions. Staff may impose conditions to be satisfied as part of the Completion Agreement. The Zoning Director shall approve any conditions prior to providing Form #98 to the applicant.
2. If agreed upon, the Applicant shall submit the following documents to the Zoning Inspector in order to process the Completion Agreement:
 - a. Completed [Form # 98](#) - Zoning Completion Agreement;
 - b. Three (3) separate cost estimates outlining all work to be completed. The estimates shall include, but not limited to costs and labor for installation, such as, plant material, irrigation, sod, fencing, construction materials, fabrication, etc.;
 - c. A draft of the Escrow Agreement or Surety Bond per Article 7.G.2.A – Performance Surety;
 - d. Provide a Justification Statement explaining the circumstances and reasons for the request and provide the estimated timeline for completion;
 - e. Provide the Site, Subdivision, Regulation, and/or Landscape Plan(s), as applicable, and clearly indicate where and what specific site element(s) are not completed or installed.
3. SLI shall enter and upload the Form #98 and all supporting documents as attachments into ePZB database as a new PCN Application.
4. SLI shall review the application and documents submitted, then prepare a summary including: the history of the project (including any related BCC Conditions of Approval); explanations of the current issue(s) resulting in the failed inspection; and the request for the Completion Agreement and timeline requested.
5. SLI shall consult with the Permitting/Landscape Section - Principal Site Planner (PSP) and the Zoning Director to ensure there is agreement on whether the estimate covers the full cost of completing or installing the identified requirements or site element(s), and the appropriate conditions and timeline necessary.
6. If estimates are acceptable by the Zoning Division, the SLI will email the Applicant requesting the Escrow Agreement or Surety Bond to be issued for 110% of the accepted cost estimate and shall name Palm Beach County (PBC) as the beneficiary and specify the conditions and period for completion.

Note: An Escrow Agreement is acceptable when conditions/issues will be resolved within a few months, all conditions of approval shall be added to the Escrow document; while a Surety Bond is acceptable for improvements that will occur over a longer period, i.e. year(s), a TCO shall be attached with the conditions and timeline.
7. The SLI shall forward the “Draft” of the Escrow Agreement or Surety Bond to the Zoning Bond Coordinator (Zoning Administration) who will review and forward to the County’s Attorney and Contract Development & Control Division to verify that the document conforms to the legal requirements of the County.
8. Once approved, the SLI will notify the Applicant to submit the Final Escrow Agreement or Surety Bond (in the approved format/language) as provided by Legal. All bonds must include an annual renewal clause.

9. The Bond Coordinator will monitor and track the Final Escrow Agreement or Surety Bond documents along with the supporting documentation by logging it into the ePZB Bond Module (enter expiration date - the monitoring inspection date may be entered as the expiration date). The original copy of the documents will be sent for safekeeping to PZB Administration – Accounting Section, and copies to the SLI and ePZB file. Refer to [PPM ZO-O-35](#) – Processing Guarantees for instructions.
10. If all required documents are acceptable and the conditions and timelines identified for completion are agreed upon; the SLI shall schedule the monitoring inspection first, the Applicant will pay the inspection fee, and then the SLI shall enter Pass on the permit final inspection in the Building module.
11. All documents including the signed and executed Escrow Agreement and Completion Agreement – Form #98, the TCO, and cost estimates shall be attached to the PCN and be copied to the following: the Applicant; PCN No-App ePZB File; Building Permit; Building Inspection Section, and Bond Coordinator.
12. The SLI shall ensure a Flag is entered, under the Flag Maintenance screen identifying the PCN-No-App number, the Building Permit number and the date of expected completion date.
13. On or before inspection date or compliance date: The Landscape Field Inspector shall review, ensure the fee is paid, then complete the Monitoring Inspection. If in compliance, the Inspector notifies the Applicant via email of the “Pass” status and copies all Staff in distribution, listed in #11 above.
14. Once receiving the Pass on the Monitoring Inspection, the Applicant shall submit to the SLI in writing, a Request to Release the Escrow or Bond (refer to PPM ZO-O-035 for specific instruction for releasing of the Surety).
15. The SLI shall forward the request to the Bond Coordinator for processing. A Release Letter shall be processed and sent to the Applicant and the escrow or bond company.
16. The SLI shall update ePZB, by attaching the Release Letter and closing out any flags or holds in the Zoning and Building Modules. Ensure a copy of the letter is sent to the Building Permit file.

¹ Applicant shall mean the Owner or Contractor

Attachment: Form #98 Completion Agreement



Director

Supersession History:

PPM#ZO-O-034, Issued 2/17/08;
PPM#ZO-O-034, Revised 2/17/09;
PPM#ZO-O-034, Revised 7/09/15;
PPM#ZO-O-034, Revised 2/9/21:

ZONING COMPLETION AGREEMENT REQUEST

BUILDING PERMIT# _____ PERMIT SCOPE OF WORK: _____

SITE ADDRESS: _____

PCN: _____

CONTROL #: _____ APPLICATION NAME: _____

OWNER: _____ ADDRESS: _____ PHONE #: _____

CONTRACTOR: _____ ADDRESS: _____ PHONE #: _____

The component(s) specified below are incomplete:

- Art.5.E.-Outdoor Lighting
- Art. 6-Parking/Loading
- Art.7-Landscaping
- Art.8-Signage
- Other

Describe each specific component(s) and the location(s) that are incomplete:

Explain how each specific component will be completed and provide the estimated date of completion:

THE CERTIFICATE OF OCCUPANCY AND/OR CERTIFICATE OF COMPLETION MAY BE ISSUED ONLY IN ACCORDANCE WITH THIS AGREEMENT.

AGREEMENT DATE: _____ EXPIRATION / MONITORING INSPECTION DATE: _____

ACKNOWLEDGEMENT AND AGREEMENT:

I, my successors or assigns (print name) _____ will at all times assume all risks and further will protect, defend, reimburse, indemnify and hold Palm Beach County, its agents, employees and elected officers, and each of them free and harmless at all times from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, interests, attorney's fees, costs and expenses of whatsoever kind or nature whether directly or indirectly caused, occasioned or contributed to in whole or in part, by reason of the exercise or attempted exercise of this Agreement and/or by reason or any act, omission or fault whether active or passive of County, or anyone acting under its direction or control, or on its behalf in connection with or identical to the performance of this Agreement. The aforesaid indemnity and hold harmless obligations, or application of portions thereof, shall apply to the fullest extent permitted by law. The above provisions shall also be fully applicable to and include any damage that I, or my successors or assigns, may incur due to action the County takes as a result of any violation of this Agreement.

I hereby certify that the work specified above are required to be completed prior to the Monitoring Inspection date, and that failure to complete them would constitute a violation of the Code, subjecting me to a Hearing before a County Board for disciplining contractors and/or enforcement procedures in accordance with Art.10 of the Unified Land Development Code.

_____ Contractor	_____ Date	_____ Authorized Division Personnel	_____ Date
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NOTARY PUBLIC INFORMATION:

STATE OF FLORIDA
COUNTY OF PALM BEACH

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization,

_____ day of _____, 20 by _____ (name of person acknowledging).

He/she is personally known to me or has produced _____ (type of identification) as identification and did/did not take an oath (circle correct response).

(Name - type, stamp or print clearly)

(Signature)

My Commission Expires on: _____

NOTARY'S SEAL OR STAMP