

Council Members

Roger Manning-Mayor
Katrina Long Robinson-Vice Mayor
John Stanavitch-Seat 1
Kara Crump-Seat 2
Phillip Everett-Seat 3



City of Westlake

4001 Seminole Pratt Whitney Rd.
Westlake, Florida 33470
Phone: 561-530-5880
Fax: 561-790-5466

Council Workshop
Tuesday, May 28, 2019

Meeting Location
Westlake Council Chambers
4005 Seminole Pratt-Whitney Road
Westlake, FL 33470
6:00 p.m.

PLEASE TAKE NOTICE AND BE ADVISED, that if any interested person desires to appeal any decision made by the City Council with respect to any matter considered at this meeting or hearing, such interested person will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The meeting/hearing may be continued to another date and time as may be found necessary during the aforesaid meeting. In accordance with the provisions of the Americans with Disabilities Act (ADA), any person requiring special accommodations at these meetings because of disability or physical impairment should contact the Interim City Manager at (954)753-5841 at least two (2) calendar days prior to the meeting.

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May 23, 2019

City Council
City of Westlake

Dear Mayor and Council:

The City Council of the City of Westlake will hold a workshop meeting on Tuesday, May 28, 2019 at 6:00 p.m. at the Westlake Council Chambers, 4005 Seminole Pratt Whitney Road, Westlake, Florida. Following is the advance agenda for the meeting.

1. Call to Order/ Roll Call
2. Pledge of Allegiance
3. Presentation and Discussion of Proposed Articles
 - A. Article 1, Administration
 - B. Article 2, Development Review Process
 - C. Article 3, Zoning Districts and Standards
4. Audience Comments on Agenda Items (3) Minute Time Limit
5. Adjournment

Any additional supporting material for the items listed above, not included in the agenda package, will be distributed at the meeting. Staff will present their reports at the meeting. I look forward to seeing you, but in the meantime if you have any questions, please contact me.

Sincerely,

Kenneth Cassel

Kenneth G. Cassel
City Manager

cc: Pam E. Booker, Esq.
Terry Lewis
John Carter
Kelley Burke

Third Order of Business

3A.

ARTICLE 1 - ADMINISTRATION

ARTICLE 1.1 ADOPTION

Section 1: Adoption of Land Development Regulations. In accordance with the adopted Comprehensive Plan and the authority granted by the City Charter, the Florida Statutes, and the Constitution of the State of Florida, the City Council of the City of Westlake, Florida, hereby ordains and enacts the provisions of these Land Development Regulations.

Section 2: Adoption of Zoning Map. The zoning map dated ____ is hereby adopted as the first official zoning map as a part of these Land Development Regulations. The official zoning map may be amended from time to time without updating this section.

CHAPTER 1.1 INTERPRETATION

Section 1: Definitions and Acronyms.

- A) Florida Statute Definitions.** The definitions used in Chapter 163, Florida Statutes, apply.
- B) Words Not Defined.** Words not defined by the Florida Statutes, the Plan, or these LDRs shall have their plain and ordinary meaning.
- C) Definitions.** The following words have the following meanings, and shall apply to both the single and plural forms of the words:

ACCESSORY DWELLING UNIT: A dwelling unit located on the same parcel of land as a principal single family dwelling. An accessory dwelling is a complete, independent living facility equipped with a kitchen and bathroom.

ACCESSORY SOLAR FACILITY: A solar energy system which utilizes roof space or other space on the parcel of land to provide electricity or heat for use on the parcel of land. Export of electricity to the electrical grid is incidental and subordinate to the purpose of supplying electricity to the primary use of the parcel of land.

ACCESSORY USE: A use incidental and subordinate to the principal use, including accessory dwelling units and accessory solar facilities.

AGRICULTURAL USES: The use of land for aquaculture, horticulture, floriculture, viticulture, forestry, dairy, livestock, poultry, bees, plant crops, and any other form of farm product and farm production. Land areas include croplands, pasture lands, orchards, vineyards, nurseries, horticulture areas, groves, and specialty farms. Buildings, support facilities, dwelling units for farm operators and farmworkers, machinery, and other appurtenances used in the production of agricultural products are included. Agricultural uses do not include concentrated and/or confined animal feeding operations.

AMENITY CENTER: A facility that provides opportunities for limited retail and/or space for social activities, such as parties, receptions, banquets, meetings, recreation, exercise, and neighborhood gatherings.

ANSI A300 STANDARDS: the American National Standard for Tree Care Operations published by the National Arborist Association and approved by the American National Standards Institute.

ARTERIAL ROAD: A road providing service that is relatively continuous and of relatively high traffic volume, long average trip length, and high operating speed. In addition, every United States numbered highway is an arterial road.

ASSISTED LIVING FACILITY: Residential care facilities that provide housing, meals, personal care and supportive services to older persons and disabled adults who are unable to live independently.

AUTOMATIC CONTROLLER: A mechanical or electronic device, capable of automated operation of valve stations to set the time, duration and frequency of a water application.

AVERAGE DAILY TRAFFIC (ADT): The total traffic volume during a given 24-hour time period for all allowable directions on a given road.

BERM: A landscaped earthen mound in excess of two feet in vertical height designed to provide visual interest, or serve as a buffer.

BUFFER: The use of vegetation, walls, fences, berms, setbacks, less intense development, and/or less dense development to mitigate the impacts of unsightly views, lights, noises, odors, and/or dust.

CITY: The City of Westlake, unless context clearly implies otherwise.

CIVIC USES: Structures or facilities that provide cultural, social, or governmental services and/or functions. These include community centers, cultural centers, museums; libraries; government administration, operations, and services; judicial facilities, post offices, public arenas and auditoriums, and other publicly owned and operated uses.

COLLECTOR ROAD: A road providing service that is of relatively moderate average traffic volume, moderately average trip length, and moderately average operating speed. Such a road also collects and distributes traffic between local roads and arterial roads.

COMMERCIAL RECREATION: Uses that typically charge a fee or have other requirements for participation or attendance as a spectator. Uses include, but are not limited to, outdoor and indoor recreational facilities such as tennis clubs, jai alai frontons, amusement and sport centers, outdoor amphitheaters, hunting and gun clubs, marinas, vehicular and non-vehicular race tracks, outdoor zoos and wildlife attractions, fairs, parks and recreation exhibitions, entertainment, and/or other amusements, private sports and recreation clubs, golf courses, and sports stadiums and venues. Uses may include accessory uses and activities that are supportive of the activity including shops and restaurants.

COMMERCIAL USES: Activities within land areas that are predominantly connected with the sale, rental and distribution of products or the performance of services, including offices and medical facilities.

COMMUNITY PARK: A park located near collector or arterial roads designed to serve the needs of more than one neighborhood. It is designed to serve community residents within a radius of up to 3.5 miles. The term "community park" includes any related recreational facilities, and can be publicly or privately owned.

COMPLETE STREETS: Roads including adjacent sidewalks and shared use paths that are designed and operated to enable safe access and travel for all users, which may include pedestrians, bicyclists,

transit riders, and motorists. Complete Streets incorporate different elements based on the different role, function, and characteristic of the facility.

CONSERVATION USES: The use or condition of land areas designated for conserving or protecting natural resources or environmental quality, including areas designated for flood control and floodplain management, the protection of the quality or quantity of ground or surface water, commercial or recreational fish and shellfish habitat, water supply, and/or vegetative communities or wildlife habitats.

CONTINUING CARE FACILITIES: A variety of housing options and services designed to meet the changing needs of its residents who require varying levels of care. Housing options typically include independent living units, assisted living facilities, and/or nursing homes.

DENSITY: The number of dwelling units per gross acre.

DEVELOPMENT ORDER: A development order as that term is defined by § 163.3164, Florida Statutes.

DWELLING UNIT: A house, apartment, condominium unit, mobile or manufactured home, group of rooms, or a single room intended for occupancy as a separate living quarter with complete kitchen and bathroom facilities, and with direct access from the outside of the building or through a common hall for use by its occupants.

EDUCATIONAL USES: Activities and facilities for public or private primary or secondary schools; vocational and technical schools; and colleges and universities including all campus buildings, residence halls and dormitories, fraternity and sorority housing, and recreational facilities.

ESSENTIAL FACILITIES AND SERVICES: Essential facilities and services include roads, bicycle lanes, shared use paths, sidewalks, bridges, transmission lines for electricity, cable, water, sewer, and gas that serve local area demands, electricity sub-stations, stormwater and drainage facilities and systems, electric car generation ports/stations, transit facilities, and accessory solar facilities. Essential facilities and services do not include wireless communication facilities.

FLOOR AREA RATIO (FAR): A means of measuring building intensities for nonresidential land. FAR is the ratio of total floor area of all buildings on the parcel to the gross acreage. FAR does not regulate the building height or site coverage. It does not include the area within structures used for parking and vehicular circulation or open outdoor storage or display areas.

FOSTER CARE FACILITY: A facility which houses foster residents, and provides a family living environment for the residents, including such supervision and care as may be necessary to meet the physical, emotional and social needs of the residents.

GROSS ACREAGE: The total area of a parcel of land measured in acres including developed and undeveloped land, agricultural areas, open space, roads, rights-of-way, easements, and environmental features such as lakes, floodplains, and wetlands.

GROUP HOME: A facility which provides living quarters for unrelated residents who operate as the functional equivalent of a family, including such supervision and care as may be necessary to meet the physical, emotional, and social needs of the residents. It shall not include rooming or boarding homes, clubs, fraternities, sororities, monasteries or convents, hotels, residential treatment facilities, nursing homes, ALF OR CCF, or emergency shelters.

INSTITUTIONAL USES: Activities and facilities that include juvenile facilities, nursing homes/skilled-nursing facilities, mental (psychiatric) hospitals, in-patient hospice facilities, residential schools for people with disabilities, residential treatment centers for adults, and City jails/confinement facilities (excludes residential group homes for juveniles, correctional residential facilities such as halfway houses, federal detention centers, and federal and state prisons).

INTENSITY: The amount of non-residential development as measured by the Floor Area Ratio.

LEGAL NON-CONFORMING STRUCTURE: A structure that was lawfully established before the adoption of the Plan and Land Development Regulations that does not conform to the Land Development Regulations for the zoning district in which the parcel of land is located.

LEGAL NON-CONFORMING USE: A use that was lawfully established before the adoption of the Plan and Land Development Regulations, which does not conform with the allowed uses by the Comprehensive Plan Future Land Use Category or of the zoning district in which it is located.

LEVEL OF SERVICE (LOS): An indicator of the extent or degree of service provided by, or proposed to be provided by, a facility based on and related to the operational characteristics of the facility. LOS shall indicate the capacity per unit of demand for each public facility or performance measures for road traffic or stormwater facilities.

LIGHT INDUSTRIAL USES: Land uses that include construction operation and storage facilities, manufacturing, assembly, processing or storage of products when such activities have minimal and inoffensive external impacts such as smoke, noise, dust, soot, dirt, vibration, stench, or adverse visual impacts on the surrounding neighborhood. Light industrial uses may include research and development technology centers including server farms, medical and dental laboratories, warehouse and/or distribution centers, and recycling centers. Light industrial uses shall not include mining and extraction industries, electrical generation plants, or regional sewer treatment plants.

LION-TAILING: the over-pruning of a tree by removing the majority of the interior branches leaving only the terminal leaves (like the tuft of the lion's tail.) the over pruning causes a stress reaction called "epicormic sprouting," "water sprouts" or "suckers", causing a flush of branches along the trunk and limbs.

LOCAL ROAD: A road that carries low volumes and provides service for local traffic between land uses and collector roads, with direct property access as the primary purpose. Any road that is not an arterial or collector road and is under the jurisdiction of the City is a local road.

LOT COVERAGE: The percentage of total lot area covered by all principal and accessory buildings. Lot Coverage does not include Accessory Uses that are not considered Accessory Structures. e.g. pool decks, patios or outdoor sitting areas, even if enclosed with a screen enclosure.

MAJOR CANALS: The M Canal and M-2 Canal.

MANUFACTURED HOME: A dwelling unit fabricated in an off-site manufacturing facility for installation or assembly at the site, bearing a label certifying that it is built in compliance with the federal manufactured housing construction and safety standards, or inspected by an approved inspection agency conforming to the requirements of HUD, and bearing an insignia of approval.

MULTI-FAMILY DWELLING: Multiple separate dwelling units contained within one building or several buildings excluding single family attached dwellings.

MULTIMODAL TRANSPORTATION SYSTEM: The system which provides safe and efficient movement of people, goods, and services by more than one mode of transportation.

NEIGHBORHOOD CENTER: Compact areas that allow a mix of commercial uses that serve neighborhoods such as retail (goods and services), restaurants, offices and clubhouses, schools, religious uses, small scale civic uses, and amenity centers.

NEIGHBORHOOD PARK: A park that serves the residents of a neighborhood and is accessible to bicyclists and/or pedestrians. It is designed to serve the population of a neighborhood in a radius of up to one-half mile. Neighborhood parks include any related recreational facilities, and can be publicly or privately owned.

OPEN SPACE: Areas open to the sky that are partly or completely covered with grass, trees, shrubs, other vegetation or water, or if partially or completely paved serve to shape or enhance urban form or provide for public use. Open spaces have little to no vertical structures and can be publicly or privately owned. Open spaces include parks, transportation corridor parkways, vegetated buffers, shared use paths, plazas, courtyards, squares and areas that provide stormwater management.

PALM TREE (SPECIMEN): A feature palm often utilized as a focal or sculptural element in the landscape. Specimen palm trees may contain a single or multi trunk and shall be a minimum of 8' of clear trunk at the time of planting. For the purpose of this code the following species shall be considered specimen palm trees: Phoenix dactylifera, Phoenix sylvestris, Phoenix reclinata, Acoelorrhaphe wrightii Bismarkia nobilis. The zoning administrator may make a determination that other palm species qualify as a specimen palm tree.

PARK: A site that provides opportunities to partake in active or passive recreational activities, including structures associated with a park's recreational activities.

PEAK HOUR PEAK DIRECTION CAPACITY: The maximum number of vehicles that can pass a given point in one direction on a road in one hour under given traffic and road conditions per the FDOT Quality/Level of Service Handbook in one hour.

PERVIOUS SURFACE: any area of land that is landscaped or planted, allows natural passage of water, and is not covered by impervious materials or structures. Pervious surfaces include pervious paving materials.

PERVIOUS PAVING MATERIALS: A porous asphaltic, concrete or other surface and a high-void aggregate base which allows for rapid infiltration and temporary storage of rain on, or runoff delivered to, paved surfaces.

PLAN: City of Westlake Comprehensive Plan, unless context clearly implies otherwise.

PRIMARY SOLAR FACILITY: A solar energy system which primarily functions to provide electricity for off-site use. This term includes the structures, equipment, infrastructure, and support systems necessary for the collection, storage, and distribution of solar energy, along with all functions necessary to develop and operate a primary solar facility including construction, management, administration, maintenance, security, and safety.

RECREATIONAL USES: Areas and development used for leisure time activities and sports in an indoor or outdoor setting, including parks.

RELOCATION PLANTING: The relocation and installation of existing landscape material from one portion of a site to another.

RESIDENT: A person who makes his or her home in a particular place for most of the year or for a portion of the year, including a seasonal resident.

RESIDENTIAL USES: Land uses consisting of dwelling units, including mobile and manufactured homes. Residential uses include assisted living facilities and group homes.

RIGHT-OF-WAY: Land dedicated or required for a transportation or utility use that a government entity owns in fee simple or over which it has an easement.

SCREENING: The use of landscape shrubs trees and palms or combination as a buffer screen to reduce the environmental and other impacts of trash disposal areas, above ground utilities and mechanical equipment and similar elements.

SHRUB: A self-supporting woody perennial plant of low to medium height characterized by multiple stems and branches continuous from the base. Shrubs shall be a minimum of 18" in height with and 18" spread.

SIGHT TRIANGLE: A point of measurement whereby an individual in a vehicle has the ability to sight a prescribed distance without pulling onto a vehicular thoroughfare.

SEMINOLE IMPROVEMENT DISTRICT (SID): Independent special purpose government established in 1970 pursuant to Chapter 70-854, Laws of Florida, codified pursuant to Chapter 2000-431, Laws of Florida, formerly known as the Seminole Water Control District. SID is coextensive with the boundaries of the City of Westlake and consists of approximately 4,142 acres of land. SID is empowered to construct and maintain a number of public works and utilities including water, sewer, drainage, irrigation, water management, parks, recreation facilities, roads and related activities.

SENIOR HOUSING: Age-restricted dwelling units for older adults, aged 55+, who are able to care for themselves.

SHARED USE PATH: A paved facility for use by pedestrians, bicyclists, and/or other users that is separated from vehicular traffic. Golf carts may be used on shared use paths in certain areas, under certain circumstances.

SINGLE FAMILY ATTACHED DWELLING: **A single dwelling unit physically attached to other buildings, dwelling units, or structures through one or more shared walls.**

SINGLE FAMILY DETACHED DWELLING: A single dwelling unit not physically attached to other buildings, dwelling units, or structures.

SMALL-SCALE MAP AMENDMENT: A type or part of Small-Scale Plan Amendment that proposes changes to the Future Land Use Map.

SMALL-SCALE PLAN AMENDMENT: A proposed amendment to the Plan in which: the proposed amendment must involve less than 10 acres; the proposed amendment is only for a site-specific small scale development activity; the property that is the subject of the proposed amendment is not located within an area of critical state concern; and the only text amendments associated with the map amendment are directly related to and will be adopted simultaneously with the small scale map amendment. The City must not have approved more than 120 acres of small scale amendments in the calendar year in which the application is submitted.

SOLAR ENERGY OVERLAY: An area designated on the Future Land Use Map (FLU Map 2.1) that allows Primary Solar Facilities in addition to uses allowed by the underlying future land use category.

SUSTAINABLE COMMUNITY: An urban area with a long term planning and management vision that incorporates a multi-modal transportation network, walkable, mixed use patterns of development, denser development where infrastructure exists, civic spaces and interconnected open spaces for recreation, economic vitality and job choices, choices in housing price and size, a quality educational system, and a unique identity.

TRANSIT: Passenger transportation services such as commuter rail, rail rapid transit, light rail transit, light guideway transit, express bus, autonomous vehicles, and local fixed route bus provided by public, private, or non-profit entities. The terms “transit” and “mass transit” are used interchangeably.

TURF: Continuous plant coverage consisting of grass species suited to growth. A mat layer of monocotyledonous plants such as Bahia, Bermuda, Centipede, Seaside, Paspalum, St. Augustine, and Zoysia.

UNDERSTORY: Assemblages of natural or planted low-level woody, herbaceous, and ground cover species which exist in the area below the canopy of the trees.

UTILITIES: Seminole Improvement District water, wastewater, stormwater, or reuse water facilities.

VEGETATED BUFFER: A natural or planted vegetated area used to mitigate potential impacts of unsightly views, lights, noises, and/or dust.

WORK PLAN: City of Westlake Water Supply Facilities Work Plan dated March 2018.

D) Definitions. The following words, terms and phrases are applicable Part 8 Landscaping:

ANSI A300 Standards shall mean the American National Standard for Tree Care Operations published by the National Arborist Association and approved by the American National Standards Institute.

Buffer, perimeter shall mean a continuous area of land which is required to be set aside along the perimeter of a lot in which landscaping is used to provide a transition between and to reduce the environmental, aesthetic and other impacts of one type of land use upon another.

Buffer, Right of way landscape shall mean a continuous area of land which is required to be set aside contiguous to public and private rights of way in which landscaping is used to provide a transition between and to reduce the environmental, aesthetic and other impacts of one type of *land use upon another*.

Caliper shall mean quantity in inches of the diameter trees measured at six inches above the ground for trees up four inches and twelve inches above the grade for trees greater than 4 inches in Caliper.

Clear trunk: at portion of the trunk maintained free of branches. e clear trunk is the lower portion of the trunk measured from the soil line up to the first major branch. Small temporary branches may exist on a clear trunk.

Conifer tree shall mean any tree with needle leaves and a woody cone fruit, including, but not limited to, those representative species.

Deciduous shall mean those trees that shed their leaves in the fall or winter.

Detention/retention area shall mean an area, typically basin-shaped, which is designed to capture substantial quantities of stormwater and to gradually release the same at a sufficiently slow rate to avert flooding.

Drip line shall mean a vertical line extending from the outermost branches of a tree to the ground, provided, however, that the same shall be not less than a ten-foot diameter circle which is drawn through the center of the trunk of a tree.

Earth berm shall mean the mounding of earth or soil varying in heights above the normal grade as established by the crown of adjacent road or roadways. Earth berms can meander or form a continuous line; however, the slope of the berm shall not exceed a one-foot to four-foot slope.

Ecosystem shall mean a characteristic assemblage of plant and animal life within a specific physical environment, and all interactions among species, and between species and their environment.

Evergreen shall mean those trees, including broad-leaf and conifer evergreens, that maintain their leaves year round.

Ground cover shall mean plants, other than turf grass, normally reaching an average maximum height of not more than 24 inches at maturity.

Hatracking or tree topping shall mean the cutting back of limbs larger than one inch in diameter within the tree's crown between branch collars/buds.

Hedge shall mean a landscape barrier consisting of a continuous, dense planting of shrubs, not less than 18" in height, which will form a compact visually opaque living barrier.

Indigenous shall mean having originated in and being produced, growing, living or occurring naturally within a particular region or environment.

Irrigation shall mean the water supply system to support landscaping which shall be in the form of an underground sprinkler system providing 100 percent coverage of all landscaped areas or landscaping.

Irrigation system shall mean a permanent, artificial watering system designed to transport and distribute water to plants.

Landscape architect shall mean an individual engaged in the professional practice of landscape architecture. Such individual shall be licensed and currently registered within the State to practice under the bylaws as established by F.S. ch. 481, part II.

Landscaping shall mean any combination of living plants (such as grass, ground cover, shrubs, vines, hedges, or trees) and nonliving landscape material (such as rocks, pebbles, sand or mulch). Swimming pools, decking, pedestrian paths and sidewalks are not considered landscaping.

Lawn shall mean an area maintained through the use of grasses or turf.

Mulch shall mean nonliving organic and synthetic materials customarily used in landscape design to retard erosion and retain moisture.

Native plant material shall mean indigenous plant material recognized as such by the Florida Department of Agriculture.

Pervious surface area shall mean all that area of land that can be landscaped or planted, allows natural passage through by water, and is not covered by nonpervious manmade materials or structures, such as buildings or paving.

Palm Tree shall mean a monocotyledonous trees from the family (Palmae synonym Arecaceae) usually containing a simple stem and a terminal crown of large pinnate or fan-shaped leaves. Palm

trees may contain a single or multi trunk and shall be a minimum of 8' of clear trunk at the time of planting.

Palm Tree (Specimen) shall mean a feature palm often utilized as a focal or sculptural element in the landscape. Specimen palm trees may contain a single or multi trunk and shall be a minimum of 8' of clear trunk at the time of planting. For the purpose of this code the following species shall be considered specimen palm trees. Phoenix dactylifera, Phoenix sylvestris, Phoenix reclinata, Acoelorrhaphe wrightii and Bismarkia nobilis.

Plant community shall mean a natural association of plants that is dominated by one or more prominent species, *or a characteristic physical attribute.*

Plant species, prohibited, shall mean those plant species which are defined by the Florida Exotic Pest Plant Council as Category 1.

Pruning shall mean the removal of limbs, branches, and/or suckers in accordance with the National Arborist's Standards.

Relocation planting shall mean the relocation and installation of existing landscape material from one portion of a site to another.

Removal shall mean the physical removal of vegetation and/or trees.

Screening shall mean the use of landscape shrubs trees and palms or combination as a buffer screen to reduce the environmental, aesthetic and other impacts of trash disposal areas, above ground utilities and mechanical equipment and similar elements.

Shrub shall mean a self-supporting woody perennial plant of low to medium height characterized by multiple stems and branches continuous from the base. Shrubs shall be a minimum of 18" in height with and 18" spread.

Sight triangle shall mean a point of measurement whereby an individual in a vehicle has the ability to sight a prescribed distance without pulling onto a vehicular thoroughfare.

Tree (Canopy) shall mean any living, self-supporting woody or fibrous plant which is a conifer, evergreen or deciduous. Canopy Trees shall be planted at a minimum of ten feet in height and two inches in caliper at time of installation. Canopy trees shall be of a species achieving a mature spread of at least fifteen feet. Canopy trees used as street trees shall maintain eight feet clear over any sidewalk. or ornamental.

Tree (Ornamental) shall mean any living, self-supporting woody or fibrous plant which is a conifer, evergreen or deciduous. Ornamental Trees shall be planted at a minimum of 7-8' in height and one inch in caliper at time of installation. Ornamental trees shall be of a species achieving a mature height of ten feet spread of at least four feet.

Tree height: The distance from the ground to the top most portion of the tree on ornamental, multi-trunked trees such as crape- myrtle, Japanese ligustrum and wax-myrtle, tree height is measured to the top of the main body of the crown.

Tree survey shall mean a drawing certified by a land surveyor, engineer, or landscape architect registered in the State as to the location and size of all vegetation as defined by this chapter.

Turf shall mean continuous plant coverage consisting of grass species suited to growth.

Understory shall mean assemblages of natural low-level woody, herbaceous, and ground cover species which exist in the area below the canopy of the trees or one story in height.

Vegetation, native, shall mean any plant species with a geographic distribution indigenous to all or part of the State.

Vehicular use area (VUA) shall mean any area used by vehicles, except public rights-of-way and thoroughfares, to include, but not be limited to areas of parking or vehicle storage areas.

Viable shall mean capable of sustaining its own life processes, unaided by man, for a reasonable period of time.

Vine shall mean plant whose natural growth characteristic produces climbing, meandering stems.

Weed shall mean those trees, shrubs, or groundcover that are listed as such by the Florida Exotic Pest Plant Council, as well as any undesired, uncultivated plant that grows in profusion so as to crowd out a desired plant.

Xeriscape shall mean the planting of native and other drought tolerant vegetation or plants through the use of:

- (1) Appropriate planning and design,
- (2) Limitation of turf areas to only where it provides functional benefits,
- (3) Efficient use of irrigation systems,
- (4) The use of soil amendments to improve water holding capacity of the soil,
- (5) Use of mulches where appropriate,
- (6) Use of drought tolerant plants, and
- (7) Appropriate timely maintenance of all plant material.

Yard area shall mean the front, side, and rear yard areas as established and required under chapter ___ zoning district requirements applicable thereto.

E) The following acronyms shall have the following meanings:

ADA	Americans with Disabilities Act
ADT	Average Daily Traffic
BEBR	Bureau of Economic and Business Research
BFE	Base Flood Elevation
CCDs	The Census County Divisions
CJG	Callery-Judge Groves property
EPA	U.S. Environmental Protection Agency
FAR	Floor Area Ratio
FDEP	Florida Department of Environmental Protection
FDOT	Florida Department of Transportation
FEMA	Federal Emergency Management Agency
FIRM	Flood Insurance Rate Map
GIS	Geographic Information System
GPD	Gallons Per Day
HUD	U.S. Department of Housing and Urban Development
IPARC	Intergovernmental Plan Amendment Review Committee
ITID	Indian Trail Improvement District
LDRs	City of Westlake Land Development Regulations

LEC	Lower East Coast
LOS	Level of Service
LPA	Local Planning Agency
MGD	Million Gallons per Day
MPO	Metropolitan Planning Organization
NAVD 88	North American Vertical Datum of 1988
NRPA	National Recreation and Park Association
OEDR	Office of Economic and Demographic Research
PBC-PAM	2015 Palm Beach County Allocation Model
PD	Planned Development Zoning District
PM	Particulate Matter
PPH	Population Per Household
SERPM	Southeast Florida Regional Planning Model
SFWMD	South Florida Water Management District
SID	Seminole Improvement District
SIS	Strategic Intermodal System
SRPP	The Strategic Regional Policy Plan
SWA	Solid Waste Authority
TAZ	Traffic Analysis Zone
TCRPC	Treasure Coast Regional Planning Council
TDM	Transportation Demand Management
TDP	Transit Development Plan
TPA	Palm Beach Transportation Planning Agency
TPS	Traffic Performance Standards
TSM	Transportation Systems Management
ULDC	Palm Beach County Unified Land Development Code
USDA	U.S. Department of Agriculture

CHAPTER 1.2 CONSISTENCY OF LDRS WITH THE PLAN; INTERPRETATION

Section 1: In the event any provision of these LDRs conflicts with any provision of the Plan, including the Map Series, the Plan shall control.

Section 2: Procedure for conflicts between LDRs and Plan

- A)** If a conflict exists between these LDRs and the Plan, a written request may be submitted to the Planning and Zoning Director identifying the specific provisions of the Plan and LDRs in conflict. Interpretations of the Planning and Zoning Director may be appealed by submitting a written request for review to the City Attorney, who will acknowledge receipt of the request and respond within a reasonable amount of time, but no later than 30 days of receipt of the request.

- B) All decisions of the City Council regarding conflicts between the Plan and the LDRS will be annotated and consolidated in a written document that will be available upon request from the City.

Section 3: Procedures for Interpretation of LDRs

- A) In Group Discussion – Provision was added to first apply for an interpretation through the Planning & Zoning Director. The Planning & Zoning Director shall have 30 days to render a decision. The Planning & Zoning Director may forward the request to the City Attorney within 30-days receipt of the request for a zoning interpretation.
- B) When a question arises as to the meaning or intent of a phrase, section, or subsection of the LDRs, a written request may be submitted to the City Attorney for interpretation. The request must identify the applicable provision(s), the specific question regarding the meaning of the provision, and the explicit interpretation requested.
- C) The City Attorney shall acknowledge receipt of and respond to any request for interpretation within a reasonable amount of time, but no later than 30 days of receipt of the request.
- D) The party who requested the interpretation may appeal the interpretation of the City Attorney concerning these LDRs to the City Council.
- E) All decisions regarding interpretation of these LDRs be annotated and consolidated in a written document that will be available upon request from the City.

Section 4: Rules Governing Interpretation

- A) The rules of statutory construction apply to the interpretation of these LDRs.
- B) The LDRs shall be interpreted to be consistent with the Plan.

Section 5: Procedure for Interpretation of Zoning Map.

- A) When a question arises as to the zoning district designation for a particular parcel of land on the zoning map, an applicant may submit a written request for a zoning confirmation letter to the Planning and Zoning Director for interpretation. The request must identify the particular parcel or parcels for which the zoning confirmation letter is requested
- B) The Planning and Zoning Director shall acknowledge receipt of and respond to any request for interpretation within a reasonable amount of time, but no later than 30 days from receipt of the request.
- C) The party who requested the interpretation may appeal the decision by the City Zoning Director regarding interpretation of a zoning map to ~~the Hearing Officer.~~
- D) All decisions regarding the interpretation of the Zoning Map will be annotated and consolidated in a written document that will be available upon request from the City.

Section 6: Calculation of time.

- A) If a procedural deadline falls on a weekend, state holiday, or federal holiday, the deadline shall fall on the next business day.
- B) Unless otherwise indicated, “days” indicate calendar days. Business days was utilized in other locations.

CHAPTER 1.3 PLANNING AND ZONING DIRECTOR

Section 1: The City Council shall designate a Planning and Zoning Director who shall be responsible for coordinating the City’s review of all applications subject to these Land Development Regulations, including review by the City Engineer and coordination with the Seminole Improvement District, as necessary.

CHAPTER 1.4 CITY COUNCIL

Section 1: Authority.

- A) In addition to the powers and authorities described elsewhere in this Code, the City Council shall have the power and authority to:
- B) Establish fees for the review of applications.

Section 2: Notice.

Notice shall meet all applicable state statutory requirements.

CHAPTER 1.5 LOCAL PLANNING AGENCY

Section 1: Membership.

- A) The Local Planning Agency (LPA) will consist of the City Council and will have the powers set forth in this Article. It is the intent that the LPA serve as the local planning agency referenced in § 163.3174, Florida Statutes, and the land development regulation commission as defined in § 163.3164(25) and referenced in § 163.319, Florida Statutes.
- B) In addition to the City Council members, the Board of the School District of Palm Beach County will appoint a non-voting member of the LPA to attend those meetings at which the LPA considers Plan amendments that would, if approved, increase residential density on the property that is the subject of the application.

Section 2: Public Meetings and Records. All meetings of the LPA will be public meetings that shall be noticed once in a newspaper of general circulation in the City. The notice shall meet the requirements of all applicable state statutory requirements.

Section 3: Compensation. Members of the LPA will not be compensated for service on the LPA; however, members will be paid actual expenses incurred in the performance of their duties, which may not exceed allowances prescribed by state law.

Section 4: Functions and Authority. To effectuate its responsibilities as provided in Florida Statutes, the LPA will:

- A) Review any amendments to the Plan proposed for adoption and make recommendations to the City Council regarding the proposed Plan amendment.
- B) Recommend to the City Council any amendments to the Plan as may from time to time be required, including and amendments resulting from the periodic evaluation and appraisal of the Plan as required by Florida Statutes, and ADM Policy _____ of the Plan.
- C) Review proposed land development regulations or amendments thereto, and make recommendations to the City Council as to the consistency of the proposal with the adopted Plan.
- D) Take administrative actions necessary or convenient to accomplish its duties and responsibilities.
- E) The LPA must make a final recommendation regarding adoption of the Plan or Plan amendment to the City Council. The LPA may - in cooperation with the City, another person, or entity - prepare a Plan or Plan amendment. However, the LPA may not delegate its responsibility to make a recommendation regarding the adoption of the Plan or Plan amendment to the City Council.
- F) The LPA will provide opportunities for involvement by applicable community college boards.

3B.

ARTICLE 2. - DEVELOPMENT REVIEW PROCEDURES

Chapter 1. - DEVELOPMENT REVIEW PROCESS

Sec. 2-1. - Applicability of article.

The provisions of this article shall apply to all development order applications, including the following:

- (a) Conditional use;
- (b) Master Plan;
- (c) Planned Development;
- (d) Site plan review;
- (e) Variance;
- (f) Comprehensive plan text amendment;
- (g) Land development regulations text amendment;
- (h) Rezoning and overlay district rezoning;
- (i) Amendments to approved development orders;
- (j) Miscellaneous development order applications, except that subdivisions and plats and amendments thereto shall be governed by the provisions of Divisionof this chapter; and
- (k) Expiration of development approvals and time extensions.

Section 2.2 – Level of Service Standards required. All development order applications, except for an application for development approval for a development of regional impact, shall comply with the requirements of the Level of Service Standards established herein. An application for development order approval shall not be accepted by the planning and zoning department for processing unless accompanied by an approved Level of Service determination letter or an application to obtain a Level of Service determination letter. An application for development approval, if accompanied by an application to obtain a Level of Service determination letter, shall not be certified by the Planning and Zoning Director until compliance with Level of Service standards is established.

Section 2.3. - Review of applications for development order approval.

- (a) *Compliance.* Applications for development order approval shall be reviewed as indicated in Table 2-1 and comply with all requirements of this chapter.

Table 2-1: Development Order Review

Development Order Application	Staff	P&Z	LPA	CC
Site Plan Review, Administrative	√			
Site Plan, Major	√	√		√
Site Plan, Minor	√	√		
Master Plan	√	√		√
Special Event Permit	√			
Planned Development	√	√		√

Zoning Review for Building Permit	√			
Conceptual Presentation	√			
Comprehensive Plan Amendment, Small Scale	√		√	√
Comprehensive Plan Amendment, Large Scale	√		√	√
Rezoning	√		√	√
Conditional Use:				
Small Scale, Interior	√			
Small Scale, Exterior	√			
Large Scale	√			√
Variance	√	√		
Annexation	√		√	√
LDR Text Amendment	√			√
DO Change, Non-Administrative ?	√			√
DO Change, Administrative ?	√			
Overlay District Rezoning	√			
Subdivision*	√	√		√
Plat*	√			√

*See Subdivisions.

- (1) **Public hearings and workshops.** All applications for development orders to consider rezonings, conditional uses, development order amendments, and land development regulations text amendments shall be subject to an advertised public hearing by the planning and zoning board and the city council. Prior to scheduling a public hearing, the planning and zoning department staff may schedule one or more workshops to review the application with the planning and zoning board.
- (2) **Joint workshops.** The city manager may schedule a joint planning and zoning board/city council workshop to review any development order application of such size, nature, or complexity as to require timely consideration and direction from both bodies.
 - (b) **Planning and zoning board workshops and public hearings.**
 - (1) **Workshops.** The planning and zoning board may consider the comments and recommendations from the Planning and Zoning Department staff at one or more workshop meetings.
 - (2) **Request for additional information.** When an application is considered by the planning and zoning board at a workshop or public hearing, additional information regarding the application may be requested.
 - a. The requested information shall be submitted by 12:00 noon at least ten working days, excluding holidays, prior to next scheduled planning and zoning board meeting.

- b. When the additional information requires the review by the Planning and Zoning Director or their designee, the information shall be submitted by 12:00 noon at least 12 working days, excluding holidays, prior to the next scheduled planning and zoning board meeting. At the meeting when the additional information is requested, the response period may be reduced to ten working days, excluding holidays, by the planning and zoning director.
- (3) **Public hearing.** The planning and zoning department staff shall schedule a public hearing or public meeting to consider the application. Public notice shall be provided as required in section 78-54.
- a) **Record of proceedings.** The planning and zoning board shall conduct a public hearing and shall prepare a record of the proceedings on each development order application. The record shall be filed in the planning and zoning department and shall be a public record.
 - b) **Transmission of recommendation to city council.** For each development order application, the planning and zoning board shall act as indicated below.
 - (1) **Recommendations.** Adopt a recommendation to approve, deny, or approve the development order application with conditions. The recommendation shall be transmitted to the city council.
 - (2) **Approval.** Approve, deny, or approve with conditions those development order applications subject to its jurisdiction.
 - c) **City council consideration.**
 - (1) **Workshop meeting or first reading.** After receipt of a recommendation from the planning and zoning board, the city council shall schedule first reading. At such meeting, the city council shall consider the comments and recommendations from the planning and zoning board, and the Planning and Zoning Department staff, as applicable. An application for development approval may be considered at one or more workshop meetings or regular meetings.
 - (2) **Request for additional information.** When an application has been considered by the city council at a workshop or public hearing, additional information regarding the application may be requested.
 - a. The requested information shall be submitted by 12:00 noon at least 15 working days, excluding holidays, prior to the next scheduled city council meeting.
 - b. When the additional information requires the review of The Planning and Zoning Director or their designee the information shall be submitted by 12:00 noon at least 15 working days, excluding holidays, prior to the next scheduled city council meeting. At the meeting when the additional information is requested, the response period may be reduced by the city manager.
- (3) **City council decisions.** Following the required public hearing or hearings, the city council shall approve, deny, or approve with conditions all applications for development order approval. For decisions adopted by ordinance, the decision shall be consistent with the requirements of F.S. Chapter 166. For any other action, the decision shall be adopted in resolution form, or such form as may be prescribed by the city council. The ordinances and resolutions adopted hereunder shall indicate the following:

- a. The city council decision;
- b. The reasons supporting the decision;
- c. A statement that the approval included reliance on all representations made by the applicant or applicant's agents at any workshop or public hearing;
- d. All conditions of approval included within the decision; and
- e. Specific reference to all documents, including but not limited to the name of preparer, title of the document, date of preparation, all studies, master plans, site plans, landscape plans, architectural elevations, and similar materials which are the basis of or are to be implemented as part of the development order approval.

(4) Reconsideration.

- a. **Rezoning.** Any parcel, or substantially the same parcel, that is the subject of a rezoning application, including a standard rezoning, rezoning to a planned development, or overlay rezoning, which has been denied by the city council shall not be eligible for reconsideration again by the planning and zoning board or the city council for a rezoning to the same classification for one year from the date such application was denied by the city council.
- b. **Other development orders.** Any parcel, or substantially the same parcel, that is the subject of an application for development order approval, including any form of conditional use, major or minor site plan review, or development order amendment, which has been denied by the city council or planning and zoning board, shall not be eligible for reconsideration by either body for six months from the date the application was denied.
- c) **Notice of public hearings.** After completion of planning and zoning board or city council workshop or workshops to consider an application, the planning and zoning department staff shall schedule the required public hearings to consider the application. Public notice shall be provided as required in section 78-54.
- d) **Public workshop meetings.** In order to provide an opportunity for public comments and to inform the neighboring residents of the nature of any proposed land use(s), development features, or site plans, a noticed public workshop may be required to be held before the planning and zoning board prior to the required public hearing for recommendation to city council. The workshop meetings shall be utilized by the planning and zoning board to provide non-binding comments to an applicant from residents and board members as a means to give the public additional opportunities for comment in the development review process. Public workshops shall be based upon the requirements provided herein.

(1) Applicants for any of the following development orders may be required at the discretion of the planning and zoning director to have a noticed public workshop before the planning and zoning board prior to a public hearing for recommendation to city council:

- a. Amendments to the future land use map.
- b. Rezoning.
- c. Major conditional uses.
- d. Major site plans.
- e. Substantial amendments to the foregoing, as determined by the planning and zoning director, that require action by the city council.

(2) The purpose of the public workshop shall be to solicit comments from and to inform the neighboring residents of the nature of any proposed land use(s), development features, or site plans. The planning and zoning director may promulgate administrative procedures pertaining to any additional requirements for the conduct of the meeting. The applicant shall adhere to the following requirements:

a. The public workshop meeting shall be conducted prior to an advertised public hearing for recommendation to city council by the planning and zoning board.

b. The applicant shall be required to send notice of the meeting to all residents within ~~500~~ 350 feet of the subject site via first-class mail at least 14 days prior to the meeting. The planning and zoning director shall have the discretion to extend the notice area. The applicant shall submit an affidavit to the city's planning and zoning department with a list of noticed property owners at least ten days prior to the meeting. The notice shall comply with the public notice requirements as outlined in subsection 78-54(b).

e) **Liens and fines.** A development order application of any type shall not be scheduled for consideration at a preliminary review, workshop, regular meeting, special meeting, or public hearing of the planning and zoning board or city council unless all liens or fines owed to the city and/or Seminole Improvement District for the subject property have been paid.

f) **Withdrawal of development order application.** A development order application shall be declared withdrawn in the event the applicant has not responded within 30 days to a request from the planning and zoning director or designee, the planning and zoning board, or the city council for additional information, plans, or other materials. The planning and zoning director may grant one additional 30-day period in which the applicant shall respond to the request for additional information or materials, but the applicant must request the extension prior to the expiration of the first 30-day period.

Sec. 2.4. - Concurrent processing.

(a) **Concurrent processing.** The city may accept or process applications for concurrent approvals of a development order with a comprehensive plan amendment (CPA), or an amendment to any of the foregoing.

(b) **Planning and Zoning Director considerations.** In determining whether to accept or process concurrent development applications, the Planning and Zoning Director may consider the following:

(1) **Comprehensive plan amendment (CPA).** If a CPA is proposed, whether the proposal will result in a land use which is incompatible with surrounding uses

(2) **PD application.** Whether an application for approval of a PD or amendment thereto, has received an objection from a neighboring jurisdiction that has been raised through the development review process. Notice IPARC

(3) **Level of service.** Whether an application for approval of a PD, or amendment thereto, complies with adopted level of services standards.

(4) **City benefit.** Whether concurrent processing will benefit the city and will not cause an undue burden or adverse impact to the city.

(c) **Cessation of processing.** If at any time during the concurrent processing, an applicant fails to satisfy any of the criteria of this section, such as the filing of an objection with the city, then concurrent processing shall immediately cease. The applicant is responsible at all times to comply with the requirements and criteria for concurrent processing and bears all risks for failure of an application to proceed in a timely fashion.

Sec. 2.5. -Pre-application conference.

Before submitting an application for development order approval, an applicant may meet with the planning and zoning department to discuss the application, the procedure for review, and the applicable goals, policies, and objectives of the city's comprehensive plan and the requirements of this chapter. The planning and zoning director may require a pre-application conference.

Sec. 2.6. - Application procedures.

- (a) **Applications.** All applications for development order approval shall be submitted to the planning and zoning department. All applications shall be filed on forms provided for that purpose by the planning and zoning department. All applications shall be accompanied by such supporting documentation as required by these land development regulations or by the planning and zoning department.
- (b) **Sufficiency review.** Within seven (7) business days, excluding holidays, after receipt of an application, the planning and zoning department shall determine whether the application is complete or incomplete.
 - (1) Complete application. A complete application includes the following:
 - a. All information required to accompany the application;
 - b. All information required is complete, prepared in accordance with professionally acceptable standards, and is consistent with the development order application;
 - c. All fees required by the city and Seminole Improvement District; and
 - d. The required number of copies.

The planning and zoning director shall notify an applicant in writing if the application is determined to be complete.

(2) **Incomplete application.** If the application is not complete, it shall not be subject to further review until all identified deficiencies have been remedied. The applicant shall be notified in writing that the application is incomplete, and the specific deficiencies that have been identified. Within 30 days of the date of the notification, the applicant shall submit all information necessary to remedy the deficiencies. The director may waive the 30-day requirement if reasonable progress is being made to remedy the application. An application shall not be subject to further review until all deficiencies are remedied. Failure of an applicant to respond within the 30 days to a notice of deficiency shall void the application.

Sec. 2.4. - Conceptual Presentation

- a) **Conceptual Presentation of large-scale developments.** In order to provide preliminary comments regarding potential applications for large scale development prior to the formal development review process, the city council may consider such projects at one or more workshop meetings. The workshop meetings shall be utilized by the city council to provide nonbinding comments to an applicant as a means to reduce the amount of resources expended in preparation of plans and formal applications for the city's development review process. Conceptual Presentation review meetings are to be scheduled at the request of

the applicant and shall be at the risk of the applicant. Requests for preliminary review shall be based upon the requirements provided herein.

- (1) **Minimum threshold.** The potential application must be of a size that is at or above 80 percent of the numerical thresholds for a development of regional impact, as specified in F.S. ch. 380. A potential application must be presented in a conceptual or preliminary design phase.
- (2) **Request for review.** A request for review of the conceptual presentation shall comply with the standards listed below.
 - a. The request for review of a conceptual presentation shall be submitted to the planning and zoning department in writing.
 - b. The request for review of a conceptual presentation shall be accompanied by such fees as approved by the city council.
 - c. A request for review of a conceptual presentation shall include a pre-application conference, prior to any city council workshop.
- (3) **Staff analysis.** Staff analysis of a request for preliminary review shall be limited to a summary of the application. The analysis shall not include any determination of consistency with the comprehensive plan, land development regulations, or level of service requirements. The preliminary report shall not include any proposed recommendations or conditions of approval.
- (4) **Workshop meetings.** One or more workshop meetings to conduct a preliminary review shall be scheduled with approval of the city council.

Sec. 2.12. - Conditional uses.

(a) Conditional use general:

- 1) **Conditional use defined,** A conditional use is a use that would not be appropriate generally or without restriction throughout a particular zoning district, but may, if controlled as to number, area, location and relation to the neighborhood and based upon the design and character of a particular development proposal, be appropriate.
- 2) **Time limits,** Any conditional use granted by the city council shall expire 12 months after the date of approval of such conditional use unless a building permit based upon and incorporating the conditional use is issued within the 12-month period, or, if a building permit is not required, the expiration date shall be 12 months from the date of approval if by that date the use for which the conditional use was granted has not been commenced. An approved conditional use which ceases operation for a period of 12 months shall expire. In either event, the petitioner may appeal to the city council for an extension of time.
- 3) **Conformance with approved plans,** A conditional use, as approved by the city council, may be expanded unless specifically conditioned otherwise, and permitted uses may be added to the property, as long as all expansions meet the requirements of the Land Development Code and do not expand the parcel of property as described in the resolution approved by the city council for the conditional use. In addition, the city manager must determine, after a review of the guidelines and standards listed in subsection (d) of this section, that no changes are being made to the site plan which would adversely affect the project or surrounding neighborhood. For uses which are not dependent upon the issuance of a

building permit, a conditional use is valid for the petitioner only. An approved conditional use may be revoked at any time by city council under the guidelines of subsection (e) of this section, upon making a finding that the operation of the conditional use has resulted in the violation of city ordinance or in the violation of the conditions of approval of the conditional use.

(b) **Applicability.**

All initial requests for conditional uses as listed in this chapter, along with their related accessory uses shall be subject to the requirements of this division. In addition, any modification to the use of a previously granted conditional use, except for a modification that changes said use to a permitted use as listed in this chapter, shall be subject to the requirements of this division. Requests to expand, enlarge or revise the site of an existing special exception use shall be classified and processed pursuant to the following three categories;

- (1) Small scale, interior - interior expansion, enlargement or revision of less than ten percent (10%) of the originally approved special exception site square footage and having construction costs of less than \$50,000.00, once within any eighteen month period (this category contemplates uses located in existing shopping centers or similar structures, where no change to the overall building footprint is required).
 - a. Applicant shall submit the processing fee in an amount established by resolution of the city council and on file in the city clerk's office.
 - b. Review and approval is provided by the community development director, following which, the applicant may apply for building permits.
- (2) Small scale, exterior - exterior expansion, enlargement or revision of less than ten percent (10 %) of the originally approved special exception site square footage and having construction costs of less than \$50,000.00 once within any eighteen month period (this category contemplates a change to the existing structure's footprint, and other site related revisions that flow therefrom).
 - a. Applicant shall submit the processing fee in an amount established by resolution of the city council and on file in the city clerk's office.
 - b. Review and approval regarding the continuing special exception use is provided by the community development director, following which, the applicant shall submit an application for site plan modification.

When reviewing small scale expansion, enlargement or revision, the Planning and Zoning director shall make a determination that such expansion, enlargement or revision does not result in a violation of the requirements of section----, or a violation of any previously imposed condition of approval.

- (3) Large scale - any expansion, enlargement or revision to the site of an existing special exception use that does not qualify as either small scale interior or small scale exterior. Such expansion, enlargement or revision is subject to the requirements of this division.
 - (a) **Standard for approval.** A development order application for conditional use approval shall demonstrate compliance with the criteria listed below.
 - (1) **Comprehensive plan.** The proposed use is consistent with the comprehensive plan.

- (2) Chapter requirements. The proposed use is consistent with all applicable requirements of this chapter.
- (3) Standards. The proposed use is consistent with the standards for such use as provided in section 3.----
- (4) Public welfare. The proposed use provides for the public health, safety, and welfare by:
 - a. Providing for a safe and effective means of pedestrian access;
 - b. Providing for a safe and effective means of vehicular ingress and egress;
 - c. Providing for an adequate roadway system adjacent to and in front of the site;
 - d. Providing for safe and efficient onsite traffic circulation, parking, and overall control; and
 - e. Providing adequate access for public safety purposes, including fire and police protection.
- (5) Screening and buffering. The proposed use utilizes such techniques as landscaping, screening, buffering, site or building design, or business operation procedures to mitigate impacts on surrounding properties, including such impacts as:
 - a. Noise; Glare; Odor; Ground-, wall-, or roof-mounted mechanical equipment; Perimeter, interior, and security lighting;
 - f. Signs;
 - g. Waste disposal and recycling;
 - h. Outdoor storage of merchandise and vehicles;
 - i. Visual impact; and
 - j. Hours of operation.
- (6) **Utilities.** The proposed use minimizes or eliminates the impact of utility installation, including underground and overhead utilities, on adjacent properties.
- (7) **Dimensional standards.** The proposed use meets or exceeds all dimensional requirements required by the chapter.
- (8) **Neighborhood plans.** The proposed use is consistent with the goals, objectives, policies, and standards of neighborhood plans.
- (9) **Compatibility.** The overall compatibility of the proposed development with adjacent and area uses, and character of area development.
- (10) **Patterns of development.** The proposed use will result in logical, timely, and orderly development patterns.
- (11) **Purpose and intent.** The proposed use will be in harmony with the general purpose and intent of this chapter and the goals, objectives, and policies of the city.
- (12) **Adverse impact.** The design of the proposed use and structures will minimize any adverse visual impacts or impacts caused by the intensity of the use.

(13) **Environmental impact.** The design of the proposed use minimizes any adverse impacts that may be created, including impacts on environmental and natural resources including air, water, stormwater management, wildlife, vegetation, and wetlands.

(1) **Public notice.**

- f. The applicant shall obtain from the Palm Beach County Property Appraiser's Office a certified property owners' list of all property owners within 500 feet of the site affected by the minor conditional use. The applicant shall be responsible for composing and mailing or hand-delivering at least 15 days before the scheduled development review committee meeting the required public notices to the property owners affected by the minor conditional use. The applicant shall submit an affidavit to the planning and zoning director stating such notices were sent to all property owners within the designated area.
 - g. The city clerk shall post a notice in a public place at the city hall complex at least 15 days before a scheduled development review committee giving the date and time of the meeting and the items to be considered.
- (2) **Appeal procedure.** Appeals from a decision by the development review committee shall be made through the planning and zoning department to the planning and zoning board within 30 calendar days of issuance of the written order. Appeals shall be scheduled for the next available agenda of the planning and zoning board within 30 days from date of receipt of the appeal. Appeals from a final decision of the board shall be made within 30 calendar days of such decision and shall be filed with the Circuit Court of the Fifteenth Judicial Circuit.
- (3) **Reconsideration.** Any minor conditional use which has been denied by the development review committee shall not be eligible for reconsideration for six months from the date the application was denied, unless there has been material change to the application as determined by the planning and zoning director.

b. Application; notice of hearing.

- (a) A written petition for conditional use shall be submitted indicating the section of this chapter under which the special exception is sought and stating the grounds on which it is requested, with particular reference to the criteria under section 78-363, the written findings under section 78-364, and other specific conditions, if applicable, which the city council shall address. The petition shall include all material necessary to meet the requirements of the development concept plan listed in subsection (b) of this section and any additional information that will demonstrate that the grant of special exception will be in harmony with general intent and purpose of this chapter.
- (b) A petitioner seeking conditional use approval shall submit a development concept plan on one or more sheets of paper measuring not more than 24 by 36 inches and drawn to a scale not smaller than 100 feet to the inch. The following shall be provided on the development concept plan:
 - (1) Scale, date, north arrow, vicinity sketch, title of the project and total gross acreage.
 - (2) The boundaries and dimensions of the property and its relationship to the surrounding road system, including the width of the existing travelway (pavement).
 - (3) The location and dimension of existing manmade features such as existing roads and structures, with indication as to which are to be removed, renovated or altered.
 - (4) Identification of surrounding land use, zoning and existing buildings within 100 feet of the petitioned site, as well as the zoning of the petitioned site.

- (5) A layout of the proposed lots and/or building sites including the following site data:
 - a. Finished floor elevation.
 - b. Common open area.
 - c. Generalized landscaping and buffer areas.
 - d. Internal circulation patterns including off-street parking and loading facilities.
 - e. Total project density.
 - f. The shape, size, location and height of all structures.
 - (6) The proposed phasing of construction for the project if applicable.
 - (7) For commercial uses, office uses and uses other than residential, the estimated square footage of the structure, the number of employees, the estimated seating, and the estimated number of users of the facility, such as members, students and patients.
 - (8) Proposed hours of operation for commercial uses.
 - (9) aerial maps at a minimum scale of one-inch equals 300 feet, showing the site in question with paved boundaries superimposed.
 - (10) A legal description of the land proposed for development.
 - (11) Current survey of the subject property.
- (c) The application shall be reviewed by the land development staff within 30 days of the submission deadline. Upon land development staff review and analysis of all submitted materials, the building official shall forward a recommendation to the city council.
- (b) *Enforcement.* In addition to the provisions of Chapter _____ of the City Code, conditional uses are subject to the enforcement procedures listed below.
- (1) Revocation. The city council shall have the power to revoke major conditional uses for noncompliance with conditions of development approval. The planning and zoning director shall have the power to revoke minor conditional uses for noncompliance with conditions of approval.
 - (2) Removal.
 - (3) Inspections. The planning and zoning department shall review and inspect all conditional uses to ensure compliance with conditions of approval.
 - a. All minor conditional uses which fail to comply with any or all conditions of approval shall be reported to the planning and zoning director. The report shall specify the manner in which the landowner is not complying with one or more conditions of approval. The planning and zoning director may:
 - 1. Request timely compliance with the conditions of approval;
 - 2. Direct initiation of code enforcement proceedings pursuant to Chapter 9, Code Compliance; or
 - 3. Initiate the legal action and procedures necessary to revoke the minor conditional use.

- b. All major conditional uses which fail to comply with any or all conditions of approval shall be reported in writing to the city council. The report shall specify the manner in which the landowner is not complying with one or more conditions of approval. The city council, upon receipt of the written report, may:
 - 1. Request timely compliance with the conditions of approval;
 - 2. Direct initiation of code enforcement proceedings pursuant to Chapter 9, Code Compliance; or
 - 3. Initiate procedures to revoke the major conditional use. If the city council initiates procedures to revoke the major conditional use, a hearing on the report shall be scheduled within a reasonable time, and notice of the time and place of the hearing shall be furnished to the landowner. If the city council finds that the facts alleged in the report are true, and that the landowner has not taken the steps necessary to fully comply with the conditions between the date of the report and the date of the hearing, the city council may authorize the city manager to revoke the major conditional use. The city council also may authorize the city manager and take the necessary legal action to terminate the major conditional use and all uses authorized by that approval.
- (c) **Prior conditional uses.** Any land use which was legally established prior to (date of adoption of this ordinance), and thereafter is classified by this chapter as a major or minor conditional use, will be considered a legal nonconforming use.
- (d) **Amendments to prior conditional uses.** Conditional use amendment applications shall be reviewed in the same manner as required by this section and as determined by the major or minor conditional use categories identified in section _____, chart of uses.

Sec. 2.6. - Site plan review.

- (a) **Site plan review.** The development order application for a site plan review shall be subject to the development review process as provided herein and as indicated in Table 2-1.
- (b) **Categories of site plan review.** The following categories of site plan review are established:
 - (1) Exempt;
 - (2) Major;
 - (3) Minor; and
 - (4) Administrative.
- (c) **Exempt site plans.** The following development order applications are exempt from any site plan review, unless such applications are considered a major, minor, or administrative site plan review pursuant to this section:
 - (1) Building permits for single-family;
 - (2) Repairs or renovations to residential or nonresidential structures when the improvements shall be made to the interior of the structure or when the facade, roofline, or exterior dimensions of the structure shall not be changed; and
 - (3) Construction or installation of ground level improvements to any structure which do not change the exterior dimension, such as concrete pads, or permanent flower or planter boxes.

- (d) **Major site plans.** The following development order applications are considered a major site plan review if the application exceeds one or more of the criteria listed below:
- (1) The proposed development involves land and water area which exceeds three acres;
 - (2) The proposed development is a residential project of more than 12 dwelling units;
 - (3) The proposed development involves more than 7,000 square feet of nonresidential floor space; and
 - (4) Any application the planning and zoning director designates as a major site plan because the proposed development is part of a larger parcel for which additional development is anticipated that, when aggregated with the project in question, exceeds the limits established herein.
- (e) **Minor site plans.** The following development order applications are considered a minor site plan:
- (1) Applications which do not exceed the criteria or threshold of a major site plan; or
 - (2) The development of parcels within an approved Planned Development (PD) Master Plan that do not exceed the thresholds established herein for a major site plan review.
- (f) **Administrative site plan changes.** Administrative changes to site plans may be approved by the planning and zoning director or designee as provided herein. Administrative changes shall include those changes not classified as a major site plan or as a major amendment to an approved development order, or as a minor site plan.
- (g) **Application requirements.** All applications for development order approval for a site plan review, shall include the application requirements as described herein.
- (1) Application. Complete signed application forms as provided by the planning and zoning department including description of the request, justification statement, site plan, and required application fees.
 - (2) Aerial photograph. An aerial photograph of the appropriate section, township and range of the city, outlining the subject property and delineating all contiguous zoning districts.
 - (3) Architectural elevations of buildings and material details.
 - a. Standard elevations. Illustrations of major architectural elevations of buildings or structures for style of architecture, height in stories, type of building materials, exterior colors, unusual features, entries, windows, roof line, other elements. For a phased development, this information need not be provided for structures or improvements proposed for future development.
 - b. Color renderings. Three-dimensional color renderings of building elevations, at a scale consistent with the architectural elevations required herein, illustrating building elevations at ground level.
 - (4) Area location map. Vicinity map of the area within one mile surrounding the site, including the following:
 - a. Principal roadway network, including mass transit routes;
 - b. Major public facilities such as public schools, city and county parks and recreation areas, hospitals, public buildings, utilities, shopping areas, etc.;
 - c. Municipal boundary lines; and

- d. Important physical features in and adjoining the site.
- (5) Authority. A statement of the applicant's interest in the property and:
- a. If joint and several ownership, a written consent to petition by all owners of record, or written authorization by the master association;
 - b. If a contract purchase, written consent of the seller or owner;
 - c. If an authorized agent, a copy of the agent's authorized agreement or written consent of the owner;
 - d. If a lessee, a copy of the lease agreement and written consent of the owner;
 - e. If a corporation, partnership, or other business entity, the name of the officer or person responsible for the application and written proof that the representative has authority to represent the corporation, partnership, or business entity or, in lieu thereof, written proof that such person is in fact an officer of the corporation; or
 - f. If a group of contiguous property owners are requesting an individual amendment only affecting their specific lots and not impacting property owned by the master association, all the owners of the property described in the petition must provide written consent.
 - g. Unity of Title, warranty deed or purchase contract of the subject site.
- (6) **Certified boundary survey.** A certified boundary survey by a surveyor licensed by the State of Florida. The survey shall have been completed within one year of the date the application is submitted. The survey shall be prepared at a scale of not less than one-inch equals 200 feet containing the following:
- a. A legal description of the property; and
 - b. A computation of the total acreage of the parcel to the nearest tenth of an acre.
 - c. Depict existing streets and roadway improvements, existing structures within 100 feet of project boundary, existing utilities, and existing trees identified by caliper and species.
- (7) **Level of service.** Written confirmation from the applicable service providers of the availability of all necessary facilities and systems, as indicated below, for stormwater management, potable water, sanitary sewer, solid waste disposal, fire protection, recreational and park areas, and road capacity. If written confirmation of service availability is provided on a regular basis by a service provider, the applicant is not responsible for securing written confirmation. This paragraph shall not apply to applications for development approval for developments of regional impact.
- a. **Utility statement.** A statement from the Seminole Improvement District, or other lawful service provider, that the proposed development will be able to connect to the system and that there is sufficient capacity available to meet adopted levels of service for potable water and sanitary sewer.
 - b. **Drainage statement.** A drainage statement by the applicant's engineer that the site drainage system will be designed to meet the stormwater management requirements of the South Florida Water Management District and the city's land development regulations. The statement also will demonstrate the provision of legal

positive outfall meeting the adopted level of service. Additional supporting calculations for larger projects may also be required by the planning and zoning director or designee.

- c. **Park services statement.** A statement, when applicable, from the city's director of parks and recreation, that the proposed project will not exceed the levels of service for public parks.
- d. **Fire protection.** A statement from the county's fire department that the proposed project will not exceed the levels of service for fire protection.
- e. **Solid waste.** A statement from the Solid Waste Authority of Palm Beach County that the proposed project will not exceed the adopted levels of service standards for solid waste disposal. This requirement may be waived if the Solid Waste Authority provides the city with an annual statement that solid waste capacity is available.
- f. **Traffic statement.** All traffic statements shall be filed with the city, traffic standards shall be submitted to the county when appropriate.
 - i. **More than 1,000 trips.** A statement from the county engineering department that the project, if generating 1,000 or more average daily trips, conforms to the 1990 Countywide Traffic Performance Standards, as amended, and that the project-generated trips are reserved. A statement from the city engineer that the proposed project complies with the city's level of service standards.
 - ii. **Less than 1,000 trips.** A statement from the city engineer that the proposed project, if generating less than 1,000 average daily trips, conforms to the traffic performance standards adopted by both the county and the city, and that the project-generated trips are reserved.

- (8) **Utility plans.** Potable water and sanitary sewage plans or statements. If the city determines that the plans require independent review, the applicant shall pay for such review by an independent engineer (SID Review).

Plans for the extraction of fill and mineral resources and alterations or modifications to the slope, elevation, drainage pattern, natural vegetation and accessibility of the development. (SID Review).

- (9) **Environmentally sensitive lands.** Environmental assessment, when applicable, addressing the requirements of all applicable environmental ordinances, criteria, and standards, including division 4 of article V.

- (10) **Filing fees.** The applicant shall pay the official filing fees, as required by the city, at the time of application filing.

- (11) **Landscape plan.** A landscape plan which includes the location of landscape buffers or screening walls along external collector and arterial roads, with landscape plans for entrance features, buffers, common areas, parking and vehicular use areas, and all other areas in compliance with division 7 of article V.

Lighting and utility plans shall be submitted concurrently for review of conflicts and inconsistencies with the proposed landscape and hardscape plans.

- (12) **Engineering plans.** Paving and drainage plans and site utilization calculations. Preliminary storm drainage and sanitary sewage plans or statements. If the city determines that the drainage and/or sewage plans require independent review, the applicant shall pay for such review by an independent engineer (SID Review). Utilities shall not be in conflict with landscaping or lighting.
- (13) **School impact.** A statement, when applicable, from the school district specifying the anticipated impact on public schools and the need for public school sites in the general area of the proposed development.
- (14) **Signs.** Architectural elevations of all signs on the site indicating the location, size, landscaping, design lettering, types of materials, colors, and other features.
- (15) **Site Plan.** A site plan containing the title of the project and names of the architect, engineer, project planner and/or developer, date, and north arrow, and based on an exact survey of the property drawn to a scale of sufficient size to show:
- a. Boundaries of the project, any existing streets, buildings, watercourses, easements, section lines, and water, sewer and reuse water facilities, and other existing important physical features on the site and on property adjacent to the site.
 - b. Tabular project data.
 - c. site data and setbacks.
 - d. Plans and location for recreation facilities, if any, including buildings and structures for such use.
 - e. All mechanical equipment and dumpster locations, screens and buffers.
 - f. Refuse collection and service areas.
 - g. Access to utilities and points of utilities hookups and location of all fire hydrants close enough for fire protection.
 - h. Proposed Plans for signage including size, location and orientation.
 - i. Project information on beds, employees, seating, etc., as necessary depending upon the type of development.
 - j. Exterior lighting of all buildings, parking areas and the overall site, addressing glare, traffic safety, economic effect and compatibility and harmony with adjacent properties.
 - k. Proposed topographic considerations including natural vegetation, berms, retaining walls, privacy walls, and fences
 - l. Required floodplain management data including Flood zone designation and Base flood elevation.
- (16) **Statements.** Statements of comprehensive plan consistency, planning assumptions, and use, as indicated below.
- a. A statement of the basis of the application for development order approval for the property, including the intended use.
 - b. A narrative describing how the intended plan of development complies with the City of Westlake comprehensive plan.

- c. A statement by the applicant of the major planning assumptions and objectives of the development project, including but not limited to:
 - 1. Projected population, if applicable;
 - 2. Proposed ownership and form of organization to maintain common open space facilities; and
 - 3. Proposed density and land use for each parcel within the project, if applicable.
- d. A statement of the impact the development order application, if approved, will have on the city's public safety services, including police, fire, and emergency medical services.

(17) **Warranty deed.** A warranty deed with an affidavit from the applicant that the deed represents the current ownership.

(18) **Other documentation.** Other documentation or professional studies necessary to permit satisfactory review of a development order application consistent with the following: the policies of the city's comprehensive plan and the requirements of this chapter. The determination of the need for such other documentation shall be made by the planning and zoning director. [Consistency with other applications ??]

(f) **Master plans.** In addition to the application requirements listed above, the master development or site plans listed below shall be provided.

(1) **Plans required.** The following plans shall be provided:

- a. master plan for projects ten (10) acres or greater; and
- b. site plan for projects ten (10) acres or less.

(2) **Plan requirements.** Requirements for master development or site plans are listed below

- a. **Topographic.** A topographic survey, certified by a surveyor licensed in the State of Florida, showing existing contours at one-foot intervals based on field surveys or photogrammetric surveys, and extending a minimum 100 feet beyond the perimeter of the property.
- b. **Environmental.** Identification of conservation and environmentally significant areas. Proof of compliance with all applicable environmental standards
- c. **Phasing.**
 - 1. Proposed number of project phases, including total acreage in each phase, and gross nonresidential intensity (square feet) and gross residential density of each phase.
 - 2. Preliminary schedule of development, including the staging and phasing of areas and improvements as indicated below: areas to be developed in chronological order of scheduling; the construction of streets, utilities, and other improvements necessary to serve the proposed development; the dedication of land to public use; and the installation of active and passive recreation facilities.

- d. Residential. All plans shall provide the following: number, height and number of stories, and type of residential units, whether single-family, zero lot line, townhouses, apartments, etc. Nonresidential uses complementary to residential areas, such as places of worship, schools, and day care facilities, shall be identified for possible inclusion in the overall development order.
- e. Nonresidential. All plans shall provide the following: gross floor area, building height and number of stories, and types of office, commercial, industrial and other proposed nonresidential uses. All plans or applications shall indicate nonresidential uses proposed for inclusion within the overall development order.
- f. Land area and open space. Total land area, and approximate location and amount of open space or lake maintenance easements included in each residential, nonresidential, or mixed-use area, and a summary of the form of organization proposed to own and maintain such areas.
- g. Circulation. All plans shall provide the information listed below.
 - 1. Approximate location of proposed and existing streets, pedestrian, and bicycle routes.
 - 2. Locations, centerlines and ultimate widths of rights-of-way for existing roads, streets, intersections, and canals within the proposed project.
 - 3. Locations, centerlines and ultimate widths of rights-of-way for proposed roads, streets, intersections, and canals proposed to be located within the proposed project.
 - 4. All locations and ultimate widths of existing and proposed rights-of-way or easements providing vehicular access to and from the site.
 - 5. A written statement specifying how proposed rights-of-way are to be conveyed or dedicated to the city, county, or state.
- h. Public uses. All plans shall provide the information listed below.
 - 1. The approximate location and acreage of any proposed public uses such as parks, school sites, fire stations, and similar public or semipublic uses.
 - 2. A written statement specifying how land for public purposes is to be conveyed to the proper public agency.
- i. Easements. All plans shall provide the information listed below.
 - 1. Location and width of proposed and existing utility, drainage, access, and similar easements, provided, however, that master site plans are not required to provide information regarding proposed easements.
 - 2. Location of existing utility lines and utility facilities adjacent to and traversing the subject site.
 - 3. A written statement specifying how proposed easements are to be conveyed.
 - 4. Location, if known, of proposed landscape buffers, open space, and preserve areas.

- j. Existing structures. All plans shall provide the following: the location of all existing structures on the site, as well as those structures located within 100 feet of the perimeter of the site.
- k. Signs. All plans shall provide the following: proposed signage locations, sign types, sign dimensions, and typical details, including landscaping. For PCD master plans, this requirement may be waived by the planning and zoning director.
- l. Lighting. Lighting plan of all exterior lighting, including ground and building mounted fixtures, location, height, type, foot-candle, cut sheets, photometrics, and such other information as may be required by the city engineer. For PCD master plans, this requirement may be waived by the planning and zoning director.
- m. Project data. Project data including the following:
- n. Master site plan for entire development including buildings and open spaces;
 - 1. Master site plan for entire development including buildings and open spaces;
 - 2. All information required for a site plan, see Section.....
 - 3. building setbacks or separations; and
- r. Unified control.
 - (1) Evidence of unified control of the entire area within the proposed development shall be required. or
 - (2) If the development is part of an approved development of regional impact (DRI), the unified control shall not be required for any modifications to the approved DRI including any modification that adds property to the development as long as the additional property is contained within the DRI, if sufficient guarantees for adequate operation and maintenance of common facilities in the modification area are provided to the satisfaction of the planning and zoning director.
- s. Owners' agreement.
 - (1) An agreement signed by all owners or written authorization from the master association which includes their commitment to comply with the requirements listed below.
 - (a) Proceed with the proposed development in accordance with the requirements of this chapter and with all conditions of approval adopted by the city council.
 - (b) Proceed with completion of the development consistent with the plans approved by the city council.
 - (c) Perpetual operating and maintenance of those areas, functions, and facilities that are not to be provided, operated, or maintained by the city pursuant to the development order approval or other written agreement.
 - (d) Bind their successors in title to comply with all requirements of the development order approval, all requirements of this chapter, all provisions of the owner's agreement, or all provisions of other written

agreements or commitments made as part of the overall development order approval. or

- (a) Overlay district rezoning. The development order application for a rezoning to an overlay district shall be subject to the development review process as provided in this chapter and as indicated in Table 2.1
- (b) **Application requirements.** All applications for development order approval for a rezoning shall include the application requirements as described herein.

Sec. 2.10. - Miscellaneous review.

- (a) **Nature of review.** When a development order application is not consistent with any of the development review processes provided herein, the planning and zoning director shall determine the specific nature of review.
- (b) **Signs.** Sign plans may be submitted separately from site plan applications. If submitted separately, a sign plan shall be subject to review by the planning and zoning board prior to consideration by the city council.

Sec. 2.11. - Land development regulation text amendments.

- (e) **Applications.** Applications for an amendment to the text of the city's land development regulations shall be prepared in detailed narrative form, and shall include the information listed below.
 - (1) Amendment requested. The specific text amendment that is requested, including language to be added and language to be deleted.
 - (2) Reason for request. The reasons for requesting the amendment.
 - (3) Supporting information. Any material or supporting documentation in support of the request for a text amendment.

Sec. 2.12. - Amendments to approved development orders.

- (a) **Amendments to approved development orders.** Criteria for amendments to approved development orders, including site plans, master plans, architectural elevations, conditions of approval, developer's agreements, project phasing, etc., are established by this section. For the purpose of this section, two types of amendments are created:
 - (1) Major amendments; and
 - (2) Minor amendments.
- (b) **Major amendments.** Development order applications for major amendments are reviewed in the same manner as the original application. Major amendments to approved development plans include the changes listed below.
 - (1) **Increase of intensity.** Any change in nonresidential intensity which, in combination with prior minor amendments, cumulatively exceeds the limitations or standards listed below.

- a. Relocation or new square footage. Any proposed relocation or new square footage of the approved number of gross square footage which is equal to or greater than five (5) percent of the approved gross square feet of all nonresidential structures.
 - b. Decrease in required parking. Unless otherwise provided in this chapter, any proposed decrease of the existing number of parking spaces which is the greater of five percent of the existing parking spaces or 20 parking spaces. Decreases in required parking otherwise requiring action by the planning and zoning board or the city council shall not be considered a major amendment for the purpose of this section.
 - c. Increase in the number of structures. Any proposed increase in the number of principal or accessory structures that changes the overall intent of the original approval.
 - d. Any proposed reduction of heavily utilized parking spaces as determined by the planning and zoning director.
- (2) **Increase in density.** Any increase in the approved number of residential units.
- (3) Increase in building height above the height permitted in the applicable zoning district.
- (4) **Utility facilities.** Any addition or relocation of outdoor utility facilities, including, but not limited to, the following: chillers, air-conditioning units, above-ground fuel tanks including propane or natural gas, electrical equipment such as junction boxes, and ground-mounted service boxes for public utilities such as telephones and cable television, which are deemed to be substantial by the planning and zoning director. This shall not apply to single-family lots or duplex lots.
- (5) **Boundary changes.** Any proposed boundary change of the approved development plan.
- (6) **Traffic impact.** Any increase in overall traffic impact, except as may be provided in this chapter.
- (7) **Character and appearance.** Any amendment which would negatively impact the character or the appearance of an approved development.
- (8) **Amenities.** Any amendment which would materially decrease the number or size of amenities in all or a portion of any residential or nonresidential development.
- (9) **Residential unit types.** Any change in the approved mix of residential dwelling unit types that would require alterations of an approved plat.
- (10) **Architectural style.** Any change in the approved architectural style of residential dwelling unit types or nonresidential structures which results in:
- a. An architectural style that is out of character with the approved or existing architecture (e.g., change from Mediterranean style to neo-classical).
 - b. New residential models that are substantially different from approved models.

- (11) **Building materials.** Any significant changes in exterior building materials that result in a downgrade as determined by the planning and zoning director.
 - (12) **Changes to phasing or conditions.** Any changes to an approved development phasing plan or any condition of development approval.
 - (13) **Changes to developer's agreements.** Any changes to an approved developer's agreement.
 - (14) **Other changes.** Any change to an approved plan or any change to an approved plan when considered cumulatively with prior minor amendments which, as determined by the planning and zoning director, deviates materially from the approval granted by the planning and zoning board or city council.
- (c) **Minor amendments.** Minor amendments are changes to approved development orders that are not considered major amendments as previously defined. Minor amendments may be approved by the planning and zoning director in consultation with other city staff and the development review committee. For the purpose of this section, site improvements such as the following are not considered a major amendment:
- (1) Removal of parking spaces to preserve existing trees; creation of required utility easements;
 - (2) Relocation of parking due to loss of site area to accommodate widening of public rights-of way; and
 - (3) The installation of landscaping, screening, or buffering associated with city-approved improvements to a nonconforming lot or structure
 - (4) Minor architectural modifications shall be limited to building color, roofing materials/color, and other minor architectural features, such as window and door treatments or architectural trim or decorations, so long as such modifications do not alter or deviate from the overall architectural style of the development, as determined by the planning and zoning director, or designee. Minor modifications shall specifically exclude patio enclosures, conversion of screen enclosures into enclosed rooms, garage conversions, building additions, or any encroachment into established setbacks.

Sec. 2.13. - Variance requests.

- (a) Development order applications. Applications for a development order approval for a variance shall be submitted and reviewed as provided in division 1 of article III.
- (b) Public hearing. The planning and zoning board shall conduct a public hearing to review the application. As a basis for approval, the board must determine the application is consistent with the criteria listed below.
 - (1) Special conditions. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district.

- (2) Hardship. The special conditions and circumstances truly represent a hardship and are not created by any actions of the applicant.
 - (3) Literal interpretation. Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter and would work unnecessary and undue hardship on the applicant.
 - (4) Special privileges. The grant of a variance will not confer upon the applicant any special privilege denied to any other owner of land, buildings, or structures located in the same zoning district.
 - (5) Minimum variance. The variance granted is the minimum variance that will make possible the use of the land, building, or structure.
 - (6) Purpose and intent. The grant of the variance will be in harmony with the general intent and purpose of this chapter and land development regulations.
 - (7) Financial hardship. Financial hardship is not to be considered as sufficient evidence of a hardship in granting a variance.
 - (8) Public welfare. The grant of the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.
- (c) Approvals. In granting any variance, the planning and zoning board may approve such conditions and safeguards deemed necessary to conform to the intent and purpose of this chapter. Violations of such conditions shall be deemed a violation of this chapter. The board may also prescribe a reasonable time limit to initiate the action granted by the variance and to complete such action.
- (d) Use variances prohibited. The planning and zoning board, unless specifically authorized by this chapter, shall not grant a variance to establish a use not allowed as a permitted use or conditional use in any overlay or zoning district, or a use not allowed within a planned district. Evidence nonconforming uses of neighboring lands, structures, or buildings in the same zoning district or the permitted use of lands, structures, or buildings in other zoning districts shall not be considered grounds for the authorization of a variance.
- (e) Variance from development standards prohibited. The planning and zoning board, unless specifically authorized by this chapter, shall not grant a variance from the additional development standards of section 78-159, affecting permitting, conditional, or prohibited uses.

Sec. 2-14. – Public Notice

- (a) **Public Notice.** Public notice, including mail notice, posting of property, and newspaper advertising, shall be provided as required below and consistent with the city charter. In the event of a conflict between Table 4 and the text, the requirements of the text shall prevail.

Table 4: Required Public Notice

Planning and Zoning Board				City Council		
Action	Mail (1)	Newspaper (1)	Post (1)	Mail (1)	Newspaper (1)	Post (1)
Rezoning: City initiated less	10 Days	10 Days	15 Days	14 Days (2)	14 Days Prior to Ordinance	15 Days

than 10 acres					Adoption.	
Rezoning: City initiated greater than 10 acres	10 Days	10 Days	15 Days	14 Days (2)	14 Days Prior to Ordinance Adoption & as Required by State Law.	15 Days
PD Amendment	None	10 Days	15 Days	14 Days	14 days Prior to Adoption of Resolution.	15 Days
Major Site Plan	10 Days	10 Days	15 Days	14 Days	14 days Prior to Adoption of Resolution.	15 Days
Minor Site Plan	None	10 Days	15 Days	None	None	None
Major Site Plan Amendment	None	10 Days	15 Days	14 Days	14 days Prior to Adoption of Resolution.	15 Days
Minor Site Plan Amendment	None	None	15 Days	None	None	None
Rezoning: Not City initiated	10 Days	10 Days	15 Days	14 Days	14 Days Prior to Ordinance Adoption	15 Days
LDR Text Change: Permitted, Conditional, or Prohibited Uses	None	10 Days	None	None	14 Days Prior to Ordinance Adoption	None
LDR Text Change: Not Permitted, Conditional, or Prohibited Uses	None	10 Days	None	None	14 Days Prior to Ordinance Adoption	None
Major Conditional	10 Days	10 Days	15 Days	14 Days	14 Days	15 Days

Use						
Minor Conditional Use	15 Days	None	15 Days (3)	None	None	None
Variance	10 Days	10 Days	15 Days			
Comp Plan: Land Use Map Change for the Creation of an Overlay (City initiated)	None	As Required by State Law.	None	None	14 Days Prior to Ordinance Adoption & as Required by State Law.	None
Comp Plan: Large Scale Land Use Map Change (City initiated)	10 Days	As Required by State Law.	15 Days	14 Days	14 Days Prior to Ordinance Adoption & as Required by State Law.	15 Days
Comp Plan: Large Scale Land Use Map Change (Not City initiated)	10 Days	10 Days	15 Days	14 Days	14 Days Prior to Ordinance Adoption & as Required by State Law.	15 Days
Comp Plan: Text Change Affecting Permitted Uses	None	10 Days	None	None	14 Days Prior to Ordinance Adoption & as Required by State Law.	None
Comp Plan: Text Change Not Affecting Permitted Uses	None	10 Days	None	None	14 Days Prior to Ordinance Adoption & as Required by State Law.	None
Small Scale Land Use Map Change (City initiated)	10 Days	10 Days	14 Days (2)	14 Days	14 Days Prior to Ordinance Adoption.	15 Days

Small Scale Land Use Map Change (Not City initiated)	10 Days	10 Days	14 Days (2)	14 Days	14 Days Prior to Ordinance Adoption.	15 Days
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- (1) Number of calendar days prior to date of public hearing.
- (2) 30-day mail notice to owner of property proposed to be rezoned or undergo land use map change.
- (3) Public notice for Planning and Zoning Board meetings requires posting at the City Hall complex only.

(b) **Mail notice.** Required mail notice as noted in Table 4: Required Public Notice shall be provided as indicated below:

(1) **Contents.** Unless otherwise provided herein, mail notice of a public hearing shall contain the following information:

- a. The title and substance of the proposed ordinance or development order;
- b. The time, date, and location of the public hearing for the Planning and Zoning Board;
- c. The time, date, and location of the public hearing for the city council;
- d. The location of the property affected by the application with reference to the nearest intersection of two or more streets;
- e. The name, address, and telephone number of the office where additional information can be obtained;
- f. The times and place where the proposed ordinance or development order application may be inspected by the public;
- g. A notice that interested parties may appear at the meeting or public hearing and be heard with respect to the proposed ordinance or development order application; and
- h. An area map, indicating location of the affected property, may be provided.

(2) **Class of mail.**

- a. **Planning, zoning, and appeals board.** Mail notice shall be provided by first-class mail, unless otherwise directed by the Planning and Zoning director.
- b. **City council.** Mail notice for privately-initiated applications shall be provided by certified mail, with return receipt requested or as proposed by the applicant to provide comparable verification of delivery and as approved by the Planning and Zoning director. Mail notice for city-initiated development applications shall be provided by first-class mail. Mail notice for first reading (non-adoption hearing) of an ordinance may be provided by first-class mail.

(3) **Postmark.** Mail notice shall be postmarked no later than the minimum number of calendar days as required in Table 4 or as otherwise required by F.S. §§ 163.3184 and 166.041, as amended.

(4) **Property owners notified.** Mail notice for privately-initiated applications shall be provided to all property owners, excluding property owned by the applicant, within 300 feet of the site affected by the development order application.

- (5) **Property owners list.** The list of property owners shall be derived from the most recent official tax roll of Palm Beach County. The applicant shall provide an affidavit attesting to the completeness and accuracy of the property owner's list.
 - (6) **Costs.** The applicant shall provide postage, envelopes, and one set of mailing labels appropriate to the type of mail service utilized. In the event additional mail notice is required, the applicant shall be responsible for postage, envelopes, and mailing labels.
 - (7) **Procedure.** The applicant shall provide and mail all required notices, and provide an affidavit that notice was sent to all property owners included in the property owner's list. If a return receipt requested is utilized, the petition or application number shall be indicated on the receipt.
 - (8) **Major conditional use applications.** Major conditional use applications shall require the same mail notice requirements as a non-city-initiated rezoning application. Minor conditional use applicants shall provide notice as in this subsection (b), except that mailed notice shall be mailed or hand-delivered at least 15 days before the Planning and Zoning Board meeting. Variance applicants shall provide notice for the planning and zoning board only, as described in this subsection (b).
- (c) **Posting of property.** Property affected by a future land use map amendment, rezoning ordinance, conditional use, and variance applications shall be posted as provided below, if required.
- (1) **Signs.** Signs shall be provided by the applicant, subject to criteria for size, contents, and visibility approval by the Planning and Zoning Board.
 - (2) **Posting.** Property shall be posted by the applicant.
 - (3) **Installation.** Signs shall be posted in a workmanlike manner, able to withstand normal weather events.
 - (4) **Minimum posting requirements.** Privately-initiated applications require that at least one sign be posted per 500 lineal feet of all property located along a public right-of-way, with a minimum of one sign per frontage, or as otherwise required by the Planning and Zoning Board director. In the event of unique circumstances affecting a property, additional signs shall be posted as required by the Planning and Zoning Board director. City-initiated applications require that one sign be posted per frontage along a public right-of-way, except that city-initiated land use map changes for the creation of an overlay shall not require posting for the city council hearings.
 - (5) **Deadline.** Signs, if required, shall be posted at least 15 days prior to a public hearing.
 - (6) **Affidavit.** An affidavit, including photographs, attesting to the date of installation and number of signs installed shall be provided at least five days prior to the required public hearing.
 - (7) **Major conditional uses and variances.** Major conditional uses and variances shall be required to provide posting for the property consistent with the requirements described in subsection (c) 15 days prior to the public hearing. Minor conditional uses shall require only the posting of a notice at the City Hall complex 15 days prior to the development review committee meeting.
- (d) **Minimum newspaper advertising requirements.** Newspaper advertising of public hearings to consider all comprehensive plan text amendments, future land use map amendments, rezoning ordinances, major conditional uses, and variance applications shall be provided as indicated below.
- (1) **Newspaper type.** The advertising shall be published in a newspaper of general paid circulation, and of general interest and readership in the jurisdiction. The advertisement shall appear in a newspaper published at least five times per week.
 - (2) **Costs.** The applicant shall be charged a fee to defray all costs associated with advertising for a public hearing to consider ordinances or development order applications.

(3) **Publication.** The advertisement for the public hearings shall appear no later than the minimum number of calendar days as required in Table 4, or as required by the appropriate chapter of Florida Statutes.

(4) **Comprehensive plan large scale land use map and permitted use text changes.** The notice of public hearings to consider an amendment to the future land use plan map or to comprehensive plan text changes which amend permitted, conditional, or prohibited uses within a future land use plan category shall be published as required by F.S. § 163.3184, as amended, and as by Table 4.

(5) **Comprehensive plan text change not affecting permitted uses.** The notice of public hearings to consider an amendment to the text of the comprehensive plan which do not amend permitted, conditional, or prohibited uses within a future land use plan category shall be provided as required by F.S. § 163.3184, as amended, and by Table 4. The notice shall include the following information:

- a. The title of the proposed ordinance;
- b. The time, date, and location of the public hearing for the local planning agency;
- c. The time, date, and location of the public hearing for the city council;
- d. The name, address, and telephone number of the office where additional information can be obtained;
- e. The time and place where the proposed ordinance may be inspected by the public; and
- f. A notice that interested parties may appear at the meeting or public hearing and be heard with respect to the proposed ordinance.

(6) **Comprehensive plan small scale land use map amendments.** The notice of public hearings to consider a small scale land use map amendment shall be provided as required by Table 4, or as required by the applicable provisions of F.S. §§ 163.3187 and 166.041, as amended. The notice shall include the following information:

- a. The title of the proposed ordinance;
- b. The time, date, and location of the public hearing for the local planning agency;
- c. The time, date, and location of the public hearing for the city council;
- d. The location of the property affected by the application with reference to the nearest intersection of two or more streets;
- e. The name, address, and telephone number of the office where additional information can be obtained;
- f. The times and place where the proposed ordinance or development order application may be inspected by the public;
- g. A notice that interested parties may appear at the meeting or public hearing and be heard with respect to the proposed ordinance or development order application; and
- h. An area map, indicating location of the affected property, may be provided.

(7) **Rezoning greater than ten acres and text changes affecting permitted uses.** The notice of public hearings to consider rezoning ordinances affecting property of more than ten acres or to consider proposed ordinances which change the actual list of permitted, conditional, or prohibited uses within a zoning category shall be published as provided in Table 4, or as required by F.S. § 166.041, as amended.

(8) **Rezoning less than ten acres and text amendments not affecting permitted uses.** The notice of public hearings to consider rezoning ordinances affecting less than ten acres, and land development regulation amendments which do not affect permitted, conditional, or prohibited uses shall be provided as required in F.S. § 166.041, as amended, or Table 4. The notice shall include the following

information, as applicable: the title and substance of the ordinance or other type of development order, including, as applicable, the type of development order application, the type of principal uses proposed, the number of dwelling units, the type of dwelling units, or the nature of the land development regulation amendment.

- a. The time, date, and location of the public hearing for the planning, zoning, and appeals board;
- b. The time, date, and location of the public hearing for the city council;
- c. The location of the property affected by the application with reference to the nearest intersection of two or more streets;
- d. The name, address, and telephone number of the office where additional information can be obtained;
- e. The times and place where the proposed ordinance or development order application may be inspected by the public;
- f. A notice that interested parties may appear at the meeting or public hearing and be heard with respect to the proposed ordinance or development order application; and
- g. An area map, indicating location of the affected property, may be provided.

(9) **Land development regulations text change affecting permitted uses.** The notice of public hearings to consider land development regulations text changes affecting permitted, conditional, or permitted uses within a zoning category shall be published as provided in Table 4, or as required by F.S. § 166.041, as amended.

(10) **Major conditional uses and variances.** The notice shall be published as provided in Table 4 and include the following information, as applicable:

- a. The time, date, and location of the public hearing;
- b. The location of the property affected by the application with reference to the nearest intersection of two or more streets;
- c. The name, address, and telephone number of the office where additional information can be obtained;
- d. The times and place where the proposed application may be inspected by the public;
- e. A notice that interested parties may appear at the meeting or public hearing and be heard with respect to the proposed development order application; and
- f. An area map, indicating location of the affected property, may be provided.

(e) **Failure to provide notice.** Failure to comply with the minimum number of days of required newspaper advertising notice, mail notice, or posting of property shall result in an automatic postponement of the application. The body holding the hearing shall schedule and announce at the originally scheduled public hearing the time, date, and location for the postponed public hearing. The body holding the hearing, or Planning and Zoning Board staff, may require additional newspaper advertising, mail notice, or posting of property for a rescheduled public hearing. The applicant shall be required to defray all of the costs associated with additional newspaper advertisement, mail notice, or posting of property for rescheduled public hearings.

(f) **Effect of postponements.** If the public hearing for a rezoning ordinance or development order application is postponed more than once, or is not postponed to a specific time, date, and location, or is otherwise postponed such that the original public notice is no longer applicable, the growth management department staff may require additional public notice via newspaper advertising, mail, or posting of property. Such additional public notice shall be at the expense of the applicant.

Sec. 2.15. Reimbursement of expenses incurred by city.

(a) **Cost of development order applications.** It is declared to be the policy of the city council that all applicants for development order approval requesting a rezoning, platting, planned development, conditional use, any type of variance, site plan review, amendments to approved development orders, or any other similar application shall prepare and present at their expense the necessary documentation and information required by this chapter.

(b) **Additional documentation requests.** An applicant may request, through the growth management director, information and documentation from the city engineer, city attorney, or other city department relative to the application. If the request is in excess of the information and documentation normally utilized to review the application, such additional information and documentation shall be provided at the expense of the applicant.

(c) **Third-party experts.**

(1) **Employment.** The city council, city manager, or Planning and Zoning Board director may determine that a third-party expert in the field of land planning, traffic engineering, engineering, architecture, landscape architecture, or other similar area of professional expertise is necessary to thoroughly review a development order application. Such experts may be employed by the city, with the petitioner paying all reasonable costs for such services.

(2) **Reimbursement for third-party experts.** The applicant shall reimburse the city for any costs associated with the employment of third-party experts. The applicant shall reimburse the city for such costs within 30 days of the date of receipt of an invoice for such services. Failure by the applicant to make such reimbursement when due shall delay the pending application until paid.

(d) **Reimbursement for staff costs.** The applicant shall reimburse the city for any excess time spent by the city engineer, city attorney, or other city staff, together with the cost of any document or drawings not part of the city records. The cost of time billed to the applicant shall be the same cost as billed by the city engineer or city attorney, or the cost of city staff time. The applicant shall reimburse the city for such costs within five days of the date of receipt of an invoice for such services. Failure by the applicant to make such reimbursement when due shall delay the pending application until paid.

Sec. 2.16. - Appeals and reconsideration.

(a) **Appeals.**

(1) Appeals from a final decision of the planning and zoning or the city council shall be made within 30 calendar days of the date such decision is rendered and shall be

(2) Decisions of the Planning and Zoning Board director, which are subject to appeal pursuant to section 2-147 may be appealed by any aggrieved party to the City Council, and appeals board by filing such written appeal with the city clerk within twenty (20) calendar days of the date such decision is rendered.

a. The City Council may reverse or affirm, wholly or partly, or may modify the interpretation or decision made by the Planning and Zoning director pursuant to this Code.

b. The interpretation or decision of the Planning and Zoning director shall be presumed to be correct, and the applicant shall have the burden to demonstrate the error, which must be proved by a preponderance of the evidence, and such evidence must be competent and substantial.

c. Appeals of decisions of the Planning and Zoning Board director shall be heard within forty-five (45) days of the day upon which the appeal is filed with the city clerk.

d. All decisions of the City Council on appeal from a ruling or decision of the Planning and Zoning Board director, pursuant to this section, shall be final and shall not be subject to appeal.

(b) Reconsideration.

(1) **Rezoning.** Any parcel, or substantially the same parcel, which is the subject of a rezoning which has been denied by the city council shall not be eligible for reconsideration by the Planning and Zoning Board or the city council for a rezoning to the same classification for one-year from the date such application was denied by the city council, unless there has been material change to the application as determined by the Planning and Zoning Board director.

(2) **Other development orders.** Any parcel, or substantially the same parcel, which was the subject of an application for development order approval, including, but not limited to, any form of conditional use, major or minor, site plan review, variance application, or development order amendment, which has been denied by city staff, the city council, city staff or the Planning and Zoning Board, shall not be eligible for reconsideration by that body for six (6) months from the date the application was denied, unless there has been material change to the application as determined by the Planning and Zoning Board director.

Sec. 2.17 - Appeals and reconsideration.

(a) Appeals.

(1) Appeals from a final decision of the planning and zoning board or the city council shall be made within 30 calendar days of the date such decision is rendered, and shall be filed in Palm Beach County with the Circuit Court of the Fifteenth Judicial Circuit. However, decisions rendered by planning and zoning board on appeal from written decisions of the planning and zoning director shall be subject to the procedures set forth in subsection (a)(2)? and shall not otherwise be subject to appeal.

(2) Decisions of the planning and zoning director, which are subject to appeal pursuant to section 2-147 [Powers and Duties; Appeals], may be appealed by any aggrieved party to the planning and zoning board by filing such written appeal with the city clerk within twenty (20) calendar days of the date such decision is rendered.

a. The board may reverse or affirm, wholly or partly, or may modify the interpretation or decision made by the planning and zoning director pursuant to this Code.

b. The interpretation or decision of the planning and zoning director shall be presumed to be correct, and the applicant shall have the burden to demonstrate the error, which must be proved by a preponderance of the evidence, and such evidence must be competent and substantial.

c. Appeals of decisions of the planning and zoning director shall be heard within forty-five (45) days of the day upon which the appeal is filed with the city clerk.

- d. All decisions of the planning and zoning board on appeal from a ruling or decision of the planning and zoning director, pursuant to this section, shall be final and shall not be subject to appeal.

(b) Reconsideration.

- (1) **Rezoning.** Any parcel, or substantially the same parcel, which is the subject of a rezoning which has been denied by the city council shall not be eligible for reconsideration by the planning and zoning board or the city council for a rezoning to the same classification for one-year from the date such application was denied by the city council, unless there has been material change to the application as determined by the planning and zoning director.
- (2) **Other development orders.** Any parcel, or substantially the same parcel, which was the subject of an application for development order approval, including, but not limited to, any form of conditional use, major or minor, site plan review, variance application, or development order amendment, which has been denied by the, the city council, or the planning and zoning board, shall not be eligible for reconsideration by that body for six (6) months from the date the application was denied, unless there has been material change to the application as determined by the planning and zoning director.

DIVISION 2. - EFFECTIVE PERIOD OF DEVELOPMENT ORDERS

Sec. 2.18 - Effective period of development orders and enforcement of conditions.

- (a) **Intent and purpose.** The intent and purpose of this division shall be the items listed below:

- (1) Planning and zoning act. In conformity with and in furtherance of the purpose of Chapter 163, Part II, entitled "the Local Government Comprehensive Planning and Land Development Regulation Act," referred to in this chapter as the Act, this division establishes and implements time limitations upon the initiation and completion of development to ensure that public facilities and services shall be available concurrent with the impacts of development. This division is intended to ensure the efficient and equitable distribution of capital facilities and services to proposed developments. The approval of proposed developments has caused the city to budget for and to reserve capacity for capital facilities and to plan for the delivery of services to the proposed development within the time prescribed. In order to ensure development has been initiated and is proceeding consistent with this division, the city shall monitor and review approved development orders to ensure consistency with the intent and purpose of this division and to further the goals, objectives, and policies of the city's comprehensive plan by:
 - a. Increasing the availability of capital facilities and services for future developments by removing capacity reserved for approved developments that do not meet the requirements of this division by initiating and completing development within the time prescribed by this chapter or development approval;
 - b. Minimizing the creation of an inventory of residential, commercial, and industrial development which is artificially inflated;
 - c. Enhancing the value and use of land within the city by identifying and providing a system to revoke or amend development orders which have not been fully executed; and
 - d. Ensuring compliance with conditions of development approval.

(b) **Suspension of development orders.** Suspension of development orders may occur upon failure to comply with one or more time requirements or failure to comply with a condition of development approval.

(1) **Expiration of time periods.** Upon expiration of any time period established by this chapter or failure to comply with, or continued violation of, a condition of development approval, no new development orders affecting the property shall be issued by the city, and no action which might tend to vest the development order shall be permitted, until a final determination is made pursuant to subsection (g) of this section. 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 city council or planning and zoning board from approving this petition. 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.

(2) **Effect of suspension.** This suspension of development rights shall have the following effect on new petitions and code enforcement action:

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 city council or the planning and zoning board directs staff to cite the property owner for violating the provisions of the development order, new development orders shall not be issued until the alleged violation has been ruled upon by the code enforcement board and any enforcement action is completed or penalty is satisfied. This shall not, however, preclude compliance with the specific condition after the city council or planning and zoning board has directed the code enforcement division to cite the property owner for noncompliance with that condition.

(c) **Time limitations.** Every development order shall include a time limitation by which build out of the project shall occur.

(1) **Variances.** Unless the planning and zoning board determines otherwise, an owner of record or successors or assigns shall commence construction of the improvement or improvements which are the subject of the variance within 12 months from the date of approval. Time extensions for such a development approval shall not be granted. If implementation of an approved variance is not initiated within such time frame, the approval shall be null and void.

(2) **Conditional uses.** Such uses shall be initiated and placed in continuous use within two years or as otherwise provided in the development order approving such use.

(3) **Planned developments (PD).** An approved planned unit development shall have a build out date established in the development order.

(4) **Site plans not within a PD.** Site plans shall have a build out date established in the development order, which date shall be based.

(5) **Development of regional impact.** Time limitations pursuant to development orders for developments of regional impact shall be governed by the development order rendered for the project, as required pursuant to Section 380.06(15)(c) 2 and 3, Florida Statutes.

(d) **Determination of project build out.**

- (1) A PD shall be deemed built out when (a) all plats for the PD have been recorded; (b) all on-site infrastructure within the PD (roads, sewer, water, and drainage) has been substantially completed, except for the second lift of asphalt, which may be guaranteed by appropriate surety; (c) all common-area landscaping for the PD has been installed or guaranteed; and (d) all traffic impacts have been mitigated or guaranteed by performance security.
 - (2) A nonresidential PCD shall be deemed built out if (a) installation of all infrastructure (roads, sewer, water, and drainage) has been substantially completed, except for the second lift of asphalt, which may be guaranteed by appropriate surety; (b) building permits for square footage generating more than ten (10) percent of the total daily trips as determined by the approved net new trips calculated based on the approved land use(s) and intensity(ies), and all traffic impacts have been mitigated or guaranteed by performance security; and (c) all common-area landscaping for the PCD has been installed or guaranteed by performance security.
 - (3) An individual pod within a PCD may be deemed built out if the pod has been platted and all other criteria in subsection (2) for nonresidential pods or subsection (3) for residential pods have been met for the individual pod.
 - (4) Site plans not within a PD or PCD shall be deemed built out if (a) installation of all infrastructure (roads, sewer, water, and drainage) has been substantially completed, except for the second lift of asphalt, which may be guaranteed by appropriate surety; (b) building permits for square footage generating more than fifty (50) percent of the total daily trips as determined the approved net new trips calculated based on the approved land use(s) and intensity(ies); and (c) all traffic impacts have been mitigated or guaranteed by performance security.
- (e) **Accountability.** It shall be the responsibility of the owner of record at the time of the approval or successors or assigns to monitor and adhere to the time limitations imposed by this division. Failure of the owner of record or successors or assigns to request an extension within such time frame shall render the development approval null and void.
- (f) **Notification.** Notwithstanding that it is the responsibility of the owner of record, successors, or assigns to monitor and adhere to the time limitations imposed by this division, the city may, at its sole discretion and without further responsibility, provide the owner of record, successors, or assigns with a written courtesy notice of the pending expiration of a development approval. This notification is not intended to supplement state law or to form the basis for a property owner to allege that the owner's rights to notice or due process have been violated or abridged if the owner does not receive a timely courtesy notice or any courtesy notice whatsoever.
- (g) **Extensions of time limitations.** The following procedure shall govern the review of an application to extend the time limit for a development order or conditions of approval:
- (1) Minor administrative extensions of time. The planning and zoning department may issue one 90-day minor administrative extension for the recordation of a plat, installation of all infrastructure, and/or the installation of common landscaping prior to the build out of a residential development; or for the completion of a nonresidential development, in its entirety, as referenced in subsection (c) of this section, for a project that has reached a point of substantial completion, but will not be completed prior to the expiration date of the development order. This extension is subject to the owner's satisfaction of all criteria listed below:

- a. The submission of a complete application, together with the appropriate fee, at least 60 calendar days prior to the build out of a phase or the build out of the development.
 - b. Fees and submission of all receipts evidencing payment to the city and Seminole Improvement District for the following, as applicable:
 - 1. Plan review;
 - 2. Building permit;
 - 3. Engineering approval; and
 - 4. An executed potable water and sanitary sewer service agreement.
- (2) Additional time extensions. The planning and zoning administrator may approve two additional consecutive one-year time extensions after the administrative time extension, provided that the following items have occurred 30 days prior to the expiration of the previously extended build out date:
- a. An appropriate application has been submitted. The application must include a revised sales pro forma describing anticipated annual sales for the project and the number of units left to sell for residential property and anticipated sales or leasing of square footage for nonresidential property and any additional information requested by the planning and zoning department.
 - b. The owner of record at time of approval or successors or assigns shall have completed the recordation of all plats.
 - c. The owner of record at time of approval or successors or assigns shall have completed the installation of all common landscaping required in the development order.
- (3) City council extension of time. The city council may approve a one-time extension of up to three years. Notice of all time extensions approved pursuant to this section shall be given to the city council. The time extension may be granted provided the following items have occurred 30 days prior to the expiration of the approved build out date:
- a. An appropriate application has been submitted. The application must include (i) a schedule for completion of all infrastructures, landscaping, and traffic amenities required in the approved development order; and (ii) a revised sales pro forma describing anticipated annual sales for the project and the number of units left to sell for residential property and anticipated sales or leasing of square footage for nonresidential property.
 - b. The owner of record at time of approval or successors or assigns has completed or secured all traffic mitigation requirements of the approved development order and traffic level of service approvals.
 - c. The owner of record at time of approval or successors or assigns has either paid all city and Seminole improvement district impact fees or received impact fee credits for the entire approved project provided in the development order.
 - d. The owner of record at time of approval or successors or assigns has (i) dedicated and conveyed to the city and/or Seminole Improvement District any public road rights-of-way required in the original development order or (ii) conveyed or dedicated any perpetual public access easements required in the original development order.

DIVISION 3. - LEVEL OF SERVICE

Sec. 2.19. - Scope.

The method of ensuring level of service shall be known as the level of service management system. The system is based upon the city comprehensive plan, especially the capital improvements element and adopted level of service standards. The system is designed to ensure that the adopted levels of service for specific public facilities will be maintained upon issuance by the city of any development order. The system also includes a monitoring program for determination of the availability of adequate capacity of public facilities to meet the adopted level of service standards concurrent with project impacts.

Sec. 2.20. - Compliance with adopted levels of service.

- (a) **Compliance.** All development order applications, except those exemptions as provided for herein, shall demonstrate that the impacts from the proposed development comply with the level of service standards adopted by the city.
- (b) **Level of service determination required.** All applications for development order approval shall include evidence of compliance with the city's level of service standards or an application to obtain a level of service determination statement.
- (c) **Determination of available capacity.**
 - (1) **Capacity determination.** A determination of available capacity under this chapter is calculated by adding together all elements listed below.
 - a. The total capacity of existing facilities when operating at the adopted level of service; and
 - b. The total capacity of new facilities, operating at their adopted level of service, that will become available on or before the date of occupancy of the development. The capacity of new facilities may be counted only if one or more of the following is shown.
 - 1. Construction of the new facilities is underway at the time of issuance of the development order.
 - 2. The funds for construction of new facilities are included in the first three years of the adopted county five-year road program, or the adopted five-year state department of transportation improvement program, or the city five-year capital improvements element;
 - 3. The new facilities are the subject of a binding, executed contract for providing the facilities at the time of issuance of the development order.
 - 4. The new facilities are guaranteed in a legally enforceable developer agreement pursuant but not limited to F.S. Chapter 160 or Chapter 380. The developer agreement must guarantee that the necessary facilities will be in place when the impacts of the development occur.
 - (2) **Capacity availability.** The determination of available capacity is made by subtracting from the sum of subsections (c)(1)a. and (c)(1)b. of this section from the sum of:
 - a. The demand for the facility created by existing development; and
 - b. The demand for the facility that has been reserved for other proposed developments by the issuance of a valid level of service certificate.

Sec. 2-21. - Action upon failure to show available capacity demonstration of available capacity.

Where available capacity cannot be shown pursuant to this division, the methods listed below may be used to maintain the adopted levels of service.

- (a) **Provision of necessary improvements.** The developer may provide the necessary improvements to maintain the adopted level of service. In such case, the development order application shall include conceptual plans for improvements, documentation that such improvements shall be designed to provide the capacity necessary to achieve or maintain the adopted level of service, and recordable instruments guaranteeing implementation consistent with the calculations of capacity.
- (b) **Amended application.** The development order application may be amended to comply with the adopted level of service.
- (c) **Phasing.** The development order application indicates the proposed project may be phased such that the projected level of service at the conclusion of each phase complies with the adopted level of service.

Sec. 2-22. - Burden of showing compliance.

The burden of showing compliance with the level of service requirements of this chapter shall be upon the applicant for the development order approval. In order to be processed and reviewed for approval, development order applications shall provide sufficient information showing compliance with these standards.

Sec. 2.23 - Adopted levels of service

Table X Adopted Level of Service Standards

Service	Level of Service Standard
Transportation	Arterials - D Collector - D Local - D
Parks	<ul style="list-style-type: none"> • 2.5 acres per 1,000 residents • 2.0 acres per 1,000 residents
Potable Water	<ul style="list-style-type: none"> • 110 gallons per capita per day (residential) • 150 gallons per 1,000 sq. ft. per day (non-residential), except that: <ul style="list-style-type: none"> ○ schools shall have a level of service standard of 18 gpd per student; ○ hotels shall have a level of service standard of 100 gpd per room; and ○ parks shall have a level of service standard of 10 gpd per visitor
Wastewater	<ul style="list-style-type: none"> • 100 gallons per capita per day (residential) • 150 gallons per 1,000 sq. ft. per day (non-residential), except that: <ul style="list-style-type: none"> ○ schools shall have a level of service standard of 18 gpd per student;

Service	Level of Service Standard																						
	<ul style="list-style-type: none"> ○ hotels shall have a level of service standard of 100 gpd per room; and ○ parks have a level of service standard of 10 gpd per visitor 																						
Solid Waste	Garbage 7.02 lbs. per capita per day																						
Stormwater (drainage)	<p>Stormwater treatment standards shall be consistent with the applicable requirements included in Chapter 62, F.A.C.</p> <p>Drainage Level of Service Standards - Table 1:</p> <table border="1" data-bbox="578 562 1299 1045"> <thead> <tr> <th data-bbox="578 562 816 695">Storm Event</th> <th data-bbox="816 562 1055 695">Intensity of Rainfall (in.)</th> <th data-bbox="1055 562 1299 695">Development, Roads, and Drainage Facilities</th> </tr> </thead> <tbody> <tr> <td data-bbox="578 695 816 789">10 year-1 day</td> <td data-bbox="816 695 1055 789">7.4</td> <td data-bbox="1055 695 1299 789">Local Roads and Parking Lots</td> </tr> <tr> <td data-bbox="578 789 816 947">25 year-3 day</td> <td data-bbox="816 789 1055 947">12</td> <td data-bbox="1055 789 1299 947">Arterial Roads, Collector Roads, Perimeter Berm and Peak Discharge</td> </tr> <tr> <td data-bbox="578 947 816 1045">100 year-3 day, zero discharge</td> <td data-bbox="816 947 1055 1045">14</td> <td data-bbox="1055 947 1299 1045">Finished Floors</td> </tr> </tbody> </table> <table border="1" data-bbox="529 1083 1432 1440"> <thead> <tr> <th data-bbox="529 1083 902 1178">Minimum Elevation (NAVD 88)</th> <th data-bbox="902 1083 1432 1178">Development, Roads, and Drainage Facilities</th> </tr> </thead> <tbody> <tr> <td data-bbox="529 1178 902 1241">18.23</td> <td data-bbox="902 1178 1432 1241">Local Road Crown</td> </tr> <tr> <td data-bbox="529 1241 902 1304">18.23</td> <td data-bbox="902 1241 1432 1304">Parking Lots</td> </tr> <tr> <td data-bbox="529 1304 902 1367">19.23</td> <td data-bbox="902 1304 1432 1367">Arterial and Collector Road Crown</td> </tr> <tr> <td data-bbox="529 1367 902 1440">19.83</td> <td data-bbox="902 1367 1432 1440">Finished Floors</td> </tr> </tbody> </table>	Storm Event	Intensity of Rainfall (in.)	Development, Roads, and Drainage Facilities	10 year-1 day	7.4	Local Roads and Parking Lots	25 year-3 day	12	Arterial Roads, Collector Roads, Perimeter Berm and Peak Discharge	100 year-3 day, zero discharge	14	Finished Floors	Minimum Elevation (NAVD 88)	Development, Roads, and Drainage Facilities	18.23	Local Road Crown	18.23	Parking Lots	19.23	Arterial and Collector Road Crown	19.83	Finished Floors
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19.83	Finished Floors																						

(a) **Roadway system.** For the roadway system level of service, development activities shall not be approved unless the criteria established in city traffic performance standards are met

(1) **Methodology.** For county and state roads, the methodology for evaluation of levels of service shall be the Palm Beach County countywide traffic performance standards of the county, as amended. For city roads, the method of evaluation shall be the city traffic performance standards, as amended. For purposes of determining compliance with traffic performance standards applicable to state, county, and city roads, all applications shall be managed by the city.

(2) **Submission of traffic impact studies.** Applications for development order approval, including traffic impact studies and relevant information, shall be submitted to the city. The city shall, if necessary, distribute all relevant information to the County. For developments which meet the criteria for County Engineer Review as outlined in the Palm Beach County countywide traffic performance standards, the applicants shall also submit the traffic impact studies to the County and obtain approval.

(b) **Wastewater.** Development activities shall not be approved unless there is sufficient available capacity to sustain the following levels of service for wastewater treatment as established in the sanitary sewer element of the city comprehensive plan expressed in gallons per day **per capita** and as indicated in Table 5.

Table 5: Sanitary Sewer Level of Service

Service	Level of Service Standard
Residential	<ul style="list-style-type: none"> • 100 gallons per capita per day (residential)
Non-residential	<ul style="list-style-type: none"> • 150 gallons per 1,000 sq. ft. per day (non-residential), except that: <ul style="list-style-type: none"> ○ schools shall have a level of service standard of 18 gpd per student; ○ hotels shall have a level of service standard of 100 gpd per room; and ○ parks have a level of service standard of 10 gpd per visitor

(c) **Solid waste.** Development activities shall not be approved unless there is sufficient available capacity to sustain the following levels of service for solid waste facilities as established in the solid waste element of the city comprehensive plan expressed in pounds per capita as indicated in Table 6.

Table 6: Solid Waste Level of Service

Service	Level of Service Standard
Garbage	7.02 Pounds per capita per day

(d) **Drainage system.** Development activities shall not be approved unless there is sufficient available capacity to sustain the following levels of service for the drainage system as established in the drainage element of the city comprehensive plan and the land development regulations as indicated below and in Tables 7a and b.

(1) **New development.** New development must comply with the criteria listed below, and with the additional criteria of subsection (2).

a. **Criteria No. 1.** Finished floor elevation will be located above the flood or high water level from a 100-year, three-day storm event with zero discharge, or the 100-year flood elevation established by the Federal Emergency Management Agency (FEMA) flood insurance rate maps, whichever is greater.

b. **Criteria No. 2.** Designed to accommodate either of the following standards.

1. Ten or more acres: conveyance and retention/detention designed for a three-day, 25-year storm event; or
2. Less than ten acres: conveyance and retention/detention for a one-day, 25-year storm event.

(2) **Additional criteria.** Off-site discharges are limited to the criteria listed below:

- a. Off-site discharge are limited to historic, pre-development discharges; and
- b. Retention/detention shall comply with either of the following:
 1. Wet storage is limited to the greater of the first one inch of run-off or 2.5 inches multiplied by the percent of impervious area for the project; or
 2. Dry storage will be at least 75 percent of wet storage.

(3) **Roadways.** Roadway flood protection for local roads shall:

- a. Protect from flooding the crown of the road during a ten-year, one-day storm;
- b. Protect from flooding the crown of a road for all other roads during a 25-year, one-day storm; or
- c. Comply with county or Florida Department of Transportation (FDOT) requirements where applicable.

(4) **South Florida Water Management District.** All of the levels of service in this subsection shall be in accordance with applicable rules and regulations of the South Florida Water Management District (SFWMD), as amended.

Drainage Level of Service Standards – Table 7a

Storm Event	Intensity of Rainfall (in.)	Development, Roads, and Drainage Facilities
10 year-1 day	7.4	Local Roads and Parking Lots
25 year-3 day	12	Arterial Roads, Collector Roads, Perimeter Berm and Peak Discharge
100 year-3 day, zero discharge	14	Finished Floors

Source: Isohytel Graphs SFWMD's Environmental Resource Permit Applicant's Handbook Volume II

*Perimeter Berm and Peak Discharge are referring to master SID stormwater management system.

Drainage Level of Service Standards – Table 7b

Minimum Elevation (NAVD 88)	Development, Roads, and Drainage Facilities
18.23	Local Road Crown
18.23	Parking Lots
19.23	Arterial and Collector Road Crown
19.83	Finished Floors

Source: SFWMD Conceptual Permit 50-0021-S

(e) **Potable water.** Development activities shall not be approved unless there is sufficient available capacity to sustain the following levels of service for potable water as established in the potable water element of the city comprehensive plan expressed in gallons per day per capita at a minimum pressure as indicated in Table 8.

Table 8: Potable Water Level of Service Standards

Service	Level of Service Standard
Residential consumption	<ul style="list-style-type: none"> • 100 gallons per capita per day (gpd)
Non-Residential consumption	<ul style="list-style-type: none"> • 150 gallons per 1,000 sq. ft. per day (non-residential), except that: <ul style="list-style-type: none"> ○ schools shall have a level of service standard of 18 gpd per student; ○ hotels shall have a level of service standard of 100 gpd per room; and ○ parks have a level of service standard of 10 gpd per visitor

(f) **Recreation.** Development activities shall not be approved unless there is sufficient available capacity to sustain the following minimum levels of service for the recreational facilities as established in the city comprehensive plan as indicated in Table 9.

Table 9: Parks and Recreation Levels of Service

Service	Level of Service Standard
Neighborhood Parks	2.5 acres/1,000 residents
Community Parks	2.0 acres/1,000 residents

Sec. 2.23. - Certificate required.

- (a) **Level of service determination letter required.** Prior to an applicant being processed by the city, an applicant must secure one of the following types of level of service certification:
- (1) Certificate of exemption;
 - (2) Certificate of level of service reservation; or
 - (3) Certificate of conditional level of service reservation.
- (b) **Capacity reservation.** Capacity reservation is on the first-come, first-served basis. The date and time that an applicant's level of service certificate is issued will establish when capacity of public facilities has been granted.

Sec. 2.24. - Level of service certificates.

- (a) **Exemptions.** There are specific projects or development that are exempt from level of service and will be issued a certificate of exemption by the department upon an application for a development permit or the granting of a time extension for a development order. These exemptions are identified below:
- (1) **Vested development.** Vested means any project for which a development order has been granted prior to the adoption of the city level of service management system, and the project has progressed in accordance with the level of service requirements of the development order and the city's land development regulations.
 - (2) **Amendment to a vested development.** A change to a vested project that does not create additional impacts provided that the project is in compliance with the original development order and any amendments thereto.
 - (3) **No additional impacts.** Accessory buildings or structures that do not create additional impacts on public facilities.
 - (4) **Replacement.** Replacement of an existing structure without creating any additional impacts.
 - (5) **Developments of regional impact.** Approved prior to the adoption of the city level of service management system and being implemented in compliance with Chapter 380, Florida Statutes. The city shall issue such projects a certificate of exemption indicating the specific reason such project is exempt and the specific amount of development, including number and type of residential units, number and type of nonresidential building square feet, and any maximum development limit, such as number of trips, phasing, or specific build out dates that may be associated with such project.
- (b) **Time extensions.** If an extension of a development order is granted pursuant to section 78-61(g), the certificate of level of service reservation shall be deemed extended to the same date.
- (c) **Certificate of level of service reservation.** This certificate is issued by the department and constitutes proof that adequate public facility capacity exists and is reserved to accommodate a proposed project at the time a project's impacts will occur.
- (d) **Certificate of conditional level of service reservation.** This certificate is issued if the department or Seminole Improvement District as appropriate determines the criteria listed below are applicable:

- (1) **Lack of capacity.** The department determines that there is not sufficient public facility capacity with regards to a given project.
- (2) **Development order approval.** The applicant is desirous of requesting development order approval for an application.
- (3) **Installation of required improvements.** The applicant enters into negotiations with the city and/or Seminole Improvement District to expand public facility capacity, at the applicant's expense, in accordance with the adopted level of service as set forth in the capital improvement element of the comprehensive plan and the land development regulations. Once the applicant and the city reach a mutually acceptable understanding, a developer agreement shall be prepared and shall become part of the development order. This agreement will ensure that adequate public facility capacity will be available at the time of project impacts.

Sec. 2.25. - Development order applications not requiring level of service certification.

- (a) **Level of service not required.** The following types of development order applications do not need to be accompanied by a level of service certificate, due to minimal impacts on public facilities:
 - (1) Rezoning, other than a development order application for a planned development
 - (2) Comprehensive plan amendment, including annexations, provided the application will indicate the impact of proposed land uses on the city's public facilities;
 - (3) Variances;
 - (4) Abandonment of right-of-way or easement; and
 - (5) Requests to amend the city's land development regulations.
- (b) **Development order applications requiring level of service certification.** The following types of development order applications must be accompanied by a level of service certificate, due to impacts on public facilities:
 - (1) Building permit;
 - (2) Planned community development overlay district rezoning;
 - (3) Planned unit development overlay district rezoning including mixed use development;
 - (4) Overlay zoning;
 - (5) Site plan;
 - (6) Subdivision plan or plat; or
 - (7) Conditional use.

Sec. 2.26. - Applications for level of service.

- (a) **Review.** Applications for approval of a level of service certificate shall be filed with the department.
- (b) **Application submission.** The department shall receive and act upon applications for a certificate of level of service reservation or conditional level of service reservation only when the request is part of an overall application for development approval. Level of service certificates shall be issued prior to the processing of the application for development order approval.

- (c) **Pre-application meetings.** An applicant, prior to submission of a development order application, may meet with the department to discuss the request for level of service review and approval. The department may provide data and other information, as well as identify any potential problems regarding capacity deficiencies.

Sec. 2.27. - Required application material.

- (a) **Application materials.** Material to be submitted with the application for level of service certification are listed below.
- (1) **Fee and application.** Application fee and completed application.
 - (2) **Warranty deed.** Warranty deed with affidavit from the applicant indicating that the deed represents the current ownership.
 - (3) **Area location map.** Vicinity map of the area within one mile surrounding the site, including the following:
 - a. Principal roadway network;
 - b. Major public facilities such as public schools, city and county parks and recreation areas, hospitals, public buildings, etc.; and
 - c. Municipal boundary lines.
 - (4) **Aerial photograph.** An aerial photograph of the parcel, outlining the site and delineating all contiguous zoning districts.
 - (5) **Site plan.** A site plan containing the following information:
 - a. Boundaries of the site;
 - b. Gross floor area, height, and proposed commercial, industrial, or other nonresidential use;
 - c. Number, height, and type (single-family detached, zero lot line, townhouse, apartment, etc.) of residential dwelling units;
 - d. Proposed phasing, if applicable;
 - e. Approximate location of proposed or existing streets, sidewalks or other pedestrian paths, and bicycle paths;
 - f. Approximate location and acreage of public facilities, including parks, school site, or similar uses;
 - g. Approximate centerline, dimensions, and location of existing or proposed roads, canals, intersections, easements, and utilities, and if existing, proposed, or to be dedicated or reserved; and
 - h. General information including north arrow (top of site plan, if possible), written and graphic scale, development and project name, section/township/range, petition number (if applicable), date plans prepared and date of any subsequent revisions, total acreage, and boundary dimensions.
 - (6) **Authority.** A statement of the applicant's interest in the property and:
 - a. If joint and several ownership, a written consent to petition by all owners of record, or written authorization by the master association;

- b. If a contract purchase, written consent of the seller or owner;
 - c. If an authorized agent, a copy of the agent's authorized agreement or written consent of the owner;
 - d. If a lessee, a copy of the lease agreement and written consent of the owner;
 - e. If a corporation, partnership, or other business entity, the name of the officer or person responsible for the application and written proof that the representative has authority to represent the corporation, partnership, or business entity or, in lieu thereof, written proof that such person is in fact an officer of the corporation; or
 - f. If a group of contiguous property owners are requesting an individual amendment only affecting their specific lots and not impacting property owned by the master association, all the owners of the property described in the petition must provide written consent.
- (7) **Survey.** A certified boundary and topographic survey, sealed by a surveyor licensed in the State of Florida, including the following information:
- a. Scale of not less than one inch equals 200 feet;
 - b. Legal description of property;
 - c. Computation of the total acreage of the parcel to the nearest tenth of an acre;
 - d. Existing contours at one-foot intervals based on field surveys or photogrammetric surveys, extending 100 feet beyond the parcel boundaries. If submitted separately, the topographic survey will be sealed by a licensed surveyor.
- (8) **Drainage.** Evidence that the proposed drainage system will be acceptable to the South Florida Water Management District (SFWMD) and conform with the city's land development regulations. Evidence may be in the form of a drainage statement by the developer's engineer demonstrating that the drainage system will be designed to comply with these requirements and that legal positive outfall will be provided in conformance with criteria established for the basin in which the project is located. The system must also provide for upstream pass-through drainage and downstream tailwater conditions in accordance with city's level of service. Additional supporting calculations for larger projects may also be required.
- (9) **Public utilities.** Evidence, in the form of a statement from the Seacoast Utility Authority or other provider, as applicable, that the proposed project will be able to connect to public water and sewer facilities and there is sufficient capacity available to meet the adopted levels of service. Within 30 days following development order approval, a "Seacoast Utility Authority Capacity Allocation Commitment for Public Water and/or Sewer Service" or similar statement, indicating reservation of water and sewer capacity shall be delivered to the department. If the statement is not delivered as required, the development order shall be automatically void and have no further effect. When the proposed project is located in a remote area which is unable to connect to the Seacoast Utility Authority system, individual wells and septic tanks or package treatment plants can satisfy the level of service requirements if the facilities meet the adopted level of service.
- (10) **Traffic performance standards.** Evidence that the proposed project meets the standards of the Countywide Traffic Performance Standards Ordinance, as amended.
- a. **1,000 or more trips.** A statement from the county engineering department that the proposed project conforms to the county's traffic performance standards and that

roadway capacity is reserved. The applicant shall obtain a similar statement from the city engineer.

b. **Less than 1,000 trips.** Evidence the project, if generating less than 1,000 average daily trips, meets both the countywide standards and city standards, and that roadway capacity is reserved.

(11) **Solid waste.** Evidence the proposed project will be served by a disposal facility for solid wastes, in the form of a statement from the solid waste authority indicating the availability of solid waste disposal capacity.

(12) **Parks and recreation.** Evidence the proposed project will conform to the city's level of service standards for parks and recreation facilities, utilizing the requirements listed below.

a. Impact on park and recreation facilities based upon a standard of five (5) acres of parks per one thousand (1,000) persons.

b. Plans for providing one (1) or a combination of neighborhood parks, community parks, construction of recreation facilities, or dedication of land for district or other park purposes, including the following information:

1. Size and location of parcel;

2. Approximate value of parcel;

3. General parcel characteristics including topography, geology, soils, natural and historic resources, vegetative communities and habitats, wildlife, water bodies, submerged lands, aquatic habitats, easements or rights-of-way within or adjacent to the parcel, and deed restrictions or other constraints which could limit use or activities on the parcel; and

4. For payment in lieu of construction or dedication, value of property determined by an MAI appraiser.

(13) Other information. Other information as may be requested by the planning and zoning director.

Sec. 2.29. - Sufficiency review.

Within 14 week days after application submission, excluding holidays, the applicant will be notified in writing of the results of the sufficiency review. If deficient, the department will provide the applicant a letter noting the deficiencies of the application.

Sec. 2.30. - Level of service reservations.

(a) **Reservation required.** Prior to DRC certification of a development order application, a certificate of level of service reservation or a certificate of conditional level of service reservation shall be issued by the city. Level of service certification does not constitute sufficiency with regard to the performance of existing or proposed infrastructure improvements. Performance of drainage systems, water and wastewater systems, solid waste collection, recreation facilities, and traffic operations are factors to be considered in the review and approval or denial of a proposed project. Certificates shall be issued as provided below.

- (1) **Level of service reservation.** A certificate of level of service reservation shall be issued if a determination is made that there is adequate capacity in all the public facilities to meet the impacts generated by the project.
- (2) **Conditional level of service reservation.** Should there not be sufficient capacity in one or more of the necessary public facilities, the certificate of conditional level of service reservation process may be used.
- (3) **Denial or withdrawal.** When a certificate of level of service reservation or conditional level of service reservation is issued, the certificate is valid while the application for development order approval is being processed. If the development order application is either denied or withdrawn, the level of service certification becomes immediately void.
- (4) **Existing development.** If a development order application is filed to change an approved development order, the level of service certification for the existing development order shall be applicable to the extent of equal or lesser impacts resulting from the proposed change. If the proposed change creates additional impacts, a level of service certificate for the additional impacts shall be obtained.
- (5) **Development order approval.** When a development order for a project is approved, the level of service certificate issued is valid for the time set forth in the development order, or any amendments or time extensions thereto. Otherwise, the certificate is valid for two years.
- (6) **Failure to progress.** If a project has not progressed in accordance with an approved development order and level of service certificate, a time extension may be requested pursuant to division 2 of article III. For the purpose of this subsection, the term "project" includes the following development order applications: planned community district, planned unit development, mixed use development, subdivision plat, major site plan, and conditional use.
- (7) **Failure to progress—Minor projects.** If a project has not progressed in accordance with an approved development order and level of service certificate, a time extension may be requested pursuant to division 2 of article III. For the purpose of this subsection, the term "project" means a minor site plan or a building permit, for which the developer may request a time extension. A minor site plan application shall be considered and determined by the planning and zoning board, while the building official shall consider and determine an application related to a building permit.
- (8) **Failure to obtain level of service certificate.** If a time extension is not requested or if the time extension is not granted, the level of service certificate shall automatically expire, and no further development activity can occur without obtaining a level of service certificate.

Sec. 2.31. - Level of service summary log.

The department will maintain a level of service summary log.

Sec. 2.32. - Level of service certificate decisions.

The planning and zoning director or designee shall be responsible to review and decide upon each request for a level of service certificate.

Sec. 2.34. - Appeals process.

Appeal of decisions of the planning and zoning director shall be made to the BZA pursuant to section 78-23.

Sec. 2.38. - Proportionate fair-share program.

- (a) **Purpose and intent.** The purpose of this section is to establish a method whereby the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors, to be known as the proportionate fair-share program, as required by and in a manner consistent with F.S. § 163.3180(16). Proportionate fair-share payments shall be distinct and separate payments from and shall not be considered the same as impact fee payments. Impact fees are imposed by the city to replace capacity utilized by growth and to provide funding for long-range transportation plans. Proportionate fair-share is assessed to pay for specific deficiencies to the transportation network resulting from development and enabling development to meet level of service (LOS) requirements. Proportionate fair share enables development to meet level of service requirements by proportionately paying for improvement projects.
- (b) **Applicability.** The proportionate fair-share program shall apply to all developments that fail to meet the standards of this division on a roadway within the city that is not the responsibility of Palm Beach County or the Florida Department of Transportation (FDOT). The proportionate fair-share program does not apply to developments of regional impact (DRI) using proportionate fair share under F.S. § 163.3180(12), projects exempted from this division, or for projects that received traffic level of service approval prior to December 1, 2006.
- (c) **General requirements.** An applicant may choose to satisfy the transportation level of service requirements by making a proportionate fair-share contribution for impacts of new development on city roads that have or will have a LOS deficiency as defined in this division, pursuant to the following requirements:
- (1) The proposed development is consistent with the comprehensive plan and applicable land development regulations.
 - (2) Any improvement project proposed to meet the developer's fair-share obligation shall meet the city's design standards for locally-maintained roadways.
 - (3) The scope of the project shall provide for no less than the capacity necessary to address the transportation level of service needs for the next five years after the execution of the fair share agreement.
 - (4) The road improvement necessary to maintain the adopted LOS is specifically identified for construction in the five-year schedule of capital improvements in the Capital Improvements Element (CIE) of the Comprehensive Plan. The provisions of subsection (4)a. may apply if a transportation project or projects are needed to satisfy level of service and are not presently included within the city's CIE.
 - a. If an applicant meets the criteria contained in subsection (c), and the city's CIE does not include the transportation improvements necessary to satisfy the LOS deficiency, then the city may allow transportation level of service improvements and funding for the project through the proportionate fair-share upon compliance with the following criteria:

1. The improvement shall not be contained in the first three years of the city's five-year schedule of capital improvements in the CIE;
2. The city adopts by resolution a commitment to add the improvement funded by the developer's proportionate share assessment to the five-year schedule of capital improvements in the CIE at a point no later than the next scheduled annual update. To qualify for consideration under this section, the developer shall be required to submit for review and obtain the city's approval of the financial feasibility of the proposed improvement pursuant to F.S. § 163.3180, consistent with the comprehensive plan, and in compliance with the provisions of this ordinance;
3. The city agrees to enter into a binding proportionate fair share agreement;
4. The city agrees to amend the five-year schedule of capital improvements in the city's CIE at the next annual review or if the funds allocated for the five-year schedule of capital improvements in the city's CIE are insufficient to fully fund construction of a transportation improvement required by the CMS to make the project concurrent, the city may still enter into a binding proportionate fair-share agreement with the applicant; provided, however, that the proportionate fair-share amount in such agreement is sufficient to pay for one or more improvements which shall, in the opinion of the city council, alleviate the level of service concern and the CIE is amended accordingly at the next annual review.

(d) **Intergovernmental coordination.** Pursuant to policies in the Intergovernmental Coordination Element of the Comprehensive Plan, the city shall coordinate with Palm Beach County and other affected jurisdictions, such as FDOT, regarding mitigation to impacted facilities not under the jurisdiction of the local government receiving the application for proportionate fair-share mitigation. An interlocal agreement may be established with other affected jurisdictions for this purpose.

(e) **Application process.**

- (1) In the event of a lack of capacity to satisfy transportation level of service, the applicant shall have the opportunity to satisfy transportation level of service through the proportionate fair-share program pursuant to the requirements of subsection (c).
- (2) Prior to the submittal of an application, eligible applicants shall schedule a pre-application meeting with the planning and zoning department. Subsequent to the pre-application meeting, eligible applicants shall submit a completed development application and all documentation requested by the city. The city shall establish applicable application fees for the cost of reviewing the application. If the impacted facility affects is on the strategic intermodal system (SIS), then FDOT will be notified and invited to participate in the pre-application meeting. The city shall also have the option of notifying and inviting Palm Beach County.
- (3) The planning and zoning department shall review the application and certify that the application is sufficient and complete within 14 working days. If an application is determined to be insufficient, incomplete, or inconsistent with the general requirements of the proportionate fair-share program as indicated in subsection (c), then the applicant will be notified in writing of the reasons for such deficiencies. If such deficiencies are not remedied by the applicant within 30 days of receipt of the written notification, then the application will be deemed withdrawn and all fees forfeited to the city.

- (4) Pursuant to F.S. § 163.3180(16)(e), proposed proportionate fair-share mitigation for development impacts to facilities on the SIS requires the level of service of the FDOT. The applicant shall submit evidence of an agreement between the applicant and the FDOT for inclusion in the proportionate fair-share agreement.
- (5) When an application is deemed sufficient, complete, and eligible, the applicant shall be advised in writing and a proposed proportionate fair-share obligation and binding agreement will be prepared by the applicant and delivered to the appropriate parties for review, including a copy to the FDOT for any proposed proportionate fair-share mitigation on a SIS facility, no later than 60 days from the date at which the applicant received the notification of a sufficient, complete, and eligible application. If the agreement is not received by the city within these 60 days, then the application will be deemed withdrawn and all fees forfeited to the city.
- (6) No proportionate fair-share agreement will be effective until approved by the planning and zoning administrator through an administrative approval city council through a miscellaneous petition.

(f) Determining proportionate fair-share obligation.

- (1) Proportionate fair-share mitigation for level of service impacts may include, without limitation, separately or collectively, private funds, contributions of land, and construction and contribution of facilities.
- (2) A development eligible for participation under the proportionate fair-share program shall not be required to pay more than its proportionate fair share. The fair market value of the proportionate fair-share mitigation for the impacted facilities shall not differ regardless of the method of mitigation.
- (3) The methodology used to calculate a development's proportionate fair-share obligation shall be as provided for in F.S. § 163.3180(12), as follows:

The cumulative number of trips from the proposed development expected to reach roadways during peak hours from the complete build out of a stage or phase being approved, divided by the change in the peak hour maximum service volume (MSV) of roadways resulting from construction of an improvement necessary to maintain the adopted LOS, multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted LOS.

OR

Proportionate Fair-Share Development Trips

Development Trips. Those trips from the stage or phase of development under review that are assigned to roadway segment "i" and have triggered a deficiency per TPS;

SV Increase. Service volume increase provided by the eligible improvement to roadway segment "i" per Section 3;

Cost. Adjusted cost of the improvement to segment. Cost shall include all improvements and associated costs, such as design, right-of-way acquisition, planning, engineering review, inspection, administration, and physical development costs directly associated with construction at the anticipated cost, including contingencies, in the year it will be incurred.

- (4) For the purposes of determining proportionate fair-share obligations, the city engineer shall determine improvement costs based upon the actual and/or anticipated cost of the improvement in the year that construction will occur.
- (5) If an improvement is proposed by the applicant, then the value of the improvement shall be based on an engineer's certified cost estimate provided by the applicant and reviewed by the city engineer or other method approved by the city engineer.
- (6) If the city has accepted right-of-way dedication for the proportionate fair-share payment, credit for the dedication of the right-of-way shall be valued on the date of the dedication at 115 percent of the most recent assessed value by the property appraiser, or at the option of the applicant and in-lieu of the 115 percent of assessed value option, by fair market value established by an independent appraisal approved by the city at no expense to the city. This appraisal shall assume no approved development plan for the site. All right-of-way dedicated shall be part of a roadway segment that triggered the deficiency per TPS and shall not be site-related. The applicant shall supply a drawing and legal description of the land and a certificate of title or title search of the land to the city at no expense to the city. If the estimated value of the right-of-way dedication proposed by the applicant is less than the city-estimated total proportionate fair-share obligation for that development, then the applicant shall also pay the difference. Prior to purchase or acquisition of any real estate or acceptance of donations of real estate intended to be used for the proportionate fair share, public or private partners should contact the FDOT for essential information about compliance with federal law and regulations. The city shall also have the option of requiring an environmental assessment for right-of-way dedication.

(g) Impact fee credit for proportionate fair-share mitigation.

- (1) Proportionate fair-share contributions shall be applied as a credit against road impact fees to the extent that all or a portion of the proportionate fair-share mitigation is used to address the same capital infrastructure improvements contemplated by the citywide impact fees division contained in this chapter.
- (2) Impact fee credits for the proportionate fair-share contribution will be determined when the transportation impact fee obligation is calculated for the proposed development. Impact fees owed by the applicant will be reduced per the proportionate fair-share agreement as they become due pursuant to the citywide impact fees division contained in this chapter. Once the credit has been exhausted, payment of road impact fees shall be required for each permit issued. The impact fee credit shall be established when the proportionate fair-share contribution is received by the city, or when the fair-share amount is secured by Performance Security.
- (3) The proportionate fair-share obligation is intended to mitigate the transportation impacts of a proposed project. As a result, any road impact fee credit based upon proportionate fair-share contributions for a proposed project cannot be transferred to any other project.

(h) Proportionate fair-share agreements.

- (1) Upon execution of a proportionate fair-share agreement ("agreement"), the applicant shall receive a certificate of level of service approval. Should the applicant fail to apply for a development building permit within twelve (12) months, then the agreement and the certificate of level of service approval shall be considered null and void, and the applicant shall be required to reapply.

- (2) Payment of the proportionate fair-share contribution is due in full no later than the issuance of the first building permit, and shall be nonrefundable. If the payment is submitted more than ninety (90) days from the date of execution of the agreement, then the proportionate fair-share cost shall be recalculated at the time of payment, pursuant to subsection (f), and adjusted accordingly.
- (3) In the event an agreement requires the applicant to pay or build one hundred (100) percent of one (1) or more road improvements, all such improvements shall be commenced prior to the issuance of a building permit and assured by a binding agreement that is accompanied by a performance security, as determined by the city, which is sufficient to ensure the completion of all required improvements. It is the intent of this section that any required improvements be completed before the issuance of certificates of occupancy.
- (4) Dedication of necessary rights-of-way for facility improvements pursuant to a proportionate fair-share agreement shall be completed prior to the issuance of the first building permit but shall not include a building permit issued for a dry model.
- (5) Any requested change to a development subsequent to a development order may be subject to additional proportionate fair-share contributions to the extent the change would generate additional traffic that would require mitigation.
- (6) Applicants may submit a letter to withdraw from the proportionate fair-share agreement at any time prior to the execution of the agreement. The application fee and any associated advertising costs paid to the city will be nonrefundable.
- (7) The city may enter into proportionate fair-share agreements for selected corridor improvements to facilitate collaboration among multiple applicants on improvements to a shared transportation facility.

(i) Appropriation of fair-share revenues.

- (1) Proportionate fair-share revenues shall be placed in the appropriate project account for funding of scheduled improvements in the CIE, or as otherwise established in the terms of the proportionate fair-share agreement. Proportionate fair-share revenues may be used as the fifty (50) percent local match for funding under the FDOT TRIP, or any other matching requirement for state and federal grant programs as may be allowed by law.
- (2) In the event a scheduled facility improvement is removed from the CIE, then the revenues collected for its construction may be applied toward the construction of another improvement within that same corridor or impact fee benefit zone that would mitigate the impacts of development pursuant to the requirements of subsection (c)(3).

3C

Two versions of Article 3 were previously provided to the Council.