

Sec. 5.2.3 – Review Criteria and Process

- A. Annexations and Contractions shall comply with the criteria and eligibility set forth in Chapter 171, Florida Statutes, and all applicable Palm Beach County requirements. The annexation criteria are provided in the Development Review Manual.
- B. All other development applications shall comply with the following:
 - 1. The proposed development/activity is consistent with the Comprehensive Plan, including land use, density, and intensity.
 - 2. The proposed development/activity results in logical, timely, and orderly development patterns.
 - 3. The proposed development/activity is compatible with surrounding land uses, zoning, and existing development.
 - 4. The proposed development/activity complies with all other applicable requirements of the LDR.
 - 5. The proposed development/activity complies with the applicable criteria of the Development Review Manual based on application type.
- C. Administrative applications and applications that require public meetings/hearings
 - 1. The Development Review Manual classifies each application as follows:
 - a. Administrative:
 - i. Type A1 Applications: Administrative applications are those that can be approved, approved with conditions, or denied by the PZB Director or the DM.
 - ii. Type A2 Applications: Administrative applications are those that require administrative certification/approval from the PZB Director or the DM, such as site plans and site plan amendments, and do not require public hearing.
 - b. Applications that Require Public Meetings/Hearings:
 - i. Type B Applications: Applications that require administrative certification that the application(s) meet all requirements to move forward for public meeting or hearing by a Board or Committee.
 - ii. Type C Applications: Applications that require administrative certification and review/recommendation from a Board or Committee prior to a public hearing by Village Council.
 - 2. Public Meeting or Hearing Notice Requirements:
 - a. All items scheduled for review by the EPC or ARB shall be posted at least 24 hours prior to the meeting on the Village Website.

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- b. Development applications that proceed to PZAB and/or Council shall be subject to statutory notice requirements and the requirements below:
 - i. Notice of public hearings shall not be provided unless and until a determination has been made by the Planning, Zoning and Building Director, or designee, that a development application is certified for public hearing.
 - ii. Legal notice shall be advertised in a newspaper of general circulation by following the public notice requirements in Section 1.13 of the Code of Ordinances at least 15 calendar days prior to the date of the hearing.
 - iii. Notice of hearing shall be ~~mailed certified delivered by first-class mail with return receipt for domestic mail or registered mail with return receipt for international mail, as required,~~ a minimum of 15 calendar days prior to the hearing, to all owners of real property located within a 500-foot radius of the subject ~~site~~property. The applicant shall use the names and addresses from the latest published ad valorem tax records of the County property appraiser. If ~~the any property~~area within 500 feet is owned by the applicant, the required notice boundary shall be extended to include these parcels. Governmental jurisdictions within one (1) mile of the property shall also be notified. Notice shall include a description of the proposal, the date, time, and place of the hearing, a location map indicating the subject site, nearby roads and a statement that ~~interested parties~~members of the public may appear and be heard regarding the matter. Where two (2) or more public hearings will be held on the same application, notices for such public hearings may, at the option of Wellington, be combined.
 - iv. The applicant shall post notice signs, provided by the Planning and Zoning Division, and in accordance with the following:
 - a. ~~Posted~~ a minimum of 15 calendar days in advance of any public hearing.
 - b. ~~Install One~~ (1) sign for every 500 feet of frontage of the subject site along a public or private road.
 - c. Install notice signs ~~Shall be~~ no more than 25 feet from the edge of the road.
 - d. Install notice signs ~~Shall be~~ in full view to the public. Where there is no frontage on a public road, one (1) sign shall be posted on the nearest public road indicating the direction and distance to the subject ~~site~~land.
 - e. The applicant shall provide an affidavit including pictures of posted signs within three (3) business days of posting.
 - f. The signs shall be removed by the applicant within seven (7) calendar days after the final hearing.

D. Public Hearing Proceeding and Records

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1. Public meetings/hearings shall be conducted in accordance with the adopted process as provided in the ~~Public Meeting Handbook~~ Village Council's adopted meeting procedures.
2. If it is determined by the PZB Director or DRM that the application is based on incomplete or inaccurate information or misstatements of fact, the PZB Director application may be remanded the application back to a previous reviewing entity (e.g., the DM, EPC or PZAB) dependent on the timing of the determination.
3. The decision-making body conducting the public hearing may on its own motion, or at the request of an applicant or staff, continue the hearing or meeting to a fixed time and place. An applicant shall have the right to request and be granted one (1) ~~thirty-day~~ continuance. Subsequent continuances shall be granted at the discretion of the decision-making body conducting the hearing. Any request for a continuance shall be submitted in writing at least five (5) business days prior to the hearing or the applicant shall be required to attend the hearing to make the request and the continuance will then be at the discretion of the board. Additional fees may be required.
4. If substantive changes are made to the request within ten (10) business days prior to a public meeting or hearing, the item will incur an automatic continuance and may be remanded back to the previous decision-making body.
5. An applicant shall have the right to withdraw an application at any time prior to a vote on the final action by the decision-making body. Requests for withdrawal received in writing by the PZB Director five (5) business days prior to the meeting will be granted without prejudice as a matter of right and subject to forfeiture of all application fees; thereafter, requests may be granted with or without prejudice.
6. For Type B and C applications that request a minor amendment to the approved development order, but exceed the minor administrative amendment criteria, the applicant may request an expedited review of the change. An expedited review means the applicant may qualify to take the amendment directly to the decision-making body and not be required to go back to a committee or board that provided a recommendation. Expedited reviews shall meet all required legal advertisement, mailing, and posting requirements that apply to the application type. Applications that modify project boundaries, increase density and/or intensity, or increase the project traffic generation are not eligible for expedited review.
7. Records.
 - a. Records of public hearings shall be kept in accordance with Florida Statute 286.011.
 - b. The record of oral proceedings, including testimony and statements of opinion, the minutes of the EPC, PZAB and Council as applicable, applications, exhibits and papers submitted in any proceeding before the decision-making body, the staff report and recommendation of the Wellington official or staff responsible for making the recommendation, and the final vote of the decision-making body shall constitute the record.
 - c. It is the responsibility of any person appealing a decision of any decision-making body conducting a public meeting or hearing pursuant to these LDR to provide a record of all necessary evidence to support the appeal.

Sec. 5.2.4 – Results, Time Limitations, Revocations, Suspensions, and Appeals of Development Orders

A. Results

1. Decision-making bodies shall comply with the Code of Ordinances, Florida Statutes, the LDR and the Development Review Manual when specific actions or criteria are required based on the type of application. Additionally, the following shall apply:
 - a. When a development application is denied with prejudice at a public hearing, an application for all, or in part, of the subject site shall not be considered for a period of one (1) calendar year, except for a Future Land Use Map amendment to the Comprehensive Plan, which shall not be considered for two (2) calendar years, from the date of the denial unless the subsequent application involves:
 - i. A change in proposed use;
 - ii. A 25% or greater increase or decrease in the proposed density or intensity;
or
 - iii. A majority of the decision-making body determined the denial is based on a material mistake of fact of the proposed application.
 - b. If an application is deemed sufficient and submitted for review, but then becomes inactive for 90 calendar days, the DM shall have the authority to administratively withdraw the applications unless an extension is requested prior to the expiration of the 90-day period. An extension fee may be applicable.
2. Type A1 Administrative Applications shall be reviewed and a decision shall be made within ten (10) business days of a sufficient application, including resubmittals as required. The final decision shall be provided to the applicant within five (5) business days of the decision.
3. Applicants that obtain an approval of a Type A2, B and/or C Application shall submit two (2) sets of plans and one (1) Mylar for stamping, along with a georeferenced CAD and/or GIS file. The plans must match what was approved by the decision-making body and include all conditions of approval. A rectified plan shall be submitted for final review/approval and stamped by the DM for any amendments required by the decision-making body and/or to implement or illustrate a condition of approval. Any changes beyond what is considered to be the rectified plan shall be considered an amendment and shall require a new application in accordance with this article.
4. If there is evidence that a development order application or presentation contained misrepresentation, fraud, deceit or a deliberate error of omission, the PZB Director shall initiate a re-hearing of the decision-making body and may result in the proposed application being remanded back to the beginning of the development review process.

B. Time Limitations

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1. Development orders shall comply with the time limitations and requirements of Table 5.2.4 -1 unless:
 - a. The PZB Director grants an administrative extension for a period of time not to exceed 12 months. If a surety bond, escrow deposit, or letter of credit was not originally required, one may be required as a determining factor in granting the extension. Only one administrative extension is permitted and shall be considered based on the following:
 - i. Attempts by the applicant to complete the unfulfilled conditions of approval;
 - ii. Changed circumstances that affected the applicant's ability to fulfill conditions of approval; or
 - iii. Circumstances that are not self-imposed by the applicant.
 - b. Amendments to a development order granted by the respective decision-making body may provide new date certain conditions of approval that supersede the previous development order.
 - c. If a state of emergency is declared by the State of Florida, an applicant may be entitled to an extension of a development order, in full or in part, pursuant to Florida Statutes 252.363 (1)(a), as amended from time to time.
 - d. All development orders that include a specified phasing plan, which provides the sequence and timing of each phase, may only be eligible for an extension on certain phases and partial completion of the overall development.
 - e. The following development orders are exempt from the time limitations set forth in this article:
 - i. Village initiated development orders.
 - ii. Rezoning of a single residential parcel that does not exceed the corresponding density permitted within the Future Land Use Map designation of the Comprehensive Plan.

Table 5.2.4-1 Time Limitations for Development Orders

Development Order	Maximum Number of Phases	Required Commencement Action	Maximum Time to Commence Development	Maximum Length Time Extension	Action Upon Failure to Comply
Master Plan/Planned Development	3	Commence Development	3 years	1 year	Council Review
Site/Subdivision Plan	2	Commence Development	2 years	1 year	All undeveloped

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					phases are null and void
Conditional Use	2	Commence Development or Initiate Use	2 years	1 year	Council Review
Variance	1	Commence Development	2 years	1 year	PZAB Review

NOTES: (1) "Commence development" means initiation of physical improvements, but does not include platting, demolition, land clearing or filling.

(2) The maximum time to commence development starts at final certification or effective date of a resolution.

C. Abandonment, Suspension or Revocations

1. Abandonment of a development order may occur based on one or more of the following:

- a. A new development order is issued that replaces the existing development order.
- b. The property owner(s) provide a written request, or the DM requests, to abandon a development order to the PZB Director. The property owner(s)/DM must demonstrate that no improvements have commenced.

2. Suspension of a Development Order

- a. Suspension of a development order may occur if a code case was initiated on the subject property by the Code Compliance Division and is found to be in violation of code provisions by the Special Magistrate. The suspension shall take effect immediately after the 30-day appeal period of the Special Magistrate's order has expired. No new development applications shall be processed for the subject site unless the proposed development application is required to rectify the code case, then the PZB Director may authorize the DM to process the request.
- b. Suspension of a development order may occur if there is a violation of a condition of approval. A violation of a development order is considered a violation of the code. The PZB Director shall have the option to report the violation to Code Compliance or to set a hearing with the respective decision-making body to impose corrective action.
- c. A suspension of a development order, as indicated above, shall be documented and recorded with the Palm Beach County Clerk of Courts. The document shall indicate the reason for the suspension and must express that no new development orders shall be processed until the suspension is removed. A document removing the suspension shall be recorded once all violations are rectified. The property owner may be required to pay the recordation and processing fees.
- d. A suspension may be waived if:

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- i. The property owner is a government agency.
- ii. The violation was not self-imposed and due to a government-caused delay.
- iii. Litigation prevents or delays compliance. Documentation of active litigation may be required.

3. Revocation of a Development Order

- a. Type A1 development orders: The PZB director, or designee, shall have the right to revoke development orders if a property owner violates the conditions of approval.
- b. Type A2, B and C development orders: If a property owner fails to comply with conditions of approval, the PZB Director shall set a hearing with the original final decision-making body, for consideration of revocation of the development order. The DM shall notify the property owner of the date, time and reason for the hearing. The decision-making body shall consider the same review criteria of the development order as the original approval and as provided for in the Development Review Manual.
- c. The hearing process for a revocation of Type A2, B, and C development orders shall comply with the following:
 - i. Legal notice shall follow the public notice requirements in Section 1.13 of the Code of Ordinances at least 15 calendar days prior to the date of the hearing.
 - ii. The hearing shall be scheduled to occur within 90 calendar days of notification to the property owner that consideration for revocation has occurred.
 - iii. If the decision-making body revokes a development order, any future development shall require a new development application.
 - iv. If the decision-making body does not revoke the development order, it will remain valid and may have newly imposed conditions of approval determined by the body.

D. Appeals

- 1. Standing to file an appeal of a development review decision shall be limited to the property owner, contract purchaser, authorized agent of the owner/purchaser or those property owners within 500 feet of the subject property or as otherwise provided by Florida Statutes.
- 2. A recommendation by staff, committee, or board acting in their advisory capacity is not a final decision and is not appealable.
- 3. Any person aggrieved by a final decision included in this article shall exhaust all administrative remedies available prior to applying to the courts for judicial relief.

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4. Appeals from any affected party or governmental entity on annexations or contractions shall be processed in accordance with Florida Statute 171.081.
5. Administrative Appeals:
 - a. The PZB Director shall hear appeals of any decision of the DM, unless otherwise listed in Table 5.2.4-2. The appeal shall be submitted to the Director within 30 calendar days of the issuance of a DM's decision. The Director's decision on the appeal may be further appealed to the PZAB within 30 calendar days of rendering of such decision.
 - b. If the Director is the decision-making authority for an administrative development application, any appeal shall be heard by the PZAB in accordance with the appeal process in sec.5.2.4.D.6 of this article.
6. Appeals to a Committee, Board or Council
 - a. Table 5.2.4-2 provides the decision-making bodies and the type of appeal they are tasked with hearing.
 - b. Such appeals shall follow the procedures below:
 - i. Appeals shall be filed on forms prescribed by the PZB Director within 30 calendar days of the decision.
 - ii. A hearing before the PZAB shall be scheduled no later than 45 calendar days following receipt of the written appeal unless the PZB Director and the applicant mutually agree to an extension of this time period.
 - iii. The PZAB shall give the Appellants and other interested parties a reasonable opportunity to be heard. The interpretation or decision in question shall be presumed to be correct and the applicant shall have the burden to demonstrate errors. The Board shall not reject or modify the Director's interpretation/decision if it is supported by competent substantial evidence. At the conclusion of the hearing, the Board shall render its determination. The Board may reverse, affirm, wholly or in part, or may modify the decision or determination being appealed. The determination shall be issued in written form with a copy sent to Appellants.
 - iv. Following exhaustion of all administrative remedies, parties to an appeal heard before the PZAB may seek appropriate judicial relief. A re-hearing of an appeal is not permitted.
 - v. For an appeal of a decision by the PZAB pertaining to an archaeological certificate to dig, pursuant to Article 7, within 30 calendar days of a written decision by the PZAB an aggrieved party may appeal the decision by filing a written notice of appeal with a filing fee established by the Wellington Council with the Wellington Clerk and the PZB Department. The notice of appeal shall state the decision that is being appealed, the grounds for the appeal and a brief summary of the relief that is sought. Within 45 calendar days of the filing

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of the appeal or the first Wellington Council meeting that is scheduled, whichever is later in time, the Council shall conduct a public hearing at which time they may affirm, modify or reverse the decision of the PZAB. The applicant shall be notified (by certified mail/return receipt requested) of the date, time and place of such hearing. At this hearing the party shall set forth the alleged inconsistencies or non-conformities with procedures or criteria set forth in these LDR. However, no new material or evidence shall be presented to or considered by the Council. The decision of the Council shall be in writing and a copy of the decision shall be forwarded to the appealing party.

- vi. Appeals to the ARB shall be filed within ten (10) calendar days of the decision. A hearing shall be scheduled no later than 45 calendar days following receipt of the written appeal unless the PZB Director and the applicant mutually agree on a date certain hearing.
- vii. Any interested party aggrieved by a decision of the PZB Director pertaining to Article 7, Tree Protection shall appeal to the Tree Board by filing a written appeal with the PZB Department within ten (10) calendar days of the decision of the department. A hearing shall be scheduled no later than 45 calendar days following receipt of the written appeal unless the parties mutually agree to an extension.

Table 5.2.4-2 Decision-making Bodies for Appeals

Decision-making Body	Type of Application					
Architectural Review Board	Administrative denial of a building materials or design					
Planning, Zoning and Adjustment Board	Special/Equestrian Permits	Extended Hours of Operation Permit	Excavation Permits	Interpretations of the Code	Administrative Conditions of Approval	Denial of Administrative Time Extension
Tree Board	Decision or conditions of approval by the PZB Director regarding Vegetation Removal Permits					
Village Manager	The denial or conditions of approval for a Reasonable Accommodation					
Council	Decision by PZAB regarding an Archaeological Certificate to Dig			Seasonal Permits (new and renewals)		