

## **Article 5 - DEVELOPMENT REVIEW PROCEDURES**

### **CHAPTER 1. – GENERAL**

#### **Sec. 5.1.1. Purpose**

The purpose of this section is to promote the health, safety and welfare of residents and visitors of Wellington by providing for the administration of development review procedures which result in compliance with the Comprehensive Plan and statutory requirements as may be referred to in these Land Development Regulations.

#### **Sec. 5.1.2. Applicability.**

The provisions of this section shall apply to development applications other than a building permit. Building permits will be processed in accordance with the applicable provisions of Chapter 18 of the Wellington Code of Ordinances.

#### **Sec. 5.1.3. Applications, fees and deadlines.**

Every application indicated in the Development Application and Authority Table 5.2.2-1 shall be submitted to the Planning and Zoning Department except for applications pursuant to Article 8 which shall be submitted to the Wellington Engineer. Such applications shall be in a form specified by the Planning and Zoning Director or the Wellington Engineer. Applications shall be accompanied by a nonrefundable fee established by Council to defray the cost of processing. An additional fee may be charged for incomplete, postponed and continued applications. Annually the Planning and Zoning Director shall prepare a calendar of application intake and monthly meeting dates, as may be amended and remain consistent with this Code. This calendar shall govern development review procedures and timelines.

#### **Sec. 5.1.4. Conditions of Approval.**

Decision making persons and bodies may recommend or require conditions of approval necessary to accomplish purposes including but not limited to preventing or minimizing adverse effects upon the public and the environment, ensuring compatibility with adjacent uses, compliance with the Comprehensive Plan, compliance with Article 2 Concurrency Management, compliance with Article 9 Vehicular Traffic Performance Standards, compliance with previous conditions of approval and compliance with the remainder of the LDR. Such conditions are not intended to restate an express requirement of these LDR but are intended to supplement the LDR to mitigate specific impacts which may not otherwise be adequately addressed.

#### **Sec. 5.1.5. Concurrent applications.**

Concurrent applications may be consolidated for review pursuant to an agreement between the applicant and the Planning and Zoning Director as part of the preapplication meeting. Time periods for review shall be no less than those established for the application with the longest review period.

### **Sec 5.1.6. Unified control.**

A. Land corresponding to any part of a development application proposed to operate as a unified plan shall be owned or under the control of the applicant or subject to unified control. Prior to Development Review Committee (DRC) certification the applicant shall present evidence to the Wellington Attorney of the unified control for the entire area covered by the application and plan. The applicant shall agree once the application is approved the following conditions shall be met:

1. Unified control shall be established in accord with the application and such conditions or modifications as may be attached to the approval of the development order;
2. Agreements, covenants, contracts, deed restrictions, unities or sureties shall be subject to approval by the Wellington Attorney for development and completion of the development in accordance with the approved development order, as well as for the continuing operation and maintenance of such areas, functions and facilities which are not provided, operated or maintained at general public expense. The Unity of Control shall be approved and recorded prior to certification of the application by the DRC.
3. Successive owners shall be bound in title to any commitments made under conditions, written consents and agreements secured from all property owners of record within the development who had not joined in the original development order. These consents shall state there are no objections to including their land within the development.
4. Public civic uses shall not be subject to regulating documents for development areas unless set forth in the approved development order.

### **Sec. 5.1.7. - Preapplication meeting.**

- A. Except for development application processes which are administrative as indicated in the Development Application Processes and Authority Table 5.2.2-1 a preapplication meeting is required before initial submission of a development application. This meeting is to familiarize the applicant with the codes and processes required. A request for a preapplication meeting shall be made by the applicant through the Planning, Zoning and Building Department.
- B. At the preapplication meeting the applicant and staff shall discuss the proposed development in order for staff to determine which provisions of this code apply including the required sequence of approvals.
- C. Within three (3) days of the preapplication meeting staff shall provide the applicant with a written summary of the meeting to identify key issues from the meeting.

### **Sec. 5.1.8. Initial Development Application Submission.**

- A. Development application(s) shall be filed within six (6) months from the mailing of the written preapplication meeting summary by the Planning, Zoning and Building Department. Completion of filing is subject to the intake and determination of sufficiency process in Sec 5.1.9 below. The submission shall include the following:
  1. The name, address and telephone number of the land owner of record.
  2. The name, address and telephone number of the applicant.

3. A list of all land use, environmental, economic, engineering, legal or other professionals assisting in the application.
4. The property control number, a legal description of the land and the street address, if applicable.
5. A survey, legal sketch or tax map with the property highlighted and conceptual site plan of the land proposed for development, including, but not limited to, the proposed use, square footage by use type and lots layout. Some requirements may be waived for an amendment to the Future Land Use Map.
6. A short description of the existing site conditions of the land including its Future Land Use Map designation and existing zoning classification.
7. The date of the creation of the lot such as plat book and page number or deed as applicable.
8. The existing utilities on the land including any on-site sewage and water facilities.
9. A history of previous development orders approved for the land, including but not limited to, amendments to the Future Land Use Map, Master Plan Amendments, conditional uses, variances, site plans, subdivision plans, plats and permits.
10. A location map of the land showing its proximity or location with respect to municipal boundaries within one (1) mile of the proposed development and municipal annexation areas within one-quarter (1/4) mile of the proposed development, wellfield protection zones, flood zones, drainage districts zoning districts and overlay districts.
11. A statement whether or not the applicant has any ownership interest in contiguous parcels.
12. All warranty deeds, including the property control number and legal description of the property.

**Sec. 5.1.9. – Application intake and determination of sufficiency.**

For all development applications requiring a public hearing or a meeting of the Development Review Committee (DRC), the applicant shall schedule an application intake meeting with the Planning, Zoning, and Building Department. At the intake meeting, the assigned project manager shall determine whether the application is sufficient. Once deemed sufficient the application shall be scheduled for a DRC meeting for review.

- A. If it is determined the development application is not sufficient, the project manager shall not retain any part of the application. The project manager shall indicate at the intake meeting how the application may be made ready for consideration at a future intake meeting. The applicant shall be responsible for contacting the department to schedule any additional intake meetings.

**Sec. 5.1.10. Development Review Committee (DRC) or Administrative Action.**

- A. Unless otherwise specified in sections of this code describing application procedures, applications require certification by DRC subsequent to sufficiency review and prior to being placed on an advisory committee or public hearing agenda.

- B. Unless requested by Wellington, applications shall not be significantly altered after DRC certification. In no case shall significant changes be made to proposed site, master or preliminary development plans within ten (10) working days of the public hearing on the application without incurring an automatic continuance
- C. For applications which were deemed sufficient and require DRC review, the application shall be reviewed including consultation with other departments and agencies.
- D. If DRC is the approving has the authority it shall approve, approve with conditions or deny the application.
- E. For applications which DRC certifies for a public hearing, DRC shall include a staff report with comments of other agencies recommending approval, approval with conditions or denial based on these Land Development Regulations. The Planning and Zoning Director shall send a copy of the decision and staff report to the applicant by mail/email on the day of the decision along with notification of the time and place the application will be considered by a Wellington Advisory Committee (if applicable) or the Planning, Zoning and Adjustment Board.
- F. If the application is within the authority of the Planning and Zoning Director or the Wellington Engineer to administratively approve, approve with conditions, or deny the development application, the official shall make a decision within ten (10) working days of receipt of the application and shall send a copy of the decision to the applicant by mail/email pursuant to procedures in this Article.

**Sec. 5.1.11. - Notice.**

- A. Notice of all development applications shall be posted on Wellington's website within five (5) working days of the date the application deemed sufficient. Notice of any public hearing shall be provided by publication of advertisement, mailed notice and posting pursuant to the terms of this section.
  - 1. For consideration of a development application by DRC (such as site plans and subdivision plans) or the EPC a notice of the meeting shall be posted at least twenty-four (24) hours before the meeting on the Wellington website.
  - 2. Development applications, comprehensive plan amendments, and zoning amendments which proceed to the Planning Zoning and Adjustment Board or Council shall be subject to the mailing and posting requirements below for each hearing and hearings shall be advertised in a newspaper of general circulation at least fifteen (15) days before the date of the hearing.
  - 3. The publications for public hearings concerning comprehensive plan amendments shall meet the requirements of Chapter 163, Fla. Stat. and any publications for public hearings concerning zoning amendments shall meet Chapter 166 Fla. Stat. requirements.
  - 4. A notice of each hearing for the proposed development application shall be mailed to all owners of real property located within a five hundred (500) foot radius of the subject land using names and addresses from the latest published ad valorem tax records of the County property appraiser. When real property consists of a condominium the notice shall be mailed to the condominium association and all real property owners living within a five

hundred (500) foot radius. If the area within five hundred (500) feet is owned by the applicant or partner in interest, the five hundred (500) foot boundary shall be extended from these parcels. Property owner associations and cooperatives inside the boundary and municipalities within one (1) mile shall also be notified. If there are unincorporated lands within one (1) mile of the property, Palm Beach County shall be notified. The notice shall state the substance of the proposal and shall set a date, time and place for the applicable public hearing. The notice shall contain a location map clearly indicating the area covered by the proposal including major streets and a statement interested parties may appear at the hearing and be heard regarding the matter. Such notice shall be mailed a minimum fifteen (15) calendar days prior to the date set for the hearing by certified mail to each owner. A copy of such notice shall be available for public inspection during regular business hours at the office of the Planning and Zoning Director. If there are simultaneous land use change and rezoning applications the notice mailings may be combined.

5. Notice for the subject land shall be posted on a sign(s) provided by the Planning and Zoning Department at least fifteen (15) calendar days in advance of any public hearing. One (1) notice shall be posted for each five hundred (500) feet of frontage along a public street and setback no more than twenty-five (25) feet from the street. All signs posted shall be in full view of the public on each street side of the subject property except where the land does not have frontage on a public street. In the latter case the signs shall be posted on the nearest street right-of-way with a notation indicating the direction and distance to the subject land. The signs shall be removed by the applicant within one (1) week after the final Council hearing. The applicant shall provide an affidavit including pictures of posted signs within three (3) days of posting.

**Sec. 5.1.12. - Public hearing procedures for development applications.**

- A. When a development application is certified for public hearing the Planning and Zoning Director shall schedule a place and time for the hearing.
- B. During normal business hours upon reasonable notice, any person may examine the application and materials submitted. Copies of such materials shall be made available subject to any fee permitted by law.
- C. Conduct of hearing.
  1. Testimony and evidence shall be given under oath or by affirmation to the body conducting the hearing.
  2. Any person may appear at a public hearing and submit evidence, either individually or as a representative of an organization. Anyone representing an organization shall present evidence of their authority to speak on behalf of the organization. Each person who appears shall be identified, state an address and if appearing on behalf of an organization, state the name and mailing address of the organization. If the use of electronic media and equipment is to be part of the hearing presentation, the applicant or other individual presenting shall notify the Planning, Zoning, and Building Department at least one (1) calendar day prior to the hearing.

3. The body conducting the hearing may exclude testimony or evidence it finds to be irrelevant, immaterial or unduly repetitious. The order of the proceedings shall be as follows:
  - a. The staff responsible for reviewing the application shall present a narrative and graphic description of the application along with written and oral recommendations. Recommendations shall reference decision standards (Sec. 5.2.3) required to be considered by this Code. The recommendations shall be made available to the applicant at least five (5) working days prior to the public hearing.
  - b. The applicant shall present any information the applicant deems appropriate.
  - c. Public testimony shall be heard.
  - d. The Planning and Zoning Director, Wellington Engineer, Wellington Attorney and other Village staff may respond to any statement made by the applicant or to any public comment.
  - e. The applicant may respond to any testimony or to evidence presented by Wellington staff or by the public.
4. In the event testimony or evidence is excluded as irrelevant, immaterial or unduly repetitious the person offering such testimony or evidence shall have an opportunity to make a presentation for the record at the public hearing.
5. If at any time during the hearing it is determined the application is based upon incomplete or inaccurate information or misstatements of fact the application may be referred back to the previous reviewing entity (i.e., DRC or PZAB) for further recommendations.
6. The body conducting the public hearing or meeting may on its own motion or at the request of an applicant continue the public 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 without an additional fee. Subsequent continuances shall be granted at the discretion of the body conducting the hearing only upon good cause shown. Any request for a continuance shall be submitted in writing at least five (5) working days prior to the hearing.
7. Any application continued by DRC for a total of more than six (6) months shall be administratively withdrawn.
8. An applicant shall have the right to withdraw an application at any time prior to the final action by the decision-making body. Requests for withdrawal received in writing by the Planning and Zoning Director five (5) working days prior to the meeting shall be granted without prejudice as a matter of right subject to forfeiture of all application fees. The governing body may accept the withdrawal without prejudice or with prejudice. Withdrawal with prejudice bars the filing of a successive application for one (1) calendar year.
9. Record.
  - a. The public hearing shall be recorded. A copy of the record may be acquired by any person upon application to Wellington's Clerk and payment of a fee to cover the cost of duplication.

- b. The record of oral proceedings including testimony and statements of opinion, the minutes of the DRC, EPC, PZAB and Council as applicable, applications, exhibits and papers submitted in any proceeding before the decision making body, the 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. All records of decision making bodies shall be public records which are open for review or inspection at the Planning, Zoning and Building Department during normal business hours upon reasonable advance notice.
- d. It is the responsibility of any person appealing a decision of any body conducting a public meeting or hearing pursuant to this Code to ensure a verbatim record of the proceeding shall be made including the testimony and evidence on which the appeal is to be based.

**Sec. 5.1.13. - Successive applications.**

- A. Unless the Planning, Zoning and Adjustment Board or Council choose to deny the application specifically without prejudice the denial shall be considered to have been with prejudice. When any application is denied with prejudice an application for all or a part of the same land shall not be considered for a period of one (1) year after the date of denial unless the subsequent application involves a development proposal which is materially different from the prior proposal or unless the person or a majority of the members of the decision-making body which made the decision on the application determines the prior denial was based on a material mistake of fact. For the purposes of this section an application shall be considered materially different if it involves a change in use or a change in intensity or density of use by twenty-five (25) percent or more. The body charged with conducting the initial public hearing for successive application shall resolve any question concerning the similarity of a second application or other questions which may develop under this section.
- B. Whenever an application for a Site Specific (Future Land Use Map) amendment to the Comprehensive Plan is denied any subsequent application for a Site Specific (Future Land Use Map) amendment to all or a portion of that land shall not be considered for two (2) years after the denial.

**Sec. 5.1.14. - Development order abandonment.**

- A. All development orders which are never implemented shall be either:
  - 1. Abandoned simultaneously with issuance of a subsequent development order;
  - 2. Administratively abandoned upon demonstration to the Planning and Zoning Director the development order was not implemented; or
  - 3. Reviewed for revocation pursuant to non-compliance with time limitations and conditions of approval.
- B. Development orders qualify for administrative abandonment.

1. A development order which was used, implemented or benefited from may be administratively abandoned by filing an application with the Planning and Zoning Director demonstrating the following criteria:
    - a. All conditions of approval have been met;
    - b. There is no reliance by other parties on additional performances;
    - c. Consent of all property owners has been received.
  2. A development order which was used, implemented or benefited from may be abandoned simultaneously with the issuance of a subsequent development order issued by the Council or the property owner may elect to petition the Council to abandon the development.
- C. In determining whether a development order was used, implemented or benefited from, consideration shall be given to the following factors:
1. Whether any construction or additional construction authorized in the Development Order has commenced.
  2. Whether a physical or economic use of the development order has occurred including physical or economic expansion.

## **CHAPTER 2. – AUTHORITY AND DECISION MAKING**

### **Sec. 5.2.1. Actions by decision making persons and bodies.**

- A. Decision making persons and bodies shall act in accordance with the time limits established in this Code.
- B. Decisions shall be in writing and shall include at least the following elements:
  1. A summary of all documentary evidence submitted into the record which the decision-making body considered in the decision;
  2. A statement of findings of fact pertinent to the decision; and
  3. A statement of approval, approval with conditions or denial.
- C. A copy of the decision shall be made available to the applicant at the Planning, Zoning and Building Department and/or the office of the Wellington Engineer whichever is appropriate during normal business hours within a reasonable period of time after the decision.

### **Sec. 5.2.2. Decision authority.**

Per the Wellington Code of Ordinances, Chapter 2, Article VI, Council, boards, committees, officials and staff listed in Table 5.2.2-1, Development Application Processes and Authority have the indicated authority regarding recommendations, approval, or denial as further expressed in other sections of this article. For applicable recommendations concerning development applications and administrative applications the Development Review Committee and/or staff shall include the recommendations of other responsible departments and agencies.

The Planning, Zoning, and Adjustment Board acts as the Local Planning Agency per Fla. Stat. 163 and is involved in preparing the Comprehensive Plan, Land Development Regulations, variances

and certain appeals. Variances of use and from thresholds which specify eligibility for review processes are not permitted.

The appeal authority of officials, boards, committees and Council for the listed types of applications is indicated in Sec. 5.17, Appeals.

The authority herein is in accordance with Fla. Stat. 163 (community planning), 166 (municipalities), 171 (annexation), 177 (platting), 380 (land and water management) or as otherwise cited in these LDR.

See Article 8 for authority provisions for Subdivision, Platting and Required Improvements.

**Table 5.2.2-1 Development Application Processes and Authority**

| <b>Processes</b>                              |                              |                                     |   |  |  |   |                   |                |
|---|------------------------------|-------------------------------------|---|--|--|---|-------------------|----------------|
|   | <b>Article &amp; Section</b> | <b>Planning and Zoning Director</b> | <b>Development Review Committee (DRC)</b> | <b>Equestrian Preserve Committee (EPC) *</b> | <b>Planning and Zoning Adjustment Board (PZAB)</b> | <b>Architectural Review Board (ARB)</b> | <b>Tree Board</b> | <b>Council</b> |
| Annexation                                    | 5.3                          | SR                                  | SR  | AR   | AR   |   |                   | A (2)          |
| Comprehensive Plan Map and/or Text Amendments | 5.4                          | SR                                  | SR  | AR   | AR   |   |                   | A (2)          |
| Zoning Map and/or Text Amendments             | 5.5                          | SR                                  | SR  | AR   | AR   |   |                   | A (2)          |
| Conditional Use                               | 5.6                          | SR                                  | SR  | AR   | AR   |   |                   | A (1)          |
| Variance                                      | 5.10                         | SR                                  | SR  | AR   | A  |   |                   |                |
| Master Plan and/or Amendments                 | 5.12                         | SR                                  | SR  | AR   | AR   |   |                   | A (1)          |
| Amendment of Conditions of Approval           | 5.15                         | SR                                  | SR  | AR   | AR   |   |                   | A (1)          |
| Conditional Use Minor Deviation               | 5.6.E                        | SR                                  | A   |  |  |   |                   |                |
| Site Plan or Subdivision Plan                 | 5.9                          | SR                                  | A   |  |  |   |                   |                |
| Master Plan Minor Amendment                   | 5.12.H                       | SR                                  | A   |  |  |   |                   |                |
| Special Permit                                | 5.7                          | A                                   |   |  |  |   |                   |                |
| Equestrian Permit                             | 5.8                          | A                                   |   |  |  |   |                   |                |

|   |          |      |  |  |   |   |   |   |
|---|----------|------|--|--|---|---|---|---|
| Site Plan Amendment for a Minor Deviation | 5.9.E    | A    |  |  |   |   |   |   |
| Administrative Variance                   | 5.10.4   | A    |  |  |   |   |   |   |
| Administrative Extension of Time          | 5.11.3.B | A    |  |  |   |   |   |   |
| Compliance with Conditions of Approval    | 5.11.3.C | SR   |  |  |   |   |   | A |
| Extended Hours Special Permit             | 5.13     | A    |  |  |   |   |   |   |
| Reasonable Accommodation                  | 5.14     | A ** |  |  |   |   |   |   |
| Appeals                                   | 5.17     | SR   |  |  | A | A | A |   |

**Notes for Table 5.2.2-1 Development Application Processes and Authority**

A - Approval

AR - Advisory Committee Recommendation

SR - Staff Recommendation

A (1) or (2) Council Approval and Hearings Required

\* Review by the EPC is required for all listed development applications for property in the Equestrian Preserve Area

\*\* Reasonable Accommodation Appeal is to the Village Manager

**Sec. 5.2.3. Decision making standards for development applications.**

These standards shall be used when considering the approval of development applications listed below along with reference for each applicable process located in Table 5.2.2-1.

- A. The following findings shall be made before approving all development applications.
  1. Consistency with the Comprehensive Plan, including land uses, intensities and densities.
  2. The proposed development will result in logical, timely and orderly development patterns.
  3. Complies with Article 2 Concurrency Management and Article 9 Vehicular Traffic Performance Standards.

4. The application would result in development or activities which are compatible with the existing character of land, land uses and zoning districts in the vicinity and shall not cause detrimental effects against the purpose of this code.
5. The application is consistent with other applicable requirements of these Land Development Regulations.

B. The following additional findings or considerations pertain to the indicated development applications.

1. Comprehensive Plan Map and/or Text Amendments shall be based on one or more of the following factors.
  - a. Changed projections including amendments to ensure the provision of public facilities;
  - b. Changed assumptions when growth, development or the availability of public services has altered the character or conditions whereby the amendment is reasonable and consistent with current land use characteristics;
  - c. Data errors including errors in mapping, vegetative types and natural features;
  - d. New issues have risen since adoption of the Comprehensive Plan;
  - e. Recognition of a need for additional detail or the inclusion of new goals or objectives in the Comprehensive Plan;
  - f. Data updates; or
  - g. Consistency with the Treasure Coast Strategic Regional Policy Plan, the State of Florida Comprehensive Plan and Chapter 163, Fla. Stat.
2. In adopting a proposed Annexation the Council shall consider the following factors.
  - a. Compliance with Fla. Stat. 171.
  - b. Ensuring sound urban development and accommodation for growth.
  - c. Ensuring the efficient provision of appropriate services.
  - d. An exchange of information with adjacent jurisdictions, the Treasure Coast Regional Planning Council and if applicable the State Department of Transportation to clarify the intent and impact of the annexation on growth, development, services and the Comprehensive Plan.
3. In adopting a proposed Zoning Map and/or Text Amendment the Council shall consider whether and the extent which there are any changed conditions or circumstances to require an amendment.
4. When considering a Conditional Use the Council shall require the design minimizes visual impact, environmental impact and the impact of intensity on adjacent lands.
5. In order to authorize any Variance the Planning, Zoning and Adjustment Board shall find the following.
  - a. Special conditions and circumstances exist which are peculiar to the parcel of land, building or structure that are not applicable to others in the same district;
  - b. Special circumstances and conditions do not result from the actions of the applicant;

- c. The variance shall not confer upon the applicant any special privilege denied to other parcels of land, buildings or structures in the same district;
  - d. Literal interpretation of the provisions of this Code would deprive the applicant of rights commonly enjoyed by other parcels of land in the same district;
  - e. Grant of variance is the minimum variance to make possible the reasonable use of the parcel of land, building or structure.
6. Variance to Sec. 7.8.1 (Misc. Standards for Public Nuisances). To authorize any variance to Section 7.8.1 only the following standards must be met.
    - a. Additional time is necessary to alter the activity to comply with Section 7.8.1.
    - b. The activity, operation or source will be of temporary duration and cannot be done in a manner to comply with Section 7.8.1.
    - c. Conditions upon which the variance may be granted including the effective date, time of day, location, sound level, limit or equipment limitation and duration of the variance are reasonable.
  7. Master Plan or Amendments shall consider the requirements of Sec. 5.12.
  8. Amendment of Conditions of Approval which may be considered for a development order amending any condition of approval per Sec. 5.15 shall include the following;
    - a. Ensure other required conditions of approval have been met at the time of the request; and
    - b. Ensure the amended conditions of approval does not increase the density or intensity of the project.

### **CHAPTER 3. - ANNEXATION**

#### **Sec. 5.3.1. - Purpose.**

The purpose of this section is to provide a means for adjusting the boundaries of Wellington through voluntary annexations or contractions of corporate limits and to set forth criteria the committees, boards and Wellington's Council shall consider when evaluating the application.

#### **Sec. 5.3.2. - Initiation.**

An annexation or contraction application may be initiated by all of the owners of the land included in the proposed annexation boundary or by the Council.

A. The process for the completion of an annexation or contraction pursuant to Fla. Stat. 171 outlines procedures which must occur before Wellington's adoption process may begin and occur after adoption by the Council. See Fla. Stat. 171 for comprehensive annexation and contraction process requirements. A portion of this process constituting Wellington's annexation / contraction adoption process is also described below.

B. For voluntary annexations of land into Wellington from Palm Beach County, notice to the County of the annexation petition is required prior to advertising and posting for public hearings

in Wellington per Palm Beach County Ordinance 2007-18. Such annexations also require approval by the Board of County Commissioners.

Wellington's annexation or contraction adoption process follows the same procedures for review, hearing processes and notice requirements for PZAB and Wellington's Council as an ordinance for a Zoning Map Amendment. The applicable hearing procedures are in Sec. 5.5 of this article along with the applicable advertising, mailing, and posted notice procedures in Sec. 5.1.11.

### **Sec. 5.3.3. - Effect of approval.**

The adoption of an annexation ordinance changes municipal boundaries but does not constitute a development order, an amendment to the Comprehensive Plan Future Land Use Map or to the Zoning Map. The property's existing zoning remains in effect until such time as subsequent zoning map amendments are approved by Council.

## **CHAPTER 4. - COMPREHENSIVE PLAN MAP AND/OR TEXT AMENDMENTS**

### **Sec. 5.4.1. - Purpose.**

The purpose of this section is to provide for changing site specific boundaries or designations on the Future Land Use Map or other types of changes to the Comprehensive Plan map and text. Site specific amendments are not intended to relieve particular hardships or to confer special rights on any person but only to make necessary adjustments due to changed conditions.

### **Sec. 5.4.2. - Initiation.**

Amendments may be proposed by the Council, the Local Planning Agency (i.e., the Planning, Zoning and Adjustment Board or PZAB) or the owner of land to be affected by a proposed amendment

- A. The PZAB shall conduct a public hearing and make recommendations regarding the amendments to Council. The PZAB shall review the application, staff report, relevant support materials and public testimony given. At the close of the hearing the PZAB shall vote utilizing the findings and standards set forth in these Land Development Regulations. Such findings may include findings site specific amendments shall also require conditions of approval.
- B. Action by Council.
  1. A transmittal public hearing shall be held prior to transmittal of the amendment to the State Department of Economic Opportunity (DEO). At the hearing the Council shall consider the application, staff report, relevant support materials, recommendations of the Planning, Zoning and Adjustment Board and public testimony. Based on the standards in these Land Development Regulations a minimum of four affirmative votes of the Council present is required. The Council shall approve, approve with conditions or deny the application for transmittal. Failure of the Council to approve the transmittal of an application shall be deemed a denial of the proposed amendment.

2. The Council shall conduct an adoption public hearing subsequent to the transmittal and review process. At the hearing the Council shall consider the application, staff report, relevant support materials, Department of Economic Opportunity comments and public testimony given. Based on the standards in this Article the Council shall vote to adopt or not to adopt an ordinance making an amendment. A decision to adopt the ordinance shall require a minimum four affirmative votes of the Council members present.

## **CHAPTER 5. - ZONING MAP AND/OR TEXT AMENDMENTS**

### **Sec. 5.5.1. - Purpose.**

The purpose of this section is to provide a means for changing the zoning designations for properties and applying Zoning Map revisions. This section is not intended to relieve particular hardships or confer special rights on any person but only to make necessary adjustments due to changed conditions.

### **Sec. 5.5.2. - Initiation.**

An application for a Zoning Map and/or Text Amendment may be proposed by the Council, Planning, Zoning and Adjustment Board (PZAB), Director of Planning and Zoning, the owner or another person having a contractual interest in the subject land or their agent with submission of proper consents.

- A. The PZAB shall conduct a public hearing on the application once deemed sufficient pursuant Public Hearing Procedures, Sec. 5.1.12 The PZAB shall recommend Council approve, approve with conditions or deny the application based upon the standards in these Land Development Regulations.
- B. Action by Council.
  1. After the review and recommendation of the PZAB the application shall be scheduled for consideration at a public hearing(s) by the Council at the first available regularly scheduled time by which public notice requirements can be satisfied or such time as is mutually agreed upon between the applicant and the Planning and Zoning Director. Zoning Map and/or Text Amendments require two Council meetings for first and second readings of the proposed amendments.
  2. At the public hearings Council shall consider the application pursuant to Public Hearings, Sec. 5.1.12. At the conclusion of the final public hearing the Council shall decide to adopt or not to adopt the proposed amendment based on the standards in these Land Development Regulations and adopt an ordinance enacting or denying an amendment by a majority of the Council members present.

### **Sec. 5.5.3. - Effect of approval of a map amendment.**

- A. Approval of a Zoning Map Amendment shall be deemed to authorize only the particular zoning district for which it is approved and shall run with the land.

- B. A rezoning shall not be considered for revocation pursuant to Section 5.11 of this Article unless a specific condition for Time Limitation was adopted as part of the Zoning Map Amendment. The property shall return to its previous zoning designation.

## **CHAPTER 6. - CONDITIONAL USES**

### **Sec. 5.6.1. - Purpose.**

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

### **Sec. 5.6.2. - Initiation.**

An application for a conditional use shall be submitted by the owner or any other person having a written contractual interest in the land for which the conditional use is proposed or their authorized agent.

### **Sec. 5.6.3. - Conditional use.**

- A. Only those uses authorized as conditional uses in Table 6.4-1, Use Regulations Schedule may be approved as conditional uses. The designation of a use in Table 6.4-1 does not constitute an authorization of such use or assurance that such use will be approved under this Code. Each proposed conditional use shall be evaluated by the Development Review Committee (DRC), the Planning, Zoning and Adjustment Board (PZAB) and the Council for compliance with this code.
- B. The PZAB shall conduct a public hearing pursuant to Public Hearings, Sec. 5.1.12. PZAB shall recommend to the Council approval, approval with conditions, or denial of the application based upon the standards in these Land Development Regulations.
- C. Public hearing before the Council.
  - 1. After the review and recommendation of the Planning, Zoning and Adjustment Board (PZAB) the Council shall conduct a public hearing on the application.
  - 2. At the hearing, the Council shall consider the application pursuant to Public Hearings, Sec. 5.1.12. The Council by a majority vote of the Council members present shall approve, approve with conditions or deny the application based on the standards in these Land Development Regulations and adopt a resolution which shall be filed with the Clerk of the Circuit Court.
- D. Effect of issuance of a development order for conditional use.
  - 1. A conditional use shall be deemed to authorize only the particular site configuration, layout and levels of impact which were approved pursuant to this Code. Development shall commence as provided for in Table 5.11-1 of this Code.
  - 2. Phased projects must include a minimum of twenty (20) percent of the project's land area in the development of each phase unless another phasing schedule is approved by the Council.

3. Development of the conditional use shall not be carried out until the applicant has secured all other development orders required by this Code. A development order for a conditional use shall not guarantee subsequent approval for other development permit applications.
- E. Minor deviations may be made from the development order for a conditional use upon written approval of the Planning and Zoning Director. Minor deviations in excess of the limits listed below shall be subject to Council review and action. Minor deviations allow for minor redesign or change to a project that would not substantially change or increase the impacts originally anticipated. The project, inclusive of the minor deviation, shall meet the requirements of the Art. 2 Concurrency Management. Minor deviations shall be limited to the following:
1. The relocation of no more than twenty-five (25) percent of the total approved square footage or other area indicated as being covered by structures to portions of the site not previously covered, as long as it complies with the standards of this Code;
  2. Redesign or change in use where there is no increase in traffic impact;
  3. Redesign where there is an increase in traffic impact as long as the modification complies with Section 9.1 Vehicular Traffic Performance Standards;
  4. The reduction or relocation of areas set aside for open space or recreation provided such changes do not result in a substantial change in the amount, boundary configuration or character of open space or recreation provided;
  5. An increase of no more than five (5) percent in total floor area of any building provided the increase shall exceed one thousand five hundred (1,500) square;
  6. An overall increase of not more than ten (10) percent of the height of any structure as long as it complies with the requirements of this Code;
  7. Relocation of access points: or
  8. Re-designation of project phasing as approved in the development.
- F. A Conditional Use may be amended, extended, varied or altered only pursuant to the standards and procedures established for its original approval or as otherwise set forth in this section. To make an amendment the applicant shall demonstrate and the Council shall find a change of circumstances or conditions has occurred which make it necessary to amend, extend, vary or alter the previously approved conditional use.

## **CHAPTER 7. - SPECIAL PERMIT**

### **Sec. 5.7.1. - Purpose.**

Special permit uses are generally compatible with the other uses permitted in a district but require review of their location, design, configuration, intensity, density, temporary structures and may require the imposition of conditions to ensure the appropriateness of the use at a particular location.

**Sec. 5.7.2. - Authorized special permit use.**

Only those uses authorized as special permit uses in Table 6.4-1 Use Regulations Schedule shall be approved. The designation in Table 6.4-1 does not constitute authorization as each proposed permit shall be evaluated by the Planning and Zoning Director for compliance with the standards and conditions set forth in this article and the applicable zoning district.

**Sec. 5.7.3. - Initiation.**

An application for a special permit use shall be submitted by the owner or any other authorized person having a written contractual interest in the land.

- A. Within ten (10) working days after the application is received the Planning and Zoning Director shall review the application and approve, approve with conditions or deny the application based upon the standards in these Land Development Regulations.
- B. When considering an application for a special permit the Planning and Zoning Director shall consider whether and the extent to which the proposed use:
  - 1. Is consistent with the purposes and policies of the Comprehensive Plan;
  - 2. Complies with Section 6.6.4 Supplementary Regulations;
  - 3. Is consistent with the character and immediate vicinity of the land proposed for development;
  - 4. The design of the use minimizes adverse effects and visual impact on adjacent lands;
  - 5. The duration and activities of the proposed use will not cause impacts to the surrounding land uses;
  - 6. The Wellington Engineer has determined the proposed use complies with all relevant standards related to health, sanitation and transportation standards;
  - 8. The proposed use complies with all additional standards imposed on it by this Code;
  - 9. All permanent structures comply with Article 2 Concurrency Management.
- D. The Planning and Zoning Director shall mail a copy of the decision to the applicant.

**CHAPTER 8. - EQUESTRIAN PERMIT**

**Sec. 5.8.1. - Purpose and scope.**

These regulations allow permits for temporary equestrian uses or related activities in the Equestrian Preserve Area which will not adversely impact the surrounding land uses.

An equestrian permit use shall be processed and decided upon by the Planning and Zoning Director in a similar manner as a special permit found in Sec. 5.7.

**Sec. 5.8.2. - General standards.**

Equestrian permits may be issued in accordance with the following standards:

- A. No permanent roofed structures shall be allowed to be constructed.

- B. The site shall be restored to original or better condition including the removal of all temporary structures, trash and debris.
- C. Safe ingress and egress shall be provided.
- D. Adequate sanitary facilities shall be provided for the anticipated volume and duration of the activity.
- E. All parking shall be provided on-site. Parking or stopping in a public right-of-way shall be strictly prohibited.
- F. Off premises signage is permitted if approved as part of the permit.
- G. The proposed use shall meet all the criteria currently listed in the LDR relating to buffering, noise, loudspeakers, lighting and other potentially negative impacts such as dust and odors.
- H. Prior to commencement of an equestrian permit the property must receive approval from the Wellington Building Division, Palm Beach County Fire Rescue Department and Palm Beach County Sheriff as directed.
- I. If a temporary manure bin is necessary a separate building permit is required and the bin shall meet Wellington BMP requirements for setbacks from canals, water bodies, wells and property lines.
- J. Manure shall be collected and disposed of in an approved manner consistent with Palm Beach County Health Department requirements.
- K. Wellington staff shall have the right to inspect the property at any time as long as the permit is valid.
- L. The permit does not release the owner from obtaining all other approvals required from other agencies.
- M. The permit shall be valid only to the location and dates specified.
- N. The applicant shall abide by all restrictions and conditions in the equestrian permit.
- O. Failure to abide by the equestrian permit and any restrictions or conditions of the permit may result in enforcement action, fines, revocation of the permit and possibly limit future permits.

**Sec. 5.8.4. - Permitted locations.**

- A. Equestrian permits for equestrian uses or related activities may only be issued for property in the Equestrian Preserve Area.

**Sec. 5.8.5. - Duration.**

Equestrian use permits shall be limited to a cumulative duration not to exceed six (6) months in one (1) calendar year on the same property.

**CHAPTER 9. - SITE PLAN OR SUBDIVISION PLAN**

**Sec. 5.9.1. - Purpose.**

A Site Plan or Subdivision Plan review shall be required in accordance with the provisions of this section to ensure the proposed development complies with the LDR.

### **Sec. 5.9.2. - Applicability.**

Development Review Committee (DRC) Site Plan approval is required for residential development consisting of three or more dwelling units, commercial, industrial, private recreational and development corresponding to a use type designated for Site Plan approval in the Use Regulations Schedule found in Article 6 prior to application for building permits. Subdivision Plan approval by DRC is required for all properties which require platting under the provisions of Article 8 of these Land Development Regulations.

A. At least three (3) working days before the DRC meeting DRC shall provide the applicant with any comments. The DRC shall be convened pursuant to the Planning and Zoning Director's calendar to review the application and approve, approve with conditions or deny the application based on the standards in Sec. 5.9.2.B below. No Site Plan or Subdivision Plan shall be certified or approved until it meets all certification standards. The applicant may be provided three (3) working days to satisfy any remaining certification requirements without being rescheduled for a subsequent DRC meeting.

At the DRC meeting the applicant shall be advised of the necessary corrections and revisions to comply with this Code. A copy of DRC's decision shall be mailed to the applicant within three (3) working days of the day of the decision.

If the applicant returns to a second or more DRC meeting(s) an additional filing fee shall be charged.

B. Site Plans or Subdivision Plans shall comply with all of the following standards:

1. The Site Plan or Subdivision Plan shall be consistent with the purposes, goals, objectives and policies of the Comprehensive Plan.
2. The Plans shall comply with Art. 2 Concurrency Management.
3. The Plans shall comply with the Wellfield Protection Regulations of the Palm Beach County Unified Land Development Code.
4. The Zoning District, Use, Property Development Regulation and Supplementary Use Standards of Article 6 shall be met.
5. The Plans shall comply with Art. 7 Site Development Standards.
6. The Subdivision Plan shall comply Art. 8 Subdivision Standards.
7. The Plans shall comply with Wellington Palm Beach County Health, Fire Rescue and Building standards along with all applicable provisions of this Code.

C. Effect of Development Order for Site Plan or Subdivision Plan.

1. The approval of a site plan or subdivision plan shall authorize only the particular site layout and level of impact which were approved unless the use is abandoned as provided in Section 5.1.14.
2. The approval of a Subdivision Plan shall authorize the Wellington Engineer to accept an application for technical compliance approval required pursuant to Art. 8 Subdivision.

3. Issuance of a development order for a Site Plan shall be deemed to authorize the applicant to submit a building permit unless subject to Architectural Review Committee review.
- D. Unless otherwise specified in the approval for a conditional use or in an approved planned development master plan a site plan or subdivision plan shall be subject to the time limitations of Table 5.11-1.
- E. Minor corrections or deviations may be made for a site plan or subdivision plan upon written approval of the Planning and Zoning Director. No changes or corrections may be made which contradict a Board or Council imposed condition. Upon application of a letter explaining the need for corrections and payment of the fee established by the adopted fee schedule, minor corrections to a site plan or subdivision plan may be made. Minor corrections include but are not limited to: a change in sign location, minor modifications to parking areas, the relocation of a handicapped parking space, relocation of terminal islands, addition of phase lines which correspond to proposed plat and or building construction and which are unrelated to traffic performance requirements, reduction in building footprint size, addition of canopies, removal of excess parking, additional open space, minor revisions to lot lines consistent with a recorded plat temporary sales and construction trailers.
- F. Except as provided above a Site Plan or Subdivision Plan may only be amended by the same procedures and standards which were required for its original approval.

## **CHAPTER 10. - VARIANCE**

### **Sec. 5.10.1. - Definition and purpose.**

A variance is a deviation from certain standards of this Code which are not contrary to the public interest due to special circumstances, conditions peculiar to the property and when the literal enforcement of this Code would result in undue and unnecessary hardship. Any Planned Development minimum parcel size threshold required for a use type or the specific standards of Sec. 6.4.4 Supplementary Use Regulations are not eligible for variances.

### **Sec. 5.10.2. - Initiation.**

An application for a variance shall be submitted by the owner, an agent authorized in writing to act on the owner's behalf or person having a written contractual interest in the land for which the variance is proposed.

### **Sec. 5.10.3. - Procedure.**

#### **A. General.**

1. Any necessary variance approval shall be obtained prior to certification by the Development Review Committee (DRC) of a Conditional Use or Site Plan to proceed to a public hearing.

#### **B. Review and recommendation by the DRC or Wellington Engineer.**

1. Within ten (10) working days after the application is determined sufficient pursuant to Sec. 5.1.9 the DRC, Wellington Engineer and other appropriate Departments shall review

the application and forward a staff report recommending approval, approval with conditions or denial of the application based upon the standards in this code. Prior to issuance of a staff report the Planning and Zoning Director or Wellington Engineer whichever is appropriate shall ensure the application is in compliance with Art. 2 Concurrency Management. If the decision on concurrency is delayed the time for completion of the staff report shall be delayed accordingly.

2. The public hearing on the application shall be scheduled for the first available regularly scheduled Planning, Zoning and Adjustment Board (PZAB) meeting by which time the public notice requirements can be satisfied or such time as is mutually agreed upon between the applicant, Planning and Zoning Director and Wellington Engineer.

C. The PZAB shall hold a hearing on the application pursuant to Sections 5.1 and 5.2.

**Sec. 5.10.4. - Administrative variance.**

Notwithstanding the other provisions of this Article, the Planning and Zoning Director may issue the following administrative variances.

- A. The Planning and Zoning Director may issue an administrative variance for the enlargement, expansion or rebuilding of a single-family nonconforming use pursuant to Article 1 on one (1) occasion provided the extent of the improvement does not exceed ten (10) percent of the floor area of the individual structure or ten (10) percent of the improvement value of the structure whichever is less.
- B. The Planning and Zoning Director may issue an administrative variance for structural encroachments into a setback of no more than ten (10) percent of the setback if the structural encroachment does not encroach on easement, right-of-way or is on a zero lot line side.
- C. The Planning and Zoning Director may approve a variance for the following minimum property development regulations to accommodate the preservation of existing native tree(s) pursuant to Article 7.5, Tree Protection.
  1. Up to twenty (20) percent of a required setback;
  2. Up to twenty (20) percent of the required parking spaces.

This section may not be combined with any other section which allows variations from the same property development regulations.

**Sec. 5.10.5. - Effect of development order.**

- A. Issuance of a development order for a variance shall authorize only the particular use for which it is issued.
- B. A variance shall be subject to the Time Limitations Table 5.11-1. Upon written request an extension of time for the variance or any condition thereof may only be granted by the Planning, Zoning and Adjustment Board with or without conditions for the period specified in the table. No request for an extension shall be considered unless an application requesting the extension is submitted to the Planning and Zoning Director no later than twenty (20) working days prior to the date the development order expires. Failure to submit an application

for an extension within the time limits established by this section shall render the variance null and void.

**Sec. 5.10.6. - Amendment to development order for variance.**

A development order for a variance may only be amended in accordance with the procedures and standards which were required for its original approval.

**CHAPTER 11. - COMPLIANCE WITH TIME LIMITATIONS AND CONDITIONS OF APPROVAL**

**Sec. 5.11.1. - General.**

Purpose and intent.

- A. It is the intent of the Council to provide procedures for mandatory review of certain development orders in accordance with Florida Statutes, Ch. 163, Part II, to manage concurrency by requiring developments to proceed in their prescribed time. Monitoring and subsequent review of approved development orders shall implement the goals of the comprehensive plan by:
  - 1. Preserving the availability of public facilities and services for proposed development.
  - 2. Minimizing artificial inflation of the inventory of residential, commercial and industrial development.
  - 3. Encouraging compliance with site design and performance standards by providing a system whereby approved but unbuilt developments are subject to periodic review and revocation.
- B. The Council recognizes unforeseen factors may interfere with a project's development schedule. This section creates an administrative program to monitor and provide extensions for such activities, approvals or requirements.
- C. Council may review development orders issued prior to the adoption of this Code for compliance with the time requirements of this Code and conditions of approval subject to the Time Limitations in Table 5.11-1.
- D. When the Council or any provision of this Code has imposed a condition of approval or time limit for the completion or duration of an activity or phase of development, the property owner shall be responsible for compliance with the condition or time limit.

**Sec. 5.11.2. - Applicability.**

- A. This section shall apply to:
  - 1. All development with conditions of approval.
  - 2. All development orders with a time requirement for completing one or more actions as identified in Table 5.11-1 or in the development process as required by specific sections of this Code.
- B. The following are exempt from this section:
  - 1. Any development order initiated by staff at the direction of the Council.

2. Any development order for a rezoning of a single lot to a residential zoning district which corresponds to the lot's minimum density permitted in the Comprehensive Plan.

**Sec. 5.11.3. - Procedures.**

- A. Suspension of development orders due to failure to comply with time requirements or failure to comply with conditions of development approval are as follows;
  1. Upon expiration of any time period established by this Code or for failure to comply with a condition of development approval, no further development orders affecting the property shall be issued by Wellington until a final determination is made by the Planning and Zoning Director or the Council pursuant to this section. Any suspension of development rights shall not preclude the property owner from filing a petition for the subject property to amend the existing development order or conditions of approval.
  2. Suspension of development rights shall have the following effect on new petitions and code enforcement actions:
    - a. If the property owner files a new petition no further development orders or permits shall be issued until the approval of the new development order.
    - b. If Council directs staff to cite the property owner for violating the Code no further development orders shall be issued until the alleged violation has been ruled upon by the Special Magistrate and any enforcement action is completed or penalty is satisfied. This shall not preclude compliance with the specific condition cited in the status report after the Council or PZAB has directed the Code Compliance Division to cite the property owner for noncompliance.
  3. Upon the expiration of any time period or upon reasonable cause to believe a condition of development approval has been violated a document shall be filed with the Clerk of the Circuit Court and placed with the records governing title to the affected property as provided in this section. This document shall apply only to that portion of the property related to the expired time period or any condition violated. The document shall give notice:
    - a. A condition of development has been violated or a time certain activity has not proceeded as required;
    - b. A review of the project will be conducted pursuant to terms of this section;
    - c. Until the review is completed no new development orders shall be issued by Wellington; and
    - d. Such other information as may be reasonable and necessary to provide adequate notice of the effect of this section on the rights of property owners.
  4. If the Council or the Planning and Zoning Director approves further development pursuant to this section a second document shall be filed with the Clerk of the Circuit Court to be placed with the records governing title to the property indicating:
    - a. The rights to develop have been restored; and,
    - b. Such other information as may be reasonable and necessary to provide adequate notice of the effect of this section on the rights of property owners.

This document shall only be recorded upon payment of all status report fees and fines as established by the Council. The status report fee may be waived if: (1) the property owner is a government agency; or (2) the property owner is prevented from complying by a government-caused delay or by litigation which prevents action by the property owner to bring the approval into compliance.

B. Administrative Extension of Time.

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

The maximum duration of an administrative time extension is as follows:

- a. Table 5.11-1 provides the maximum length for an extension governed by this Code.
  - b. Twelve (12) months shall be the maximum for an extension and total extensions shall not exceed twenty-four (24) months except when government-caused delays can be documented as the reason for failure to meet required deadlines. The Planning and Zoning Director shall grant such extensions as necessary to offset government-caused delays without any additional fee. It is the responsibility of the property owner to notify staff in writing of the delay. If Council has previously approved a time extension, any administrative extensions of time shall not extend more than twenty-four (24) months from the original date for compliance except when there has been government-caused delays.
3. In reviewing applications for administrative time extensions and applicable conditions of approval the Planning and Zoning Director shall approve a time extension if it is:
    - a. Consistent with the Comprehensive Plan;
    - b. Consistent with the Land Development Regulations.
    - c. Attempts by the applicant to complete the unfulfilled condition;
    - d. Reliance by other parties on the timely performance of activity;
    - e. Any changed circumstances which may have interfered with meeting the time requirement;
    - f. Actions by other parties which may have prevented compliance;
    - g. Existence of extraordinary mitigating factors; and
    - h. Posting of performance surety for a conditional certificate of concurrency reservation, if applicable.

4. When the Planning and Zoning Director approves an extension of time for completion the property owner shall guarantee completion by furnishing a cash deposit, letter of credit or surety bond.

C. Failure to Comply with Conditions or Time Requirements.

1. In the event a property owner fails to comply with a time requirement and has not received an extension or violates a condition of approval staff shall advertise a public hearing of the original approving body. The hearing shall be held within sixty (60) days of the filing of the notice required herein unless the property owner utilizes the provisions listed below. Staff may also delay the scheduling of the public hearing if prior to the deadline for compliance:
  - a. The property owner files for an amended or new development order which may affect the time requirement or condition being violated. If the new petition is approved and the time requirement has not been affected staff will place the status report on a Council or Planning, Zoning and Adjustment Board agenda within sixty (60) days; or
  - b. Staff is notified by the property owner there is a deadline to commence development, record a plat, a complete building permit application has been submitted or technical compliance for a plat has been received. The suspension of development orders will only occur if development has not commenced or a plat has not been recorded within an additional thirty (30) days.
2. A status report will be prepared with a description of the development order providing a summary of the background and status of the development including documentation of efforts to comply with the requirement or circumstances beyond the control of the property owner which have prevented compliance.

Based on the above factors staff shall make a recommendation for one (1) or more of the actions identified in subsection 5.11.3.D.2 below.

3. An administrative status report fee shall be established by the Council in order to provide for this process.
4. Consideration of all actions permitted by Section 5.11.3.D.2 shall occur in the following manner:
  - a. At least one (1) public hearing shall be held by the Council.
  - b. The owner of record shall be notified in writing of the Planning and Zoning Director's report and recommendation to the Council. Written notice shall consist of a letter sent at least fifteen (15) calendar days prior to the hearing by certified mail to the last known address of the owner of record per the County Property Appraiser. Proof of return receipt shall be presented at the hearing. In the event the owner fails to acknowledge receipt of mail notice or the notice is returned unopened the newspaper publication as stated below shall be deemed sufficient notice. Written notice shall include:
    - i. A statement the time period has expired or a condition of approval has been violated and the development is subject to review for non-compliance;

- ii. The Planning and Zoning Director's recommendation to the Council;
  - iii. A statement the review may result in one (1) or more of the actions identified in subsection 5.11.3.D.2., herein;
  - iv. Notice of the date time and place of the hearing before the Council during which the report and recommendation of the Planning and Zoning Director will be heard;
  - v. A statement of the owner's right to appear and to present relevant information to rebut or to supplement the report of the Planning and Zoning Director; and
  - vi. Such other information as may be necessary and appropriate to accomplish the goals of this section.
- c. Notice of the hearing shall be published in a newspaper of general circulation at least ten (10) days prior to the hearing.
- D. Decisions by the Council or Planning, Zoning and Adjustment Board (PZAB).
- 1. The original approving body shall consider the factors in subsection 5.11.3.B.3 above and the recommendation of the Planning and Zoning Director.
  - 2. After deliberation, the original approving body shall take one (1) or more of the following actions:
    - a. Adopt a resolution by Council which will rezone the property to an appropriate zoning district.
    - b. Adopt a resolution which will revoke the approval for the PZAB variance or Council conditional use.
    - c. Adopt a resolution which will impose a limit no development order shall be issued permitting construction except in accordance with the land use density or intensity thresholds of the Comprehensive Plan.
    - d. Adopt a resolution which will impose additional or modified conditions or permit the property owner to initiate a petition to add or modify conditions as directed by the original approving body. New or modified conditions may include bringing the development into conformity with current codes and regulations.
    - e. Direct staff to cite the property owner for violating the provisions of this Code.
    - f. Grant a time extension for a period not to exceed twenty-four (24) months during which time the property owner shall comply with the time requirement. The term of the time extension shall commence upon the expiration of the original date to complete the time certain activity or the expiration of the last extension whichever is applicable.
      - i. Grant a one-time six-month time extension for conditions of approval which required posting of surety. In no case shall the total time to post surety exceed twelve (12) months from the date of approval of the development order which imposed the condition to post surety.

- ii. Grant a time extension for a period not to exceed twenty-four (24) months during which time the property owner shall comply with the time requirement. The term of the time extension shall commence upon the expiration of the date to complete the time certain activity or the expiration of the last extension whichever is applicable.
  - g. Amend or revoke the development order or map amendment for the undeveloped or unplatted portion of the project.
  - h. Exempt from further review any development order which rezoned property to a district which corresponds to the density or intensity permitted by the Comprehensive Plan Future Land Use designation.
  - i. Deny or revoke a building permit, issue a stop work order, deny a Certificate of Occupancy for any building or structure, deny or revoke any permit or approval for other uses of the subject property.
- 3. If the Council acts on staff recommendations within the prescribed time period or if the Planning and Zoning Director or designee grants an administrative time extension the issuance of new development orders shall immediately resume.
- 4. The decision of the Council shall be rendered within sixty-five (65) days of the originally advertised public hearing provided the property owner has not requested a postponement. A postponement approved at the request of the property owner may not exceed six (6) months from the due date for compliance.
- E. In the event the property owner has not complied with the condition of development approval or time certain activity by the expiration of a time extension the development order shall be subject to the requirements of subsections 5.11.3.B., or 5.11.3.C and 5.11.3.D herein.

**Sec. 5.11.4. - Supplementary regulations for development orders.**

- A. For specific types of development approvals this section:
  - 1. Designates the next required development application or action and the minimum time period for receipt of permit or commencement of action;
  - 2. Provides the maximum time to obtain approval or commence action;
  - 3. Provides the maximum length of an administrative time extension for commencing the next required action or receiving the next required development approval;
  - 4. Designates the staff person who may approve an administrative extension of time; and
  - 5. Provides for action upon failure to comply with the time requirement without an approved time extension.
- B. Unless otherwise established in the development order the time frames provided in Table 5.11-1 shall apply to the property and to successive owners.
- C. Effect of Phasing on Time Frames, Required Permits or Commencement of a Required Action.

1. The Time Limitations of Development Orders listed in Table 5.11-1 provide for phasing. If the development order specifies phasing all time limitations and extensions shall be in accordance with Table 5.11-1.
  2. The Site Plan, Subdivision Plan or the Conditional Use phasing shall be provided in accordance with Table 5.11-1. Each phase must contain a minimum of twenty (20) percent of the land area unless otherwise approved by the Council.
- D. Effect of Modification to a Development Order on the Time Requirements of this Section.
1. Administrative modification of site plan does not alter original time certain requirements or conditions.
  2. Council modification to development orders may include a condition of approval which provides a new time for commencement of development or to record a plat up to the maximum time permitted for a new development order.
  3. Site Plan or Subdivision Plan may be modified by the Development Review Committee. Any modification unless determined to be substantially different by the DRC shall not establish a new time to commence development or record a plat.

**Table 5.11-1 Time limitations of Development Order for Each Phase**

| Type of Development Order         | Maximum Number of Phases | Required Action for Development Order  | Maximum Time to Commence Development | Maximum Administrative Time Extension <sup>4</sup> | Action Upon Failure to Comply With Time Limitations     |
|-----------------------------------|--------------------------|--|--------------------------------------|--|---|
| Variance                          | 1                        | Commence development <sup>1</sup>  | 2 years <sup>2</sup>                 | 1 year   | PZAB review per Sections 5.11.3.D and 5.11.3.D          |
| Conditional Use                   | 2                        | Commence development or initiate Use if no construction is required <sup>1</sup> | 2 years <sup>2</sup>                 | 1 year   | Council review per Sections 5.11.3.C and 5.11.3.D       |
| Master Plan / Planned Development | 3                        | Commence development <sup>1</sup>  | 3 years <sup>2</sup>                 | 1 year   | Council review per Sections 5.11.3.C and 5.11.3.D       |
| Site Plan                         | 2                        | Commence development <sup>1</sup>  | 2 years <sup>3</sup>                 | No extensions                                      | Site Plan null and void for the undeveloped phase.      |
| Subdivision Plan                  | 2                        | Commence development <sup>1</sup>  | 2 years <sup>3</sup>                 | No extensions                                      | Subdivision Plan null and void for the unplatted phase. |

Notes for Table 5.11-1 Time limitations of Development Order for Each Phase

1. Commence development shall consist of:
  - a. Receipt of a building permit and first inspection approval. Subsequent phasing shall be in accordance with the Development Order and Sec. 5.11.4.C, or
  - b. Initiation of significant site improvements which would only permit the development of the approved project and any other development would require extensive changes to the installed improvements.
  - c. Commence development shall not consist of the dividing of land into parcels, demolition of a structure, clearing of land, or placement of fill.
2. From resolution adoption date.
3. From DRC certification date.
4. Maximum Administrative Time Extensions are approved or denied by the Planning and Zoning Director.

**CHAPTER 12. MASTER PLAN AND/OR AMENDMENTS.**

**A. Purpose.**

This chapter is to provide development review procedures for Master Plan and/or Master Plan Amendments approvals. It is also intended to implement LDR sections pertaining to planned developments.

**B. General.**

1. A Master Plan shall be binding upon the property, successive owners, assigns and shall constitute future development regulations for the land.
2. Development of the land shall be limited to the uses, density and other elements along with conditions set forth in a Master Plan. The approval of a Master Plan authorizes amendment of the Future Land Use Map to be consistent with the approved Master Plan.
3. No permit for development shall be issued prior to approval of a supportive Site Plan or Subdivision Plan(s) which corresponds to the Master Plan.

**C. Master Plan Application.**

The application shall be submitted in a form established by the Planning and Zoning Director and shall include but not be limited to the following:

1. A project narrative shall justify and explain proposed land uses or mix of commercial, institutional, recreational, open space and residential. The narrative shall document the methods and analysis used to calculate proposed land use percentages and projected intensities or densities.
2. A Preliminary Development Plan at a scale of one (1) inch equals one hundred (100) feet or larger shall contain the following:

- a. The proposed name or title of the development, name of the property owner, engineer, architect, landscape architect and developer;
  - b. A north arrow;
  - c. The date and legal description of the proposed area;
  - d. Identification of the boundaries of the land shown with bearings, distances, closures, all existing easements, section lines, streets and physical features;
  - e. Location and width of canals, waterways, flood prone areas and wetlands;
  - f. A certificate of survey completed by a professional land surveyor registered in the State of Florida certifying the location, site configuration and area of the proposed Plan;
  - g. The zoning district, land use designation, existing land use along with the names and locations of adjoining developments and subdivisions within three hundred (300) feet;
  - h. The proposed location and acreage of public and private civic sites;
  - i. The general location, minimum acreage and proposed site improvements for recreation areas;
  - j. The vehicular circulation systems including existing and proposed roads and access points;
  - k. For previously approved development:
    - a. Site data for the proposed or amended development including total gross acreage, acreage of land uses, gross density and dwelling unit count of each pod, proposed housing types (single family, zero lot line, townhouse, or multi-family, etc.) for each pod, total gross floor area of non-residential building area for each pod and corresponding data for the original and each subsequent approval;
  - l. A delineation of specific areas which constitute pods;
  - m. General statement indicating the proposed means of drainage for the site;
  - n. The location and type of perimeter landscape areas;
  - o. All warranty deeds, including property control number(s) of the property.
  - p. The following signed and sealed documents:
    - a. Drainage Statement;
    - b. Traffic Statement;
    - c. Water/Wastewater Demand Analysis;
    - d. Utilities Demand Analysis;
  - q. Other information as deemed appropriate for the Master Plan by the Planning and Zoning Director;
3. A Regulating Plan which contains but is not limited to the following:
- a. Comprehensive graphics and descriptions of the form, function, standards of the Planned Development, conceptual plans and illustrations indicating the location, dimensions and character of proposed streets, points of ingress and egress, perimeter landscape areas, loading areas, number of parking spaces and vehicular circulation areas, residential areas

and structures, non-residential areas and structures, recreational areas and structures, public and private open space;

- b. Property development regulations for the standards of lots and structures classifying them by pod and land use type, graphical and tabular information for minimum and maximum density, minimum lot size, minimum lot dimensions, maximum floor area ratio, maximum building coverage, maximum impervious surface, minimum building setbacks (street, side street, side interior and rear building setbacks), maximum building height, landscaping and buffering, parking and loading, minimum open space and any other applicable standards. A narrative explaining how each part of these regulations comply with the Comprehensive Plan shall also be included.
  - c. A transportation program which provides the following:
    - i. Methods and standards for accommodating alternative modes of transportation to the automobile especially for bicycles and any available public transit including;
      - (a) A description of site improvements proposed for transit, bus shelters, road turn-outs for bus stops or a road system designed to accommodate bus routes; and,
      - (b) A description of the site improvements proposed for bicycle circulation and storage.
      - (c) Consideration for golf cart access, internal circulation and temporary parking.
    - ii. Detailed cross-sections showing typical street designs, interior walking paths, pathways for perimeter landscape areas and lighting. These cross-sections shall indicate design standards and dimensions for streets, sidewalks, street parking, bicycle lanes, street lights, street trees and street median landscape plantings.
  4. A development phasing schedule which includes the following information.
    - a. The delineation of phasing for areas to be platted and developed according to their proposed order of construction.
    - b. A proposed schedule for the construction and improvement of open spaces, streets, utilities and other necessary improvements for each development phase.
  5. A description adequate public facilities will be available pursuant to the requirements of Article 2 Concurrency Management.
  6. Other information as may be deemed appropriate by the Planning and Zoning Director.
- D. Review and Certification by Development Review Committee (DRC).**
1. Within seven (7) working days after the Master Plan application is determined sufficient DRC shall provide the applicant with a draft list of issues and shall advise the applicant of the DRC meeting date to determine whether it should be certified to continue in the development approval process. The Planning and Zoning Director shall make the DRC certification decision available to the applicant in writing.

#### **E. Hearings.**

1. If the Master Plan application is certified, a determination will be made by the Planning and Zoning Director as to whether the application needs further review by any of the Village advisory board(s) or shall be scheduled for PZAB or Council hearings. Such advisory boards shall provide recommendations to PZAB and Council. Both the PZAB and Council shall hold at least one (1) public hearing on the Master Plan. All public hearings shall be scheduled for the first regularly scheduled hearing for which public notice requirements can be satisfied or such time as is agreed upon between the applicant and the Planning and Zoning Director.

#### **F. Action by the Planning, Zoning and Adjustment Board (PZAB).**

PZAB shall conduct the hearing pursuant Public Hearing Procedures found in Sec. 5.1.12. After the close of the hearing the PZAB may recommend:

1. Postponement of thirty (30) or sixty (60) days to a date and time certain; or
2. Council to approve, approve with conditions or deny the Master Plan application.

The decisions of the PZAB shall be based on consistency with the Comprehensive Plan and compliance with the intent and all standards of the Land Development Regulations.

#### **G. Action by Council.**

1. After the review and recommendation of the PZAB a Council public hearing shall be scheduled at the first regularly scheduled hearing by which time public notice requirements can be satisfied or such time as is agreed upon between the applicant and the Director.
2. Council shall consider the application pursuant to Public Hearing Procedures, Sec. 5.1.11 including the recommendation of the PZAB. After closing the hearing Council may:
  - a. Postpone the application for thirty (30) or sixty (60) days to a date and time certain; or,
  - b. Approve, approve with conditions or deny the application.

The decisions of Council shall be based on consistency with the Comprehensive Plan and compliance with the intent and all standards of this section and the Land Development Code.

#### **H. DRC approval of Minor Master Plan Amendments.**

Except as provided below a Master Plan may be amended only pursuant to the procedures established for its original approval.

DRC has the authority to approve Minor Master Plan amendments including certain plan modifications and administrative deviations.

1. The DRC shall approve modifications to a Master Plan if the changes are consistent with the following limitations;
  - a. Modifications shall be consistent with the purpose and intent of the original Master Plan approval.

- b. There shall be no substantial increase in traffic impact above previously approved for the development by Council as determined by the Wellington Engineer.
- c. The overall character of recreation areas shall not be substantially reduced or altered.
- d. Access points shall be established as previously approved by Council. No additional vehicular ingress or egress points shall be added to any external perimeter roads or internal roads designated as a collector or arterial roadway. Access to internal roads may be added for a residential pod in accordance with standards in Section 8.22 and applicable Wellington standards;
- e. Pedestrian paths or bike lanes may be amended according to Art. 8 Subdivision;
- f. DRC may approve an increase in residential density in a pod from a transfer of units from another pod in the same development provided the density increase shall not exceed thirty (30) percent above the number of dwelling units last approved by Council for the receiving pod and providing there shall be an equal and corresponding reduction in density for the sending residential pods.
- g. DRC may approve a decrease in residential density within a pod and redesignation of housing classifications from more intense to less intense provided the resulting gross density of the development meets or exceeds the minimum density required by the Master Plan and the potential impacts are within the limitations listed above.
- h. DRC may approve an increase to the gross floor area of a non-residential project by up to ten (10) percent provided it complies with the requirements of this Code including Article 2 Concurrency Management.

## **CHAPTER 13. EXTENDED HOURS SPECIAL PERMIT**

### **Sec. 5.13.1. - Purpose.**

Extended hours for commercial establishments may be approved by the Planning and Zoning Director subject to the Special Permit procedures of this Article. This section establishes process and enforcement provisions for an extended hours permit for all areas of Wellington.

An extended hours special permit does not relieve the permit holder from compliance with applicable code requirements such as noise, light and alcohol sales.

### **Sec. 5.13.2. - Extended hours for uses permitted by right.**

Any business within three hundred (300) feet of residential housing may apply for an extended hours of operation permit. A permit may be issued to a specific business entity only for a specific location and time periods. The permit may be transferable subject to review by the Planning and Zoning Director due to a pending change in ownership.

The permit is valid unless a suspension, change in type of business or a change in location occurs.

### **Sec. 5.13.3. - Extended hours of operation for conditional uses.**

Extended hours for any approved conditional use within three hundred (300) feet of residential housing shall be approved only by Council as part of the conditional use.

**Sec. 5.13.4. - Initiation.**

An application for an extended hours permit shall be submitted by the owner or person(s) having a written contractual interest in the business for which the permit is proposed or their authorized agent. The application shall also be reviewed by Palm Beach County Sheriff's Office (PBSO).

**Sec. 5.13.5. - Procedure.**

- A. Within ten (10) working days after the application is determined sufficient the Planning and Zoning Director shall approve, approve with conditions or deny the extended hours special permit. A copy of the decision shall be mailed to the applicant.
- B. The following standards shall be considered:
  - 1. Whether and to the extent the request is consistent with the Comprehensive Plan.
  - 2. Whether and to the extent granting the request would cause impacts or nuisances to the adjacent properties based upon the following factors:
    - a. Type of business;
    - b. Size (square footage, number of seats etc.);
    - c. Building orientation (ingress, egress, outdoor seating etc.);
    - d. Barriers or physical separations (streets, canals, landscaping etc.);
    - e. Parking, loading areas and potential traffic patterns;
    - f. Loitering potential, security and safety measures;
    - g. Noise mitigation measures either existing or proposed;
    - h. Lighting existing or proposed;
    - i. Outdoor activities or any changes in activity during the extended hours;
    - j. Other potential nuisances.
  - 3. Whether and to the extent the request complies with other applicable provisions of this Code.

**Sec. 5.13.6. - Enforcement.**

Any violation of an Extended Hours Special Permit shall be scheduled before a Special Magistrate at the next available hearing. A determination shall be made to maintain, modify or revoke the Extended Hours Special Permit including the imposition of fees, fines or limitation on future development orders.

**CHAPTER 14. - REASONABLE ACCOMMODATION**

**Sec. 5.14.1. - Purpose and general provisions.**

- A. This chapter addresses requests for reasonable accommodation to Wellington's ordinances, rules policies and procedures for persons with disabilities and/or facilities serving them as provided by the federal Fair Housing Amendments Act (42 U.S.C. 3601, et seq.) ("FHA") and Title II of the Americans with Disabilities Act (42 U.S.C. Section 12131 et seq.) ("ADA").
- B. The following general provisions shall be applicable:
  - 1. Wellington shall display a notice on a public notice bulletin board and shall maintain copies available in the Village Clerk's office advising the public may request reasonable accommodation as provided herein.
  - 2. A disabled individual may apply for a reasonable accommodation on their own behalf or may be represented at any or all stages during the reasonable accommodation process by a person designated in writing by the disabled individual.
  - 3. Wellington shall provide assistance and accommodation as required pursuant to FHA and ADA in connection with a disabled person's request for reasonable accommodation including assistance with reading application questions, responding to questions, completing the necessary forms, filing an appeal and appearing at a hearing to ensure the review process is accessible.

**Sec. 5.14.2. - Definitions.**

For purposes of this chapter a "disabled" individual or person is an individual that qualifies as disabled and/or handicapped under the FHA and/or ADA. Any person who is disabled or qualifying entities may request a reasonable accommodation with respect to Wellington's land use or zoning laws, rules, policies, practices and/or procedures as provided by the FHA and the ADA pursuant to the procedures set out in this chapter.

**Sec. 5.14.3. - Procedure.**

- A. A request shall be made in writing by completion of the reasonable accommodation application maintained by the Planning, Zoning and Building Department.
- B. The Planning and Zoning Director shall have the authority to act on requests for reasonable accommodation. The Director shall issue a written determination within forty-five (45) calendar days of the date of receipt of a completed application and may in accordance with federal law:
  - 1. Grant the request;
  - 2. Grant a portion of the request and deny a portion of the request and/or impose conditions upon the grant of the request; or
  - 3. Deny the request.

Any such denial shall state the grounds in writing and shall give notice of the right to appeal. The notice of determination shall be sent to the requesting party by certified mail with return receipt requested. To reach a determination on the request the Planning and Zoning Director may prior to the end of said 45-day period request additional information, specifying in sufficient detail what information is required. The requesting party shall have fifteen (15) calendar days to provide the information. The Planning and Zoning Director shall issue a written determination within thirty (30) calendar days after receipt of the additional information. If the requesting party fails to provide

the additional information within the 15-day period the Planning and Zoning Director shall issue a written notice advising the request for reasonable accommodation is administratively withdrawn and no further action shall be required.

- C. In determining whether the reasonable accommodation request shall be granted or denied the requesting party shall be required to establish they are protected under the FHA and/or ADA by demonstrating they are handicapped or disabled as defined in the FHA and/or ADA. The definition of disability is subject to judicial interpretation but for purposes of this section the disabled individual must show:
1. A physical or mental impairment which substantially limits one (1) or more major life activities; and
  2. A record of having such impairment; or
  3. They are regarded as having such impairment.

The requesting party shall also demonstrate the accommodations being sought are reasonable and necessary to afford handicapped/disabled person(s) equal opportunity to use and enjoy housing. The foregoing shall be the basis for a decision upon a reasonable accommodation request made by the Planning and Zoning Director or by the Planning, Zoning and Adjustment Board in the event of an appeal.

- D. While an application for reasonable accommodation, or appeal of a determination is pending Wellington will not enforce the related zoning rules, policies and procedures against the applicant.

**Sec. 5.14.5. - Fee.**

There shall be no fee imposed by Wellington in connection with a request for reasonable accommodation under this section or an appeal of a determination. Wellington shall have no obligation to pay a requesting party's or an appealing party's attorneys' fees or costs in connection with a request or appeal.

**CHAPTER 15. AMENDMENTS TO CONDITIONS OF APPROVAL**

**Sec. 5.15.1. Review and Approval.**

- A. Review and approval or recommendation by the Planning and Zoning Director.

If a request to amend conditions of approval involves only conditions which have no impact on surrounding properties which fall within the criteria for a minor amendment of the development order the Director may approve, approve with further modifications to conditions or deny such an amendment request considering the LDR standards upon which the original approval was based.

The Director may approve, approve with further modifications to conditions or deny a request to amend conditions of approval which were attached to any previous administrative approval such as a special permit, administrative variance, minor deviation, extended hours permit, etc., considering the LDR standards upon which the original approval was based.

B. Review and approval or recommendation by the Development Review Committee (DRC).

The DRC may approve, approve with further modifications to conditions or deny a request to amend conditions of approval which were attached to a site and subdivision plan or other applications originally approved by DRC. Such minor amendments to site plans and master plans shall consider the LDR standards upon which the original approval was based.

C. Review and approval or recommendation by the Planning, Zoning and Adjustment Board (PZAB).

1. For conditions of approval originally approved as part of a development application for a variance the PZAB shall hold at least one hearing pursuant to Public Hearings, Sec. 5.1.12. After the close of the hearing the PZAB shall approve, approve with revised conditions or deny the application based upon the Land Development Regulations standards upon which the original approval was based while also considering any changed circumstances.
2. For conditions of approval originally approved by Council at least one advisory PZAB hearing shall be held. After the close of the hearing the PZAB shall recommend Council approve, approve with revised conditions or deny the application based upon the Land Development Regulations standards upon which the original approval was based while considering any changed circumstances.

D. Review and approval by the Council.

For conditions originally approved by Council which do not meet the criteria above for approval by the Director or DRC at least one Council meeting shall be held.

1. At the Council hearing the Council shall consider the application pursuant to Public Hearings, Sec. 5.1.12. At the close of the public hearing the Council by not less than a majority of members present shall approve, approve with revised conditions or deny the application based on the standards in these Land Development Regulations and thereby adopt a resolution stating the final action taken.

## **CHAPTER 16. MISCELLANEOUS GENERAL PROVISIONS**

### **Sec. 5.16.1. - Suspension of development review proceedings.**

Any application for a development application except those with active building permits may be suspended or deemed ineligible for processing or consideration for any property having an open code enforcement case(s), liens, or fines except where they are necessary to close such code enforcement case(s).

An open code enforcement case exists when a property has been found by the Special Magistrate to be in violation of a Wellington Code provision whereby such violation has not been corrected and noted by the Wellington Code Compliance Division. The suspension and/or development ineligibility shall be immediately in effect after the 30-day appeal period of the Special Magistrate's order has expired.

**Sec. 5.16.2. - Violation of condition of development order.**

A violation of any condition of any development order shall be considered a violation of this Code. The violation shall be rectified prior to any public hearing or meeting on the issuance of any subsequent development order or permit on the property unless a received development order application seeks to amend the violated condition. Unless otherwise specified in the development order an approved use must comply with all conditions prior to implementing the requested approval.

**Sec. 5.16.3. - Misrepresentation.**

If there is evidence an application for a development order was considered with misrepresentation, fraud, deceit or a deliberate error of omission the Planning and Zoning Director shall initiate a rehearing to reconsider the development order. Council shall re-approve, approve with new conditions or deny the development order. If evidence of misrepresentation, fraud, deceit or a deliberate error of omission is discovered during the application review and approval process the application shall be immediately decertified and remanded to sufficiency review.

**CHAPTER 17. APPEALS**

**Sec. 5.17.1. Purpose.**

Appeals procedures are provided for decisions made pursuant to the Land Development Regulations as indicated in this section.

**Sec 5.17.2. General**

- A. Standing to file an appeal for a decision included in this section shall be limited to those persons who were entitled to notice of the application or as otherwise expanded by Florida Statutes.
- B. A recommendation by staff, EPC or PZAB is not a decision and is not appealable.
- C. Any person aggrieved by a decision included in this section shall exhaust all administrative remedies available per these LDR prior to applying to the courts for judicial relief.

**Sec 5.17.3. Administrative Appeal Authorities and Procedures**

- A. Procedure for Appeals of Certain Decisions of the Planning and Zoning Director, the Wellington Engineer or the DRC.
  - 1. Appeals shall be to PZAB for the indicated administrative decisions pertaining to site and subdivision plans, special permits, equestrian permits, extended hours permits, excavation permits, administrative interpretations, decisions regarding procedures and standards of this code, conditions imposed administratively, administrative variances, DRC decisions to not certify an application for hearing and denial of an administrative time extension shall be made to PZAB. Such appeals shall follow the procedures below.
    - a. Appeals shall be filed on forms prescribed by the Planning and Zoning Director within thirty (30) days of receiving notification of the decision.

- b. A hearing before the PZAB shall be scheduled no later than thirty (30) days following receipt of the written appeal unless the parties mutually agree to an extension of this time period.
  - c. The PZAB shall give the Appellants and other interested parties a reasonable opportunity to be heard. At the conclusion of the hearing the Board shall render its determination. The Board may reverse or affirm wholly or partly or may modify the decision or determination being appealed. The interpretation or decision in question shall be presumed to be correct and the applicant shall have the burden to demonstrate errors. The determination shall be issued in written form with a copy sent to Appellants.
  - d. Any person aggrieved by such a decision made by PZAB may apply to the courts for judicial relief.
- B. For an appeal of a reasonable accommodation by the Planning and Zoning Director the requesting party may appeal the decision in writing no later than thirty (30) calendar days after receiving notification of the decision. An appeal shall include sufficient detail of the grounds for the appeal. Appeals shall be to the Village Manager who shall render a determination as soon as reasonably practicable but in no event later than sixty (60) calendar days after an appeal is filed.
  - C. For an appeal of a decision of the Planning, Zoning and Building Department pertaining to Architectural Review Board (ARB) approved designs, materials or colors the decision may be appealed to ARB by filing a written appeal with the Planning, Zoning and Building Department within ten (10) days of the decision. A hearing shall be scheduled no later than thirty (30) days following receipt of the written appeal unless the parties mutually agree to an extension.
  - D. Any substantially affected person aggrieved by a decision of the Planning and Zoning Director pertaining to Article 7.5 Tree Protection and/or tree removal may be appealed to the Tree Board by filing a written appeal with the Planning, Zoning & Building Department within ten (10) days of the decision of the department. A hearing shall be scheduled no later than thirty (30) days following receipt of the written appeal unless the parties mutually agree to an extension.
  - E. Appeals processes for any affected party or governmental entity on annexations or contractions shall be consistent with Fla. Stat. 171.081

#### **Sec 5.17.4. Judicial Relief for Certain Decisions**

A person aggrieved by the decisions indicated below may seek judicial relief by filing an action or petition in the Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, Florida in accordance with Florida law or with the State of Florida Division of Administrative Hearings whichever is applicable.

- A. Any person aggrieved by a decision of the PZAB or Council on an application for development except for Comprehensive Plan Amendments may apply for judicial relief by the filing of a Petition for Writ of Certiorari in the Circuit Court within thirty (30) calendar days from the date such decision is rendered. If the challenge involves the consistency of the development order with the Comprehensive Plan judicial relief may be sought by the

filing of a verified complaint with Wellington and a Petition for Writ of Certiorari in the Circuit Court pursuant to Sec. 163.3215, Fla. Stat.

- B. An aggrieved party may immediately appeal a denial of application sufficiency of a special permit, denial of a special permit, revocation or suspension of a permit for an adult entertainment establishment by filing in the Circuit Court an action within thirty (30) days of the date of the denial.
- C. Any person aggrieved by a decision of the Council on an application for a Comprehensive Plan amendment may follow procedures set forth in Chapter 163, Fla. Statutes filing with the Florida Division of Administrative Hearings to challenge the decision.

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