

ARTICLE III DECISION MAKING AND ADMINISTRATIVE BODIES

Sec. 27-21. - Development Review Committee.

- (a) Creation and purpose. There is hereby established a Development Review Committee (DRC) in order to facilitate communication between departments responsible for development review.
- (b) Powers and duties. The Development Review Committee shall review and render recommendations on applications for development included in Table 21-1:

Table 21-1

Application Type	DEVELOPMENT REVIEW COMMITTEE ACTION (1)	
	Approve/Deny	Review and Recommend
Abandonment of Right-of-Way		✓
Compliance Plan	✓	
Comprehensive (Land Use) Plan Map Amendment		✓
Comprehensive Plan Text Amendment		✓
Conditional Use		✓
Cure Plan		✓
Land Development Regulations Text Amendment		✓
Plat		✓
Rezoning		✓
Site Data Record		✓
Site Plan (new)		✓
Site Plan Amendment		✓

Application Type	DEVELOPMENT REVIEW COMMITTEE ACTION (1)	
	Approve/Deny	Review and Recommend
Trafficways Amendment		✓
Use Variance		✓
Vacation of Easement		✓
(1) pursuant to adopted procedures; in some cases these applications may be subject to Planning & Zoning Board or Council approval		

- (c) Membership. The Development Review Committee shall be composed of representatives of the city's Planning, Zoning and Economic Development department; Building department; Police department; Fire department; Engineering department; and Utilities department. The Mayor shall approve the designation of each department's representatives. The Mayor may appoint other staff members to the DRC as necessary to carry out its duties and responsibilities.

The Planning, Zoning and Economic Development Director shall serve as the chairman of the DRC to preside over its meetings, document the proceedings and shall have the duty to promulgate and propose to the Mayor, on an as-needed basis, procedural regulations to implement this section. The chairman may request the participation of professional experts and a representative from an adjacent municipality or from a county, regional or state agency if it is determined that a proposed development would impact the adjacent municipality or if the other agencies and/or professional experts can provide expertise concerning the proposed development.

- (d) Meetings, procedure.

- (1) Regular meetings of the Development Review Committee shall be held according to a schedule as established from time to time by the chairman. All meetings of the DRC shall be public meetings open to the public.
- (2) The city shall prepare written summaries which include the date, members present and the recommendations of the committee.
- (3) The applicant or its representatives must be in attendance for the committee to review and provide recommendation on all applications for development.
- (4) The Development Review Committee shall make its recommendations in writing.

Sec. 27-22 – Plans Adjustment Committee.

- (a) *Creation.* The existing Plans Adjustment Committee is hereby reconstituted as the Plans Adjustment Committee.
- (b) *Powers and duties.* The Plans Adjustment Committee shall have the powers and duties listed herein in regard to these LDR's.
 - (1) To review applications for minor site plan amendments, minor conditional use applications, and minor use variance applications which have not been approved by the director of planning, zoning and economic development as provided for in Sections 27-45(h), 27-51(b), and 27-56(e);
 - (2) To review applications for an administrative variance which has not been approved by the director of planning, zoning, and economic development as provided for in Section 27-55(h);
 - (3) To review applications to amend an approved site plan (and any accompanying building elevation, landscape, paving and drainage, illumination, and other incorporated plans), provided that the director of planning, zoning, and economic development first determines that the application does not:
 - a. represent a significant change to the approved site plan which should be reviewed by the city using the normal full city advisory board and committee review process;
 - b. involve a practical difficulty waiver of a code requirement (except for those administrative variances authorized under Section 27-55); or
 - c. involve a practical difficulty waiver or amendment of a specific and express condition of a development order imposed by the City Council which is delineated in its motion, resolution, or ordinance evidencing its approval (a general reference to recommendations or conditions of advisory boards or committees or of staff is not "a specific and express condition of a development order imposed by the City Council which is delineated in its motion, resolution, or ordinance evidencing its approval"); and
 - d. such other matters as are referred to the Plans Adjustment Committee by the City Council (either by ordinance, resolution, or for a specific matter, by motion).
- (c) *Membership.* The Plans Adjustment Committee shall be composed of a member of the City Council, the building official, and the planning, zoning and economic development director. The attendance of all three (3) members shall be required for a quorum.

- (d) *Elected official service.* The president of the City Council, with majority approval of the Council, may establish a service schedule for the Plans Adjustment Committee. Where none is agreed to, the following "default schedule" shall apply, with each Councilmember serving for two (2) months in rotation, beginning with group 1. In the event a serving Councilmember cannot attend a meeting during his or her rotation period, another available Councilmember shall cover the meeting. The covering Councilmember shall be selected according to group seat rotations and availability, with the first candidate covering Councilperson having the next group seat number in the rotation from the serving Councilmember. (For example, if the group seat 3 Councilmember is serving on the committee and cannot attend a meeting, the group seat 4 Councilmember shall first be contacted to cover the meeting, and if the group seat 4 Councilmember is not available, the group seat 5 Councilmember shall then be contacted, and so on. In the event a covering Councilmember is not confirmed as available for the meeting no less than forty-eight (48) hours prior to such meeting, the Mayor shall be able to sit for such meeting in lieu of a member of the City Council.
- (e) *Officers.* The Mayor or Councilmember shall serve as chairperson of the plans advisory committee.
- (f) *Meetings, hearings and procedures.*
 - (1) *Quorum.* A Plans Adjustment Committee application must be approved by all three (3) members. If any one (1) of the members is not in agreement, the application shall be denied.
 - (2) *Direct Deferral.* The committee may refer any application over which it has jurisdiction to the City Council for direct review as a quasi-judicial item. A direct referral to the City Council must be approved by all three (3) members. When the matter is considered by the City Council, the City Council meeting's advertising requirements shall apply (e.g., proposed changes to site plans shall be advertised in the same manner as site plan approvals, proposed conditional uses shall be advertised in the same manner as conditional uses, proposed use variances shall be advertised in the same manner as use variances, etc.). The city quasi-judicial procedural rules apply to the City Council hearing on the matter, and the city governing body may approve or deny the matter at such advertised hearing.
 - (3) *Time of regular and special meetings.* Regular meetings of the Plans Adjustment Committee shall be held no less often than once every month, unless there is no business to come before the board. Special meetings may be called by the director of planning, zoning and economic development. If consideration of a matter is postponed due to lack of a quorum, the chairperson of the Plans Adjustment Committee shall continue the meeting to the next scheduled or special meeting thereafter. In the case of delays caused by other reasons, the meeting should be rescheduled to the next Plans Adjustment Committee meeting. The city clerk shall notify all members of the date of the continued meeting.

- (4) *Public meetings.* All meetings of the Plans Adjustment Committee shall be public meetings and all records of such meetings shall be public records.
- (5) *Vote.* No action of the Plans Adjustment Committee shall be valid unless authorized by all members of the committee. Applications which are denied by the Plans Adjustment Committee, may be submitted by an applicant directly to the City Council for review as a quasi-judicial item. When the matter is considered by the City Council, the City Council meeting's advertising requirements shall apply (e.g., proposed changes to site plans shall be advertised in the same manner as site plan approvals, proposed conditional uses shall be advertised in the same manner as conditional uses, proposed use variances shall be advertised in the same manner as use variances, etc.). The city quasi-judicial procedural rules apply to the City Council hearing on the matter, and the city governing body may approve or deny the matter at such advertised hearing.
- (6) *Nature of committee deliberations.* Applications that can be considered by the Plans Adjustment Committee do not meaningfully impact adjacent or nearby landowners or the public at large. The decisions of the Plans Adjustment Committee are discretionary administrative decisions. Plans Adjustment Committee deliberations are informal, witnesses need not be sworn, and interested persons do not have cross examination privileges.
- (7) *Records.* The city clerk shall keep minutes of all Plans Adjustment Committee proceedings, showing evidence presented, the names of all witnesses giving testimony, findings of fact by the committee and the vote of each member upon each question. All such records shall be public records, available for copying and inspection during normal business hours.

Sec. 27-23 - Planning and Zoning Board.

- (a) *Creation.* The existing advisory Planning and Zoning Board is hereby reconstituted as the Planning and Zoning Board.
- (b) *Powers and duties.* The Planning and Zoning Board shall have the powers and duties listed herein and as further set forth in Table 23-1 in regard to these LDR's, except for variances from setback and other dimensional requirements and regulations pertaining to residential, in which case the Planning and Zoning Board shall have final authority. The Planning and Zoning Board shall act as an advisory board to the City Council on the following matters:
 - (1) To act as the local planning agency as provided in section F.S. § 163.3174; and
 - (2) To make recommendations to the city administration and City Council regarding revisions to the LDR and in regard to adoption and amendment of the official zoning map; and

- (3) To review and make recommendations to the Council on the following development approvals included in Table 23-1, pursuant to adopted procedures; and
- (4) To review and approve variances from any LDR provisions affecting individual single-family and duplex residences. The Board's authority shall include, but not be limited to, approval, approval with conditions or modifications, or denial; and
- (5) To review and make recommendations to the Council on any other matter referred to it by the Council.

Table 23-1

	PLANNING & ZONING BOARD ACTION	
Application Type	Approve/ Deny	Review and Recommend
Appeals to Administrative Decisions	✓	
Comprehensive (Land Use) Plan Map Amendment		✓
Comprehensive Plan Text Amendment		✓
Conditional Use		✓
Land Development Regulations Text Amendment		✓
Rezoning		✓
Site Plan (New Construction)		✓
Application Type	Approve/ Deny	Review and Recommend
Site Plan Amendment		✓
Variance – Physical (multi-family and nonresidential)		✓
Variance – Physical (Single-family lots)	✓	
Zoning Relief Request		✓

(c) Membership. The Planning and Zoning Board shall be composed of:

- (1) Seven (7) members who shall be appointed as specified in Section 2-32 of the Code of Ordinances. Each appointee shall be a resident of the city and, as near as practical, shall have experience in one or more of the following areas: land use, land development, architecture, landscape, engineering, traffic engineering, real estate brokerage, practice of law or elected public service. Each appointee shall serve during the appointer's term of office.
- (2) In addition to the seven (7) regular voting members of the board, there shall also be seven (7) alternate members, all of whom shall be residents of the city.
 - a. The Mayor and each member of the Council shall appoint one (1) alternate member. The seventh alternate member shall be appointed on a rotation basis similar to the seventh regular voting member's appointment rotation, so that (absent a trade), the elected official which appoints the seventh regular voting member shall be the elected official that appoints the seventh alternate member.
 - b. Each alternate member shall serve in lieu of the corresponding appointed regular voting member as an acting regular voting member, when such regular voting member is absent from any Planning and Zoning Board meeting. In the event that both a regular and the corresponding alternate members are absent from a Planning and Zoning Board meeting, another alternate member shall be seated on a rotation basis according to the seat number of the alternate member's appointor (in such case, the Mayor shall be considered as occupying seat number six (6)).
 - c. When acting as a regular voting Planning and Zoning Board member, an alternate member shall be able to exercise the full powers and authority held by any other regular voting Planning and Zoning Board member.
 - d. All alternate members shall be encouraged to attend every Planning and Zoning Board meeting.
 - e. Each alternate member shall serve at the pleasure of such alternate member's appointor. Subject to the preceding sentence and regardless of when appointed, an alternate member shall serve for a term co-extensive with the then remaining term of such alternate member's appointor (so that whenever such appointor's term expires or otherwise ends, the alternate member's term of service shall also expire or otherwise end).
- (3) In addition, one (1) non-voting member shall be appointed by the School Board of Broward County. The School Board Representative shall not be considered for quorum or voting purposes. The School Board shall determine the qualifications for

membership, term of office, method for filling vacancy, and attendance requirements for its appointed member.

- (d) Officers. The Planning and Zoning Board shall annually elect a chairman and vice-chairman from among its members and may create and fill such other offices as necessary. Terms of all offices shall be for one year, with eligibility for re-election.
- (e) Meetings, hearings and procedures.
 - (1) Quorum. Except as provided in this section, no meeting of the Planning and Zoning Board shall be called to order, nor shall any business be transacted by the Planning and Zoning Board, without a quorum consisting of at least four (4) members of the board being present; provided, however, that no final decision of the board shall be made except upon four (4) affirmative votes therefor. The chairman shall be considered and counted as a member. When there is no quorum, those members of the board who are present may convene for the purposes of continuing a public hearing, holding a workshop or scheduling a special meeting.
 - (2) Time of regular and special meetings. Regular meetings of the Planning and Zoning Board shall be held no less often than once every month, unless there is no business to come before the board. Special meetings may be called by the chairman of the Planning and Zoning Board, a majority of the members of the Planning and Zoning Board, a majority of the City Council, or the Mayor. If consideration of a matter is postponed due to lack of a quorum, the chairman of the Planning and Zoning Board shall continue the meeting to the next scheduled or special meeting thereafter. In the case of delays caused by other reasons, the meeting should be rescheduled to the next Planning and Zoning Board meeting. The city clerk shall notify all members of the date of the continued meeting.
 - (3) Public meetings. All meetings of the Planning and Zoning Board and its committees shall be public meetings and all records of such meetings shall be public records.
 - (4) Vote. No action of the Planning and Zoning Board shall be valid unless authorized by a majority vote of the membership (minimum 4 votes).
 - (5) Records. The City Clerk shall keep minutes of all Planning and Zoning Board proceedings, showing evidence presented, the names of all witnesses giving testimony, findings of fact by the board and the vote of each member upon each question, or if absent and failing to vote, such fact. All such records shall be public records, available for copying and inspection during normal business hours.

Sec. 27-24 – Reserved.

Sec. 27-25 – Reserved.

Sec. 27-26 – City Council.

- (a) Powers and duties. In addition to any authority granted to the City Council by state law, the City Charter, or the City Code of Ordinances, the City Council shall have the powers and duties listed herein in regard to the LDRs. The City Council's authority shall include but not be limited to approval, approval with conditions or modifications, or denial:
- (1) To take such action deemed desirable and necessary to implement the provisions of these LDR’s and the Comprehensive Plan; and
 - (3) To consider all applications for development included in Table 26-1, pursuant to adopted procedures and take action as may be appropriate.

Table 26-1

APPLICATION TYPE	COUNCIL ACTION					
	ADOPT & AMEND	APPROVE/ DENY	ENTER INTO	EXTEND	HEAR & DETERMINE	REAPPROVE
Abandonment of Right-of-way		✓				
Comprehensive (Land Use) Plan Map Amendment	✓					
Comprehensive Plan Text Amendment	✓					
Conditional Use		✓		✓		✓
Cure Plan		✓				
Delegation Request		✓				
Development Agreement			✓			
Flexibility/Reserve Unit Allocation		✓				
Local Activity Center (LAC) Unit Allocation		✓				

APPLICATION TYPE	COUNCIL ACTION					
	ADOPT & AMEND	APPROVE/DENY	ENTER INTO	EXTEND	HEAR & DETERMINE	REAPPROVE
Land Development Code Text Amendment	✓					
Phasing Plan		✓				
Plat		✓				
Proceed at Risk		✓				
Site Data Record		✓				✓
Resolution Modification		✓				
Rezoning	✓					
Site Plan – New Construction		✓		✓		✓
Site Plan Amendment		✓		✓		✓
Trafficways Amendment	✓					
Vacation of Easements		✓				
Variance - use		✓				✓
Waiver, Practical Difficulty		✓				✓

Sec. 27-27. - Quasi-judicial proceedings.

(a) Intent. It is the intent of the city to provide an equitable and efficient manner for the city to hear matters which are considered quasi-judicial in nature. Notwithstanding other provisions in the City Code, sections (a) through (d) [of this section] provide the city's procedures to be utilized for quasi-judicial proceedings. These procedures shall be utilized by the Planning and Zoning Board, and the City Council in regards to hearings on quasi-judicial matters in which the applicable body is the final authority.

(b) Definitions. As used in this article, the terms listed below shall be defined as follows:

Party or parties means the petitioner, city, and any affected person who has requested to be heard at the proceeding.

Quasi-judicial in nature means the application of a general rule or policy to specific individuals, interests, or activities.

Quasi-judicial proceeding means hearing held by board or Council to adjudicate private rights of a particular person after a hearing which comports with due process requirements, and makes findings of fact and conclusions of law on the issue.

Site specific means an individual piece of real estate which can be clearly defined by street address, legal description or similar means at a single identifiable location.

(c) Quasi-judicial matters.

(1) For the purpose of this article, the following shall be considered to be quasi-judicial:

- a. Site specific rezoning;
- b. Site specific land use amendment;
- c. Conditional use approval;
- d. Use Variances approval;
- e. Any other development approval deemed to be quasi-judicial by the city attorney.

(2) All quasi-judicial proceedings before the City Council shall be held immediately following the closing of the final public hearing related to the matter. Notwithstanding other provisions of the City Code, the Planning and Zoning Board shall follow the procedures of this article in hearing all matters before the board when the board has final authority.

(d) Procedures for quasi-judicial proceedings

(1) Ex-parte (oral) communications. Board and Council members should avoid ex-parte communications where they are identifiable. However, it is recognized that in reality, Council members are elected officials and Board members are appointed officials who may unavoidably be recipients of unsolicited ex-parte communications regarding quasi-judicial matters for which the Board or Council will be required to decide. Any ex-parte (oral) communications which are made to any Board or Councilmember with

regards to any quasi-judicial matter by any person who has a direct or indirect interest in the proceeding, or by any authorized representative or counsel, shall be reported and become part of the record of the proceedings. The report of the incident shall include the identification of the person(s) involved in any ex-parte communication and a description of the substance of the communication and any response. At the proceeding, the party(ies) responsible for the ex-parte shall have the opportunity to contest the accuracy of the communication and may be required to prove absence of prejudice.

(2) Notification.

- a. At least ten calendar days prior to the proceeding, the City shall provide a legal advertisement to be published in a newspaper of general paid circulation in Broward County and of general interest and readership in the community, not one of limited subject matter. Said notice shall state the name of the petitioner for the requested action, the date and time of the proceeding and the location where the petition and any back up information may be reviewed. In addition, the notice shall:
 - (i) Inform all affected persons that they will be allowed to present evidence at the hearing, bring forth witnesses, and cross-examine witnesses; and
 - (ii) Inform all affected persons, as defined in section 27-11 of this Code, that they must file the required forms provided in the city clerk's office.
- b. No later than fourteen calendar days prior to the proceeding, a mail notice containing the same information as the legal advertisement shall be sent to each real property owner within 300 feet of the subject property as each is listed in the latest ad valorem tax records of Broward County. Mail notice may be provided by bulk mail, first class mail or certified mail, return receipt requested.
- c. All cost for notification shall be paid by the petitioner.

(3) Public Participation

- a. Any affected person desiring to testify at the proceeding shall complete the required forms provided in the city clerk's office notifying the petitioner and city of their intent to appear at the proceeding to testify and cross-examine witnesses. The affected person shall indicate whether he or she is for or against the petition. The affected person must indicate how he or she qualified as an affected person. In addition, the affected person must disclose witnesses or anyone providing sworn testimony, including consultants and expert witnesses. The required form must be completed and returned to the city clerk's office no later than noon the day before the proceeding.

- b. The petitioner shall complete the required forms provided in the city clerk's office. The form when completed must include disclosure of witnesses or anyone providing sworn testimony, including consultants and expert witnesses. The required form must be completed and returned to the city clerk's office no later than 12:00 noon the day before the proceeding.
- c. Presentation of evidence.
 - i. All persons testifying before the board or Council must be sworn in. The petitioner, members of the board or Council and any affected person who has provided notice that it intends to appear at the proceeding shall be given the opportunity to question or cross-examine any witnesses.
 - ii. All evidence relied upon by reasonably prudent persons in the conduct of their business shall be admissible, whether or not such evidence would be admissible in a court of law. However, immaterial or unduly repetitious evidence shall be excluded.
 - iii. Hearsay evidence may be used for the purpose of corroborating, supplementing or explaining other evidence, but it shall not be sufficient by itself to support a finding.
 - iv. Documentary evidence may be presented in the form of a copy or the original, if available. Upon request, parties shall be given an opportunity to compare the copy with the original.
 - v. A party shall be entitled to conduct cross-examination when testimony is provided or documents are made a part of the record.
 - vi. The office of the city attorney shall represent the board or Council and advise as to the propriety and admissibility of evidence presented at the proceeding.
- (4) Quasi-judicial proceedings. The proceedings shall be conducted in an informal manner. Each party shall have the right to do the following:
 - a. To call and examine witnesses;
 - b. To introduce exhibits;
 - c. To cross-examine opposing witnesses on any relevant matter; and
 - d. To rebut evidence.
- (5) Conduct of quasi-judicial proceedings. To the extent possible, the following shall be the order of the proceedings:

- a. Call the proceeding to order and announce the beginning of the proceeding. A majority of the Board or Councilmembers must be continuously present during the proceeding.
- b. The matter to be heard and the rules concerning the admissibility of evidence should be announced.
- c. Statements of counsel shall only be considered as argument and not be considered as testimony, unless:
 - (i) Counsel shall announce that counsel's testimony is fact-based, and counsel established a predicate therefore, or
 - (ii) Said testimony is provided as "expert testimony".

Counsel for parties shall not be subject to cross-examination. The Board or Council shall have the authority to refuse to hear any testimony which is irrelevant or repetitive.

- d. City staff shall present its report on the matter as well as any comments. This report shall include, but not be limited to, a description of the request of the petitioner; a description/background related to the petition; an analysis which includes the consistency with the city's comprehensive plan, if applicable, and how the petition does or does not meet the requirements of the City Code; a listing of the exhibits to be presented; a listing of potential witnesses; a summarization of the issues; and the staff recommendations. The staff recommendation shall include specific findings in support of justifying a recommendation for approval or denial of the petition.
- e. Petitioner, or his or her representative shall make a presentation. The petitioner should include a description of the nature of the petition if there is additional information that has not been provided by city. In addition the petitioner shall introduce any exhibits and witnesses.
- f. Parties who are in support of the petition shall make their presentations. A party in support shall introduce any exhibits and witnesses.
- g. Parties who are in opposition of the petition shall make their presentation. A party in opposition shall introduce any exhibits and witnesses.
- h. Staff shall provide any response to any other party to the proceeding.
- i. After each witness testifies or documents are made a part of the record, a party shall be permitted to question the witness. The questioning party is not permitted to make any statements, only to ask questions which are directly related to the testimony presented.

- j. Final presentation by petitioner in response to any testimony from other parties.
 - k. Final presentation by city in response to any testimony from other parties.
 - l. At the discretion of the board or City Council, the petitioner may be permitted to respond to final staff recommendations.
 - m. The board or Council shall deliberate on the petition. No further testimony shall be taken and the members shall not ask further questions of persons presenting testimony. The board or Council shall discuss the evidence that was presented at the proceeding and vote on the petition.
- (6) Final determination by board or Council. In reaching a determination as whether to grant or deny the petition, the board or Council shall:
- a. Consider whether the petitioner's request is consistent with the city's comprehensive plan, if applicable, and
 - b. State with specificity the reasons for the approval or denial of the petition. Said approval or denial may reference the staff report. If an ordinance is required to be adopted by the City Council, the ordinance shall be the final action of the city; otherwise a final order shall be prepared.
 - c. State whether or not the order is to be recorded in the public records of Broward County.
- (7) Preparation of the order. The planning, zoning and economic development department shall prepare the final order of the board or Council based upon the determination. The final order shall include, but not be limited to, the finding of facts, any conditions, requirements or limitations on the approval of the petition, and whether or not the order shall be recorded in the Broward County public records. If an ordinance is required to be adopted upon approval of an action by the Council, a final order will not be prepared, unless the petition is denied. If the order is to be recorded in the public records of Broward County, the petitioner shall pay the cost for the recording.
- (8) Continuances and deferrals. If, in the opinion of the board or Council, any testimony or documentary evidence or information presented at the proceeding justifies providing additional time to allow additional research or review in order to properly determine the issue presented, the board or Council shall continue the case to a designated time to allow for the additional research or review. After the decision is made to continue, the date to which the proceeding shall be continued shall be announced at the proceeding.

- (9) Transcription of quasi-judicial proceedings.
- a. The official transcript of a proceeding shall be preserved by tape recording or other device. Nothing precludes the party from providing a court reporter for the proceeding if the board or Council has not done so.
 - b. A party to the proceeding may request that all or part of the transcript of the proceeding be transcribed into verbatim written form. In such case, the person requesting the transcript shall be responsible for the cost of production of the transcription.
- (10) Maintenance of evidence and other documents. The office of the city clerk shall retain all of the evidence and documents presented at the proceeding, except for large scale exhibits which shall be retained by the department of planning, zoning and economic development, all which become a part of the public record of the proceeding.
- (11) Appeal of final determination by board or commission. The final determination of the board or Council is subject to judicial review in a court of competent jurisdiction.