

Sec. 13-16. - Planning and Zoning Board.

- (a) *Responsibilities.* The ~~p~~Planning and ~~z~~Zoning ~~b~~Board shall be responsible for the ~~e~~City's comprehensive planning program, and as required by Section 163.3174, Fla. Stat., shall be designated as the City's local planning agency. ~~The planning and zoning board~~Planning and Zoning Board shall ~~act advise~~ on all matters pertaining to land planning and plan implementation. The ~~b~~Board shall ~~have the power to~~ conduct investigations, hold public hearings, take testimony, review documentary evidence, issue orders, and make recommendations to the ~~city commission~~City Commission on all activities relating to land planning and plan implementation. Specifically the ~~b~~Board shall:
- (1) ~~Prepare and monitor the comprehensive plan or plan amendment and shall make recommendations to the City Commission regarding the adoption or amendment of such plan;~~
 - (2) ~~Review amendments to the comprehensive plan; Monitor and oversee the effectiveness and status of the comprehensive plan and recommend to the City Commission such changes in the comprehensive plan as may from time to time be required, including the periodic evaluation and appraisal of the comprehensive plan required by Section 163.3191, Fla. Stat.~~
 - (3) ~~Review and Eevaluate proposed land development regulations, land development and codes, or amendments thereto, and make recommendations to the City Commission as to the consistency of the proposal with the adopted comprehensive plan, or element or portion thereof;~~
 - (4) ~~Review and update provide recommendations related to the zoning ordinance;~~
 - (5) ~~Evaluate rezoning requests and zoning map changes and make recommendations to the City Commission;~~
 - (6) ~~Review proposed subdivision plats and make recommendations to the City Commission;~~
 - (7) ~~Review, approve or deny and provide recommendations related to all proposed site plans;~~
 - (8) ~~Hear and decide appeals by parties pursuant to Section 13-34, "Appeals," where it is alleged that there is error in any reviewable interpretation, application or determination made by an administrative official in the enforcement of the Land Development Code and to modify or reverse such ruling upon finding the administrative official's interpretation of facts or interpretation of law clearly erroneous or to affirm the administrative official's interpretation which is supported by the facts of law.~~
 - (9) ~~Review~~Hear and decide upon applications for such variances from the Land Development Code as are authorized under the Land Development Code and make recommendations to the City Commission to grant such variances with conditions and safeguards as are appropriate under the Land Development Code.
 - (10) ~~Perform any other functions, duties or responsibilities as assigned by the e~~City ~~e~~Commission.
- (b) *Composition.* The ~~P~~planning and ~~Z~~zoning ~~B~~board shall consist of five (5) members and one (1) alternate. In addition, the Board shall include a representative of the school district appointed by the school board as a nonvoting member to attend those meetings at which the Board considers comprehensive plan amendments and rezonings that would, if approved, increase residential density on the property that is the subject of the application.
- (c) *Appointment and organization.* Each member of ~~C~~eity ~~C~~commission shall nominate one (1) person to fill each position on the ~~P~~planning and ~~Z~~zoning ~~B~~board. A majority of the ~~C~~eity ~~C~~commission shall approve the nominations as a panel. Each term shall be as fixed by ordinance of the ~~C~~eity. One (1)

alternate member of the Board shall be selected by the Mayor and approved by a majority of the Ceity Commission. The term of office of the alternate member shall be as fixed by ordinance of the Ceity. Any vacancies on the Planning and Zoning Board shall be filled by a person nominated by the Ceity Commission member who nominated the vacating member. Such nomination shall be approved by a majority of the Ceity Commission. The term of a member filling a vacancy shall coincide with the remainder of the member vacating. Each member of the Planning and Zoning Board shall be a resident of the Ceity and a qualified voter. Members of the Planning and Zoning Board shall serve without compensation.

- (d) *Board officers.* The chairperson and vice-chairperson shall be elected from the Board membership. The chairperson and vice-chairperson shall serve one-year terms.
- (e) *Rules of procedure.* The Planning and Zoning Board shall utilize *Robert's Rules of Order* to govern conduct of meetings. Attendance of three (3) members of the Board at any duly authorized meeting shall constitute a quorum. An affirmative vote of three (3) members shall be necessary to adopt any motion considered by the Board.
- (f) *Meetings.* The Planning and Zoning Board shall hold at least one (1) regular meeting per month and additional special meetings as necessary. Public notice of each regular meeting shall be displayed at Ceity hall or advertised as prescribed by law.

Sec. 13-33. - Variances.

- (a) *Definition.* A variance is a modification of requirements of this chapter to allow for unusual conditions relating to property or structures where special conditions exist or when literal enforcement of the provisions of this chapter will result in unnecessary or undue hardship. Variance requests shall be considered by the planning and zoning board and all with the final decisions shall be provided by the City Commission as provided in this section. No application for variance which permits a use not permitted in the zoning district involved may be considered.
- (b) *Filing application.* Variance requests shall be filed by ~~written application~~ digital submittal to Sustainable Development Department ~~the director of development services~~. The application shall be accompanied by a legal description of the subject property with a current signed and sealed land survey prepared by a registered land surveyor. The application shall also include a detailed description and justification of the proposed variance stating how the criteria for a variance have been met and be accompanied by the processing fee. The person filing the application must be the property owner or an authorized agent of the owner. If the applicant is other than the owner of record, a power of attorney from the owner of record to the applicant shall accompany the application affirming that the owner has granted full authority to the applicant to apply for the relief requested in the application. If the applicant is an attorney who is a member of the Florida Bar who is acting on behalf of the owner of record, no power of attorney shall be required, but the application shall be signed by the attorney who shall indicate his or her representative capacity.
- (c) *Additional application requirements.* The applicant shall be required to obtain a list of all property owners within five hundred (500) feet of the boundary lines of the property under consideration. Two-~~sets of~~ Mailing labels must be provided for all adjacent property owners. The list shall be certified by the county property appraiser, an abstract and title company, or an attorney.
- (d) *Standards for granting.* To authorize any variance from the terms of this chapter, the Planning and Zoning Board must ~~find that~~ formulate a recommendation to the City Commission that is to approve, approve with conditions, or deny the application based on the following considerations:

- (1) Special conditions and circumstances exist which are peculiar to land, structures or buildings involved and which are not applicable to other lands, structures or buildings in the same zoning district.
- (2) The special conditions and circumstances do not result from actions of the applicant.
- (3) Granting a variance will not confer special privilege that is denied by this chapter to other lands, buildings or structures in the same zoning district.
- (4) Literal interpretation of the regulations of this chapter will deprive the applicant of rights shared by other property owners holding property in the same zoning district under the terms of this chapter and cause unnecessary and undue hardship on the applicant.
- (5) The variance granted is the minimum variance that will make possible the reasonable use of land, buildings or structures.
- (6) Approval of a variance will be harmonious with the general intent and purpose of this chapter and that such variance will not degrade the area involved or be detrimental to public welfare.
- ~~(7) The planning and zoning board may prescribe conditions and safeguards with the approval of a variance. Violation of such conditions and safeguards shall be deemed a violation of this chapter. The planning and zoning board may establish a time during which a variance may begin and shall be completed.~~
- ~~(8) The planning and zoning board shall not approve a variance which permits a use not permitted in the zoning district involved.~~

(e) *Processing application.*

- (1) Applications for a variance shall be scheduled for consideration by the ~~p~~Planning and ~~z~~Zoning ~~b~~Board.
- (2) Public notice for the hearing shall be posted at the City Hall.
- (3) The applicant shall present the variance proposal at a public hearing before the Planning and Zoning Board.
- (4) The Planning and Zoning Board shall ~~consider~~determine if the variance in light of~~complies with~~ the standards set out in subsection (d), above.
- (5) The board ~~shall may recommend approve denial or shall recommend approval of the application only by an affirmative majority vote. The City Commission shall then consider the variance application and can affirm, affirm with conditions, or deny the application.~~
- (6) The City Commission shall then consider the variance application and the recommendation of the Planning and Zoning Board and can approve, approve with conditions, or deny the application. Violation of such conditions and safeguards shall be deemed a violation of this chapter.
- ~~(67)~~ After decision of the ~~board~~City Commission, the ~~city clerk~~Sustainable Development Department shall send written notification of the decision to the applicant. The decision shall become part of the public record.
- ~~(78)~~ The decision of the ~~planning and zoning board~~City Commission is final and may only be appealed in circuit court ~~may be appealed to the City commission pursuant to the procedures set forth in s~~Section 13-34, "Appeals."

- (f) *Variance time limitations.* Unless additional time is granted at the time of approval of any variance, any variance authorized by the ~~e~~City Commission which relates to a structure or use requiring a permit, shall expire one hundred eighty (180) days after the date of the effective date of the variance if no permit, certificate of use or other required license has been issued based upon and incorporating the variances, and if all conditions and limitations of the variance have not been satisfied.

- (1) Whenever the ~~e~~City has taken action to reject a variance, no request for the same variance on any part of the same property for a period of twelve (12) months from the date of such action shall be considered by the ~~e~~City.
- (2) The one hundred eighty (180) days shall begin running the day after the effective date of the variance and shall be tolled during the pendency of any appeal to the ~~e~~City ~~e~~Commission, circuit court or upon the filing of a request for relief pursuant to the dispute resolution provisions of ~~F.S ch. Chapter~~ 70, Fla. Stat. as amended from time to time.
- (3) A six ~~(6)~~-month extension of the variance approval may be granted by the development services Sustainable Development ~~d~~Director when all applicable regulations in effect at the time of original variance approval remain unchanged. An extension shall only be granted when an applicant has applied for an extension during the original effective period of the variance and a determination that the project is proceeding with due diligence has been made by the development services Sustainable Development ~~d~~Director. Only one (1) extension shall be permitted.

Sec. 13-34. - Appeals.

An appeal is a process for review and modification of any action, which, if not appealed, would be final. An appeal shall be conducted as a new evidentiary hearing via de novo review in accordance with the city's quasi-judicial procedures and shall not be limited to the record below.

- (1) *Rule:* An appeal may be made of an administrative interpretation; or of any finding made by an approving body; or, of a decision made by an approving body. The appeal of an administrative official's interpretation or application of the land development code shall first be presented to the ~~planning and zoning board~~ Planning and Zoning Board and may subsequently be appealed to the ~~city commission~~ City Commission; an appeal of the ~~planning and zoning board~~ Planning and Zoning Board's action or decision on a development application shall be made to the city commission. All such actions or decisions are appealable unless an appeal is expressly prohibited. An appeal may be made by an aggrieved party. For purposes of this section, an aggrieved party is defined as any owner or tenant of land situated within five hundred (500) feet of land subject to the proposed action under the city's land development code that has been or will be adversely affected by the decision under the city's land development code; or any person who can show that they have a substantial interest in property that has been or will be adversely affected by a decision on the proposed action.
- (2) *Required information:* An appeal by an aggrieved party must be made in writing, directed to the ~~city clerk~~ City Clerk, and must provide the following information including the appropriate processing fee as specified in section 13-81:
 1. Identification of the action which is being appealed;
 2. Identification of who or what board took the action and the date it was made;
 3. The basis of the appeal;
 4. The relief being sought; and,
 5. The name of the aggrieved party, the aggrieved party's substantial interest in the matter and how the decision has adversely affected the aggrieved party.
- (3) *Procedure:* The following procedures shall be adhered to in the processing of any appeal:
 - (a) The ~~city clerk~~ City Clerk or designee must receive the letter of appeal with the required information set forth above from the aggrieved party within ten (10) working days of the date of the action being appealed.
 - (b) Upon receipt of a timely filed and sufficient letter of appeal, the ~~city clerk~~ City Clerk or designee shall place the appeal on the agenda for consideration of the appeal at the next regular meeting of the body who is to act upon it, provided that the appeal was received in time for proper placement on that agenda. In any event, a properly filed letter of appeal

shall be scheduled for hearing no later than ninety (90) working days from the date it was received by the ~~city-clerk~~City Clerk.

- (c) The city shall ensure compliance with any necessary public notification procedures required under the original action or application. Costs for such public notification will be assessed to the aggrieved party in the same manner as the applicant under the original action or application.
- (d) The aggrieved party shall present the appeal at the public hearing for which the appeal hearing is scheduled. The appellee may present reasons or documentation in support of the initial decision.
- (e) The reviewing body must consider the appeal at which time the appeal may be granted, denied, or set for further consideration upon a majority vote.

(4) *Conditions:*

- (a) The granting of an appeal pertaining to an administrative official's interpretation or application of the city's land development code is not subject to conditions.
- (b) The granting of an appeal pertaining to a decision on a development application may be conditioned in the same manner as the development application may have originally been conditioned.

(5) *Findings:*

- (a) The granting of an appeal pertaining to an administrative official's interpretation or application of the city's land development code requires only a finding that the administrative officer was incorrect in the application of the regulation.
- (b) The granting of an appeal pertaining to a decision on a development application must consider those items upon which a finding is required and the reviewing body must make findings on those items.

(6) *Stay of previous action:*

- (a) *General:* Whenever an appeal is pending, the action being appealed shall be stayed, i.e. the development application or appealed part thereof shall be considered neither approved nor denied.
- (b) *Proceeding at risk:* If an appeal is initiated for an action that is precedent for another action (e.g. site plan approval preceding plat approval), the applicant may proceed with the submittal and processing of further development applications but only at his or her own risk.

- (7) *Decision:* A reviewing body, sitting in its appellate capacity, hearing an appeal shall file its written findings and decision with the ~~city-clerk~~City Clerk or designee within thirty (30) days of the appellate hearing. An appeal from a decision made by a reviewing body of last resort shall be handled exclusively by judicial review in the Seventeenth Judicial Circuit Court, in and for Broward County, Florida, and shall be filed within thirty (30) days from the date of the filing of the final reviewing body's written order with the ~~city-clerk~~City Clerk or designee.

Sec. 13-37. - Aesthetic design.

- (a) *Review and approval.* Aesthetic design review shall be ~~the responsibility of the planning and zoning board during the~~included as part of the site plan review process. This section establishes criteria pertaining to appearance in the design of a site, buildings and structures, landscaping, signs, and other miscellaneous objects that are observed by the public. Aesthetic criteria are not intended to restrict imagination, innovation, or variety, but rather to assist in focusing on design principles which

result in creative solutions that will promote visual appearance within the city, preserve taxable values, and promote the public health, safety and welfare.

DIVISION 5. - SITE PLAN REVIEW REQUIREMENTS

Sec. 13-547. - Review procedures.

- (a) *Preplan review.* The applicant ~~may~~shall review the proposed site plan with the ~~community development~~Sustainable Development ~~d~~Director or designee to confirm general compliance with land use designation, zoning and regulations of this chapter.
- (b) *Filing.*
 - (1) The applicant shall ~~file eight (8) identical copies~~submit a digital file(s) through e-Plan of the proposed site plan ~~with the community development department.~~ The ~~community development department director or~~Sustainable Development Department designee will compute the required filing and review fees. Such fees are due upon the date of submittal and are established in accordance with Division 4, "Fee Schedules," of Article I of this chapter. The applicant shall also ~~file digitally submit~~ eight (8) identical copies of a proposed preliminary engineering plan for the site that complies with the requirements of ~~s~~Section 13-167, "Preliminary Engineering Plan."
 - ~~(2) The community development department shall prepare comments to be distributed to the applicant at or before a meeting of the development review committee in conformance with section 13-18.~~
- (c) *Review and recommendation by the ~~d~~Development ~~r~~Review ~~e~~Committee.*
 - (1) Committee members and departments responsible for development application review shall submit written recommendations to the ~~community development director~~Sustainable Development Department designee according to a review schedule established by the ~~e~~City ~~m~~Manager and amended from time to time.
 - (2) The applicant will be notified in writing of comments concerning the site plan submission. Revisions, additions or corrections will be reviewed by the Sustainable Development Director ~~and director of community development,~~ the ~~d~~Development ~~r~~Review ~~e~~Committee and the applicant. Required revisions and any other information required by the ~~d~~Director of ~~community development~~Sustainable Development and the ~~development~~Development ~~r~~Review ~~e~~Committee shall be resubmitted by the applicant within seven (7) days of the review. Finalized submissions will be scheduled for review by the ~~p~~Planning and ~~z~~Zoning ~~b~~Board on the next available agenda. Failure of any applicant to submit information or revised plans as required above shall result in cancellation of the application. Further, the applicant will be required to resubmit an application including review fees according to Division 4, "Fee Schedules," of Article I of this chapter. Applicants may at any time withdraw an application.
 - (3) Any fees collected in conjunction with development review are nonrefundable.
- (d) *Planning and ~~z~~Zoning ~~b~~Board review.* The ~~planning and zoning board~~Planning and Zoning Board shall review and ~~approve~~provide recommendations to the City Commission to approve, approve with conditions, or deny the final site plan as required by this division. The conditions of ~~approval or the recommendations or~~ grounds for recommending disapproval of a final site plan shall be stated in the minutes of the ~~p~~Planning and ~~z~~Zoning ~~b~~Board meeting.
- (e) *City Commission review.* The City Commission shall ~~review and approve, approve with conditions, or deny~~ the final site plan as required by this division. The conditions of the approval or grounds for

disapproval of a final site plan shall be stated in the minutes of the Planning and Zoning Board City Commission meeting.

- (fe) *Expiration or extension of site plan approval.* A site plan approval shall expire eighteen (18) months following the date of approval unless a building permit for a principal building as required by the applicable Florida Building Code has been issued to the applicant and kept in force. A twelve-month extension of the site plan approval may be granted by the ~~development services~~ Sustainable Development Department ~~d~~Director when all applicable planning, building, zoning, and engineering regulations in effect at the time of the original site plan approval remain unchanged. An extension shall only be granted when an applicant has applied for an extension during the original effective period of the site plan and a determination that the project development is proceeding with due diligence has been made by the ~~development services~~ Sustainable Development Department ~~d~~Director. Only one (1) extension shall be permitted.
- (hf) *Denial.* Denial of an application shall preclude the applicant from refiling the same application for twelve (12) months from the date of denial.
- (hg) *Abandoned projects.* Developers/builders who desire to complete abandoned projects that have an approved site plan that is still in effect must adhere to the same development standards established by said site plan (engineering, setback, square footage of house, architecture, driveway material, landscaping, etc.) in order to preserve the character of the areas as established by said site plan. Any deviations that do not meet the criteria established in section 13-549 -thereto will require an application for revised site plan approval to be processed through the ~~planning and zoning board~~ City Commission.
- (ih) *Previously approved site plans.* Site plans approved prior to the effective date of this section shall be effective for a period of eighteen (18) months from October 1, 2001. If active building permits are not issued for the project within the eighteen (18) month effective period, the site plan approval shall lapse and the site plan will no longer be effective.

Sec. 13-548. - Required form and information on site plan.

~~Eight (8) copies~~ A digital submittal of a proposed site plan drawn to an appropriate scale, ~~on one (1) or more blueprints, twenty-four (24) inches by thirty-six (36) inches,~~ shall be filed with the ~~community development director~~ the Sustainable Development Department. The following items shall be shown on all site plan submissions:

- (5) *Preparation of information.* The information required by this division shall be prepared and digitally sealed by a state registered architect, engineer, landscape architect, or land surveyor, ~~and/or a full member of the American Planning Association.~~ Prior to the certificate of occupancy, a sealed as-built site plan shall be submitted to the ~~community development department~~ Department of Sustainable Development ~~Director.~~

Sec. 13-549. - Modifications to approved site plan.

Modifications to an approved site plan may be permitted by the administrative approval of the ~~d~~Director of ~~community~~ Sustainable Development ~~d~~Director. Such approval will only be granted in accordance with the following standards:

- (1) The modification does not substantially alter the intent and character of an approved site plan;
- (2) Any additional structures contemplated by any modification shall clearly be accessory to a principal use or structure;

- (3) Any modification shall not generate additional off-street parking or intrude into approved off-street parking areas;
- (4) Any modification shall not substantially alter approved on- or off-site schematic engineering.
- (5) Enhancement landscape plans that do not substantially alter the intent and character of an approved landscape plan.

Sec. 13-473. - Deviations.

- (a) *Deviations* . A deviation is a modification of requirements of this subdivision to allow for unusual conditions relating to property or structures where special conditions exist or when literal enforcement of the provisions of this chapter will result in unnecessary or undue hardship which is non-self-imposed, non-financial in nature. However, deviations must not have the effect of allowing a category or type of sign that is prohibited by this subdivision. The deviation process replaces the variance process of section 13-33, "variances," as it pertains to signs. Variances shall not be granted for signs.
- (b) *Application for deviation* . Requests for deviations and the reasons therefore shall be set forth by the applicant in the application for deviation from sign provisions. They shall be accompanied by documentation including, but not limited to, sample detail drawings, schematic architectural drawings, site plans, elevations, and perspectives which shall graphically depict the proposed deviation(s) and illustrate how each deviation would meet the criteria of this section.
- (c) *Review* . An application for deviation from the sign provisions shall be acted upon within thirty (30) days of receipt of a complete application and associated fees by the department. ~~Deviations from the provisions of this sign code may be approved by the planning and zoning board ("board") shall be considered by the Planning and Zoning Board with the final decision from City Commission,~~ upon a finding that the following criteria are met:
- (1) The deviation must not be contrary to the public interest, and must be in harmony with the general intent and purpose of this subdivision; and
 - (2) Approval of the deviation will not adversely affect the character of the surrounding development or applicable uniform sign plan; and
 - (3) The literal interpretation and application of the sign regulations will deprive the applicant of sign visibility or effectiveness shared by other property owners; and
 - (4) Approval of a deviation will not degrade the area involved or be detrimental to public welfare; and
 - (5) One (1) of the following conditions are satisfied:
 - a. Conditions exist that are not the result of the applicant's actions, such that a literal enforcement of the regulations involved would result in unnecessary or undue hardship; or
 - b. There is something unique about the land, building or site configuration that would cause the signage permitted by this sign code to be ineffective in identifying a use or structure that would otherwise be entitled to a sign.
- (d) ~~Board Final decision~~ . Subject to the standards and criteria stated in subsection 13-473(c), "review", above, the ~~board~~ City Commission shall approve only the minimum deviation from the provisions of this sign code necessary to avoid the unnecessary or undue hardship required by subsection 13-473(c)(5)a. or to cause the signage for the site to be effective in identifying the use or structure located on the site in accordance with subsection 13-473(c)(5)b.
- (e) ~~Appeal of decision~~ . ~~Any person who has been adversely affected by the decision of the board concerning a deviation from the provisions of this sign code may appeal such decision to the city commission pursuant to the procedures set forth in section 13-34, "appeals." The decision of the City Commission is final and may only be appealed in circuit court.~~