



Document Purpose:

This document outlines the rules and procedures that the Planning & Zoning Board abide by for their public meetings. The Planning and Zoning Board acts as the city’s local planning agency and assumes general responsibility for the conduct of the city’s comprehensive planning program. The Planning and Zoning Board reviews and decides upon Major Site Plans, Air Park Obstruction Permits and Major Administrative Adjustments and reviews and makes recommendations for Text Amendments, General Map Amendments (Rezoning), Site-Specific Map Amendment (Rezoning), Planned Developments, Plats, Interim Use Permits, Development Agreements, Takings or Vested Right Determinations and Right-of-Way Easement Vacations or Abandonments and Flex Unit applications. The Board also makes recommendations on the Capital Improvement Plan.

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Membership:

The Planning and Zoning Board is made up of ten residents of Pompano Beach who volunteer their time and efforts to assist the City and its citizens in the administration of the Zoning Code. Of the ten members, seven are regular voting members and three members are alternates who may serve as a substitute for a regular voting member who is temporarily absent or disqualified. Each regular member has been appointed by the Mayor, a City Commissioner, or the City Commission at-large and serves a term which runs concurrently with the term of the member of the City Commission who appointed them. Regular voting members shall continue to serve until their successors are appointed. Alternate members serve a three year, concurrent term. Both regular and alternate members serve without compensation.

ELECTION OF CHAIRMAN AND VICE CHAIRMAN

The Board shall elect from among its members a Chairman and Vice Chairman to serve for a one year term. Elections shall be held each year at the November meeting and shall be the last item on the agenda for that meeting.

QUORUM

Four members of the P&Z shall constitute a quorum, as established by Code (155.2204. G. Quorum and Necessary Vote). No official business of the board shall be conducted without a quorum present.

QUASI-JUDICIAL PUBLIC HEARINGS (§ 30.08)

Some of the applications brought before the Planning and Zoning Board are considered quasi-judicial. These applications include: Rezoning, Plats, Administrative Adjustments, Right-of-Way Abandonments & Easement Vacations. All testimony shall be made under oath and anyone providing testimony may be called upon to be cross-examined.

ALTERNATE MEMBERS

The Chair of the Planning & Zoning Board shall be authorized to assign one of the three alternate members to serve as a substitute for a regular voting member who is temporarily absent or disqualified, in accordance with the following:

1. Each of the three alternate members shall be on call for a total of four (4) meetings throughout the year. This schedule shall be established on or before the first regularly scheduled meeting of each year, and may be adjusted by the Chair and by the Alternates in coordination with the Chair and Board Liaison.
2. The alternate members shall be required to attend the meetings that they are assigned. However, the Board Liaison, acting on behalf of the Chair, may release the alternate from attending if all regular Board members have confirmed their attendance by noon on the day of the meeting.
3. In the case that a second alternate member is required, the Board Liaison shall request the presence of the alternate who is not scheduled to serve for the subsequent meeting.

4. No alternate member may serve in place of a single regular voting member for a continuous period of more than three months.
5. No more than two alternate members may serve as regular voting members at any one time.
6. No alternate member may take action as a substitute member unless the Chair first announces assignment of that role and the assignment is recorded in the official minutes of the meeting.
7. When substituting for regular voting members, alternate members shall have the same powers and duties as the regular voting member they replace.

The Board Liaison shall arrange for alternate members when a regular member cannot attend, but the Chair shall have ultimate authority on the matter. Members shall advise the Board Liaison as soon as possible when they become aware they are unable to attend a meeting.

Back-up material is distributed electronically. It is the responsibility of the Board member to notify the City if they cannot access any information.

APPLICANT PROCEDURES

The applicant shall submit an application to the Department of Development Services. Application forms are available at the Zoning Counter in City Hall or on the city's website. The application will specify all required items to be submitted with the completed application. Failure to complete the application as directed may result in its rejection, or at a minimum, will delay the hearing before the Planning and Zoning Board.

A fee, as specified in the Chapter 155 Fee Schedule, must be paid by the applicant, the purpose of which is to cover the City's costs for administrative and applicable advertising services performed. A hearing date is assigned to the applicant. The Planning and Zoning Board meets on the fourth Wednesday of every month at 6:00 P.M. in the City Commission Chambers located adjacent to City Hall.

The Planning and Zoning Board and the City Commission have adopted certain requirements for the filing of development applications. In accordance with those requirements, no applications will be accepted unless they meet all of the following prerequisites:

- 1) All applications must be typed or legibly printed.
- 2) All material submitted by the applicant for the Board's consideration shall become a permanent part of the file in each case. All documents, photographs, petitions or any other items of any kind, nature or description submitted for the Board's examination during the hearing shall be retained by the Board and put in the case file.
- 3) Where the applicant, and/or owner of record is other than an individual, the petition shall state whether the applicant, and/or owner of record, is a partnership, corporation, proprietorship, or other legal entity, and:

- a) if a partnership, a partner must execute the petition and indicate his or her interest;
- b) if a corporation, an officer authorized to bind the corporation must execute the petition and indicate his or her title; and
- c) if a proprietorship, the proprietor must execute the petition, indicate his or her interest and state the business name, where applicable.

The Department of Development Services shall not accept an application which does not comply with these rules relating to the form and filing of applications. (Section 155.2303 Application Submittal and Acceptance).

All documentation submitted as evidence, including photographs, display boards, etc. shall become the property of the City and must be retained in the case file. Large displays must be reduced to a manageable size which can be filed and copies must be provided to the Advisory Board Liaison at the time of Public Hearing before the Board.

CONDUCT OF HEARINGS

Meetings of the Planning and Zoning Board shall be conducted as follows:

- 1) Any changes in the agenda, such as requests to postpone or cases which have been WITHDRAWN by the applicant shall be announced by the Chairperson at the beginning of the meeting.
- 2) Public Hearings shall be conducted in accordance with section 155.2307 Decision-Making Body Review and Decision of the Zoning Code.
- 3) If an application is subject to a final decision by the HPC, AAC, P&Z, ZBA, or City Commission, the decision-making body shall review and decide the application in accordance with the following procedures (See Table 155.2101, Summary of Development Review Responsibilities).

A. BURDEN OF PROOF AND PERSUASION

The applicant bears the burden of demonstrating that an application complies with applicable review standards. The burden is not on the city or other parties to show that the standards are not met by the applicant.

B. PUBLIC HEARING

If the application is subject to a public hearing (see Table 155.2305.A, Required Public Hearings), the public hearing shall be held in accordance with the procedures outlined in section 155.2307.B (Public Hearing) of the Code of Ordinances.

- 4) Quasi-Judicial Public Hearings

Florida Courts have determined that there are certain types of matters which are to be treated differently than other issues considered by the Board. Most decisions of the Board are legislative in nature, which means that the Board is acting as a policy making body. In contrast, in quasi-judicial matters, the Board is applying existing rules and policies to a particular factual situation and is therefore acting like a judge or jury in a Courtroom. In such cases, the Courts have decided that due process and fundamental fairness requires that more formal procedures be followed. Therefore in quasi-judicial matters, all witnesses are sworn in and subject to cross examination by the parties. In addition, the decision of the Board must be supported by competent and substantial evidence presented at the hearing. In quasi-judicial hearings, all rulings must be based solely upon the evidence presented at the hearing.

Quasi-judicial public hearings shall comply with the additional procedures and special considerations required by Section 30.08 (Quasi-Judicial Proceedings) of the Code of Ordinances and by state law.

C. WAIVER OF QUASI-JUDICIAL PROCEEDINGS

Items that require a quasi-judicial public hearing will not be allowed to waive the quasi-judicial process.

1. Additional Requirements after a Quasi-Judicial Public Hearing

If the application is subject to a quasi-judicial public hearing (see Table 155.2305.A, Required Public Hearings), the decision-making body's review and decision shall comply with the following additional requirements.

- 1) Review shall be limited to information contained in reports, recommendations, evidence, and testimony entered into the record of the public hearing;
- 2) The decision shall be based on the application of the relevant review standards presented on the record during the public hearing; and
- 3) The statement of its decision shall be reduced to writing and include at least the following elements:
 - i. A description or summary of material and substantial factual evidence presented at the public hearing;
 - ii. Findings of fact based on evidence presented at the public hearing;
 - iii. Statements concluding whether the application does or does not comply with applicable review standards, based on competent substantial evidence in the record;
 - iv. A statement of the decision on the application (e.g., approval, approval subject to conditions, or denial), based on competent substantial evidence in the record; and

- v. A clear statement of any conditions of approval.

D. EX PARTE COMMUNICATIONS

Ex parte communications create a rebuttable presumption of prejudice and are therefore discouraged. If an ex parte communication with Board members in quasi-judicial matters should occur, adherence to the following procedures shall remove the presumption of prejudice arising from ex parte communications:

- 1) The substance of any ex parte communication with a Board member and the identity of the person, group, or entity with whom the communication took place must be disclosed before the final action on the matter.
- 2) A Board member may read a written communication from any person. Such written communication shall be made a part of the record before final action on the matter.
- 3) Board members may conduct investigations and site visits and may receive expert opinions regarding quasi-judicial action pending before them. Such activities shall be made a part of the record before final action on the matter.

E. CONCLUSION OF THE HEARING

At the conclusion of the hearing, the Board will be advised of the applicable law and the factual findings that must be made to approve or deny the application. Thereafter, the Board will conduct open deliberations of the application. The Chair shall have the discretion to reopen the proceeding for additional testimony or argument by the parties when an outcome substantially different than either the granting or denial of the application is being considered. After deliberations, a vote shall be taken to approve, approve with conditions or deny the application.

5) Standard Public Hearings

Standard public hearings shall comply with the following procedures and special considerations.

A. CONDUCT OF THE PUBLIC HEARING

- 1) Rights of All Persons
Any person may appear at the public hearing and submit documents, materials, and other written or oral testimony, either individually or as a representative of an organization. Persons speaking at the hearing shall identify themselves, state their home or business address, and if appearing on behalf of a person or organization, state the name and mailing address of the person or organization they represent.
- 2) Time Restrictions
The body conducting the public hearing may place reasonable and equitable time restrictions on the presentation of testimony and the submittal of documents and other materials.

3) Continuance of Hearing

The body conducting the public hearing may, on its own motion or at the request of any person, continue the public hearing to a fixed date, time, and place.

B. ORDER OF PROCEEDINGS: STANDARD PUBLIC HEARING

The order of proceedings at a standard public hearing shall be as follows:

1) Opening of Hearing

The person chairing the body conducting the hearing shall open the public hearing.

2) Staff Presentation

The Development Services Director shall provide a brief introductory narrative and/or graphic description of the application and present the staff report and any prior advisory body findings and recommendations, including testimony of witnesses. Members of the body conducting the hearing may ask questions of each speaker after the speaker's presentation.

a) Applicant Presentation

The applicant or the applicant's representatives shall present any information the applicant deems appropriate, including testimony of witnesses. Members of the body conducting the hearing may ask questions of each speaker after the speaker's presentation.

b) Public Comment

Any person other than the applicant or the applicant's representatives or witnesses may be permitted to speak in support of or in opposition to the application.

c) Responses to Presentations and Comments

- i. The applicant may respond to any testimony, comments, documents, or materials presented by the Development Services Department staff or the public.
- ii. The Development Services Department staff may respond to any testimony, comments, documents, or materials presented by the applicant or the public.

d) Close of Hearing

The person chairing the body conducting the hearing shall close the public hearing.

C. PUBLIC HEARING RECORD

The body conducting the public hearing shall record the proceedings by any appropriate means. If a sound recording is made, any person shall be entitled to listen to the recording at a reasonable time, or make copies at that person's own expense, in the Development Services Department.

D. REVIEW AND DECISION

The decision-making body shall review the application, relevant support materials, the staff report, any advisory body recommendations, and any public comments, and shall make one of the decisions authorized for the particular type of application, based on the review standards applicable to the application type, as set forth in Part 4 (Application-Specific Review Procedures) of this article.

- 1) The decision-making body may remand the application to the Development Services Director for further consideration of new information or specified issues or concerns by the staff or any advisory bodies.
- 2) Unless stated otherwise in this Code, the decision-making body's decision shall clearly state the factors considered in the decision and the basis or rationale for the recommended decision.
- 3) The decision-making body shall take action as promptly as possible in consideration of the interests of the applicant, affected parties, and citizens of the city.

E. CONDITIONS OF APPROVAL

Conditions of approval shall be limited to those deemed necessary to ensure compliance with the requirements and particular standards of this Code or prevent or minimize adverse effects from the proposed development on surrounding lands. They shall be related in both type and amount to the anticipated impacts of the proposed development on the public and surrounding development. All conditions of approval shall be expressly set forth in the development order.

DECISIONS OF THE BOARD

Within ten calendar days after a final decision has been made on an application, the Development Services Director shall provide the applicant written notice of the decision and retain a copy of the decision available to the public in the Development Services Department, during normal business hours.

REQUESTS FOR EXTENSION OF APPROVAL

Refer to the City's Code of Ordinances, section 155.2308.B.2 of the Zoning Code for the criteria, conditions and standards for expirations and extension of development orders.

MODIFICATION OR AMENDMENT OF DEVELOPMENT ORDER (155.2308.C.)

Except as otherwise provided in Part 4 (Application-Specific Review Procedures and Standards) of this article for the particular type of application for a development permit, any modifications of approved plans or conditions of approval shall require a new application that is submitted and reviewed in accordance with the full procedural and fee requirements applicable to the particular type of application for a development permit.

REQUESTS TO POSTPONE DECISIONS OF THE BOARD

- 1) Two (2) postponements of an application, not to exceed a total of sixty (60) days, may be granted by the Board upon request of the applicant. Failure of an applicant to proceed at the next hearing scheduled for the matter following two (2) postponements, shall result in the matter being stricken from the agenda by the Board.
- 2) The Board Chairperson has the authority to grant a postponement of any matter set for the first time upon the filing of a written request by an applicant, and the item shall remain on the agenda for ratification by the Board on the record, and reset for the next scheduled meeting. An applicant need not be present at such time.
- 3) Should any meeting be cancelled or no regular monthly meeting of the Board be scheduled for any month following a postponement, the matter will be set for the next available meeting and the postponement shall be treated as if it were only a thirty (30) day period of time.
- 4) The Board may on its own by motion, postpone any matter to its next scheduled meeting, should the Board determine there is a need for more information or further study, or that such a postponement is required in the interest of fairness or due process either to the applicant, the Board or to the general public. Any such postponement initiated by the Board shall not be held against the applicant as a postponement.
- 5) In the event an applicant, or his authorized representative, is not present at the initial Public Hearing, the matter will be postponed, in deference to the applicant. The Board Liaison shall contact the applicant after the meeting and inform him/her of the time and date of the next meeting wherein the matter will be considered. Should there be no one present at the next meeting, or should no word be received from the applicant, the matter will be STRICKEN from the agenda.
- 6) In the event that an item has been postponed twice at the request of the applicant, the item, if required, shall be readvertised and mailed notices sent at the cost of the applicant.
- 7) It is a general policy of the Planning & Zoning Board that the meetings not extend past 10:00 PM. If, in the Chair's judgement the agenda of a meeting or the discussion taking place at a meeting is such that the meeting would likely extend past 10:00 PM, the Chair (as close to 10:00 PM as practicable) may entertain a motion to extend the meeting past 10:00 PM until a time certain or indefinitely, or in the alternative, a motion to continue the meeting to a date and time certain with sufficient intervening time for public notice of the continuation meeting. In addition, the Chair may reorder the agenda items as appropriate in order to expedite the conduct of a meeting.

APPEALS

A party aggrieved by a final decision by the P&Z on a Major Site Plan application, may appeal the decision to the City Commission in accordance with the Zoning Code (155.2424.C. Appeal Procedure).

Originally adopted by the Planning & Zoning Board at the September 25, 2013 Meeting.

Adopted as amended by the Planning & Zoning Board at the March 27, 2019 Meeting.