

## ARTICLE 5 – DEVELOPMENT REVIEW PROCEDURES

### CHAPTER 1 – GENERAL

#### Sec. 5.1.1 – Purpose, Intent and Applicability

The purpose and intent of this article is to provide the development review procedures that shall apply to all development applications, excluding platting, re-platting, or other applications that are governed by Article 8. All development applications shall be reviewed for compliance with the Comprehensive Plan and all other applicable Land Development Regulations (LDR). Additionally, the development review procedures shall comply with Wellington Code of Ordinances and Florida Statutes, Chapters 163 (Community Planning), 166 (Municipalities), 171 (Annexation), 380 (Land and Water Management).

#### Sec. 5.1.2 – Decision-making Bodies

- A. Wellington's Code of Ordinances, Chapter 2, defines the role and authority of Wellington committees, boards and Council. Public meetings and/or public hearings shall comply with the Code of Ordinances and Sec. 5.2.3 of this Article.
- B. Administrative reviews, approvals or denials shall be the responsibility of the Planning, Zoning, and Building (PZB) Director, or designee.
- C. The Development Review Manager (DM) is responsible for processing development applications that are administrative or require public meetings and/or hearings. Table 5.1.2-1 provides the types of development applications, required review entities, and the decision-making body. The respective decision-making bodies may approve, approve with conditions, or deny a development application.

**Table 5.1.2 -1 Development Application Approvals**

A = Approval						
R = Recommendation/Certification						
* All applications for property in, or proposed to be in, the EPA/EOZD shall be reviewed by the Equestrian Preserve Committee as they are a recommending body to the Planning, Zoning and Adjustment Board. All other applications would proceed to PZAB when applicable.						
** Requires two (2) readings by Village Council for final adoption.						
<u>Application Type</u>	<u>Administrative (PZB Director or DM)</u>	<u>*Equestrian Preserve Committee</u>	<u>Planning, Zoning and Adjustment Board</u>	<u>Tree Board</u>	<u>Architectural Review Board</u>	<u>Village Council</u>
<u>Annexation</u>	<u>R</u>	<u>R</u>	<u>R</u>			<u>A</u>
<u>Comprehensive Plan Map and/or Text Amendments**</u>	<u>R</u>	<u>R</u>	<u>R</u>			<u>A</u>
<u>Zoning Map and/or Text Amendments**</u>	<u>R</u>	<u>R</u>	<u>R</u>			<u>A</u>
<u>Master Plan/Amendments</u>	<u>R</u>	<u>R</u>	<u>R</u>			<u>A</u>
<u>Minor Master Plan Amendment</u>	<u>A</u>					
<u>Site Plan or Subdivision Plan/Amendment</u>	<u>A</u>					
<u>Minor Site Plan or Subdivision Amendment</u>	<u>A</u>					

<u>Architectural Review Applications</u>	<u>R</u>				<u>A</u>	
<u>Conditional Use and/or Amendment</u>	<u>R</u>	<u>R</u>	<u>R</u>			<u>A</u>
<u>Minor Conditional Use Amendment</u>	<u>A</u>					
<u>Variance</u>	<u>R</u>	<u>R</u>	<u>A</u>			
<u>Administrative Variance</u>	<u>A</u>					
<u>Amendment to Conditions of Approval (DOA)</u>	<u>R</u>	<i>The decision-making body that originally approved the development order shall consider applications to amend conditions of approval.</i>				
<u>Interpretation of the Code</u>	<u>A</u>					
<u>Zoning Confirmation</u>	<u>A</u>					
<u>Unity of Title/Control or Release</u>	<u>A</u>					
<u>Vegetation Removal Permit</u>	<u>A</u>					
<u>Tree Board Request</u>	<u>R</u>			<u>A</u>		
<u>Special Use Permit</u>	<u>A</u>					
<u>Equestrian Permit</u>	<u>A</u>					
<u>Seasonal Permits that exceed 30 event days within a 6 month period (equestrian and non-equestrian)</u>	<u>R</u>					<u>A</u>
<u>Seasonal Permit renewal</u>	<u>A</u>					
<u>Extended Hours Special Permit</u>	<u>A</u>					
<u>Reasonable Accommodation</u>	<u>A</u>					

NOTES: Any applicant who wishes to appeal a determination of a decision-making body shall do as provided in Section 5.2.4.D. or if applicable Section 5.3.11 of this article.

## **CHAPTER 2 – APPLICATIONS**

### **Sec. 5.2.1 – Purpose and Intent**

The purpose and intent of this chapter is to provide general submittal requirements, review criteria, process, determinations and time limitations for all development applications as identified in Chapter 1, Table 5.1.2-1. This chapter also provides information pertaining to results, appeals, suspensions and/or revocation of development orders.

### **Sec. 5.2.2 – Application Initiation**

- A. A Development Review Manual has been adopted by the Village Council. All applicable information in this manual complies with Florida Statutes. The manual is available on-line and a hard copy is located with the Planning and Zoning Division. This manual provides the types of applications, the required

documents to supplement the applications, the specific criteria that shall justify application consideration, and other helpful references such as the fee schedule, process flowcharts, graphics, and resources.

- B. All development applications submitted by a property owner, interested party or agent shall be submitted on a form provided by the Planning and Zoning Division. If the application is completed for a corporation, provided documentation indicating who is authorized to sign and the individual shall sign on behalf of the of corporation, including their title. Staff shall be required to complete the application and provide all necessary documentation required for consideration for all applications initiated by staff.
- C. All applications that require public meetings/hearings and all Site Plans/Amendments shall be required to schedule a pre-application meeting with the DM prior to the in-take meeting. The DM will determine if other department representatives should be in attendance for the pre-application meeting based on the type of application.
  - 1. A pre-application summary shall be prepared by the DM and be provided to the applicant within five (5) business days setting forth the results, concerns, and general process required.
  - 2. The pre-application summary is valid for six (6) months. If the applicant does not submit the application(s) within the six (6) month validation period, a new pre-application meeting is required.
- D. All applications that require public meetings/hearings and all Site Plans/Amendments shall be required to schedule an In-take meeting to submit the applications. For all applications that are required to use Wellington's online application submittal system, the agent shall review one (1) full set of documents with the DM prior to the electronic submittal. That review, along with confirmation of the electronic submittal, shall satisfy the requirement for an in-take meeting. Multiple applications may be submitted at the same meeting as determined by the DM. An application shall be deemed sufficient or insufficient, by the DM, at the in-take meeting. If an application is not sufficient for submittal, it will be returned to the applicant, in its entirety, for corrections and a new in-take meeting will be required. Sufficiency shall include, but is not limited to, the following:
  - 1. Properly executed applications.
  - 2. Application fee and escrow fee (changes to the plans or application exceeding 25% of the initial submittal, resubmittals, and/or postponements may require additional fees).
  - 3. All applicable items on the checklist provided with each application.
  - 4. The supplemental documents requested on the checklist must be specific to the project and must meet the criteria as provided in the Development Review Manual.
  - 5. Certified or stamped mailings (if required).
- E. Notice of all development applications shall be posted on Wellington's website within five (5) business days of the In-take meeting or required electronic online submittal where the application was deemed sufficient for review.

### **Sec. 5.2.3 – Review Criteria and Process**

- A. Annexations and Contractions shall comply with the criteria and eligibility set forth in Chapter 171, Florida Statutes and all applicable Palm Beach County requirements. The annexation criteria is provided in the Development Review Manual.
- B. All other development applications shall comply with the following:
  - 1. The proposed development/activity is consistent with the Comprehensive Plan, including land use, density and intensity.

2. The proposed development/activity results in logical, timely and orderly development patterns.
3. The proposed development/activity is compatible with surrounding land uses, zoning and existing development.
4. The proposed development/activity complies with all other applicable requirements of the LDR.
5. The proposed development/activity complies with the applicable criteria of the Development Review Manual based on application type.

C. Administrative applications and applications that require public meetings/hearings

1. The Development Review Manual classifies each application as follows:
  - a. Administrative:
    - i. Type A1 Applications: Administrative applications are those that can be approved, approved with conditions, or denied by the PZB Director or the DM.
    - ii. Type A2 Applications: Administrative applications are those that require administrative certification/approval from the PZB Director or the DM, such as site plans and site plan amendments, and do not require public hearing.
  - b. Applications that Require Public Meetings/Hearings:
    - i. Type B Applications: Applications that require administrative certification that the application(s) meet all requirements to move forward for public meeting or hearing by a Board or Committee.
    - ii. Type C Applications: Applications that require administrative certification and review/recommendation from a Board or Committee prior to a public hearing by Village Council.
2. Public Meeting or Hearing Notice Requirements:
  - a. All items scheduled for review by the EPC or ARB shall be posted at least 24 hours prior to the meeting on the Village Website.
  - b. Development applications that proceed to PZAB and/or Council shall be subject to statutory notice requirements and the requirements below:
    - i. Legal Notice shall be advertised in a newspaper of general circulation at least 15 calendar days prior to the date of the hearing.
    - ii. Notice of hearing shall be mailed certified mail with return receipt for domestic mail or registered mail with return receipt for international mail, as required, a minimum of 15 calendar days prior to the hearing, to all owners of real property located within a 500-foot radius of the subject site. The applicant shall use the names and addresses from the latest published ad valorem tax records of the County property appraiser. If the area within 500 feet is owned by the applicant the required notice boundary shall be extended to include these parcels. Governmental jurisdictions within one (1) mile of the property shall also be notified. Notice shall include a description of the proposal, the date, time and place of the hearing, a location map indicating the subject site, nearby roads and a statement that interested parties may appear and be heard regarding the matter.
    - iii. The applicant shall post notice signs, provided by the Planning and Zoning Division, and in accordance with the following:

- a. Posted a minimum of 15 calendar days in advance of any public hearing.
- b. One (1) sign for every 500 feet of frontage along a public or private road.
- c. Shall be no more than 25 feet from the road.
- d. Shall be in full view to the public. Where there is no frontage on a public road, one (1) sign shall be posted on the nearest public road indicating the direction and distance to the subject land.
- e. The applicant shall provide an affidavit including pictures of posted signs within three (3) business days of posting.
- f. The signs shall be removed by the applicant within seven (7) calendar days after the final hearing.

#### D. Public Hearing Proceeding and Records

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

- c. It is the responsibility of any person appealing a decision of any decision-making body conducting a public meeting or hearing pursuant to these LDR to provide a record of all necessary evidence to support the appeal.

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

##### **A. Results**

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

##### **B. Time Limitations**

1. Development orders shall comply with the time limitations and requirements of Table 5.2.4 -1 unless:
  - a. The PZB Director grants an administrative extension for a period of time not to exceed 12 months. If a surety bond, escrow deposit, or letter of credit was not originally required, one may be required as a determining factor in granting the extension. Only one administrative extension is permitted and shall be considered based on the following:
    - i. Attempts by the applicant to complete the unfulfilled conditions of approval;

- ii. Changed circumstances that affected the applicant's ability to fulfill conditions of approval; or
- iii. Circumstances that are not self-imposed by the applicant.
- b. Amendments to a development order granted by the respective decision-making body may provide new date certain conditions of approval that supersede the previous development order.
- c. If a state of emergency is declared by the State of Florida, an applicant may be entitled to an extension of a development order, in full or in part, pursuant to Florida Statutes 252.363 (1)(a), as amended from time to time.
- d. All development orders that include a specified phasing plan, which provides the sequence and timing of each phase, may only be eligible for an extension on certain phases and partial completion of the overall development.
- e. The following development orders are exempt from the time limitations set forth in this article:
  - i. Village initiated development orders.
  - ii. Rezoning of a single residential parcel that does not exceed the corresponding density permitted within the Future Land Use Map designation of the Comprehensive Plan.

**Table 5.2.4 -1 Time Limitations for Development Orders**

<u>Development Order</u>	<u>Maximum Number of Phases</u>	<u>Required Commencement Action</u>	<u>Maximum Time to Commence Development</u>	<u>Maximum Length Time Extension</u>	<u>Action Upon Failure to Comply</u>
<u>Master Plan/Planned Development</u>	<u>3</u>	<u>Commence Development</u>	<u>3 years</u>	<u>1 year</u>	<u>Council Review</u>
<u>Site/Subdivision Plan</u>	<u>2</u>	<u>Commence Development</u>	<u>2 years</u>	<u>1 year</u>	<u>All undeveloped phases are null and void</u>
<u>Conditional Use</u>	<u>2</u>	<u>Commence Development or Initiate Use</u>	<u>2 years</u>	<u>1 year</u>	<u>Council Review</u>
<u>Variance</u>	<u>1</u>	<u>Commence Development</u>	<u>2 years</u>	<u>1 year</u>	<u>PZAB Review</u>

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

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

#### C. Abandonment, Suspension or Revocations

1. Abandonment of a development order may occur based on one or more of the following:
  - a. A new development order is issued that replaces the existing development order.
  - b. The property owner(s) provide a written request, or the DM requests, to abandon a development order to the PZB Director. The property owner(s)/DM must demonstrate that no improvements have commenced.

## 2. Suspension of a Development Order

- a. Suspension of a development order may occur if a code case was initiated on the subject property by the Code Compliance Division and is found to be in violation of code provisions by the Special Magistrate. The suspension shall take effect immediately after the 30-day appeal period of the Special Magistrate's order has expired. No new development applications shall be processed for the subject site unless the proposed development application is required to rectify the code case, then the PZB Director may authorize the DM to process the request.
- b. Suspension of a development order may occur if there is a violation of a condition of approval. A violation of a development order is considered a violation of the code. The PZB Director shall have the option to report the violation to Code Compliance or to set a hearing with the respective decision-making body to impose corrective action.
- c. A suspension of a development order, as indicated above, shall be documented and recorded with the Palm Beach County Clerk of Courts. The document shall indicate the reason for the suspension and must express that no new development orders shall be processed until the suspension is removed. A document removing the suspension shall be recorded once all violations are rectified. The property owner may be required to pay the recordation and processing fees.
- d. A suspension may be waived if:
  - i. The property owner is a government agency.
  - ii. The violation was not self-imposed and due to a government-caused delay.
  - iii. Litigation prevents or delays compliance. Documentation of active litigation may be required.

## 3. Revocation of a Development Order

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



#### D. Appeals

1. Standing to file an appeal of a development review decision shall be limited to the property owner, contract purchaser, authorized agent of the owner/purchaser or those property owners within 500 feet of the subject property or as otherwise provided by Florida Statutes.
2. A recommendation by staff, committee, or board acting in their advisory capacity is not a final decision and is not appealable.
3. Any person aggrieved by a final decision included in this article shall exhaust all administrative remedies available prior to applying to the courts for judicial relief.
4. Appeals from any affected party or governmental entity on annexations or contractions shall be processed in accordance with Florida Statute 171.081.
5. Administrative Appeals:
  - a. The PZB Director shall hear appeals of any decision of the DM, unless otherwise listed in Table 5.2.4-2. The appeal shall be submitted to the Director within 30 calendar days of the issuance of a DM's decision. The Director's decision on the appeal may be further appealed to the PZAB within 30 calendar days of rendering of such decision.
  - b. If the Director is the decision-making authority for an administrative development application, any appeal shall be heard by the PZAB in accordance with the appeal process in sec.5.2.4.D.6 of this article.
6. Appeals to a Committee, Board or Council
  - a. Table 5.2.4-2 provides the decision-making bodies and the type of appeal they are tasked with hearing.
  - b. Such appeals shall follow the procedures below:
    - i. Appeals shall be filed on forms prescribed by the PZB Director within 30 calendar days of the decision.
    - ii. A hearing before the PZAB shall be scheduled no later than 45 calendar days following receipt of the written appeal unless the PZB Director and the applicant mutually agree to an extension of this time period.
    - iii. The PZAB shall give the Appellants and other interested parties a reasonable opportunity to be heard. The interpretation or decision in question shall be presumed to be correct and the applicant shall have the burden to demonstrate errors. The Board shall not reject or modify the Director's interpretation/decision if it is supported by competent substantial evidence. At the conclusion of the hearing, the Board shall render its determination. The Board may reverse, affirm, wholly or in part, or may modify the decision or determination being appealed. The determination shall be issued in written form with a copy sent to Appellants.
    - iv. Following exhaustion of all administrative remedies, parties to an appeal heard before the PZAB may seek appropriate judicial relief. A re-hearing of an appeal is not permitted.
    - v. For an appeal of a decision by the PZAB pertaining to an archaeological certificate to dig, pursuant to Article 7, within 30 calendar days of a written decision by the PZAB an aggrieved party may appeal the decision by filing a written notice of appeal with a filing fee established by the Wellington Council with the Wellington Clerk and the PZB Department. The notice

of appeal shall state the decision that is being appealed, the grounds for the appeal and a brief summary of the relief that is sought. Within 45 calendar days of the filing of the appeal or the first Wellington Council meeting that is scheduled, whichever is later in time, the Council shall conduct a public hearing at which time they may affirm, modify or reverse the decision of the PZAB. The applicant shall be notified (by certified mail/return receipt requested) of the date, time and place of such hearing. At this hearing the party shall set forth the alleged inconsistencies or non-conformities with procedures or criteria set forth in these LDR. However, no new material or evidence shall be presented to or considered by the Council. The decision of the Council shall be in writing and a copy of the decision shall be forwarded to the appealing party.

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

**Table 5.2.4-2 Decision-making Bodies for Appeals**

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

## **CHAPTER 3 – APPLICATION REGULATIONS BY TYPE**

### **Sec. 5.3.1 – Purpose and Intent**

The purpose and intent of this chapter is to provide procedural and statutory standards for the various types of development applications. The Development Review Manual, adopted by Village Council, provides further details for each application type, submittal requirements, formatting, review criteria, fee schedule, etc.

### **Sec. 5.3.2 – Annexation or Contraction**

- A. Annexations and contractions shall comply with the standards set forth in Chapter 171, Florida Statutes and shall be approved/denied by ordinance.
- B. Voluntary Annexations shall require approval by the Palm Beach County Board of County Commissioners prior to final action by the Village Council.

- C. The Justification Statement submitted with the annexation or contraction application shall include required information as provided in the Development Review Manual under Type C applications.
- D. The adoption of an annexation or contraction request only results in the changed municipal boundary. The approval does not provide entitlements, an amendment to the Future Land Use Map designation or Zoning designation. The subject property's existing land use and zoning remains in effect until subsequent development orders are approved by the designated decision-making body.

### **Sec. 5.3.3 – Comprehensive Plan Map/Text Amendments**

- A. Comprehensive Plan Map and/or Text amendments shall comply with Chapter 163, Florida Statutes and shall adhere to the submittal and review requirements of the State Land Planning Agency.
- B. To modify the Future Land Use Map or other map in the Comprehensive Plan, the applicant shall comply with the Type C submittal requirements and process as provided for in the Development Review Manual.
- C. The provisions in Wellington Charter, and/or Comprehensive Plan, shall determine if a majority or super-majority vote of Council is required based on the type of request and shall be approved/denied by ordinance.

### **Sec. 5.3.4 – Zoning Map/Text Amendments**

Zoning Map and/or Text amendments shall comply with the Type C submittal requirements and process of the Development Review Manual and shall be approved/denied by Ordinance. Additionally, the following shall apply:

- A. To modify the Official Zoning Map the applicant must:
  - 1. Justify the request is consistent with the Comprehensive Plan Future Land Use Map designation; and
  - 2. Provide evidence that justifies the request based on the required criteria for consideration as provided for in the Development Review Manual.
- B. To modify the text of the LDR, the applicant must provide the exact proposed text changes in strike-through and underline format and justify the request based on the required criteria for consideration as provided for in the Development Review Manual.

### **Sec. 5.3.5 – Master Plan/Amendments**

Master plans and/or amendments to existing master plans shall comply with the Type C submittal requirements and process of the Development Review Manual and shall be done by resolution. Additionally the following shall apply:

- A. No permits for development shall be issued prior to the approval of the master plan/amendment and the corresponding site plan/amendment or subdivision plan(s).
- B. A conceptual site plan or subdivision plan is required as part of the application for a master plan/amendment.
- C. If the project is intended to be constructed in phases, the applicant must submit a phasing plan as part of the required documents. This is necessary to ensure appropriate development patterns and to apply time limitations as set forth in Sec.5.2.4 related to site plans/subdivision plans.
- D. Master plans are required for all Planned Developments and may be required for multiple parcels that are intended to function as a single project but are not a designated Planned Development.

- E. Master plan amendments shall be reviewed by Village Council as a Type C application unless the modifications to the master plan qualify as a minor amendment pursuant to the Development Review Manual (no increase in density and/or intensity), then an administrative approval, approval with conditions, or denial may be granted in accordance with a Type A2 application.

#### **Sec. 5.3.6 – Site Plan or Subdivision Plans/Amendments**

Site plans or subdivision plans are required for residential developments consisting of three or more dwelling units, commercial, industrial, and private recreational developments prior to eligibility for the issuance of engineering and/or building permits.

- A. Site plans or subdivision plans shall be processed in accordance with a Type A2 application as provided in the Development Review Manual.
- B. Minor site plan or subdivision plan amendments (no increase in density and/or intensity) shall be processed in accordance with a Type A1 application as provided in the Development Review Manual. Minor amendments include, but are not limited to, change in sign location, minor modifications to parking areas, reduction in building footprint, addition of decorative canopies, etc.
- C. A site plan or subdivision plan shall be required prior to platting and/or obtaining land development or building permits, unless otherwise stated in Article 8 of the LDR.

#### **Sec. 5.3.7 – Conditional Uses**

Conditional uses are those uses that are generally compatible with the Future Land Use Map and Zoning designations, but may require additional conditions to ensure mitigation of impacts to adjacent properties. Uses that require a conditional use approval are identified in the Use Regulations of Article 6 and the following shall apply:

- A. A Conditional Use is a Type C application.
- B. The term “compatibility determination” means conditional use for purposes of the LDR.
- C. A Conditional Use may not commence until all other required development orders and permits are secured in accordance with the LDR.
- D. Minor amendments to a Conditional Use shall be processed as a Type A2 application.

#### **Sec. 5.3.8 – Variance**

A Variance is required when a deviation from the Bulk Regulations is necessary to allow the development of a property when a peculiar condition and the literal enforcement of the regulations would result in an undue hardship for the property owner.

- A. A Variance shall be processed as a Type B application in accordance with the Development Review Manual.
- B. PZAB is the decision-making body to consider this request, except for administrative variances as set forth below.
- C. Bulk Regulations include, but are not limited to, setbacks, FAR, building coverage, minimum landscape requirements, etc. Bulk Regulation is defined further in Article 3.
- D. A Variance on minimum thresholds for uses and structures, such as lot size, is not permitted.
- E. A Use Variance is not permitted.
- F. Administrative Variances granted by the PZB Director, or designee, shall be processed as a Type A1 application and shall be considered as follows:

1. An 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 15% of the floor area of the individual structure or ten (10%) percent of the improvement value of the structure whichever is less.
2. Allowance for an additional 15% total square footage of a barn as permitted in Sec. 6.10 of the LDR.
3. A structural encroachment into a setback of no more than 15% of the setback if the structural encroachment does not encroach an easement, right-of-way or is on a zero lot line side. The setback encroachment must still meet all applicable fire codes for separation from other structures.
4. An Administrative Variance to accommodate the preservation of existing native tree(s) pursuant to Article 7, Tree Protection as follows:
  - a. Up to 15% percent of a required setback.
  - b. Up to 15% of the required parking spaces.
  - c. This section may not be combined with any other section which allows reductions in setbacks or parking.

#### **Sec. 5.3.9 – Special Use Permits, Equestrian Permits and Seasonal Permits**

- A. Special Use Permits are required for temporary uses and/or activities that are generally compatible with the land use and zoning but require individual review based on location, duration and/or intensity.
- B. Equestrian Permits are required for temporary equestrian related uses and/or activities that are generally compatible with the land use and zoning but require individual review based on location, duration and/or intensity.
- C. Special Use and Equestrian Permits shall be reviewed and processed as Type A1 applications and in accordance with the Development Review Manual. Uses that require a Special Use or Equestrian Use Permit are identified in the Use Regulations of Article 6. Additionally, these applications shall be reviewed by Palm Beach County Sheriff's Office and Palm Beach County Fire Rescue.
- D. Seasonal Permits are required for those temporary uses or equestrian uses that exceed 30 cumulative event days within a six (6)-month period. They shall be processed as a Type A1 application and in accordance with the Development Review Manual; however they shall require Council approval for the initial request. All seasonal permits that are identical to the Council approved permit shall be renewed administratively by the DM. Any modification to the Council approved permit shall be required to seek Council approval as a new request. Seasonal sales, such as pumpkins or Christmas trees, and Equestrian Permits for temporary stabling tents, not associated with events or construction of a barn that exceed 30 days, are exempt from Council approval and shall be reviewed administratively. Seasonal permits required to obtain Council approval shall be placed on an agenda as a regular agenda item and are not subject to the mailing and legal ad requirements since it is not a public hearing item.
- E. The applicant shall comply with all Code of Ordinances, the LDR, and the Conditions of Approval of the permit. Wellington staff shall have the authority to inspect any property for compliance for the duration of the permit effective dates. Failure to abide may jeopardize future permits and/or result in code enforcement action with possible fines or immediate revocation of the permit. Revocation shall be determined by PZB Director, or designee.
- F. Duration:
  1. A Special Use Permit and Equestrian Permits shall be issued based on the number of days and type of request within a 12-month period on the same property, or as otherwise stated in another section of the LDR.
  2. Seasonal Permits shall not exceed six (6) months within a 12-month period on the same property.

### **Sec. 5.3.10 – Extended Hours of Operation Permit**

Any commercial establishment within 300 feet of residential homes within a residential PUD shall request a permit to operate outside of the normal hours of operation as provided for in the Code of Ordinances. This request requires the following:

- A. Extended hours of operation shall be processed as a Type A1 application, shall be reviewed by Palm Beach County Sheriff's Office and Palm Beach County Fire Rescue, and shall be signed by the PZAB Director, or designee, and the Village Manager prior to issuance.
- B. Any violator of the Extended Hours of Operation Permit shall be notified of the violation and scheduled for the next available meeting of the Special Magistrate. A determination shall be made to maintain, modify or revoke the permit and may be subject to fees, fines, or limitations on future development orders.

## **CHAPTER 4 – REASONABLE ACCOMMODATION**

### **Sec. 5.4.1 - Purpose and General Provisions**

- A. This chapter addresses requests for reasonable accommodation to the Village's ordinances, rules, policies, and procedures for persons with disabilities and 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. The Village shall display a notice in the Village's public notice bulletin board, and shall maintain copies available for review in the Village Clerk's Office, advising the public that disabled individuals and qualifying entities may request a reasonable accommodation as provided herein.
  - 2. A disabled individual may apply for a reasonable accommodation on his/her own behalf or may be represented at all stages of the reasonable accommodation process by a person designated in writing by the disabled individual.
  - 3. The Village shall provide assistance and accommodation as is required pursuant to FHA and ADA in connection with a disabled person's request for reasonable accommodation, including, without limitation, assistance with reading application questions, responding to questions, completing the necessary forms, filing an appeal, and appearing at a hearing to ensure the process is accessible.

### **Sec. 5.4.2 - 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 the Village'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. 5.4.3 - Procedure**

- A. A request by an applicant for reasonable accommodation shall be made in writing by completion of a reasonable accommodation request form. The form shall be maintained by (and shall be submitted to) the Planning, Zoning and Building Department.
- B. The PZB Director, or designee, shall have the authority to consider and act on requests for reasonable accommodation. The PZB Director, or designee, shall issue a written determination within 45 calendar days of the date of receipt of a completed application and may, in accordance with federal law:
  - 1. Grant the accommodation 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, in accordance with federal law.

Any such denial shall be in writing and shall state the grounds thereof. All written determinations shall give notice of the right to appeal. The notice of determination shall be sent to the requesting party (i.e. the disabled individual or his/her representative) by certified mail, return receipt requested. Notice shall be deemed complete when deposited in the U.S. Mail. If reasonably necessary to reach a determination on the request for reasonable accommodation, PZB Director, or designee, may, prior to the end of said 45-day period, request additional information from the requesting party, specifying in sufficient detail what information is required. The requesting party shall have 15 calendar days after the date of the request for additional information to provide the requested information. In the event a request for additional information is made, the 45-day period to issue a written determination shall no longer be applicable, and the PZB Director, or designee, shall issue a written determination within 30 calendar days after receipt of the additional information. If the requesting party fails to provide the requested additional information within said 15-day period, the Planning Director, or designee, shall issue a written notice advising that the requesting party has failed to timely submit the additional information, and therefore the request for reasonable accommodation shall be deemed abandoned and/or withdrawn and no further action by the Village with regard to said reasonable accommodation request shall be required.

C. In determining whether the reasonable accommodation request shall be granted or denied, the requesting party shall be required to establish that they are protected under the FHA and/or ADA by demonstrating that they are handicapped or disabled, as defined in the FHA and/or ADA. Although the definition of disability is subject to judicial interpretation, 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. That they are regarded as having such impairment.

The requesting party will have to further demonstrate that the proposed accommodations being sought are reasonable and necessary to afford handicapped/disabled persons equal opportunity to use and enjoy the subject property. The foregoing (as interpreted by the courts) shall be the basis for a decision upon a reasonable accommodation request made by the PZB Director, or designee, or by the Village Manager in the event of an appeal.

D. While an application for reasonable accommodation, or appeal of a determination of same, is pending before the Village, the Village will not enforce the subject zoning ordinance, rules, policies, and procedures against the applicant.

**Sec. 5.4.4 - Appeal**

The requesting party may appeal the decision of the PZB Director or his/her designee. The appeal shall be submitted in writing no later than 30 calendar days after the decision of the PZB Director or designee. All appeals shall include a statement containing sufficient detail of the grounds for the appeal. Appeals shall be made to the Village Manager who shall render a determination as soon as reasonably practicable, but in no event later than 60 calendar days after an appeal has been filed.

**Sec. 5.4.5 - Fee**

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