

ATTACHMENT XV

ZLDR Excerpts 5.3, 5.7, 5.8

§ 5.3. Planning and Development Board.

A. Membership. The Planning and Development Board shall consist of nine members and a non-voting representative of the Broward County School Board. The nine voting members shall consist of four from the Design Category, three from the Professional Category and two from the Citizen Category consistent with the Qualifications set forth in § 5.3.B. below. Board member appointments will be for three year terms and shall be staggered. In accordance with F.S. § 163.3174 as amended from time to time, the School Board shall appoint a School District staff member to be its non-voting representative on the City's Planning and Development Board. The City Attorney or his/her designee shall act as the Board's legal counsel and shall provide legal advice as the Board may require. The City Manager may appoint an attorney to represent the Department of Planning and Development Services at the Board meetings and at other related meetings. The City Commission shall appoint the Planning and Development Board members in accordance with the procedures set forth in Chapter 37 of the Code of Ordinances.

B. Qualifications. Qualifications for membership shall be as follows:

Design Category. Four members shall be selected from the below list:

1. Architect: Registered in the State of Florida.
2. Landscape Architect or Environmental Expert: If a Landscape Architect, he/she must be registered in the State of Florida. If an Environmental Expert, he/she must be recognized by the City Commission as having knowledge and expertise in environmental or "green" initiatives.
3. Land/Urban Planner: Must have either a Bachelor's Degree or Master's Degree in City Planning or an American Institute of Certified Planners (AICP) Certification.
4. Developer: Recognized by the City Commission for the development of Quality projects.
5. Engineer or General Contractor: If an Engineer, he/she must be registered with the State of Florida. If a General Contractor, he/she must be licensed with the State of Florida.

Professional Category. Three members shall be selected from the below list:

1. Business Owner: Business located within the City of Hollywood.
2. A person who is recognized by the City Commission as having a significant background in financial matters.
3. Attorney: Education or experience in land use issues and who is a member of the Florida Bar.

Citizen Category. Two members shall be selected who are lay citizens interested in improving the quality of life in the City of Hollywood.

C. Meeting procedures.

1. A quorum of the Planning and Development Board shall consist of five members.

2. The Board shall adopt written rules of procedure and shall keep minutes of its proceedings, showing its actions on each and every case that is considered. A copy of the minutes shall be filed in the Department of Planning and Development Services and be open to public inspection.

3. At the last meeting of the Board each calendar year, the Board shall fix a time and date for the next year's regular monthly meetings. At the next meeting following the City Commission's annual Board appointments, the Board shall elect from its membership a member to serve as Chairperson, a member to serve as Vice-Chairperson and a member to serve as Secretary. Special Meetings may be called by the Chairperson or if the Chairperson is unavailable, the Vice-Chairperson of the Board, provided that 48 hours written notice is given to all members of the Board.

4. Absenteeism/removal of Board members. The Planning and Development Board members shall comply with the procedures set forth in Chapter 37 of the Code of Ordinances and are subject to the removal process set forth therein.

5. All meetings of the Board shall be open to the public.

6. Public notice.

a. Notice of the Board's scheduled public hearing shall be in accordance with F.S. Chapter 166 and/or F.S. Chapter 163.

b. Notice of any meeting of the Board shall be posted on the Sunshine Board.

c. Notification of property owners.

(1) Variance, [Special Exception](#), Design and Site Plan. Notice of said petition and hearing shall be mailed to all owners of properties subject to said petition and to all owners of properties lying wholly or partly within 500 feet of the parcel(s) subject to said petition, at least fifteen (15) days prior to the date of the public hearing by the Board. The addresses for the property owners shall be obtained from the Broward County Property Appraiser's records. Such notice shall contain the date, time and place of the hearing, description of the subject property location, and description of the proposed petition. At least

fifteen (15) days prior to the scheduled meeting, the subject property shall be posted by the applicant with a suitable notice of the request including the date, location and time of the hearing on such matter.

(2) Changes of zoning classification initiated by private entities or owners of private property. Notice of said petition and hearing shall be mailed to all owners of properties subject to said petition and to all owners of properties lying wholly or partly within 500 feet of the parcel(s) subject to said petition, at least fifteen (15) days prior to the date of the public hearing by the Board. The addresses for the property owners shall be obtained from the Broward County Property Appraiser's records. Such notice shall contain the date, time and place of the hearing, description of the subject property location, the existing zoning classification and the proposed zoning classification. The petitioner may post the subject property with a suitable notice of the requested change and hearing on such change, which shall include the date, time and location of the hearing.

(3) Changes of zoning classification initiated by the City of Hollywood. Notification requirements shall be as provided by F.S. § 166.041. However, City initiated site specific changes of zoning classification relating to a specific, individual, identified project shall also comply with the notification requirements indicated in division C.6.c.(2) above.

(4) Changes of Future Land Use Designation. Notification requirements shall be as provided by F.S. Chapter 163.

(5) Notification to Owners of properties located on US 441/SR 7 corridor. For any Variance application submitted by the Florida Department of Transportation to address nonconformities that may result from a FDOT US 441/SR 7 corridor improvement project, the city shall send by certified mail, return receipt requested, notice of such request to the property owner of record at least 30 days prior to the Planning and Development Board hearing.

7. All interested parties shall have the right to appear at any of the Board's meetings, personally or by an authorized representative, and have the right to object to or support any matter before the Board for consideration. In the event that any interested party is unable to appear before the Board, a written document may be submitted by the party prior to the scheduled meeting which sets forth the party's objections to or support of the matter being considered by the Board.

D. Duties. The duties of the Planning and Development Board shall be as follows:

1. To consider petitions for all developments/projects that require Variances, Special Exceptions, Design and/or Site Plan approval outside of Historic District(s) and Historic Sites, pursuant to the guidelines and procedures set forth in this Article and [Article 6](#) of the Zoning and Land Development Regulations.

2. To prepare and recommend adoption of design elements consistent with the City-Wide Master Plan.
3. To promote the use of Crime Prevention Through Environmental Design Guidelines and Strategies in order to reduce crime and fear of crime, as approved by the City Commission.
4. To consider distance waivers for establishments which sell alcoholic beverages in accordance with [§ 113.03](#) of the City's Code of Ordinances.
5. To consider any matter set forth in [Article 11](#), "Adult Entertainment" of the Zoning and Land Development Regulations.
6. To consider a Variance petition submitted by the Florida Department of Transportation as part of a cure plan for nonconformities which may result from a US 441/SR 7 corridor improvement project.
7. The Board shall hear, give consideration to and make recommendations to the City Commission on the following matters, in accordance with the applicable City Zoning and Land Development Regulations, Florida Growth Management Act and other applicable state laws:
 - a. Text amendments to the Zoning and Land Development Regulations;
 - b. Petitions for change of land use designation and/or zoning district;
 - c. The comprehensive planning program including the preparation of the Comprehensive Plan, its elements or portions thereof for the city in accordance with state law requirements as amended from time to time;
 - d. Coordination of the Comprehensive Plan, its elements or portions thereof with the Comprehensive Plans of other appropriate local governments and the state;
 - e. The monitoring of the effectiveness and status of the Comprehensive Plan adopted by the City Commission; and
 - f. Changes in the Comprehensive Plan as may be required from time to time.
8. Pursuant to F.S. § 163.3174, as amended from time to time, the Planning and Development Board is hereby designated and established as the Local Planning Agency for the incorporated territory of the city.
9. It shall be the continuing duty of the Planning and Development Board to be currently informed and knowledgeable of the conditions and developments of the city, and to make studies and

recommendations relating to city planning and zoning matters, either initiated by the Board, the City Manager, or the City Commission.

10. The Board shall have the authority to consider petitions relating to allocation of [Reserve Units](#) and [Flexibility Units](#) shall be reviewed by the Board.

11. The Board shall have the authority to hear appeals from administrative decisions and interpretations of the Zoning and Land Development Regulations by the Director.

E. Filing of petition for Variances, [Special Exception](#), Design, Text Amendment or Rezoning.

1. Application. The applicant shall obtain a Development Review Application from the Planning and Development Services Department, which shall be responsible for the overall coordination and administration of the Development Review Process. Such application(s) shall be filed on forms provided by the Department, signed by the owner(s) of the subject property and submitted to the Department of Planning and Development Services. No application shall be accepted unless the actual legal and beneficial ownership of the subject property is indicated on the application. Upon receipt of a completed application, the application shall be scheduled before the Board as a public hearing and the public shall be given notice according to the notification procedures set forth herein. For acquisition parcels within a Florida Department of Transportation US 441/SR 7 corridor improvement project, applications for Variances may be filed by an authorized representative of the FDOT.

a. In the event that Site Plan review is required pursuant to [Article 6](#) of the Zoning and Land Development Regulations, such Site Plan review shall be completed prior to any application for a Variance or [Special Exception](#).

b. Further applications after withdrawal or denial of initial applications.

(1) Except as set forth in [§ 5.3.K.](#), when any application is withdrawn after the initial public hearing by the applicant or is denied by the Board (and upheld by the City Commission if the Board's decision of denial is appealed), no other identical application on the same property shall be considered within one year from the date of such withdrawal or denial for upholding of the Board's denial by the City Commission, if the Board's decision of denial is appealed).

(2) The Board may, for good cause and to avoid undue hardship, by resolution, allow a withdrawal after the initial public hearing without prejudice to the right to reapply within one year for the same relief. A new application fee will be required upon reapplication.

(3) The denial or withdrawal of any Florida Department of Transportation US 441/SR 7 corridor improvement project Variance petition shall not prevent a property owner of record from applying for

similar relief.

c. Further applications after approval of initial applications. Nothing contained herein shall prevent additional applications after the approval of an initial application.

2. Application fee.

a. Amount. There shall be an application fee for each application. The amount of the application fee shall be set by resolution of the City Commission as that amount required to reimburse the city for all expenses associated with the petition plus the costs incurred by the City in public notice and property owner notification as required under the Zoning and Land Development Regulations. Before any such application is processed by the city, the application fee shall be paid and said fee is not refundable after the application request has been advertised by the city.

b. Time of payment. The application fee shall be paid at the time the application is filed.

3. Procedure. The Board shall hear application requests pursuant to the city's quasi-judicial procedures.

F. Variances.

1. Variances. Except as set forth in division F.2. below, no Variance shall be granted by the Planning and Development Board unless the Board finds that the Applicant has shown that criteria a. through d. have been met or criteria e. is established, then the Variance shall be granted.

a. That the requested Variance maintains the basic intent and purpose of the subject regulations, particularly as it affects the stability and appearance of the city;

b. That the requested Variance is otherwise compatible with the surrounding land uses and would not be detrimental to the community;

c. That the requested Variance is consistent with and in furtherance of the Goals, Objectives and Policies of the adopted Comprehensive Plan, as amended from time to time, the applicable Neighborhood Plan and all other similar plans adopted by the city; and

d. That the need for the requested Variance is not economically based or self-imposed.

e. That the Variance is necessary to comply with state or federal law and is the minimum Variance necessary to comply with the applicable law.

2. Sign Variances. No Sign Variance to the provisions of [Article 8](#) "Sign Regulations" shall be granted by the Planning and Development Board unless the Board finds that the Applicant has shown that all of the following criteria have been met:

- a. The Variance is not contrary to the public interest;
- b. The Variance is required due to special conditions; and
- c. A literal enforcement of the provisions of [Article 8](#) may result in unnecessary hardship.

3. Decision of the Board. In considering a Variance request pursuant to divisions F.1. and F.2. above, the Board may grant the Variance, grant the Variance with appropriate conditions, stipulations and safeguards or limitations deemed necessary to protect [adjacent](#) properties and the public interest, or deny the Variance.

a. If the Board grants the Variance, the Board shall adopt a resolution setting forth the Variance granted along with any conditions, stipulations, safeguards, or limitations prescribed by the Board. A copy of the applicable resolution shall be mailed to the petitioner, and a copy shall be recorded in the Public Records of Broward County, Florida, and to any enforcing official involved. Such resolution granting the Variance shall be authorization for any approval, permit or license incidental to any use of land or buildings as set forth in the resolution. If the Board denies the Variance, the Board shall adopt a resolution setting forth the reasons for denial. A copy of any resolution adopted by the Board regarding a petition to cure a nonconformity that may result from a Florida Department of Transportation US 441/SR 7 corridor improvement project shall be sent by certified mail, return receipt requested, to the owner of record of the property to which the resolution applies.

b. Time limit. When either the Board has granted a Variance, the Department of Planning and Development Services has granted an Administrative Variance or the City Commission has granted a Variance based upon an appeal in accordance with the regulations set forth in this Article, such grant shall become null and void unless the appropriate principal building, or other permit or license is applied for within 24 months of the date of such decision by the Board, the Director of the Department of Planning and Development Services or, if applicable, the City Commission. However, an extension of up to 24 months may be granted in the same manner as the initial request upon a showing that there has not been a significant change in the circumstances influencing the original approval. Any such application for extension must be filed prior to the expiration of the initial 24 month period. If an extension has been granted, and the applicant has not applied for the appropriate building or other permit or license, or the extension request has been denied, then the applicant's Variance shall become null and void and the applicant will be required to re-apply for any and all approvals necessary.

G. Special Exceptions.

1. General Provisions. A [Special Exception](#) is a use that is not generally appropriate in a district, but would be appropriate if it is consistent with the review criteria set forth herein. Such use may be permissible in a zoning district as a [Special Exception](#) if specifically provided in the Zoning and Land Development Regulations. However, such uses are not deemed to be appropriate within a zoning district without demonstration by the applicant that the [Special Exception](#) use complies with this subsection.

2. Review of applications for Special Exceptions. All applications for Special Exceptions, except for those within a Historic Overlay District or [Historic Site](#) which are reviewed by the Historic Preservation Board or those relating to non-conforming uses and structures shall be reviewed by the Planning and Development Board. The Board shall review applications for Special Exceptions relating to nonconforming uses and structures based upon the criteria set forth in [§ 3.12](#) of the Zoning and Land Development Regulations. All other applications for Special Exceptions considered by the Board shall be based upon the following criteria:

- a. The proposed use must be consistent with the principles of the City's Comprehensive Plan;
- b. The proposed use must be compatible with the existing land use pattern and designated future uses and with the existing natural environment and other real properties within the vicinity;
- c. That there will be provisions for safe traffic movement, both vehicular and pedestrian, both internal to the use and in the area which will serve the use;
- d. That there are setbacks, buffering, and general amenities in order to control any adverse effects of noise, light, dust and other potential nuisances;
- e. The proposed use, singularly or in combination with other Special Exceptions, must not be detrimental to the health, safety, or appearance of the neighborhood or other [adjacent](#) uses by reason of any one or more of the following: the number, area, location, height, orientation, intensity or relation to the neighborhood or other [adjacent](#) uses;
- f. The subject parcel must be adequate in shape and size to accommodate the proposed use;
- g. The proposed use will be consistent with the definition of a [Special Exception](#) and will meet the standards and criteria of the zoning classification in which such use is proposed to be located, and all other requirements for such particular use set forth elsewhere in the zoning code, or otherwise adopted by the City Commission.

3. Decision of the Board. In considering an application for a [Special Exception](#), the Board shall grant the [Special Exception](#) if all of the criteria set forth in 2. above are met, shall grant the [Special Exception](#) with appropriate conditions when the Board determines such conditions (including without limitation, covenants running with the land) are necessary to further the purpose of the zoning district or compatibility with other property within the vicinity, or shall deny the [Special Exception](#).

a. If the Board grants the [Special Exception](#), the Board shall adopt a resolution setting forth the [Special Exception](#) granted along with any conditions prescribed by the Board. A copy of such resolution shall be mailed to the applicant, and copy shall be recorded in the Public Records of Broward County, Florida, and to any enforcing official involved. Such resolution, in addition to the execution and recordation of any required covenant, shall be authorization for any approval, permit or license incidental to any use of land or buildings as set forth in the resolution. If the Board denies the [Special Exception](#), the Board shall adopt a resolution setting forth, with specificity, the reasons for denial.

b. Time limit. The same time limits set forth in [§ 5.3.F.3.b.](#) above, apply to Special Exceptions.

H. Procedure for revocation of a Variance or [Special Exception](#). In the event that property is not used in conformance with the applicable regulations or provisions of an approved Variance or [Special Exception](#), such Variance or [Special Exception](#) is subject to revocation. Revocation of a Variance or [Special Exception](#) shall be effected as follows:

1. Upon finding that a property is not being used in conformance with the applicable regulations or provisions of the Variance or [Special Exception](#), the Director shall notify the occupant of the property and the property owner of such nonconformance. Upon receiving such notice, the applicant and property owner shall have 30 days in which to comply with the applicable regulations or provisions of the Variance or [Special Exception](#);

2. If after 30 days, the applicant fails to comply with the applicable regulations or provisions of the Variance or [Special Exception](#), the Director shall request that the Board schedule a public hearing for purposes of determining whether the Variance or [Special Exception](#) should be revoked; and

3. Upon receiving a request for a public hearing, the Board shall set such hearing date and hold a public hearing to consider the revocation of the Variance or [Special Exception](#). The Director shall provide written notice to the occupant of the property and to the property owner of the scheduled public hearing. The applicant will have the opportunity to appear and be heard by the Board at the public hearing.

I. Design Procedures.

1. Director's authority. The Director, after consulting with the respective Executive Director of the CRA if the application is within a CRA District, shall have the authority to approve, approve with

conditions or deny an application for Design for the following applications:

- a. Rehabilitation of existing facades;
- b. Residential Developments of four units or less (except in Historic Districts or Sites);
- c. Landscape projects including decks and patios that contain less than 10,000 sq. ft.;
- d. Construction, repair, or rehabilitation of new or existing walls, fences, at-grade parking lots, signs, including change of copy, canopies, and awnings;
- e. Installation of any mechanical or plumbing equipment that is visible from the public right-of-way. This review is limited to methods of screening the equipment from public view; and
- f. Any other construction, which in the discretion of the Director, is similar in size and impact as the work listed above, except in Historic Districts or Sites.

2. Joint meeting of the Planning and Development Board and Historic Preservation Board. For projects in local Historic Districts or Historic Sites, which are not located in single family districts, that require Site Plan approval and a [Certificate of Appropriateness](#) for Design, there shall be a joint meeting of the Planning and Development Board and the Historic Preservation Board. The membership of the joint board shall consist of five (5) Planning and Development Board members and four (4) Historic Preservation Board members. A quorum of the combined Planning and Development Board and Historic Preservation Board shall be five persons regardless of the Board on which they serve.

3. Applicability and exemptions.

a. **Applicability.** All building permits for new construction, [alterations](#), or additions to existing buildings, including fences, parking lots, walls and signs, whether new or change of copy, shall be subject to review under the Design Procedures except as provided herein. No building permit shall be issued without the written approval of the Planning and Development Board or staff, as provided for in these regulations. The Historic Preservation Board, or staff, shall review the applicable building permits under the Design Procedures for projects that are within single family districts that are locally designated historic districts or historically designated sites.

b. **Exemptions.** Exemptions to these regulations include all of the following provided no new construction or additions to existing buildings are required:

(1) All permits for plumbing, heating, air conditioning, elevators, fire alarms and extinguishing equipment, and all other mechanical and electrical equipment when such work is entirely within the

interior of the building; however, the Director may approve such building permit applications for minor work on the exterior of buildings;

(2) Any permit necessary for the compliance with a lawful order of the Chief Building Official, City Engineer or Fire Marshall related to the immediate public health or safety; and

(3) All permits for demolition, interior [alterations](#) and repairs not affecting a building listed as a Historic Structure in the City's Historic Property Database or which is designated as an [Historic Site](#).

4. Design criteria. The Board and the Director shall review plans based upon the criteria below. If the Board or the Director (as applicable) determines that an application is not consistent with the criteria, reasons shall be set forth in writing substantiating the finding.

a. General criteria. All plans/architectural drawings shall be reviewed based upon the evaluation of compatibility with the City's Design Guidelines, including the following elements:

(1) Architectural and design components. Architecture refers to the architectural elements of exterior building surfaces. Architectural details should be commensurate with the building mass. Design of the building(s) shall consider aesthetics and functionality, including the relationship of the pedestrian with the built environment. The design should consider architectural elements that are characteristic of the surrounding neighborhood.

(2) Compatibility. The harmonious relationship between existing architectural language and composition and proposed construction, including how each building along the street relates to the whole and the pattern created with [adjacent](#) structures and the surrounding neighborhood, and with the established and adopted vision for the area.

(3) Scale/massing. Buildings shall be proportionate in scale, with a height which is consistent with the surrounding structures, and with the established and adopted vision of the area. Building geometries shall reflect a simple composition of basic architectural details in relation to its length, width, height lot coverage, and setting of the structure in context with [adjacent](#) buildings.

(4) Landscaping. Landscaped areas should contain a variety of native and other compatible plant types and forms, and be carefully integrated with existing buildings and paved areas. Existing mature trees and other significant plants on the site should be preserved.

b. Design Guidelines Manual. A Design Guidelines Manual has been adopted which contains recommended approaches to design issues and which is incorporated herein. The Board shall only approve amendments to the Design Guidelines Manual after a public hearing has been held. Public notice

requirements shall be by notice in a newspaper of general paid circulation in the city with the notice appearing at least ten days in advance of the public hearing.

c. Neighborhood specific design review criteria. The Planning and Development Board is authorized to approve specific design review criteria for identified neighborhoods in the city and to apply the criteria in its review of plans for design approval. The Board shall only approve Neighborhood Specific Design Review Criteria after a public hearing has been held. Public notice requirements shall be by notice in a newspaper of general paid circulation in the city with the notice appearing at least ten days in advance of the public hearing. This process shall also apply to amendments.

5. Decision of the Board.

a. The Board shall approve, approve with conditions or deny applications. The Board may require such changes in said plans and specifications that in its judgment may be requisite and appropriate to the maintenance of a high standard of architecture, as established by the criteria contained in § 5.3.I.4. herein and as specified in the City's Comprehensive Plan and other specific plans adopted by the city and the Board.

b. Upon a decision on an application by the Board, the Department of Planning and Development Services shall send a letter along with the Board's resolution setting forth its decision to the applicant.

c. Clarification hearing. Should a question arise as to compliance with the conditions as outlined by the Board, a clarification hearing before the Board may be called at the request of the Planning and Development Services Department. The issue at such hearing shall be limited to a clarification of the Board's decision.

6. Building permit application.

a. No building permit, Certificate of Occupancy or Certificate of Completion, shall be issued unless all of the plans, including amendments, notes, revisions, and modifications, are consistent with all Board approved plans. Minor modifications to plans that have not been approved by the Board shall be permitted when approved by the Director.

b. The applicant shall have up to 24 months from the date of Design approval to apply for necessary building permits required to proceed with construction. If the applicant fails to apply for said building permit(s) within the time period, all staff and Board approvals shall be null and void and the applicant shall be required to re-initiate the review process for Design. However, an extension for cause, not to exceed 24 months, may be granted by the Board. Any such application for extension must be filed prior to the expiration of the initial 24 month period. If an extension has been granted and the applicant has not applied for the appropriate building or other permit or license, or the extension has been denied,

the applicant's Design shall become null and void and the applicant will be required to re-apply for any and all approvals necessary.

c. An applicant may submit an application for a building permit simultaneously with an application for consideration of Design in order to expedite processing. However, no building permit shall be issued until the final Site Plan has been stamped and signed by the Director of the Department of Planning and Development Services or his/her designee in accordance with this section.

J. Text Amendments of the Zoning and Land Development Regulations.

1. Filing of petition. A petition for an amendment to the text of the City's Zoning and Land Development Regulations shall be submitted to the Department of Planning and Development Services on a form provided by the Division. A petition may be filed by any of the following:

- a. City Commission;
- b. Planning and Development Board; or
- c. City Manager or his/her designee.

Upon receipt of a completed petition, the petition shall be scheduled before the Board as a public hearing and the public shall be given notice according to the notification procedures set forth in this section. The Secretary of the Board may request written commentary relating to said petition by the responsible enforcing official and request the attendance of such official or his/her qualified representative at such hearing.

2. Recommendation of the Board. In reviewing a petition for a text amendment to the Zoning and Land Development Regulations, the Board shall only recommend approval of the petition if it is consistent with the following criteria:

- a. The proposed change is consistent with and in furtherance of the Goals, Objectives and Policies of the adopted Comprehensive Plan as amended from time to time; and
- b. That conditions have substantially changed from the date the present zoning regulations were established.

After review of the petition, at the scheduled public hearing, the Board shall make a recommendation to the City Commission either to approve the petition if it meets the above criteria or, if such criteria are not met, to deny the petition.

3. Review and decision by the City Commission.

a. Upon receipt of the proposed text amendment with the Board's recommendation, the City Clerk shall set a date for a public hearing on an agenda of the City Commission, in accordance with the notice requirements set forth in F.S. Ch. 166.

b. In reviewing a petition for a request to make a text amendment to the City's Zoning and Land Development Regulations, the City Commission may:

(1) Approve, deny or modify a petition for change of text; or

(2) At any time, resubmit such petition to the Board for its recommendations on changes to the petition proposed by staff or the City Commission after the initial Board recommendation, but such resubmission is purely optional and discretionary on the part of the City Commission.

K. Petition for change of Zoning District (Rezoning).

1. Filing of petition. Petitions for change of zoning district (rezoning) shall be submitted to the Department of Planning and Development Services on forms provided by the Department. Such petitions may be filed by the following:

a. Property owners. The owner or owners of any parcel of land in the city may file a petition for change of zoning district. No petition shall be accepted without the actual legal and beneficial ownership of the subject property indicated on the petition, and any petitions acted on without such information shall be null and void.

b. City. The City Commission, the City Manager, and the Planning and Development Board, may file a petition for change of zoning district with respect to any land within the city.

2. Procedures. In reviewing a request for a change of zoning district, the Board shall consider the following criteria:

a. That the petition for a change of zoning district will not result in spot zoning or contract zoning;

b. That the proposed change is consistent with, and in furtherance of the Goals, Objectives and Policies of the City's Comprehensive Plan;

c. That conditions have substantially changed from the date the present zoning district classification was placed on the property which make the passage of the proposed change necessary;

d. The proposed change will not adversely influence living conditions in the neighborhood; and

e. That the proposed change is compatible with the development(s) within the same district/neighborhood.

3. Recommendation of the Board. After review of the petition, at the scheduled public hearing, the Board shall make a recommendation to the City Commission to:

a. Approve the petition as it meets the criteria set forth in K.2.a. and b. above and meets two (2) or more of the criteria set forth in K.3.c. through e. above;

b. Rezone the subject property to a zoning district less restrictive than the current zoning district but more restrictive than the petitioned for zoning district; or

c. Deny the petition.

4. Further petitions after withdrawal or denial of initial petitions.

a. Except as set forth in division § 5.3.F.1.b. herein, when any petition for change of zoning district is withdrawn after the initial public hearing by the petitioner or is denied by the City Commission, no other identical petition for change of zoning district on the same property shall be considered within one year from the date of such withdrawal or denial.

b. The Board may, for good cause and to avoid undue hardship, by resolution, allow a withdrawal after the initial public hearing without prejudice to the right to reapply within one year for the same relief.

5. Review and Decision by the City Commission.

a. Upon receipt of the proposed rezoning with the Board's recommendation, the City Clerk shall set a date for a public hearing on the agenda of the City Commission, in accordance with the notice requirements set forth in F.S. Ch. 166, if applicable.

b. After completion of the hearing on a petition for change of zoning district, the City Commission may approve the petition as follows:

(1) The City Commission must find that the petition for a change of zoning meets the criteria set forth above.

(2) The City Commission may approve a change of zoning to a district more restrictive than the petitioned for change and/or the district recommended by the Planning and Development Board without resubmission of such proposed change to the Board or readvertisement of the initial public hearing before the City Commission.

(3) The City Commission may approve a change of zoning to a district less restrictive than the petitioned for change and/or the district recommended by the Planning and Development Board, provided the City Commission, after such determination, reschedules the initial public hearing on the petition and the applicable public notification requirements are followed. Such notifications shall include a statement that the City Commission has expressed its intention to approve the specified zoning district. The City Commission, in its discretion, may resubmit the proposed change to the Planning and Development Board for its recommendation.

L. Appeal from administrative decisions. The Planning and Development Board shall hear, decide and rule upon appeals filed by any party in interest aggrieved by an order, decision or interpretation by the pertinent officials of the city, in the enforcement of the terms and provisions of any of the Zoning and Land Development Regulations, as amended from time to time. Any appeal of an administrative decision shall be made pursuant to § 5.7 of this Article.

M. Appeal of Planning and Development Board decisions. Any appeal of a decision by the Planning and Development Board shall be made pursuant to § 5.7 of this Article.

N. Zoning in progress. During the period of time that a petition for either a text amendment to the Zoning and Land Development Regulations or change of zoning district is under consideration, no permit(s) of any kind shall be issued if such permit would result in the nonconforming or unlawful use of the subject property should the petition for change be finally enacted by the City Commission, subject to the following conditions:

1. The period of time of such freeze on permits shall begin on the earlier of (i) the date of notification of the property owner(s) by certified mail of the initial public hearing before the Planning and Development Board, or (ii) the initial publication date of the initial public hearing before the Planning and Development Board. The freeze on permits shall continue for a maximum period of six months, provided, however, that such six month period may be extended for up to an additional six months by resolution of the City Commission where the scope and magnitude of the petition requires additional time for study and deliberation.

2. Where a postponement or other delay of a petition is requested by the owner of the subject property, such period of delay shall not be counted against the zoning in progress period.

(Ord. O-2001-15, passed 5-16-01; Am. Ord. O-2003-38, passed 11-5-03; Am. Ord. O-2004-16, passed 6-16-04; Am. Ord. O-2006-37, passed 12-14-06; Am. Ord. O-2008-11, passed 6-4-08; Am. Ord. O-2008-23, passed 10-15-08; Am. Ord. O-2009-39, passed 12-2-09; Am. Ord. O-2011-14, passed 5-4-11; Am. Ord. O-2016-23, passed 11-2-16; Am. Ord. O-2019-13, passed 6-19-19)

§ 5.7. Appeal Procedures relating to Decisions of the Planning and Development Board, Historic Preservation Board, and Administrative Decisions.

A. Appeal of a Planning and Development Board decision. Except as provided in § 5.6 above, any appeal of a decision by the Planning and Development Board must be made as follows:

1. The City Manager, or the Executive Director of the CRA when the decision involves a project within the Executive Director's said CRA District, may file an appeal within ten days of the date of such decision or ruling. In computing the period of time prescribed, the day of the Board's decision or ruling from which the designated period of time begins to run shall not be included. If the tenth day falls on a Saturday, Sunday, or legal holiday, the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday. On the day following the Board meeting, the Department of Planning and Development Services shall notify each member of the City Commission of a decision of the Board. Should the City Manager or the Executive Director of the CRA wish to appeal a decision of the Board, a notice must be filed with the Department of Planning and Development Services within the aforementioned ten-day period. Upon receipt of such notice, the Department of Planning and Development Services will notify the City Clerk who shall schedule the appeal before the City Commission. Public notice requirements shall be the same as those set forth in § 5.7.F. of this Article. Should a member of the Commission wish to review a Board's decision, he/she shall follow the CRR procedure set forth in § 5.6 above.

2. Any person who appeared on the record at the Board meeting and who has filed written notice of his/her position prior to the Board's ruling may file an appeal of an adverse ruling as set forth in division A.5. below.

3. Any appeal filed pursuant to divisions A.1 or A.2 above must be made on a form provided by the Department of Planning and Development Services and, if filed pursuant to division A.2 above, be accompanied by the applicable filing fee as established by resolution of the City Commission.

4. In the absence of any CRR or timely appeal pursuant to division A.1 or A.2 above, the decision or ruling of the Board shall be final.

5. Appeals brought pursuant to division A.2 above shall be processed as follows:

a. An appeal of a ruling of the Board which results in the requested development being allowed to go forward as requested in the application shall be to a court of competent jurisdiction by petition for writ of certiorari within 30 days of the Board's decision.

b. An appeal relating to a ruling of the Board which results in the requested development not being allowed to go forward shall be to the City Commission and must be filed within ten days of the date of such decision. In computing the period of time prescribed, the day of the Board's decision or ruling from which the designated period of time begins to run shall not be included. If the tenth day falls on a Saturday, Sunday, or legal holiday, the period shall run until the end of the next day which is neither a Saturday, Sunday or legal holiday.

c. A reversal or modification of a ruling of the Board, including those relating to stipulations or conditions, shall require a five-sevenths vote of the City Commission. An affirmation of a ruling of the Board shall require a three-sevenths vote of the City Commission. All applicable criteria relative to the original petition shall apply.

d. Once filed, an appeal pursuant to the provisions of this section may not be withdrawn without approval of the City Commission at a duly advertised public meeting.

6. When an appeal is filed, the appeal will be heard de novo and the same criteria applied by the Board below are applicable to the City Commission in hearing the matter.

7. An appeal of a City Commission decision shall be to the circuit court by writ of certiorari within 30 days of the City Commission's decision.

B. Appeal of decisions by the Planning and Development Board relating to Variances. Any appeal of a decision by the Planning and Development Board relating to Variances shall be in accordance with the procedures set forth in § 5.7.A. of this Article.

C. Appeal of decisions by the Historic Preservation Board. Any appeal of a decision of the Historic Preservation Board shall be in accordance with the procedures set forth in § 5.7.A. of this Article.

D. Appeals of an administrative decision by the Director. Any party in interest aggrieved by an administrative decision by the Director authorized under this Article, may file an appeal to the applicable Board. Such appeal must be filed within 30 days of the administrative decision, shall be in writing, on a form provided by the Department of Planning and Development Services and shall specify the grounds for such appeal. The appeal form shall be accompanied by the applicable fee as established by resolution of the City Commission. Upon receiving an appeal from an administrative decision, the Department of Planning and Development Services shall schedule a public hearing before the applicable Board. Notice of the public hearing shall be as prescribed in § 5.7.F. of this Article.

1. Stay of proceedings. An appeal of an administrative decision by a party of interest, other than the city, shall not automatically stay proceedings in furtherance of the action appealed. However, an appellant may file a request to stay proceedings pending the appeal. Upon receiving such request for a stay, the

Board, in its discretion, may grant, modify or deny such relief. The Board may in its discretion require the applicant to post a bond which complies with the requirements set forth in Rule 9.130, Florida Rule of Appellate Procedure, during the pendency of the appeal.

2. Decision of the Board. The applicable Board shall hold a public hearing on an appeal from an administrative decision, and may reverse or affirm, wholly or in part, or may modify the administrative decision appealed as is deemed to be proper, and to that end shall have all the powers of the official from whom the appeal is taken. The Board shall adopt a resolution setting forth the action of the Board, including any requirement or interpretation made by the Board relative to the case. A copy of the resolution shall be mailed to the appellant and submitted to the City Clerk. Such resolution shall be authorization for any approval, permit or license incidental to any use of the land or building as set forth in the resolution. The decision of the Board may be appealed to the City Commission pursuant to § 5.7.A. of this Article.

E. Development approval challenges.

1. Purpose. To provide for a limited extension of the effective period of development approvals issued by the city when third parties file challenges to such approvals, or file challenges to other permits or approvals issued for the development project, which challenges, if upheld, would prevent the developer from proceeding with the development as approved, in order to enable the property owner to have a reasonable time to develop the project after the third party challenge is concluded.

2. Definitions. For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

DEVELOPMENT APPROVALS. Approvals for the development of real property in the City of Hollywood granted by the city, through its City Commission, Planning and Development Board, or other committee or individual with the authority under the Zoning and Land Development Regulations or Code of Ordinances to issue such approvals, including, without limitation, site plan approvals, variances, special exceptions and design review approvals, which approvals have an Effective Period as defined below.

EFFECTIVE PERIOD. That period for which a Development Approval is valid as set forth in the City of Hollywood Zoning and Land Development Regulations, Code of Ordinances or in a Resolution or Ordinance granting a Development Approval.

THIRD PARTY CHALLENGES. Challenges to permits or approvals by the city or state or federal or local agency, or the South Florida Water Management District, filed by a party other than the city, or the developer or owner of the property for which such permit or approval has been granted, which challenges are prosecuted by writ of certiorari, by administrative judicial appeal, or by original action.

3. Extension of the effective period of development approvals. When a third party challenge is filed, the Effective Period of the Development Approval for the property that is the subject of the challenge, shall be extended for a time period which is equal to the number of days of the time period beginning on the date that the third party challenge is filed and ending on the date that all appeal periods expire with respect to a final determination of the third party challenge.

4. Application. Development approvals granted subsequent to the effective date of this Article, as well as development approvals pending on the effective date of this Article, shall be eligible for the extension provided for herein.

F. Public notice of appeals. When an appeal from a decision of a Board or the Director of the Department of Planning and Development Services is filed, the following notice procedures shall be followed:

1. When notice and notification are required, the following shall apply:

a. Notice of the public hearing shall be published at least ten days prior to the date of the public hearing in a newspaper of general circulation in the city.

b. Notification to the appellant and property owners within 500 feet of the subject property shall be mailed at least 15 days prior to the date of the public hearing.

c. Such notices and notifications shall state the date, time and place of the public hearing, and shall contain the legal description of any property subject to any action and, in substance, the matter to be heard.

d. The mailing of notice to individual property owners, whose addresses are indicated on the records of the tax assessor to be within Broward County, as set forth in this Article, shall not be required in any change of zoning district involving 500 or more parcels, as indicated on the records of the assessor, provided that the city, in addition to publishing the required notice, shall publish, in conjunction with the required notice, in a newspaper of general circulation within the city, a map of the entire area affected by the petition with the existing and proposed zoning classification clearly indicated therein.

(Ord. O-2001-15, passed 5-16-2001; Am. Ord. O-2002-40, passed 11-6-2002; Am. Ord. O-2003-04, passed 2-19-2003; Am. Ord. O-2003-38, passed 11-5-2003; Am. Ord. O-2008-11, passed 6-4-2008; Am. Ord. O-2011-14, passed 5-4-11)

§ 5.8. Zoning Relief Procedures.

In order to comply with federal and state laws in implementing this Code and to avoid the possibility of costly litigation, zoning relief from this Code may be granted by the City Commission pursuant to this Section. This zoning relief shall include, but not be limited to, reasonable accommodations under the Fair Housing Act and Americans with Disabilities Act.

A. Application. A person or entity shall request relief under this Section prior to filing a lawsuit, by completing a General Application form, which is available from the City's Department of Planning and Development Services. The form shall contain such Questions and requests for information as are necessary for evaluating the relief requested.

B. Notice. The city shall display a notice in the city's public notice bulletin board and shall maintain copies available for review in the Department of Planning and Development Services and the City Clerk's Office. The notice shall advise the public that a request for zoning relief under a federal or state law is pending. The location, date and time of the applicable public hearing shall be included in the notice. Notice shall also be provided to property owners within 500 feet, if the request for relief is site specific.

C. Hearing and determination. The City Commission shall have the authority to consider and act on requests for zoning relief submitted to the City Manager or his/her designee. A public hearing shall be held at the next available regular or special City Commission meeting. A decision on the request for relief shall be made no later than seventy-five (75) days following the receipt of the request. During the public hearing, the City Commission shall solicit comment and information from the public, to be taken under advisement, and shall decide whether to grant the requested relief. A written determination shall be issued by resolution no later than seven (7) days after the hearing on the request for relief. The determination may: (a) grant the relief requested, (b) grant a portion of the request and deny a portion of the request, or impose conditions upon the grant of the request, or (c) deny the request. Any determination denying the requested relief shall be final, shall be based on substantial competent evidence, shall be in writing, and shall state the reasons the relief was denied. The final written determination shall be sent to the requesting party by certified mail, return receipt requested.

D. Additional information. If necessary prior to the public hearing, the city may request additional information from the requesting party, specifying in sufficient detail what information is required. In the event a request for additional information is made to the requesting party by the city, the seventy-five (75) day time period to issue a written determination shall be extended to ninety (90) days, to include the time necessary to seek the additional information. The requesting party shall have fifteen (15) days after the date the information is requested to provide the needed information. If the requesting party fails to respond to the requested additional information within fifteen (15) days after the city's request for additional information, the city shall notify the requesting party and proceed with the hearing and issuance of its final written determination regarding the relief requested.

E. Criteria. In determining whether the zoning relief request shall be granted or denied, the applicant shall be required to establish:

1. The applicant is a potential claimant under a federal or state law; and

2. The applicant believes in good faith that the city through implementation of its Zoning and Land Development Regulations has intentionally or unintentionally violated federal or state law for the reasons stated in the Zoning Relief Request. The law(s) the city has allegedly violated shall be identified, and the ways in which they have been allegedly violated by the City's Zoning and Land Development Regulations shall be explained with specificity.

F. Exhaustion required. Completion of the zoning relief procedures shall be a supplement to, and not a substitute for, any other pre-litigation dispute resolution processes available by law to the city or the applicant. Completion of the zoning relief procedures shall evidence the exhaustion of all administrative remedies available from the city.

G. Fees. An application fee of \$300 shall be provided with the request for zoning relief. The fee is intended to defray administrative costs incurred to review the request, including costs of notice. The city shall have no obligation to pay a requesting party's attorney fees or costs in connection with the request for zoning relief.

H. Effect while pending. While an application for zoning relief, or appeal of a determination of same, is pending before the city, the city will not enforce the subject zoning ordinance, rules, policies, and procedures against the requesting party, except the city may seek injunctive relief if an imminent threat to the health, safety and welfare of the public is present.

(Ord. O-2010-12, passed 4-7-10)