

ARTICLE III - ADMINISTRATION, ENFORCEMENT AND REVIEW

SECTION 3.1 PURPOSE

This Article sets forth the application and review procedures required for obtaining development orders and certain types of development permits.

SECTION 3.2 AUTHORIZATION BY A DEVELOPMENT PERMIT REQUIRED PRIOR TO UNDERTAKING ANY DEVELOPMENT ACTIVITY

3.2.1 General

No development activity may be undertaken without prior authorization by a development permit.

3.2.2 Prerequisites to Issuance of A Development Permit

Except as provided in Section 3.2.3, a development permit may not be issued unless the proposed development activity is authorized by a Final Development Order issued pursuant to these Regulations.

3.2.3 Exceptions to Requirement of A Final Development Order

A development permit may be issued for the following development activities without a Final Development Order having been issued pursuant to these Regulations. Unless otherwise specifically provided, the development activity shall conform to these Regulations.

A. Development activity necessary to implement a valid site plan/development plan on which the start of construction took place prior to the adoption of these Regulations and has continued in good faith. Compliance with the development standards in these Regulations is not required if in conflict with the previously approved plan.

B. The construction or alteration of a one- or two-family dwelling on a lot in a valid recorded subdivision approved prior to the adoption of these Regulations.

C. The alteration of an existing building or structure so long as no resulting in a net change is made to its gross floor area of one thousand (1,000) square feet or less, its use, or the amount of impervious surface on the site.

D. The removal of protected trees on a previously developed site and independent of any other development activity on the site.

E. The re-surfacing of a vehicle use area that conforms to all requirements of these Regulations.

F. The erection of a permanent sign.

G. Minor replats.

H. Construction, elimination, or alteration of a driveway onto a public street.

3.2.4 Post-Permit Changes

After a permit has been issued, it shall be unlawful to change, modify, alter, or otherwise deviate from the terms or conditions of the permit without first obtaining a modification of the permit. A modification may be applied for in the same manner as the original permit. A written record of the modification shall be entered upon the original permit and maintained in the files of the Development Regulations Administrator.

3.2.5 Certificate of Occupancy

No new use of any land, water or building, or any part thereof, shall be allowed and no existing use of land, water or building shall be changed until a Certificate of Occupancy is issued stating that such use of land, water, building or any part thereof is found to be in conformity with the provisions of these

Regulations. A Certificate of Occupancy shall also be required for any change of use, or for any alteration or modification of any building or structure. Any change of occupancy, of business uses, professional uses, personal uses, personal services and retail sales and services shall require an occupancy certificate.

Within three (3) working days after notification to the Development Regulations Administrator that any land, water or building or any part thereof is ready for occupancy use, it shall be the duty of the Development Regulations Administrator to make or have made a final inspection thereof and to issue a Certificate of Occupancy if it is found that such land, water or building, or any part thereof, is in conformance with the provisions of these Regulations; or if such Certificate of Occupancy is refused, the Development Regulations Administrator shall state in writing to the applicant the reasons for such refusal, citing the regulations being violated.

3.2.6 Authority to Enter Upon Private Property

The Development Regulations Administrator and any inspector under his direction, in the performance of their functions and duties under the provisions of these Regulations, may enter upon any land and make examinations and surveys as deemed necessary in the administration and enforcement of these Regulations.

3.2.7 Construction and Use to Remain the Same

Development Permits or Certificates of Occupancy issued on the basis of plans and applications approved pursuant to the provisions of these Regulations authorize only the use, arrangement, and construction set forth in such approved plans and applications and no other use, arrangement, or construction. Uses, arrangements and construction other than originally permitted must be resubmitted for permit approval.

Use, arrangement or construction at variance with that authorized shall be deemed a violation of these Regulations, and shall be punishable as provided for by Section 3.2.10.

3.2.8 Expiration of Development Permit

If the work described in any Development Permit has not begun within six (6) months from the date of issuance thereof, said permit shall expire; it shall be canceled by the Development Regulations Administrator, and written notice thereof shall be given to the person affected.

If the work described in any Development Permit is suspended or abandoned for a period of six (6) months after work has commenced, said permit shall be canceled by the Development Regulations Administrator, and written notice thereof shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed unless and until a new Development Permit has been obtained; provided, that, for cause, one or more extensions of time, for periods not exceeding ninety (90) days each, may be allowed, and such extensions shall be put in writing by the Development Regulations Administrator.

3.2.9 Developments Under Construction; Existing Permits

Any developments for which a Development Permit has been issued, and the construction of which has started prior to the effective date of these Regulations, may be completed in accordance with the approved plans and specifications, provided all construction is completed within one year after the effective date of these Regulations.

If on the effective date of these Regulations, valid permits have been issued authorizing the construction or alteration of development in a manner which does not conform to the requirements of these Regulations, such permits shall be canceled unless the "start of construction" occurs within six (6) months and is completed within one year after the effective date of these Regulations.

3.2.10 Violations and Penalties

A. Complaints Regarding Violations

Whenever the Development Regulations Administrator receives a written, signed complaint alleging a violation of any provision of these Land Development Regulations, he or she shall investigate the complaint, take whatever action is warranted, and inform the complainant in writing what actions have been or will be taken.

B. Persons Liable

The owner, tenant, or occupant of any building or land or part thereof and any architect, builder, contractor, agent, or other person who participates in, assists, directs, creates, or maintains any situation that is contrary to the provisions of these Land Development Regulations may be held responsible for the violation and suffer the penalties and be subject to the remedies herein provided.

C. Procedures Upon Discovery of Violations

1. If the Development Regulations Administrator finds that any provision of these Land Development Regulations is being violated, he or she shall send a written notice to the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it. Additional written notices may be sent at the Development Regulations Administrator's discretion.

2. The final written notice (and the initial written notice may be the final notice) shall state what action the Development Regulations Administrator intends to take if the violation is not corrected and shall advise that the Development Regulations Administrator's decision or order may be appealed to the Board of Adjustment in accordance with Section 10.1. Appeals.

3. Notwithstanding the foregoing, in cases when delay would seriously threaten the effective enforcement of these Land Development Regulations or pose a danger to the public health, safety, or welfare, the Development Regulations Administrator may seek enforcement without prior written notice by invoking any of the penalties or remedies authorized in paragraph 3.2.10, D.

D. Penalties and Remedies for Violations

1. Violations of the provisions of these Land Development Regulations or failure to comply with any requirements thereof, including violations of any conditions and safeguards established in connection with the grants of variances or special exceptions, shall constitute a municipal ordinance violation, punishable by a fine of up to \$500, or a maximum of 60 days imprisonment or both.

2. Any act constituting a violation of the provisions of these Land Development Regulations or a failure to comply with any of the requirements thereof, including violations of any conditions or safeguards established in connection with the grants of any variances or special exceptions, shall also subject the offender to a civil penalty of \$200 per day. If the offender fails to pay this

penalty within 10 days after being cited for a violation the penalty may be recovered by the Town in a civil action in the nature of the debt. In addition to the civil penalty, any and all costs, including legal costs, incurred by the Town in the enforcement of the provisions of these Land Development Regulations may be recovered by the Town in a civil action. A civil action may not be appealed to the Board of Adjustment if the offender was sent a final notice of violation in accordance with paragraph 3.2.10, C. and did not take an appeal to the Board of Adjustment within the prescribed time.

3. The provisions of these Land Development Regulations may also be enforced by any appropriate equitable action.

4. Each day that any violation continues after notification by the Development Regulations Administrator that such violation exists shall be considered a separate offense for the purposes of the penalties and remedies specified in this section.

5. Anyone, all, or any combination of the foregoing penalties and remedies may be used to enforce the provisions of these Land Development Regulations.

E. Permit Revocation

1. A development permit, certificate of occupancy, sign permit or special exception permit may be revoked by the Town Council if the permit recipient fails to develop or maintain the property in accordance with the plans submitted the requirements of these Land Development Regulations, or any additional requirements lawfully imposed by the Town Council.

2. Before a special exception permit may be revoked, all of the notice and hearing requirements required for the initial grant of the special exception shall be complied with. The notice shall inform the permit recipient of the alleged grounds for the revocation.

a. The burden of presenting evidence sufficient to authorize the Town Council to conclude that a permit should be revoked for any of the reasons set forth in paragraph E.1. shall be upon the party advocating that position. The burden of persuasion shall also be upon that party.

b. A motion to revoke a permit shall include, insofar as practicable, a statement of the specific reasons or findings of fact that support the motion.

3. Before a development permit, certificate of occupancy, or sign permit may be revoked, the Development Regulations Administrator shall give the permit recipient 10 days notice of intent to revoke the permit and shall inform the recipient of the alleged reasons for the revocation and of his right to obtain an informal hearing on the allegations. If the permit is revoked, the Development Regulations Administrator shall provide to the permittee a written statement of the decision and the reasons therefore.

4. No person may continue to make use of land or buildings in the manner authorized by any development permit, certificate of occupancy, sign permit, or special exception permit after such permit has been revoked in accordance with this section.¹

¹ As amended by Ordinance 99-6, May 11, 1999

SECTION 3.3 PLANNING COMMISSION

3.3.1 Creation

A Planning Commission is hereby created. It shall be referred to in these Regulations as the Commission, and shall have the following membership, powers, duties, responsibilities and limitations.

A. Membership, Terms of Office:

The Commission shall have five (5) members appointed by the Town Council for a term of three (3) years. Initial appointments, however, shall be staggered. No elected official or employee of Town government shall be appointed to serve on any Commission.

B. Place of Residence, Removal from Office, Vacancies:

Each Commission member shall reside within the Town limits. In the event an appointed member moves outside the Town limits, a vacancy shall be deemed to exist. Any vacancy occurring during the unexpired term of office of any member shall be filled by the Town Council for the remainder of the term. The vacancy shall be filled within sixty (60) days from the time it occurs. Any member of the Commission may be removed from office for cause by the Town Council, upon written charges and after public hearing.

C. Officers, Employees:

The Planning Commission shall elect a Chairman and Vice-Chairman and shall appoint a Secretary who may be an officer or employee of the Town Council.

D. Compensation:

Each Commission member shall serve without compensation, but Commission members and the staff may be reimbursed for educational, travel, mileage, and per diem expenses as provided by law.

3.3.2 Rules of Procedure

The Commission shall meet at regular intervals, and at such other times as it may deem necessary, for the transaction of its business. It shall adopt written by-laws and keep a properly indexed public record of its resolutions, transactions, findings and recommendations. A quorum shall be three (3) members. No recommendations for approval of any application may be made unless three (3) members concur.

3.3.3 Powers and Duties

The Commission shall hear applications from the Town Council, any department or agency of Town government, or from any person (see definition of person) for amendment of these Regulations. Additionally, the Commission shall have the general responsibility for the conduct of the Town's comprehensive planning program and review of applications for Development Orders.

The Planning Commission shall prepare, or cause to be prepared, the elements of the comprehensive plan required in Chapter 163.3177, Fla. Stat., known as the Local Government Comprehensive Planning and Land Development Regulations Act (LGCPDRA) and other appropriate plan elements, and shall make recommendation regarding the comprehensive plan to the Town Council. It shall have the general responsibility for the conduct of the comprehensive planning program. It shall comply with all requirements of the LGCPDRA, and shall monitor and oversee the effectiveness and status of the comprehensive plan, and recommend to the Town Council such changes in the comprehensive plan as may from time to time be required. It shall perform any other duties assigned by the Town Council, and may prepare and recommend to the Town Council any other proposals to implement the comprehensive plan.

SECTION 3.4 PROCEDURE FOR REVIEW OF DEVELOPMENT PLANS

The procedure for review of development plans shall be as shown graphically in Figure III-1 (page 44)

and described in this section.

3.4.1 Pre-Application Conference Required for All Development Plan Reviews

Prior to filing an application for development plan review, the developer shall meet with the Development Regulations Administrator to discuss the development review process and to be informed of which staff members to confer with about the application. No person may rely upon any comment concerning a proposed development plan, or any expression of any nature about the proposal made by any participant at the pre-application conference as a representation or implication that the proposal will be ultimately approved or rejected in any form.

3.4.2 Designation of Plans as Minor or Major Developments

A. Generally

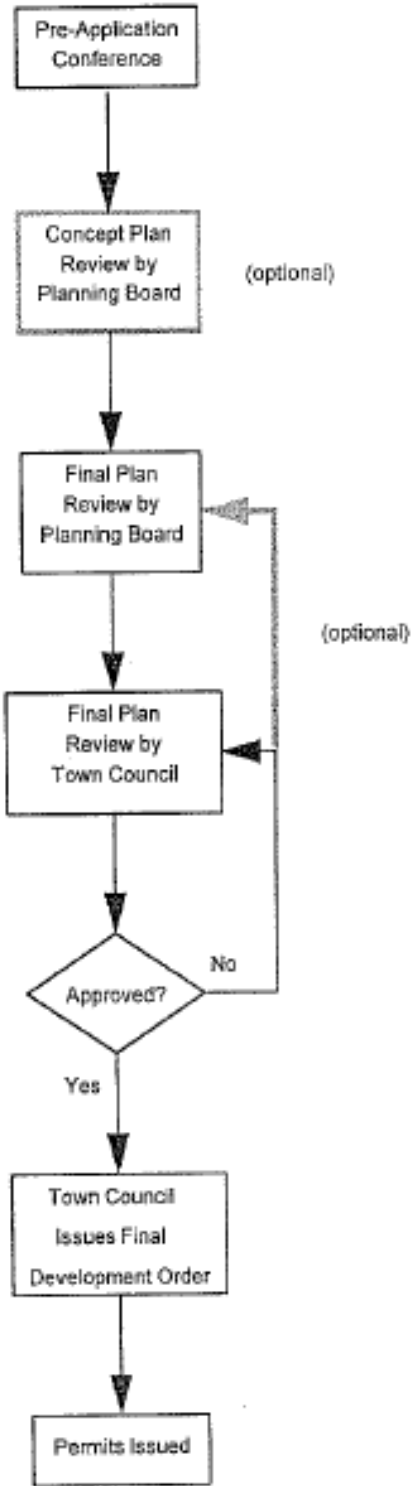
For purposes of these review procedures, all development plans shall be designated by the Development Regulations Administrator as either Minor Development or Major Development according to the criteria below. Before submitting a development plan for review, the developer shall provide the Development Regulations Administrator with sufficient information to make this determination. The Development Regulations Administrator shall prepare written findings to support his determination.

B. Major Development

A development plan shall be designated as a Major Development if it satisfies one or more of the following criteria:

1. The development is a residential project of five (5) or more dwelling units.
2. The development involves more than five thousand (5,000) square feet of non-residential floor space.
3. The development involves the creation of a new street, either public or private, or the extension or construction of new potable water or sanitary sewer facilities other than those necessary to serve only the proposed development.
4. Any development that the Development Regulations Administrator designates as a Major Development project because:
 - a. The proposed development is part of a larger parcel for which additional development is anticipated that when aggregated with the project in question exceeds the limits of 1, 2, or 3 above; or
 - b. The proposed development adjoins other lands which might logically be accessed through the proposed development.
 - c. The proposed development should be more thoroughly and publicly reviewed because of its complexity, hazardousness, or location.
 - d. The proposed development is one which is likely to be controversial despite its small size, and should thus be more thoroughly and publicly reviewed.

FIGURE III-1
PROCEDURE FOR REVIEW
OF DEVELOPMENT PLANS



C. Minor Development

A development plan shall be designated as a Minor Development if it is neither a Major Development nor a development exempt under Section 3.2.3 of this Article from the requirement of a development plan.

3.4.3 Optional Review of Concept Plans

A. Any developer may elect to submit a Concept Plan for review. This review is recommended to developers for proposals that may be controversial.

B. The developer shall file a completed application and a Concept Plan as a prerequisite to obtaining Concept Review when such review is requested.

C. Within five (5) working days of receipt of an application and Concept Plan, the Development Regulations Administrator shall determine that the submittals are complete and proceed with the following procedures.

D. The proposal shall be placed on the agenda of the next meeting of the Planning Commission that allows the giving of required notice.

E. Notice of Concept Review shall be mailed by the Development Regulations Administrator to the developer and all persons who, according to the most recent tax rolls, own property adjoining within four hundred (400) feet of the property proposed for development. The notice shall be mailed at least fifteen (15) days before the scheduled review by the Planning Commission. The expense of this mailing shall be borne by the developer.

F. A copy of the Concept Plan and notice of the time and date of the Concept Review shall be delivered to each member of the Technical Review Committee. Technical Review Committee members shall review the proposal and submit comments, if any, in writing to the Planning Commission or orally at the Commission's Concept Review.

G. The Planning Commission shall consider:

1. Characteristics of the site and surrounding area, including important natural and man-made features, the size and accessibility of the site, and surrounding land uses.
2. Whether the concurrency requirements of Article IV of these Regulations could be met if the development were built.
3. The nature of the proposed development, including land use types and densities; the placement of proposed buildings and other improvements on the site; the location, type and method of maintenance of open space and public use areas; the preservation of natural features; proposed parking areas; internal traffic circulation system; the approximate total ground coverage of paved areas and structures; and types of water and sewage treatment systems.
4. Consistency of the proposed development with the Comprehensive Plan.
5. Conformity of the proposed development with these Regulations and other applicable regulations.
6. Applicable regulations, review procedures, and submission requirements.
7. Concerns and desires of surrounding landowners and other affected persons.
8. Other applicable factors and criteria prescribed by the Comprehensive Plan, these Regulations, or other law.

H. The Planning Commission shall issue no order, finding or other official indication of approval or disapproval of the proposal, and no person may rely upon any comment concerning the proposal, or any

expression of any nature about the proposal, made by any person during the concept review process as a representation or implication that the particular proposal will be ultimately approved or disapproved in any form.

3.4.4 Review of Final Development Plans for Minor Developments

A. The developer of a proposed Minor Development shall submit a completed application and a Final Development Plan to the Development Regulations Administrator.

B. Within five (5) working days of receipt of a Plan, the Development Regulations Administrator shall:

1. Determine that the information is incomplete and inform the developer in writing of the deficiencies. The developer may submit an amended Plan within thirty (30) days without payment of a re-application fee, but, if more than thirty (30) days have elapsed, must thereafter re-initiate the review process and pay an additional fee; or
2. Determine that the Plan is complete and proceed with the procedures below.

C. The Development Regulations Administrator shall place the proposal on the agenda of the next meeting of the Planning Commission that allows the giving of required notice.

D. Notice of Final Plan Review shall be mailed by the Development Regulations Administrator to the developer and all persons who, according to the most recent tax rolls, own property adjoining within four hundred (400) feet of the property proposed for development. The notice shall be mailed at least fifteen (15) days before the scheduled review by the Planning Commission. The expense of this mailing shall be borne by the developer.

E. copy of the Final Plan and notice of the time and date of the Final Plan Review shall be delivered to each member of the Technical Review Committee. Technical Review Committee members shall review the proposal and submit comments, if any, in writing to the Planning Commission.

F. The Planning Commission shall conduct an administrative hearing on the Final Development Plan to determine whether the plan satisfies the requirements of these Regulations.

G. The Planning Commission shall consider:

1. Characteristics of the site and surrounding area, including important natural and man-made features, the size and accessibility of the site, and surrounding land uses.
2. Whether the concurrency requirements of Article IV of these Regulations could be met if the development were built.
3. The nature of the proposed development, including land use types and densities; the placement of proposed buildings and other improvements on the site; the location, type and method of maintenance of open space and public use areas; the preservation of natural features; proposed parking areas; internal traffic circulation system; the approximate total ground coverage of paved areas and structures; and types of water and sewage treatment systems.
4. Consistency of the proposed development with the Comprehensive Plan.
5. Conformity of the proposed development with these Regulations and other applicable regulations.
6. Applicable regulations, review procedures, and submission requirements.
7. Concerns and desires of surrounding landowners and other affected persons.
8. Other applicable factors and criteria prescribed by the Comprehensive Plan, these Regulations, or other law.

H. Upon completion of its review, the Planning Commission shall forward a recommendation to the Town Council either to:

1. Approve the Final Development Plan;
2. Approve the Final Development Plan with modifications; or
3. Deny the Final Development Plan based on its determination that the proposed development, even with reasonable modifications, cannot meet the requirements of these Regulations.

I. The Development Regulations Administrator shall place the proposal on the agenda of the next meeting of the Town Council that allows the Council reasonable time to review the Final Development Plan and the Planning Commission's recommendation.

J. Upon completion of its review, the Town Council shall either:

1. Issue a Final Development Order complying with Section 3.5.9 below; or
2. Refuse to issue a Final Development Order based on its determination that the Development fails to comply with the conditions imposed by the Preliminary Development Order.

3.4.5 Review of Preliminary and Final Development Plans for Major Developments

A. Review of Preliminary Development Plans

1. The developer shall submit a completed application and a Preliminary Development Plan to the Development Regulations Administrator.
2. Within five (5) working days of receipt of a Preliminary Development Plan, the Development Regulations Administrator shall:
 - a. Determine that the information is incomplete and inform the developer in writing of the deficiencies. The developer may submit an amended plan within thirty (30) days without payment of an additional fee, but, if more than thirty (30) days have elapsed, must thereafter initiate a new application and pay a new fee; or
 - b. Determine that the plan is complete and proceed with the following procedures.
3. The Development Regulations Administrator shall place the proposal on the agenda of the next meeting of the Planning Commission that allows the giving of required notice.
4. Notice of Preliminary Plan Review shall be mailed by the Development Regulations Administrator to the developer and all persons who, according to the most recent tax rolls, own property adjoining within four hundred (400) feet of the property proposed for development. The notice shall be mailed at least fifteen (15) days before the scheduled review by the Planning Commission. The expense of this mailing shall be borne by the developer.
5. A copy of the Preliminary Plan and notice of the time and date of the Preliminary Plan Review shall be delivered to each member of the Technical Review Committee. Technical Review Committee members shall review the proposal and submit comments, if any, in writing to the Planning Commission.
6. The Planning Commission shall conduct an administrative hearing on the Preliminary Development Plan to determine whether the plan satisfies the requirements of these Regulations.
7. The Planning Commission shall consider:

- a. Characteristics of the site and surrounding area, including important natural and man-made features, the size and accessibility of the site, and surrounding land uses.
 - b. Whether the concurrency requirements of Article IV of these Regulations could be met if the development were built.
 - c. The nature of the proposed development, including land use types and densities; the placement of proposed buildings and other improvements on the site; the location, type and method of maintenance of open space and public use areas; the preservation of natural features; proposed parking areas; internal traffic circulation system; the approximate total ground coverage of paved areas and structures; and types of water and sewage treatment systems.
 - d. Consistency of the proposed development with the Comprehensive Plan.
 - e. Conformity of the proposed development with these Regulations and other applicable regulations.
 - f. Applicable regulations, review procedures, and submission requirements.
 - g. Concerns and desires of surrounding landowners and other affected persons.
 - h. Other applicable factors and criteria prescribed by the Comprehensive Plan, these Regulations, or other law.
8. Upon completion of its review, the Planning Commission shall forward a recommendation to the Town Council either to:
- a. Approve the Preliminary Development Plan;
 - b. Approve the Preliminary Development Plan with modifications; or
 - c. Deny the Preliminary Development Plan based on its determination that the proposed development, even with reasonable modifications, cannot meet the requirements of these Regulations.
9. The Development Regulations Administrator shall place the proposal on the agenda of the next meeting of the Town Council that allows the Council reasonable time to review the Preliminary Development Plan and the Planning Commission's recommendation.
10. Upon completion of its review, the Town Council shall either:
- a. Issue a Preliminary Development Order complying with Section 3.5.8 below; or
 - b. Refuse to issue a Preliminary Development Order based on its determination that the proposed development, even with reasonable modifications, cannot meet the requirements of these Regulations.

B. Review of Final Development Plans

1. The developer shall submit a Final Development Plan for review within six (6) months after issuance of a Preliminary Development Order. If this deadline is not met, the Preliminary Development Order shall expire.
2. Within five (5) working days of receipt of a Final Development Plan, the Development Regulations Administrator shall:
 - a. Determine that the information is incomplete and inform the developer in writing of the deficiencies. The developer may submit an amended plan within thirty (30) days without payment of an additional fee, but, if more than thirty (30) days have elapsed, must thereafter initiate a new application and pay a new fee; or

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- b. Determine that the plan is complete and proceed with the following procedures.
3. The Development Regulations Administrator shall place the proposal on the agenda of the next meeting of the Planning Commission that allows the giving of required notice.
4. Notice of Final Plan Review shall be mailed by the Development Regulations Administrator to the developer and all persons who, according to the most recent tax rolls, own property adjoining within four hundred (400) feet of the property proposed for development. The notice shall be mailed at least fifteen (15) days before the scheduled review by the Planning Commission. The expense of this mailing shall be borne by the developer.
5. A copy of the Final Plan and notice of the time and date of the Final Plan Review shall be delivered to each member of the Technical Review Committee. Technical Review Committee members shall review the proposal and submit comments, if any, in writing to the Planning Commission.
6. The Planning Commission shall conduct an administrative hearing on the Final Development Plan to determine whether the plan satisfies the requirements of these Regulations.
7. The Planning Commission shall consider:
 - a. Characteristics of the site and surrounding area, including important natural and man-made features, the size and accessibility of the site, and surrounding land uses.
 - b. Whether the concurrency requirements of Article IV of these Regulations could be met if the development were built.
 - c. The nature of the proposed development, including land use types and densities; the placement of proposed buildings and other improvements on the site; the location, type and method of maintenance of open space and public use areas; the preservation of natural features; proposed parking areas; internal traffic circulation system; the approximate total ground coverage of paved areas and structures; and types of water and sewage treatment systems.
 - d. Consistency of the proposed development with the Comprehensive Plan.
 - e. Conformity of the proposed development with these Regulations and other applicable regulations.
 - f. Applicable regulations, review procedures, and submission requirements.
 - g. Concerns and desires of surrounding landowners and other affected persons.
 - h. Other applicable factors and criteria prescribed by the Comprehensive Plan, these Regulations, or other law.
8. Upon completion of its review, the Planning Commission shall forward a recommendation to the Town Council either to:
 - a. Approve the Final Development Plan;
 - b. Approve the Final Development Plan with modifications; or
 - c. Deny the Final Development Plan based on its determination that the proposed development, even with reasonable modifications, cannot meet the requirements of these Regulations.
9. The Development Regulations Administrator shall place the proposal on the agenda of the next meeting of the Town Council that allows the Council reasonable time to review the Final Development Plan and the Planning Commission's recommendation.

10. Upon completion of its review, the Town Council shall either:
 - a. Issue a Final Development Order complying with Section 3.5.9 below; or
 - b. Refuse to issue a Final Development Order based on its determination that the Development fails to comply with the conditions imposed by the Preliminary Development Order.

3.4.6 Review of Subdivision Plats

A. Generally

When a proposed Minor or Major Development includes the subdivision of land, approval of the Final Development Order by the Town Council shall be made contingent upon approval by the Town Council of a record plat conforming to the Final Development Order.

B. Application for Approval of a Record Plat

After receiving a "plat-contingent" approval of a Final Development Order, the developer shall submit completed plat review application and a plat to the Development Regulations Administrator. Alternately, the developer may submit an application for plat approval at any point in the development review process.

C. Review by Town Engineer and Town Attorney.

Upon receipt of a complete application for Final Plat approval, the Development Regulations Administrator shall forward copies of the application to the Town Engineer and the Town Attorney. The Town Engineer shall be responsible for assuring conformance of the Final Plat with the Final Development Order. He shall also certify that the required improvements have been completed in accordance with the Final Development Order.

The Town Attorney shall certify that all necessary certificates have been properly executed, and that deed restrictions or protective covenants, if any, are sufficient to achieve the intended purpose. He shall also comment on the sufficiency of the improvements warranty and on the sufficiency of the performance bond when such bond has been provided.

D. Town Council Approval.

The Town Council shall review and take action on the Record Plat after its approval by the Town Engineer and Town Attorney. If the Final Plat meets all requirements of these Regulations and is in accordance with the Final Development Order, the Town Council shall approve the Final Plat and indicate its approval by the signature of the Mayor and Town Clerk.

E. Recording of Approved Plat

Upon approval by the Town Council of the Final Plat, the Town Clerk shall file said plat with the Clerk of the Circuit Court for recording in the Public Records of Volusia County. The subdivider shall pay all recording fees.

3.4.7 Project Phasing

A Master Plan for the entire development site must be approved for a Major Development that is to be developed in phases. The Master Plan shall be submitted simultaneously with an application for review of the Preliminary Development Plan for the first phase of the development and must be approved as a condition of approval of the Preliminary Plan for the first phase. A Preliminary and Final Development Plan must be approved for each phase of the development under the procedures for development review prescribed above.

3.4.8 Required and Optional Contents of Preliminary Development Orders

A. Required Contents

A Preliminary Development Order shall contain the following:

1. An approved Preliminary Development Plan (may be subject to conditions and modifications) with findings and conclusions.
2. A listing of conditions that must be met, and modifications to the Preliminary Development Plan that must be made, in order for a Final Development Order to be issued. The modifications shall be described in sufficient detail and exactness to permit a developer to amend the proposal accordingly.
3. A listing of federal, state, and regional permits that must be obtained in order for a Final Development Order to be issued.
4. with regard to the concurrency management requirements in Article IV:
 - a. The initial determination of concurrency.
 - b. The time period for which the Preliminary Development Order is valid. This initial determination indicates that capacity is expected to be available for the proposed project, provided that a complete application for a Final Development Order is submitted prior to the expiration date of the Preliminary Development Order.
 - c. Notice that the Preliminary Development Order does not constitute a Final Development Order and that one or more concurrency determinations may subsequently be required. The notice may include a provisional listing of facilities for which commitments may be required prior to the issuance of a Final Development Order.
 - d. Notice that issuance of a Preliminary Development Order is not binding with regard to decisions to approve or deny a Final Development Order, and that it does not constitute a binding commitment for capacity of a facility or service.

B. Optional Contents

A Preliminary Development Order may include one or more of the following as conditions of approval:

1. Agreement by the Developer in a recordable written instrument running with the land that no Final Development Order will be requested or approved unless the necessary facilities are programmed for construction within specified time periods.
2. Commitment by the Developer in a recordable written instrument to contract for provision of the necessary services or facilities to achieve the concurrency requirement.
3. Schedule of construction phasing of the proposed development consistent with the anticipated availability of one or more services or facilities.
4. Such other conditions as may be required by the Planning Commission to ensure that concurrency will be met for all applicable facilities and services.

3.4.9 Required and Optional Contents of Final Development Orders

A. Required Contents

A Final Development Order shall contain the following:

1. A determination that, where one was required, a valid Preliminary Development Order exists for the requested development.
2. An approved Final Development Plan with findings and conclusions.
3. A determination that all conditions of the Preliminary Development Order have been met.
4. If modifications must be made to the development plan before a Final Development Order may be issued, a listing of those modifications and the time limit for submitting a modified plan.
5. A specific time period during which the development order is valid and during which time development shall commence. A Final Development Order shall remain valid only if development commences and continues in good faith according to the terms and conditions of approval.
6. A bond in the amount of one hundred ten percent (110%) of the cost of services or facilities that the applicant is required to construct, contract for construction, or otherwise provide.
7. A commitment by the Town to the following:
 - a. The necessary facilities shall not be deferred or deleted from the Capital Improvements Element or the adopted one-year capital budget unless the subject Final Development Order expires or is rescinded prior to the issuance of a certificate of occupancy.
 - b. Contracts shall provide that construction of necessary facilities must proceed to completion with no unreasonable delay or interruption.

B. Optional Contents

A Final Development Order may contain:

1. A schedule of construction phasing consistent with availability of capacity of one or more services and facilities.
2. A schedule of services or facilities to be provided or contracted for construction by the applicant prior to the issuance of any certificate of occupancy or within specified time periods.
3. Any alternate service or facilities impact mitigation measures to which the applicant has committed in a recordable written instrument.
4. Such other conditions as may be required to ensure compliance with the concurrency requirement.

3.4.10 Expiration of Preliminary and Final Development Orders

A. Any one of the following conditions shall cause a Preliminary Development Order to expire:

1. The developer has not submitted an application for Final Development Plan Review within one (1) year of the date of issuance of the Preliminary Development Order.
2. The developer had submitted an application for Final Plan Review within one (1) year of the date of issuance of the Preliminary Development Order, but voluntarily withdraws the application for Final Development Plan Review more than one (1) year after the date of issuance of a Preliminary Development Order.

B. If the developer had submitted an application for Final Plan Review within one (1) year of the date of issuance of the Preliminary Development Order, and the Town refused to issue a Final Development Order based on its determination that the Development failed to comply with the conditions imposed by

the Preliminary Development Order, the developer shall be given an additional six (6) month period in which to submit a revised application for Final Plan Review. Such additional six (6) month period shall begin on the date of the Town's refusal to issue a Final Development Order.

C. If the "actual start of construction" has not occurred within one (1) year from the date of issuance of the Final Development Order, such Final Development Order shall expire. Upon written application, the Town Council may grant one or more six (6) month extensions for good cause.

SECTION 3.5 SUBMITTAL REQUIREMENTS

3.5.1 Concept Development Plan Submittal Requirements

When a developer is applying for Concept Plan Review pursuant to Section 3.5.3, he shall submit to the Development Regulations Administrator ten (10) copies of the Concept Plan and all accompanying exhibits. All materials shall be clearly labeled "Concept Development Plan". No particular information or exhibits are required to be included; however, the better able the developer is to convey his proposal to the Town, the more informative will be the Town's reaction to the proposal.

3.5.2 Preliminary Development Plan Submittal Requirements

When a developer is applying for Preliminary Development Plan Review pursuant to Section 3.5.5, A., he shall submit to the Development Regulations Administrator ten (10) copies of the Preliminary Development Plan and all required exhibits. All materials shall be clearly labeled "Preliminary Development Plan". The Preliminary Development Plan shall be drawn at a scale not less than 1"=200'; and shall show graphically or by notes:

- A. Vicinity map at a scale no smaller than 1"=2000'.
- B. Total acreage.
- C. If applicable, the area of the 100-year flood and base flood elevation as determined by the Federal Emergency Management Agency.
- D. Water bodies or courses.
- E. Wetland areas.
- F. Approximate location and extent of the general soil types and their limitations for the proposed use of the property.
- G. Approximate locations and extent of the predominant plant communities.
- H. Tentative layout of street system, driveways, off-street parking areas, lot patterns, and areas reserved for recreation and/or conservation.
- I. Schematic plans for water, sewer, drainage systems, and private utilities.
- J. Approximate locations of adjacent streets, utilities, land uses, and other improvements which may have bearing on development of the subject property.
- K. Existing zoning.
- L. Legal description.
- M. Any other appropriate information thought necessary by the applicant to make a conceptual presentation.

3.5.3 Final Development Plan Submittal Requirements

When a developer is applying for Final Development Plan Review pursuant to Section 3.5.5, B., he shall submit to the Development Regulations Administrator ten (10) copies of a Final Development Plan and

all required exhibits. The following information shall be provided:

A. General Information

1. Name of development; names, addresses and telephone numbers of the developer, designer, professional engineer and registered surveyor.
2. Date of survey and plan preparation; north point and graphic scale.
3. Surveyor's certificate of accuracy.
4. Total acreage in tract, acreage in public or other land usage, total number of lots (if applicable), linear feet in streets.
5. Names and location of adjoining subdivisions and streets and the names of abutting property owners.
6. Existing zoning classification of the tract.
7. A vicinity map drawn at a scale of 1"=400', or such other scale deemed appropriate by the Town Engineer.
8. Other supplemental materials or any deed restrictions or protective covenants proposed for the development and any other information considered by either the developer or the Town Engineer to be pertinent to the review of the development.

B. Existing Site Data

1. Town limit lines (if applicable), property lines, rights-of-way, easements, streets, electrical utility lines, telephone utility lines and cable television lines, storm sewers, ditches and culverts, sanitary sewers, lift stations, water mains, fire hydrants, bridges and buildings.
2. Boundary survey of the tract to be developed with all bearings and distances indicated.
3. Water courses, ponds, wetland areas, and the jurisdictional boundary lines of the Florida Department of Environmental Regulation.
4. Areas of the 100-year flood and base flood elevations as determined by the Federal Emergency Management Agency.
5. Topographic survey of the site at one (1) foot vertical contour intervals based on mean sea level data furnished by a registered surveyor.
6. Specific soil types and their limitations for the planned use. Volusia County Soils Survey should be used. Borings may be required.
7. Exact sizes and locations on the lot of existing buildings and other structures.

C. Proposed Site Data

1. Street rights-of-way, driveways, off-street parking areas, pavement widths, grades and street names, street profiles, cross sections and sidewalks.
2. Other rights-of-way or easements including locations, dimensions and purposes.
3. Plans for sanitary sewers, storm sewers, water lines, telephone lines and cable television lines showing connections to existing systems. Storm and sanitary sewer profiles and cross sections shall also be provided.
4. Contour changes, dikes or any created water bodies or changed water courses.
5. Bulkheads and bridges, if any. Engineering plans and cross-sections shall be provided.

6. Lot layouts showing dimensions, lot and block numbers.
7. Parks, school sites and other public areas, if any.
8. Areas to be used for purposes other than residential and public, if any, indicating the purposes, location and dimensions of each.
9. Exact sizes and locations on the lot of any proposed buildings or other structures.

3.5.4 Record Subdivision Plat Submittal Requirements

When a subdivision plat is required pursuant to Section 3.4.6, the developer shall submit two (2) reproducible copies and two (2) prints of such plat, conforming to the Final Development Plan and the requirements of Chapter 177, Florida Statutes. In addition to any information required by Chapter 177, the plat shall include the following information:

1. Name of subdivision which was approved with the Preliminary Plan.
2. North arrow with graphic scale.
3. Names and locations of adjoining subdivisions and streets.
4. Subdivision boundary survey, lot lines, right-of-way lines, boundaries of all out-parcels, easement lines and boundaries of areas to be dedicated to public use, including linear dimensions, bearings or deflection angles, radii, arcs and central angles. (All dimensions shall be measured to the nearest one one-hundredth (1/100) of a foot and all angles to the nearest second.)
5. Accurate location and legal description of all monuments, markers and control points.
6. Lot and block numbers and street names.
7. Description of intended use for all easements.
8. Signed certificates as provided in Appendix A.
9. An improvements warranty in a form acceptable to the Town Attorney in an amount equal to ten percent (10%) of the cost of the subdivision improvements.
10. Any additional information required by Chapter 177, Florida Statutes, as amended.

SECTION 3.6 APPLICATION REVIEW FEES

3.6.1 Fees Required

Any applications for development review filed in the Town of Pierson pursuant to the requirements of these Regulations, including but not limited to subdivision of land, site plan review, rezoning, special exception, street vacation and other submittals for review and/or approval by the Planning Commission or the Town Council shall be accompanied by the fee established by Resolution of the Town Council before such application will be considered for further review.

3.6.2 Determination of Fees

The fees for review of development plans including subdivisions, site plans, rezonings, vacation, special exceptions, amendments to any subdivisions or site plans, re-submittals for any subdivisions or site plans shall be established by Resolution of the Town Council.

3.6.3 Engineering Inspection Fees

Prior to commencement of construction on a subdivision or other approved development plan requiring public improvements, a fee shall be paid to the Town for the cost of the Town Engineer's inspection of the public improvements. The engineering inspection fee shall equal the product of 0.0125 times the

Engineer's estimated cost of the public improvements. The minimum fee shall be two hundred fifty dollars (\$250.00).