



Title - TO2464 - Amending Chapter 10

An Ordinance of the City Commission of the City of Tamarac, Florida, amending Chapter 10 of the City's Code of Ordinances, entitled "Land Development Code" by designating the City Commission as the final decision maker on land use matters, including special exceptions, major site plans, and variances by amending Article IV "Development and Design Standards," Section 10-4.3 "Off-Street Parking and Loading" and Section 10-4.10 "Signs"; by amending Article V, "Administration," Section 10-5.2 "Summary Table of Development Review Procedures," by amending Table 10-5.1 "Summary of Development Review Procedures," Amending Section 10-5.3 "Common Review Procedures," by amending Table 10-5.2 "General Notice Requirements," Amending Section 10-5.3 "Specific Review Procedures," and amending Section 10-5.4 "Application – Specific Review Procedures"; providing for codification; providing for conflicts; providing for severability; and providing for an effective date.

ATTACHMENTS:

Description	Upload Date	Type
TO2464 - Amending Chapter 10 Memo	4/22/2021	Cover Memo
TO2464- Amending Chapter 10	5/5/2021	Ordinance

**CITY OF TAMARAC
INTEROFFICE MEMORANDUM
CITY ATTORNEY'S OFFICE**

TO: Mayor and City Commission

DATE: April 28, 2021

**FROM: Hans Ottinot
City Attorney**

**RE: TO # 2464 An Ordinance
designating the City
Commission as the final
decision maker in land use
matters**

RECOMMENDATION:

Adopt an ordinance designating the City Commission as the final decision-making authority in land use matters.

ISSUE:

Whether the City should amend the Land Development Code to designate the City Commission as the final decision maker in land use matters.

BACKGROUND:

I. Before July 2018

Before the City Commission adopted a comprehensive new Land Development Code, the Land Development Code consisted of eight chapters scattered throughout the City's Code of Ordinances (Chapter 5, Buildings and Building Regulations; Chapter 8, Flood Prevention and Protection; Chapter 10, Land Development Regulations; Chapter 11, Landscaping; Chapter 18, Signs and Advertising; Chapter 20, Streets and Sidewalks; Chapter 21, Subdivisions; and Chapter 24, Zoning). Under this pre-2018 Code, the City Commission was given final decision-making authority as it related to approval of major site plans (§ 10-2). However, it could only overrule a disapproval of a special exception decision or make changes to conditions by the planning board with a 4/5 vote (§ 24-552). Finally, as it related to zoning variances, the City Commission had no authority to review same. Only the planning board reviewed, approved or disapproved variances which could be appealed directly to circuit court (§ 24-64).

II. After 2018 Code Revisions

The current Land Development Code, adopted in July 2018, consolidated the eight code sections listed above. The adoption occurred after more than a year of meetings with the public, Planning Board and City Commission. The rationale for consolidating and updating the code was that it had not been revised comprehensively since 1975. The code made sweeping

changes, including allowing the Planning Board to become the final decision maker on many issues, including major site plans, special exceptions, and variances. In other words, this new ordinance expanded the role of the Planning Board. Specifically, as it relates to site plans and special exceptions, once the Planning Board makes a determination on an application, it is final unless the City Commission specifically “calls up” an application for review. “Calling up” requires that if the City Commission wishes to hear an application, it must specifically “adopt a motion to set a hearing to review the application” and it must consider relevant factors in making the decision to review the application. The request must initially come from a commissioner within 15 days of the decision of the Planning Board, and the motion to hear the application must be approved by a majority of the City Commission members. Only then can the City Commission hear an application and make a final determination.

III. Proposed Ordinance

The City Commission has had opportunities to put these new changes into action and has found the procedure burdensome and not in the best interests of the City. Therefore, it requested an ordinance be prepared which makes the City Commission the final decision maker in land use matters. Below is an overview of the changes for your review and consideration.

- A. **Major Site Plans:** A major site plan is (1) a new development or the expansion of an existing development where 15 or more new dwelling units will be erected or added, (2) a new development or the expansion of an existing development where 15,000 or more square feet of new or added cleared land, (3) a development where there will be more than 10,000 square feet of new or added non-residential uses, or (4) a plan where there will be 30 or more new or added vehicle parking spaces.

The current code gives the Planning Board the final decision-making responsibility to determine whether an applicant meets the requirements for a major site plan approval. Again, the City Commission can only review such determinations if a commissioner “calls up” the application in a timely manner and the commission votes to hear the application.

The proposed ordinance changes this structure and makes the Planning Board a reviewing authority with the City Commission acting as the ultimate and final decision maker on **all** major site plan applications.

- B. **Special Exceptions:** The current code gives the Planning Board the final decision-making responsibility to determine whether an applicant meets the stringent requirements for a special exception, which allows an applicant to have a use in an otherwise incompatible location. As stated previously, the City Commission can only review such determinations if a commissioner “calls up” the application in a timely manner and the commission votes to hear the application.

The proposed ordinance changes this structure and makes the Planning Board a reviewing authority with the City Commission as the ultimate and final decision maker on special exception applications.

Variances: A variance allows certain deviations from standards of the City’s code when the landowner demonstrates that, owing to special circumstances or conditions beyond the landowner’s control, the literal application of the standards would result in undue and

unique hardship to the landowner and the deviation would not be contrary to the public interest. The current code gives the Planning Board the final decision-making responsibility to determine whether an applicant meets the very stringent requirements for a variance. If the applicant is dissatisfied with the determination, the applicant could appeal to the City Commission.

Under the proposed ordinance, the Planning Board would make a recommendation to the City Commission, and the City Commission would then make the final decision of whether the code requirements have been met. Appeals from the City Commission's decision would then be handled in circuit court.

- C. **Off-Street Parking Alternatives:** Currently, the Planning Board makes the final determination as to whether it will accept an in lieu of fee from a developer instead of requiring parking in non-residential areas. The proposed ordinance changes the structure and makes the City Commission the final decision maker on whether a payment will be accepted.
- D. **Signs:** As it relates to comprehensive sign plans, the Planning Board currently has the discretion to review variations from the general requirements that are above ten (10) percent. In the proposed ordinance, the Planning Board has a right to review the request but the City Commission is the final decision maker on determining an appropriate variation amount.

The proposed ordinance was preliminarily discussed at the April 14, 2021 Commission Meeting and staff was instructed to bring it back for consideration on first reading. Also, at that meeting, the City Commission considered additional information in a second memorandum discussing the City's Charter provision relating to planning and zoning (section 12.05). As discussed the City Attorney's Office will be following up on the issue to determine if further changes in the LDRs are required.

FISCAL IMPACT:

No direct budgetary Impact

ATTACHMENT(S)

Proposed Ordinance

ORDINANCE NO. 0-2021-

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF TAMARAC, FLORIDA, AMENDING CHAPTER 10 OF THE CITY'S CODE OF ORDINANCES, ENTITLED "LAND DEVELOPMENT CODE" BY DESIGNATING THE CITY COMMISSION AS THE FINAL DECISION MAKER ON LAND USE MATTERS, INCLUDING SPECIAL EXCEPTIONS, MAJOR SITE PLANS, AND VARIANCES BY AMENDING ARTICLE IV "DEVELOPMENT AND DESIGN STANDARDS," SECTION 10-4.3 "OFF STREET PARKING AND LOADING" AND SECTION 10-4.10 "SIGNS"; BY AMENDING ARTICLE V, "ADMINISTRATION," SECTION 10-5.2 "SUMMARY TABLE OF DEVELOPMENT REVIEW PROCEDURES," BY AMENDING TABLE 10-5.1 "SUMMARY OF DEVELOPMENT REVIEW PROCEDURES," AMENDING SECTION 10-5.3 "COMMON REVIEW PROCEDURES," BY AMENDING TABLE 10-5.2 "GENERAL NOTICE REQUIREMENTS," AMENDING SECTION 10-5.3 "SPECIFIC REVIEW PROCEDURES," AND AMENDING SECTION 10-5.4 "APPLICATION - SPECIFIC REVIEW PROCEDURES"; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, as provided in Section 2(b), Article VIII of the Constitution of the State of Florida, and Section 166.021(1), Florida Statutes, the City of Tamarac (the "City"), a municipal corporation, enjoys all governmental, corporate, and proprietary powers necessary to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except as expressly prohibited by law; and

WHEREAS, as provided in Section 166.021(3), Florida Statutes, the governing body of each municipality in the state has the power to enact legislation concerning any subject matter upon which the state legislature may act, except when expressly prohibited by law; and

WHEREAS, in 2018, the City repealed its Land Development Code and adopted a new Land Development Code which, among other things, made the Planning Board the final decision maker on certain matters where it was a recommending board previously; and

WHEREAS, the City Commission wishes to amend the Land Development Code adopted in 2018 to provide that where the Planning Board was previously

the final decision maker on land use matters, including special exceptions, major site plans, and variances, the City Commission is now the final decision maker.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF TAMARAC, FLORIDA, THAT:

Section 1: The foregoing WHEREAS clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Ordinance upon adoption hereof.

Section 2: The City Commission of the City of Tamarac hereby amends Chapter 10 of the City's Code of Ordinances, "Land Development Code, " by amending Article IV "Development and Design Standards," Section 10-4.3 "Off-Street Parking and Loading" as follows:

ARTICLE IV. – DEVELOPMENT AND DESIGN STANDARDS

...

10-4.3 – Off Street Parking and Loading

...

(F) **Off-Street Alternatives.** The Director may approve alternatives to providing the number of off-street parking spaces required by this Code in accordance with the following standards.

...

- (5) **Payment of Fee in Lieu of Providing Required Parking.** In non-residential zoning districts, an alternative fee payment may be considered in lieu of meeting minimum parking space requirements in conjunction with a Variance application in accordance with the standards below.
 - (a) The Planning Board may review, and the City Commission may authorize applicable off-street parking requirements for a nonresidential use to be satisfied, in whole or in part, by the applicant's payment of a proportionate share in lieu fee established by the City Commission that is consistent with, but does not exceed, costs the City will incur to provide the equivalent number of public parking spaces that can serve the use.

- (b) A request to pay an in lieu fee shall be submitted in writing to the Director, who shall forward it to the Planning Board for review. The Planning Board ~~may~~ shall make a recommendation to the City Commission to approve or deny such a request on determining after considering whether that:
 - (i) Due to the availability of transit or unique characteristics of the use or area, the unavailability of the off-street parking spaces for which the fee is made as part of the development will not result in traffic congestion and will be compatible with the character of surrounding properties, and
 - (ii) Sufficient public parking exists or is budgeted and scheduled within 1,320 feet of the development to satisfy the parking demand it generates.

The City Commission shall make a final determination on the application.

- (c) If an applicant requests to pay an in lieu fee for a number of parking spaces exceeding 25 spaces or 50 percent of the minimum number of off-street parking spaces required by this Section, the request shall be accompanied by a traffic study prepared by a licensed professional engineer or traffic consultant showing that the unavailability of the off-street parking spaces as part of the development will not result in traffic congestion or spillover into surrounding properties or neighborhoods.

...

Section 3: The City Commission of the City of Tamarac hereby amends Chapter 10 of the City's Code of Ordinances, "Land Development Code, " by amending Article IV "Development and Design Standards," Section 10-4.10 "Signs" as follows:

ARTICLE IV. – DEVELOPMENT AND DESIGN STANDARDS

...

10-4.10 – Signs

...

(C) **Comprehensive Sign Plan (CSP)**

- (1) A multi-tenant commercial and/or mixed-use developments may submit a Comprehensive Sign Plan that establishes a coordinated approach to site signage. Comprehensive Sign Plans shall provide specifications regarding sign:
 - (a) Type;
 - (b) Materials;
 - (c) Illumination;
 - (d) Colors
 - (e) Dimensions; and
 - (f) Location

- (2) Developments utilizing a CSP may propose variations from City signage standards that address sign size and the number of signs allowed. Variations of up to 10 percent from the general requirement may be approved administratively. Variations above 10 percent must be ~~approved~~ reviewed by the Planning Board and approved by the City Commission.

Section 4: The City Commission of the City of Tamarac hereby amends Chapter 10 of the City's Code of Ordinances, "Land Development Code, " by amending Article V "Administration," **Section 10-5.2** "Summary Table of Development Review Procedures" by amending **Table 10-5.1 "Summary of Development Review Procedures"** as follows:

Table 10-Error! No text of specified style in document..1: Summary of Development Review Procedures						
C = Review and Comment R = Review and Recommend D = Review and Decide [] = Standard Public Hearing < > = Quasi-Judicial Public Hearing						
Application Type	Pre-Application Staff Conference	Pre-Application Neighborhood Meeting	Review Authorities			
			Development Review Committee	Director	Planning Board	City Commission
Amendments						

CODING: Words in type are deletions from the existing law; Words in underscore type are additions.

Table 10-Error! No text of specified style in document..1: Summary of Development Review Procedures							
C = Review and Comment R = Review and Recommend D = Review and Decide [] = Standard Public Hearing < > = Quasi-Judicial Public Hearing							
Application Type		Pre-Application Staff Conference	Pre-Application Neighborhood Meeting	Review Authorities			
				Development Review Committee	Director	Planning Board	City Commission
Comprehensive Plan Amendment - §Error! Reference source not found.	General	Required			R	[R]	[D]
	Site-Specific	Required	Required		R	<R>	<D>
Establishment of Use - §Error! Reference source not found.		Required			R	[R]	[D]
Amendment to Text of Development Code - §Error! Reference source not found.		Required			R	[R]	[D]
Planned Development Plan/Agreement - §Error! Reference source not found.		Required	Required		R	[R]	[D]
Rezoning - §Error! Reference source not found.	General	Required			R	[R]	[D]
	Site-Specific	Required	Required		R	<R>	<D>
Permits and Development Approvals							
Special Exception - §Error! Reference source not found.					R	<D> <R>	<D>
Site Plan Approval - §Error! Reference source not found.	Major	Required	Required	C	R	[D] <R>	<D>
	Minor	Optional			D		
Improvement Permit - §Error! Reference source not found.		Optional			D		
Plat - §Error! Reference source not found.		Required		C	R	<R>	<D>
Temporary Use/Structure Permit - §Error! Reference source not found.		Optional			D		
Sign Permit - §Error! Reference source not found.		Optional			D		
Tree Removal License - §Error! Reference source not found.		See Broward County Tree Preservation and Abuse Ordinance					
Building Permit - §Error! Reference source not found.		Optional			D		
Certificate of Occupancy - § Error! Reference source not found.		Optional			D		
Vacation of Easement		Optional					<D>
Relief Procedures							
Administrative Adjustment - §Error! Reference source not found.		Required			D		
Variance - §Error! Reference source not found.		Required			R	<D> <R>	<D>
Administrative Appeal - §Error! Reference source not found.		N/A				<D>	
Other Procedures							

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Table 10-Error! No text of specified style in document..1: Summary of Development Review Procedures						
C = Review and Comment R = Review and Recommend D = Review and Decide [] = Standard Public Hearing < > = Quasi-Judicial Public Hearing						
Application Type	Pre-Application Staff Conference	Pre-Application Neighborhood Meeting	Review Authorities			
			Development Review Committee	Director	Planning Board	City Commission
Flex and Redevelopment Units and Acreage - §Error! Reference source not found.	Required			R	[R]	[D]
Newsrack Certificate of Compliance - §Error! Reference source not found.	Optional			D		
Zoning in Progress Determination - §Error! Reference source not found.	Optional			R		D

Section 5: The City Commission of the City of Tamarac hereby amends Chapter 10 of the City's Code of Ordinances, "Land Development Code, " by amending Article V "Administration," **Section 10-5.3** "Common Review Procedures" by amending **Table 10-5.2 "General Notice Requirements"** as follows:

Table 10-5.2: General Notice Requirements

Application Type	Notice Timing Requirement		
	Published Notices	Mailed Notices	Posted Notices
Comprehensive Plan Amendment: Small-Scale Development	Notice of City Commission public hearing at least 5 days before hearing date		
Comprehensive Plan Amendment: Other than Small-Scale Development	<ul style="list-style-type: none"> • Notice of first City Commission public hearing at least 7 days before hearing date • Notice of second City Commission public hearing at least 5 days before hearing date 		
Establishment of Use	<ul style="list-style-type: none"> • Notice of first City Commission public hearing at least 7 days before hearing date 		

	<ul style="list-style-type: none"> • Notice of second City Commission public hearing at least 5 days before hearing date 		
Amendment to Text of Development Code to revise text other than the use tables in Article 3: Use Regulations	Notice of City Commission public hearing at least 10 days before hearing date		
Amendment to Text of Development Code to revise use tables in Article 3: Use Regulations	<ul style="list-style-type: none"> • Notice of first City Commission public hearing at least 7 days before hearing date • Notice of second City Commission public hearing at least 5 days before hearing date 		
Planned Development Plan/Agreement	<ul style="list-style-type: none"> • Notice of Planning Board public hearing at least 15 days before hearing date • Notice of City Commission public hearing at least 15 days before hearing date 	<ul style="list-style-type: none"> • The Director shall mail notice of the Planning Board public hearing at least 10 days before the hearing date to owners of property subject to the proposed PD rezoning • The Director shall mail notice of the City Commission public hearing at least 30 days before the hearing date to owners of property subject to the proposed PD rezoning 	<ul style="list-style-type: none"> • The Director shall post notice of the Planning Board public hearing on the site at least 15 days before the hearing date • The Director shall post notice of the City Commission public hearing on the site at least 15 days before the hearing date
City-initiated General or Site-Specific Rezoning to reclassify 10 or more contiguous acres	<ul style="list-style-type: none"> • Notice of Planning Board public hearing at least 15 days before hearing date • Notice of first City Commission public hearing at least 7 days before hearing date • Notice of second City Commission public hearing at least 5 days before hearing date 	<ul style="list-style-type: none"> • Mail notice of Planning Board public hearing at least 10 days before hearing date to owners of property subject to the proposed rezoning • Mail notice of City Commission public hearing at least 10 days before hearing date to owners of property subject to the proposed rezoning 	<ul style="list-style-type: none"> • Post notice of Planning Board public hearing on site at least 15 days before hearing date • Post notice of first City Commission public hearing on site at least 15 calendar days before hearing date
City-initiated General or Site-Specific	<ul style="list-style-type: none"> • Notice of Planning Board public hearing at 	<ul style="list-style-type: none"> • The Director shall mail notice of the 	<ul style="list-style-type: none"> • The Director shall post notice of the

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<p>Rezoning to reclassify parcel(s) involving less than 10 contiguous acres</p>	<p>least 15 days before hearing date</p> <ul style="list-style-type: none"> • Notice of City Commission public hearing at least 15 days before hearing date 	<p>Planning Board public hearing at least 10 days before the hearing date to owners of property subject to the proposed rezoning</p> <ul style="list-style-type: none"> • The Director shall mail notice of the City Commission public hearing at least 30 days before the hearing date to owners of property subject to the proposed rezoning 	<p>Planning Board public hearing on the site at least 15 days before the hearing date</p> <ul style="list-style-type: none"> • The Director shall post notice of the City Commission public hearing on the site at least 15 days before the hearing date
<p>General or Site-Specific Rezoning initiated by any person other than the City</p>	<ul style="list-style-type: none"> • Notice of Planning Board public hearing at least 15 days before hearing date • Notice of first City Commission public hearing at least 7 days before hearing date • Notice of second City Commission public hearing at least 5 days before hearing date 	<p>The applicant shall mail notice of the Planning Board and City Commission public hearings at least 15 days before the hearing dates to the owners of the application site and all properties within 400 feet of the application site</p>	<ul style="list-style-type: none"> • The applicant shall post notice of the Planning Board public hearing on the site at least 15 days before the hearing date • The applicant shall post notice of the City Commission public hearing on the site at least 15 days before the hearing date
<p>Special Exception</p>	<ul style="list-style-type: none"> • <u>Notice of Planning Board public hearing at least 15 days before hearing date</u> • <u>Notice of City Commission public hearing at least 15 days before hearing date</u> 	<p>The applicant shall mail notice of the Planning Board <u>and City Commission</u> public hearings at least 15 days before the hearing dates to the owners of the application site and all properties within 400 feet of the application site</p>	<ul style="list-style-type: none"> • <u>The applicant shall post notice of the Planning Board public hearing on the site at least 15 days before the hearing date</u> • <u>The applicant shall post notice of the City Commission public hearing on the site at least 15 days before the hearing date</u>
<p>Site Plan Approval, Major</p>	<ul style="list-style-type: none"> • <u>Notice of Planning Board public hearing at least 15 days before hearing date</u> • <u>Notice of City Commission public hearing at least 15 days before hearing date</u> 	<p>The applicant shall mail notice of the Planning Board <u>and City Commission</u> public hearings at least 15 days before the hearing dates to the owners of the application site and all properties within 400 feet of the application site</p>	<ul style="list-style-type: none"> • <u>The applicant shall post notice of the Planning Board public hearing on the site at least 15 days before the hearing date</u> • <u>The applicant shall post notice of the City Commission public hearing on the site at least 15 days before the hearing date</u>

Plat Approval	<ul style="list-style-type: none"> • Notice of Planning Board public hearing at least 7 days before hearing date • Notice of City Commission public hearing at least 5 days before hearing date 		
Vacation of Public Easement	<ul style="list-style-type: none"> • Notice of City Commission public hearing at least 15 days before hearing date 		
Variance or Appeal, <u>as applicable</u>	<ul style="list-style-type: none"> • <u>Notice of Planning Board public hearing at least 15 days before the hearing date</u> • <u>Notice of City Commission public hearing at least 15 days before hearing date</u> 	For applications for a variance or an appeal that pertains to a particular site, the applicant shall mail notice of the Planning Board <u>and City Commission</u> public hearings <u>on the site</u> at least 15 days before the hearing dates to the owners of the application site and all properties within 400 feet of the application site	For applications for a variance or an appeal that pertains to a particular site, the applicant shall post notice of the Planning Board <u>and City Commission</u> public hearings <u>on the site</u> at least 15 days before the hearing dates
Flex and Redevelopment Units			
	<ul style="list-style-type: none"> • Notice of first City Commission public hearing at least 7 days before hearing date • Notice of second City Commission public hearing at least 5 days before hearing date 		

Section 6: The City Commission of the City of Tamarac hereby amends Chapter 10 of the City's Code of Ordinances, "Land Development Code, " by amending Article V "Administration," **Section 10-5.3** "Common Review Procedures" as follows:

ARTICLE V. – ADMINISTRATION

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10-5.3 Common Review Procedures

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(G) Planning Board Review and Action

- (1) **Hearing, Review, and Action.** If a development application is subject to a recommendation ~~or a final decision~~ by the Planning Board (see Table 10-5.1: Summary of Development Review Procedures), the Planning Board shall review and act on the application in accordance with the following procedures.
 - (a) If the application is subject to a public hearing, the Planning Board shall hold a public hearing on the application in accordance with §10-5.3(l), *Public Hearing Procedures*.
 - (b) The Planning Board shall then consider the application, relevant support materials, staff memorandum, and any public comments made at the public hearing and ~~take one of the following actions:~~
 - (i) ~~If the application is subject to a recommendation by the Planning Board, the Board shall recommend a decision authorized for the type of development application, based on the review standards applicable to the application type set forth in §10-5.4, *Application—Specific Review Procedures*.~~
 - (ii) ~~If the application is subject to a final decision by the Planning Board, the Board shall render a decision authorized for the type of development application, based on the review standards applicable to the application type set forth in §10-5.4, *Application—Specific Review Procedures*.~~
 - (c) The Board shall clearly state the factors considered in making its recommendation ~~or decision~~, as well as the basis or rationale for the recommendation ~~or decision~~.
 - (d) If the review involves a quasi-judicial hearing, the Board's recommendation ~~or decision~~ shall be based only on the record of the public hearing and shall be in writing; include findings of fact based on competent, material, and substantial evidence presented at the hearing; reflect the determination of contested facts; and state how the findings support compliance with applicable review standards.

- (e) The Board shall take action as promptly as possible in consideration of the interests of the applicant, affected parties, and citizens of the City. ~~The Board will grant either a Board Order or a Resolution depending on the nature and type of development application.~~
- (f) Staff, in consultation with ~~The City Attorney,~~ shall prepare a final Board Order that is consistent with the Board's determination. ~~or Resolution that includes findings of facts, the final decision, and whether the Order or Resolution will be recorded, at the applicant's cost, by the Broward County Clerk and Recorder.~~

(2) **Revision of Application**

- (a) After the Planning Board has reviewed an application but has not yet taken action on it, the applicant may request an opportunity to revise the application. The Board may grant such a request on condition that revisions shall be limited changes that directly respond to specific requests or suggestions made by the staff or the Planning Board and shall constitute only minor additions, deletions, or corrections, and not significant substantive changes, to the development proposed by the application.
- (b) Any other revisions to the application may be submitted, but the revised application shall be submitted to the Director and reviewed as if it were a new application. The revised application is subject to additional application fees to defray the additional processing costs as identified in the Administrative Manual.

(H) **City Commission Review and Decision**

- (1) Hearing, Review, and Decision. If a development application is subject to a final decision by the City Commission (see Table 10-5.1: Summary of Development Review Procedures), the City Commission shall review and act on the application in accordance with the following procedures.

- (a) If the application is subject to a public hearing, the City Commission shall hold a public hearing on the application in accordance with §10-5.3(l), *Public Hearing Procedures*.
- (b) The City Commission shall then consider the application, relevant support materials, staff memorandum, the recommendation from the Planning Board (where applicable), and any comments made at a public hearing, and shall render a decision authorized for the type of development application, based on the review standards applicable to the application type, as set forth in §10-5.4, *Application—Specific Review Procedures*.
- (c) The City Commission shall clearly state the factors considered in making its decision, as well as the basis or rationale for the decision.
- (d) If the review involves a quasi-judicial hearing, the decision shall be based only on the record of the public hearing and shall be in written form, include findings of fact based on competent, material, and substantial evidence presented at the hearing(s), reflect the determination of contested facts, and state how the findings support compliance with applicable review standards.
- (e) The Commission shall take action as promptly as possible in consideration of the interests of the applicant, affected parties, and citizens of the City.

Section 7: The City Commission of the City of Tamarac hereby amends Chapter 10 of the City's Code of Ordinances, "Land Development Code, " by

amending Article V “Administration,” **Section 10-5.4** “Application – Specific Review Procedures” as follows:

ARTICLE V. – ADMINISTRATION

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10-5.4 Application – Specific Review Procedures

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(G) **Special Exception**

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(1) **Purpose.** The purpose of the Special Exception is to provide for individualized review of certain uses that—due to their nature, relationship to the Comprehensive Plan, and potential adverse impacts on surrounding areas—require special consideration of their location, design, and methods of operation, as well as the imposition of conditions to mitigate concerns, before they can be deemed appropriate in a zoning district and compatible with their surroundings.

(2) **Applicability**

(a) A Special Exception is required for any proposed development involving a Special Exception use as designated in the use tables in Article 10-4: *Use Regulations*, or for proposed development for which a Special Exception is required by any other provision of this Code.

(b) An application for a Special Exception may be submitted and reviewed concurrently with an application for Site Plan Approval (and any other application submitted and reviewed concurrently with the Site Plan Approval application, including an application for an Administrative Adjustment).

(3) **Procedure.** Table 10-5.1: and the following subsections identify those steps in the common review procedure (see §10-5.3) applicable to the review of Special Exception applications and note any specific variations of, or additions to, those review steps.

(a) **Application Submittal and Acceptance.** The application shall be submitted and accepted, and may be withdrawn, in accordance with §10-5.3(D), except that the application shall include a site plan if it is not submitted and reviewed concurrently with an application for Site Plan Approval. In addition to the materials required by the administrative manual, the following studies may be required at the Director's discretion: a natural resources survey or resource

management plan, a traffic study, conceptual engineering plans, parking study, architectural review and consultant fee, feasibility analysis, a phasing plan, and any other study the Director's deems appropriate.

- (b) **Staff Review and Action.** The Director shall review the application and prepare a staff memorandum and recommendation in accordance with §10-5.3(E).
- (c) **Scheduling and Public Notice of Meetings.** The application shall be scheduled, and required public notices provided, for Planning Board and City Commission hearings in accordance with §10-5.3(F).
- (d) **Planning Board Review and Action**
- (i) The Planning Board shall review the application, hold a quasi-judicial public hearing, and ~~decide the application~~ make a recommendation in accordance with §10-5.3(H)(G).
- (ii) The ~~decision~~ recommendation shall be one of the following:
- A. Recommend approval of ~~Approve~~ the application as submitted;
- B. Recommend approval of ~~Approve~~ the application subject to conditions; or
- C. Recommend denial of ~~Deny~~ the application; ;
- D. ~~Remand the application back to the Director for further consideration (This may require further public hearing notice and additional review fees.); or~~
- E. ~~Forward the application to the City Commission for further consideration.~~
- (e) **City Commission Request for Review and Decision**
- (i) The City Commission shall review the application, hold a quasi-judicial public hearing and decide the application in accordance with §10-5.3(H). ~~If an application for special exception is approved or denied through the Planning Board, the City Commission may adopt a motion to set a hearing to review the application if it is found that the new project is in an area that, due to characteristics of the project and the surrounding area, requires additional review in order to ensure that development standards and criteria have been met and to ensure that the area surrounding the development is protected from the impacts of the development. The process for request for Commission review may be initiated by a statement of intent filed by any member of the City Commission with the city clerk with a copy~~

~~to the department. Except as provided herein, the motion shall be considered within 15 days of the decision by the lower body. If no City Commission meeting is to be held within the timeframes provided herein, the motion shall be considered at the next regularly scheduled City Commission meeting.~~

(ii) The decision shall be one of the following:

A. Approve the application as submitted;

B. Approve the application subject to conditions;

C. Deny the application; or

D. Remand the application back to the Director and Planning Board for further consideration. (This may require further public hearing notice and additional review fees.)

~~The motion approving a Commission request for review shall set a date for consideration of the application no later than 60 days from the date the motion is adopted. Notice of the hearing shall be given to the public as directed in §10-5.3(F). Review by the City Commission shall be by de novo hearing supplemented by the record below and the same standards and criteria applicable to the special exception shall be applied. At the conclusion of the hearing, the City Commission shall take action either approving, approving with conditions, or denying the application.~~

(iii) The timeframes for setting a hearing provided herein may be extended by written request of the applicant.

...

(4) **Review Standards.** A Special Exception application shall be approved only if the ~~Planning Board~~ City Commission makes the following findings, based on competent substantial evidence in the record:

(a) The proposed development will be consistent with the Comprehensive Plan;

(b) The proposed development will comply with applicable zoning district, use, and development standards of this Code;

(c) The proposed development will be compatible with the existing natural environment and community character of the properties within the immediate neighborhood;

(d) The proposed development will be desirable for public convenience, and not injurious or otherwise detrimental to the public health, safety, comfort, and welfare;

- (e) The proposed development will minimize adverse effects, including noise, light, dust, or other potential nuisances, on adjacent properties to the greatest extent practicable;
- (f) The proposed development will include adequate provisions for safe and convenient vehicular and pedestrian traffic movement to, from, and through the site that minimizes traffic congestion in the public streets;
- (g) The site area is sufficient, appropriate, and adequate for the use and any reasonably anticipated expansion of the use;
- (h) The Special Exception shall only remain valid during the period of which the certificate of occupancy and business license remains active;
- (i) The Special Exception is transferable administratively pursuant to compliance with City Codes, submitting documentation and payment of fees only after the previous condition has been met; and
- (j) Any pre-existing code violations shall be satisfied before a certificate of occupancy is issued for the proposed use.

Section 8: The City Commission of the City of Tamarac hereby amends Chapter 10 of the City's Code of Ordinances, "Land Development Code, " by amending Article V "Administration," **Section 10-5.4** "Application – Specific Review Procedures" as follows:

ARTICLE V. – ADMINISTRATION

...

10-5.4 Application – Specific Review Procedures

...

(H) **Site Plan Approval**

...

- (3) **Major Site Plan Approval Procedure.** Table 10-5.1: and the following subsections identify those steps in the common review procedure (see §10-5.3) applicable to the review of Major Site Plan Approval applications and note any specific variations of, or additions to, those review steps.

- (a) **Pre-Application Staff Conference.** The applicant shall hold a pre-application conference with City staff in accordance with §10-5.3(B).
- (b) **Pre-Application Neighborhood Meeting.** The applicant shall hold a pre-application neighborhood meeting in accordance with §10-5.3(C).
- (c) **Application Submittal and Acceptance.** The application shall be submitted and accepted, and may be withdrawn, in accordance with §10-5.3(D), except that the application shall include a site plan. In addition to the materials required by the administrative manual, the following studies may be required at the Director's discretion: a natural resources survey or resource management plan, a traffic study, conceptual engineering plans, parking study, architectural review and consultant fee, feasibility analysis, a phasing plan, and any other study the Director's deems appropriate.
- (d) **Staff Review and Action.** The Director shall review the application and prepare a staff memorandum and recommendation in accordance with §10-5.3(E).
- (e) **Planning Board Review and Action**
 - (i) The Planning Board shall review the application, hold a quasi-judicial public hearing, and ~~decide the application~~ make a recommendation in accordance with §10-5.3(H)(G).
 - (ii) The ~~decision~~ recommendation shall be one of the following:
 - A. Recommend approval of ~~Approve~~ the application as submitted;
 - B. Recommend approval of ~~Approve~~ the application subject to conditions; or
 - C. Recommend denial of ~~Deny~~ the application; or
 - D. ~~Remand the application back to the Director for further consideration (This may require further public hearing notice and additional review fees.); or~~
 - E. ~~Forward the application to the City Commission for further consideration.~~
 - (iii) ~~The Planning Board shall, at its discretion, review and recommend that a Major Site Plan Approval be heard by the City Commission.~~

(f) **City Commission Request for Review and Decision**

- (i) The City Commission shall review the application, hold a quasi-judicial public hearing and decide the application in accordance with §10-5.3(H).

~~If an application for major site plan is approved or denied through the Planning Board, the City Commission may adopt a motion to set a hearing to review the application if it is found that the new project is in an area that, due to characteristics of the project and the surrounding area, requires additional review in order to ensure that development standards and criteria have been met and to ensure that the area surrounding the development is protected from the impacts of the development. The process for request for Commission review may be initiated by a statement of intent filed by any member of the City Commission with the city clerk with a copy to the department. Except as provided herein, the motion shall be considered within 15 days of the decision by the lower body. If no City Commission meeting is to be held within the timeframes provided herein, the motion shall be considered at the next regularly scheduled City Commission meeting.~~

- (ii) The decision shall be one of the following:
- A. Approve the application as submitted;
 - B. Approve the application subject to conditions;
 - C. Deny the application; or
 - D. Remand the application back to the Director and Planning Board for further consideration. (This may require further public hearing notice and additional review fees.)

~~The motion approving a Commission request for review shall set a date for consideration of the application no later than 60 days from the date the motion is adopted. Notice of the hearing shall be given to the public as directed in §10-5.3(F), *Scheduling and Notice of Public Hearings*. Review by the City Commission shall be by de novo hearing supplemented by the record below and the same standards and criteria applicable to the special exception shall be applied. At the conclusion of the~~

~~hearing, the City Commission shall take action either approving, approving with conditions, or denying the application.~~

- (iii) The timeframes for setting a hearing provided herein may be extended by written request of the applicant.

...

- (6) **Site Plan Approval Standards.** An application for Major Site Plan Approval or Minor Site Plan Approval shall be approved only if the City Commission, Planning Board, or Director, as appropriate, determines that the proposed development:
 - (a) Will be consistent with the Comprehensive Plan;
 - (b) Will comply with applicable district, use, and development standards in this Code; and
 - (c) Will comply with all requirements and conditions of approval.

Section 9: The City Commission of the City of Tamarac hereby amends Chapter 10 of the City's Code of Ordinances, "Land Development Code, " by amending Article V "Administration," **Section 10-5.4** "Application – Specific Review Procedures" as follows:

ARTICLE V. – ADMINISTRATION

...

10-5.4 Application – Specific Review Procedures

...

(Q) **Variance**

...

- (3) **Procedure.** Table 10-5.1: and the following subsections identify those steps in the common review procedure (see §10-5.3) applicable to the review of Variance applications and note any specific variations of, or additions to, those review steps.
 - (a) **Pre-Application Staff Conference.** The applicant shall hold a pre-application conference with City staff in accordance with §10-5.3(B).

- (b) **Application Submittal and Acceptance.** The application shall be submitted and accepted, and may be withdrawn, in accordance with §10-5.3(D).
- (c) **Staff Review and Action.** The Director shall review the application and prepare a staff memorandum and recommendation in accordance with §10-5.3(E).
- (d) **Scheduling and Public Notice of Meetings.** The application shall be scheduled, and required public notices provided, for the Planning Board hearing in accordance with §10-5.3(F).
- (e) **Planning Board Review and Action.**
- (i) The Planning Board shall review the application, hold a quasi-judicial public hearing, and ~~decide the application~~ make a recommendation in accordance with §10-5.3(~~H~~)(G).
- (ii) The ~~decision~~ recommendation shall be one of the following:
- A. Recommend approval of ~~Approve~~ the application as submitted;
- B. Recommend approval of ~~Approve~~ the application subject to conditions; or
- C. Recommend denial of ~~Deny~~ the application; ;
- D. ~~Remand the application back to the Director for further consideration (This may require further public hearing notice and additional review fees.); or~~
- (f) **City Commission Review and Decision**
- (i) The City Commission shall review the application, hold a quasi-judicial public hearing and decide the application in accordance with §10-5.3(H).
- (ii) The decision shall be one of the following:
- A. Approve the application as submitted;
- B. Approve the application subject to conditions;
- C. Deny the application; or
- D. Remand the application back to the Director and Planning Board for further consideration. (This may require further public hearing notice and additional review fees.)

(iii) The timeframes for setting a hearing provided herein may be extended by written request of the applicant.

(f)(g) **Post-Decision Actions and Limitations.** The post-decision actions and limitations in §10-5.3(J) shall apply to the application except as follows:

(i) **Effect of Approval**

- A. Approval of a Variance authorizes only the particular regulatory relief approved as part of the Variance, as applied only to the land for which the Variance is approved, and only in accordance with any approved plans and documents, and conditions of approval. It does not exempt the applicant from the responsibility to obtain all other development permits and approvals required by this Code and any other applicable laws, and does not indicate that the development for which the Variance is granted should receive approval of other applications for a development permit required under this Code unless the relevant and applicable portions of this Code or any other applicable laws are met.
- B. Unless it expires in accordance with provision (ii) below, an approved Variance—including any approved plans and documents and conditions of approval—shall run with the land, shall be binding on the landowners and their successors and assigns, and shall not be affected by a change in ownership. All decisions, determinations, and interpretations by City staff shall be consistent with the approved Board Order granting the Variance.

(ii) **Expiration of Approval.** A Variance shall automatically expire if development allowed by the Variance is not commenced or other relief provided by the Variance does not take place within one year after the date the Variance is approved. This time period may be extended under §10-5.3(J)(3)(b)(ii), *Extension of Expiration Time Period*.

(4) **Review Standards**

- (a) **General Variance Review Standards.** A Variance application shall be approved only if the ~~Planning Board~~ City Commission reaches each of the following conclusions, based on findings of fact supported by competent, substantial, and material evidence presented at the hearing:
- (i) There are special conditions and circumstances (such as topographic conditions or the narrowness, shallowness, or shape of the lot) pertaining to the particular property for which the Variance is sought, that do not generally apply to other property subject to the standard from which the Variance is sought;
 - (ii) The special conditions and circumstances referred to above are not the result of the actions of the landowner;
 - (iii) Because of the special conditions and circumstances referred to above, the literal application of this Code to development of the property for which the Variance is sought would effectively deprive the landowner of rights commonly enjoyed by other properties subject to the standard from which the Variance is sought, and would result in unnecessary and undue hardship on the landowner;
 - (iv) The Variance would not confer any special privilege on the landowner that is denied by law to other similarly situated properties subject to the standard from which the Variance is sought;
 - (v) The extent of the Variance is the minimum necessary to allow a reasonable use of the property;
 - (vi) The Variance is in harmony with the general purpose and intent of this Code and preserves its spirit;
 - (vii) The Variance would not adversely affect the health or safety of persons residing or working in the neighborhood, be injurious to property or improvements in the neighborhood, or otherwise be detrimental to the public welfare; and
 - (viii) The Variance is consistent with the Comprehensive Plan.
- (b) **Insufficient Grounds for Approving Variances**
- (i) The following factors shall not constitute sufficient grounds for approval of any Variance:

- A. A request for a particular use that is expressly, or by inference, prohibited in the zoning district;
 - B. Hardships resulting from factors other than application of requirements of this Code;
 - C. The fact that property may be utilized more profitably or be more marketable with a Variance; or
 - D. The citing of nonconformities in the same or other zoning districts.
- (ii) Should an applicant wish to appeal a decision by the ~~Planning Board, the~~ City Commission, the applicant shall follow the provisions of §10-5.4(R), Administrative Appeal, and appeal to the courts.

Section 10: It is the intention of the City Commission of the City of Tamarac, Florida, that the provisions of this Ordinance shall become and be made a part of the Code of Ordinances of the City of Tamarac, Florida, and that the Sections of this Ordinance may be renumbered, re-lettered and the word "Ordinance" may be changed to "Section," "Article" or such other word or phrase in order to accomplish such intention.

Section 11: If any clause, section, or other part or application of this Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part or application shall be considered as eliminated and so not affecting the remaining portions or applications remaining in full force and effect.

Section 12: All Ordinances or parts of Ordinances, Resolutions or parts of Resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

Section 13: This Ordinance shall become effective immediately upon adoption.

PASSED, FIRST READING this _____ day of _____, 2021.

PASSED, SECOND READING this _____ day of _____, 2021.

By _____
MICHELLE GOMEZ
MAYOR

ATTEST:

JENNIFER JOHNSON, CMC
CITY CLERK

I HEREBY CERTIFY that I
have approved this
ORDINANCE as to form.

HANS OTTINOT
CITY ATTORNEY



Title - City Manager Performance Evaluation and City Manager Contract

Requested by Commissioner Gelin

ATTACHMENTS:

Description	Upload Date	Type
Resolution 2019-145 - City Manager Contract	5/11/2021	Cover Memo