

**ARTICLE 3, Division 1
DEVELOPMENT REVIEW**

Division 1. Purpose and Applicability

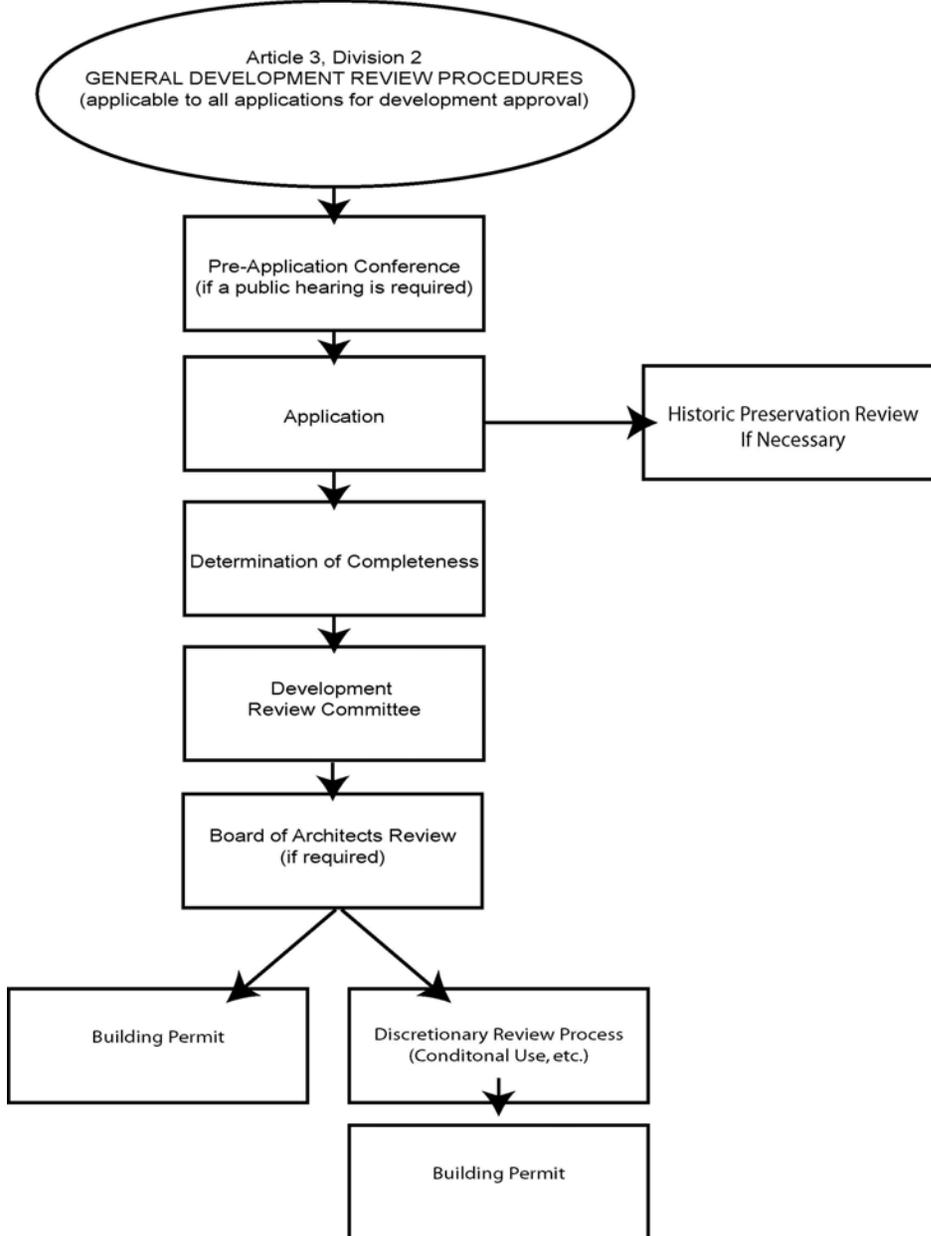
These LDRs establish the following types of procedures to obtain development approval:

This Division is entirely new and is intended to give the reader an overview of this Article on Development Review.

DEVELOPMENT APPROVALS	REFER TO ARTICLE 3, DIVISIONS 2 and 3 SEE ALSO ...	RECOMMENDATION AFTER PUBLIC HEARING OF ...	FINAL DECISION MADE BY ...
Abandonment			
	Division 13	Planning and Zoning	City Commission
Appeals			
Appeals from Decisions of the Board of Architects (B.A)	Division 7	Not Required	Board of Adjustment
Appeals from decisions of the Board of Adjustment, Planning and Zoning Board and Historic Preservation Board	Division 7	Not Required	City Commission
Comprehensive Land Use Plan			
Map Change	Division 16	Planning and Zoning	City Commission
Text Change	Division 16	Planning and Zoning	City Commission
Small Scale Development Amendments; City Initiated	Division 16	Planning and Zoning	City Commission
Small Scale Development Amendments; initiated by other than the City	Division 16	Planning and Zoning	City Commission
Compliance Agreement	Division 16	Not Required	City Commission
Comprehensive Plan Amendment, other than Small Scale	Division 16	Planning and Zoning	City Commission
Conditional Use			
Minor Conditional Use	Division 5	B.A. / City Architect	Development Review Official
Major Conditional Use	Division 5	B.A.	Planning and Zoning Board
Development of Regional Impact			
	Division 17	Planning and Zoning	City Commission
Historic Preservation			
Historic Designation	Division 12	NA	Historic Preservation Board
Standard Certificate of Appropriateness	Division 12	NA	Historic Preservation Officer
Special Certificate of Appropriateness	Division 12	NA	Historic Preservation Board
Land Development Regulations			
Change in Zoning District	Division 15	Planning and Zoning	City Commission
Text Amendment	Division 15	Planning and Zoning	City Commission
Rezoning			
Initiated by other than the City	Division 15	Planning and Zoning	City Commission
< 10 Contiguous Acres; City Initiated	Division 15	Planning and Zoning	City Commission
> 10 Contiguous Acres; initiated by other than the City	Division 15	Planning and Zoning	City Commission
Variances			
	Division 9	Not Required	Board of Adjustment or Historic Preservation Board

The purpose of this Article is to establish the requirements for each type of approval, beginning with general procedures which are applicable to all levels of approval and followed by specific procedures which are applicable to each process, including a graphic describing the process for each type of approval.

**ARTICLE 3, Division 2
GENERAL DEVELOPMENT REVIEW PROCEDURES.**



This Division is new to the Code but is based on existing procedures. The purpose of this Division is to standardize as many of the Development Review procedures as possible. See definitions of “applicant” and “applications for development approval.”

Section 3-201 Pre-Application Conference.

- A. All applicants for development review which require a public hearing for approval, shall schedule a pre-application conference with City staff to discuss the nature of the application, applicable standards, application information requirements, application format requirements, and the timing of review and approval. Any other applicant for development approval may require a pre-application conference with the appropriate City staff.
- B. Prior to the pre-application conference, the applicant shall provide information requested on a pre-application form provided by City staff.
- C. At the pre-application conference, City staff shall determine whether the proposed application contains a parcel with a buildable lot, provide the applicant with all required application forms and a checklist that sets forth all of the information that will be required of the applicant in order to review the application for compliance with these LDRs.

Section 3-202. Application.

- A. Form of application. All applications for development approval shall be submitted on a form approved by City staff and as provided by the applicable Department's "Development Review Handbook."
- B. Payment of application fee. The application fee required by City Code shall accompany all applications.
- C. Proof of ownership or agency. All applications shall include sworn proof of ownership of the property in question or sworn proof that they are the owner's agent on a form approved by City staff.
- D. Plans and specifications. Such plans and specifications as are required by City staff shall be prepared by a registered architect or registered engineer, qualified under the laws of the State of Florida to prepare such plans and specifications.
- E. Simultaneous applications. If more than one approval is requested for a particular development proposal, with the exception of an application for a building permit, certificate of completion/occupancy or certificate of use, an applicant is required to submit all applications for development review at the same time.

The term "City Staff" is used to avoid specifically designating an individual and allowing more flexibility in the administration of these LDRs without amending them.

Application requirements have been deleted from the Code, making it easier to change the format.

All fees in the existing Code are recommended to be moved to the City Code for ease of use and change.

Section 3-203. Determination of Completeness.

- A. Upon receipt of the application, the Development Review Official shall review the application to determine whether:
 - 1. all required information is provided in an acceptable format;
 - 2. the required fee is paid; and
 - 3. whether the information is technically competent.
- B. If any required information is not provided, the applicable fee not paid and/or if the application or any part of the application is determined not technically competent, then:
 - 1. The Development Review Official shall notify the applicant of the specific deficiency in the application; and
 - 2. The applicant shall either:
 - a. submit the specifically identified information in a technically competent form; or
 - b. withdraw the application.

Section 3-204. Review by Development Review Committee.

After an application for development approval is determined to be complete and technically competent, the Development Review Committee (DRC) shall review the application in accordance with procedures adopted by the Committee and any procedures applicable to the application for development approval. The Development Review Official will coordinate the DRC Review, assist in resolution of conflicts and inform the applicant of any changes that need to be made to the applications to allow further review of the application to proceed.

Section 3-205 Permitted Uses.

- A. Except as provided in Article 3, Division 11, for historic properties, any use listed as a permitted use in a single-family residential district and duplexes may be permitted subject to City Architect or Board of Architect's review and subject to obtaining a certificate of use and a building permit.
- B. The Board of Architects shall review the plans for additions, exterior alterations and/or new construction, except for the following which shall be reviewed and approved by City staff prior to the issuance of a certificate of

use or building permit.

1. Aluminum fences
2. Awnings
3. Awning recovers
4. Chain link fences
5. Demolition of entire structures
6. Door replacement
7. Driveway replacement with different materials
8. Fountains
9. Hurricane shutters
10. Landscaping
11. Miscellaneous revision to permits
12. Painting (using colors on Board of Architects' approved color pallet)
13. Re-roofs
14. Screen walls for mechanical equipments
15. Tiling
16. Walkways
17. Window replacement

- C. Duplications of elevations and/or exterior architectural design. No duplication of elevations and/or exterior architectural design shall be permitted in any residential area; Architects in submitting plans for consideration of the Board of Architects shall, as part of said plan, and as a prerequisite to approval thereof, sign a certificate reading as follows: To the best of my knowledge and belief, the within plans and specifications do not duplicate the elevations and/or exterior architectural design of any buildings in the residential area of the City of Coral Gables, previously submitted by

Edited version of Sec. 15-5.

me or by my office; that to the best of my knowledge and belief these plans and specifications are not a duplication of elevations and/or exterior architectural design of any building constructed, or for which a permit has been issued, in the City of Coral Gables; I further certify that I am fully familiar with the ordinance under which this certificate is required. (seal)

The provisions of this Section shall not apply in the following cases:

1. The units of a single-housing project, ~~which shall be deemed and which hereby is defined as not more than three multiple-family units constructed on a lot or on contiguous lots so as to be an architectural entity; and,~~
2. The interior design or floor plan of any structure.

Definition moved to Article 8.

D. Preparation, approval and revision of architectural drawings. The following procedure shall be followed in preparing, obtaining approval and revising preliminary and final working drawings:

1. Architectural drawings. All architectural drawings for new residential buildings or alterations or additions to existing residential structures shall be prepared by and bear an impression seal of a registered architect qualified under the laws of the State of Florida to prepare such plans and specifications. All other architectural drawings shall be prepared by and bear an impression seal of a registered architect or registered engineer qualified under the laws of the State of Florida to prepare such drawings.
2. Approval in principle. Preliminary Approval in Principle shall be obtained from the Board of Architects before proceeding with the final working drawings. The drawings for Approval in Principle shall preferably be single-line plan or plans and shall have a plot plan, floor plan and shall show all affected elevations. Photographs of adjoining properties shall be presented with the preliminary plans. Plans for additions or exterior alterations to existing buildings shall show all elevations of all facades of the building where the alterations occur, or to which the addition is attached. Whenever the estimated cost of construction of any addition, exterior alteration and/or new construction will exceed twenty-five-thousand (25,000) dollars, such preliminary plans shall be submitted in duplicate.
3. Board of architects. It shall be the duty of the Board of Architects to preserve the traditional aesthetic treatment of the community.

4. Revisions to preliminary plans. When the designing architect and/or engineer revises preliminary plans in accordance with the suggestions of the Board of Architects, he shall return the original drawings showing the Board's suggestions with the revised drawings.
5. Revisions to final working drawings. After plans have been approved, no deviations from the approved design shall be permitted without the approval of the Board of Architects.

Section 3-206. Building Permit.

A. Permit required.

1. No person shall commence any construction, demolition, modification or renovation of a building or structure, the value of which exceeds \$500 in labor and materials, without first obtaining a building permit.
2. All building permits and sign permits shall be in conformity with these LDRs and any applicable development approval related to the parcel proposed for development.
3. Application for permits will be accepted only from persons ~~contractors~~ currently licensed in their respective fields and for whom no revocation or suspension of license is pending, provided, however, a sole owner may make application, and if approved, obtain a permit and supervise the work in connection with the construction, maintenance, alteration or repair of a single-family residence or duplex for his own use and occupancy and not intended for sale and may make application for, and if approved, obtain a permit for maintenance and minor repairs on any type building. The construction of more than one residence or duplex by an individual owner in any twelve (12) month period shall be construed as contracting, and such owner shall then be required to be licensed as a contractor. Such licensed contractor or owner shall be held responsible to the Building Official for the proper supervision and conduct of all work covered thereby.
4. All general contractors, or owner/builders shall submit a list of all subcontractors to be employed on the project. The Building and Zoning Department will review the list to insure that all subcontractors are properly certified and licensed. Should the general contractor or owner/builder change subcontractors during the project, it will be necessary for the Building and Zoning Department to be notified prior to permitting the new subcontractor to commence work on the project. Any project found to be using unauthorized subcontractors is subject to

Section 3-206 is a heavily edited version of existing sections 22-2 and 22-3. Many of the deleted words are not necessary because of definitions of person, building and structure, applicant and development approval. Existing section 22-3 has the \$500 threshold that is included in 3-206 A1. Portions of Section 22-4 have been deleted; subsection B covers these issues and allows City staff greater latitude in developing application requirements. Sections 22-7 and 22-14 (fees) have been deleted and will be moved to City Code.

Subsection A 3 is existing section 22-6 (Qualification of applicant)

Subsection A4 is existing section 22-11 (subcontractors list).

a stop work order until the Building Official is satisfied that proper conditions exist and all permitting conditions are met.

B. Procedure. All applications for building permits shall be submitted to the Building and Zoning Department. Upon receipt of an application, the Development Review Official shall determine whether the application conforms to these LDRs and any applicable development approval. If the Development Review Official determines that the application does not conform, he shall inform the applicant of the decision. If the Development Review Official determines that the application does conform, the application shall be referred to the Building Official who shall determine whether the application conforms to all applicable requirements contained in the Building Code. If the Building Official determines that the application does conform, the building permit shall be issued. If the Building Official determines that the application does not conform, he shall identify the application's deficiencies and deny the application.

C. Posting of bond. Before any ~~building permit authorized herein~~ shall be issued, the owner of the affected property or his contractor shall deposit with The City of Coral Gables that amount which in the opinion of the Building ~~Inspector~~ Official and/or the City Manager shall be adequate to reimburse The City of Coral Gables, or any neighboring property owner, for damage which may result to sidewalks, parkways, parkway trees and shrubs, street pavement or other municipal or private property, or improvement from such work and the equipment and materials used in connection therewith, and for the removal of debris or excess material upon the completion of said work, and shall sign an undertaking to the City of Coral Gables to pay the amount of any deficiency between the amount of said deposit and the cost of repairing any such damage or removal of any such debris or excess materials. Upon completion of the work, the Building Official, or such other person as may be designated by the City Manager, shall make final inspection and if the person shall find that no damage has resulted, and no debris or material remains on the site, the said deposit shall be returned to the depositor, or, if any damage shall be repaired by the City, or any debris or excess material be removed by the City, and the cost thereof shall be less than the deposit, then the difference between such cost and the amount of the deposit shall be returned to the depositor. Such bonds shall not be refunded until all code requirements are completed including necessary driveways and sidewalks.

D. Incomplete buildings. No building not fully completed in substantial compliance with plans and specifications upon which a building permit was issued, shall be permitted to be maintained on any land for more than one year after the commencement of erection of any building, addition or

This procedural section is new but does not depart from existing practice.

Subsection C. is existing section 22-9 (Posting of bond)

Subsection D is existing section 22-10. Violation language is deleted as it is duplicative of Article 7 (violations).

renovation. A building site inspection shall be conducted six (6) months after the commencement of construction at which time evidence that work is proceeding shall be provided by the contractor. ~~Failure to meet any requirement of this Section shall be deemed a violation of the Zoning Code, and shall be set for a hearing before the Code Enforcement Board of the City of Coral Gables.~~

Work shall be considered to have commenced and be in active progress when, in the opinion of the Building and Zoning Director, a full complement of workmen and equipment is present at the site to diligently incorporate materials and equipment into the structure throughout the day on each full working day, weather permitting. This provision shall not be applicable in case of civil commotion or strike or when the building work is halted due to legal action.

Section 3-207. Zoning Permit.

No person shall commence or cause to be commenced any miscellaneous work, which does not otherwise require a building permit, which affects the aesthetics, appearance, or architectural design of any structure, site or site improvements until an application for a zoning permit therefore has been previously filed with the Building and Zoning Department. No such miscellaneous work which affects the aesthetics, appearance, or architectural design of any structure, site or site improvements shall commence until a permit has been issued by the City in every case where the cost of such proposed work exceeds five-hundred dollars (\$500.00) in labor and materials. All work done under and pursuant to any zoning permit shall conform to the approved plans and/or specifications.

Section 3-208. Certificate of Use.

~~No person, firm or corporation shall commence any use of any property, nor shall an occupational license or building permit be issued until an application for a Certificate of Use therefore has been previously filed with and approved by the Building and Zoning Department on a form provided by the Department, as provided for herein, and in other ordinances of the City, and until a Certificate of Use therefore has first been and issued by the City. Any use of a property under and pursuant to any Certificate of Use shall conform to the Certificate of Use and any conditions or restrictions therefore as approved prior to the issuance of such Certificate of Use and any deviation therefrom shall constitute a violation of this Code. The commencement or maintaining of any use of property without first having complied with the above requirements shall constitute a violation for each day it is so maintained. Any use for which a Certificate of Use has been issued must commence within one-hundred and~~

3-207 is a slightly edited version of section 22-12.

Revised section 3-209 now section 3-208 is an edited version of 22-13. Application requirements deleted in conformity with other sections of the new LDRs. "Violation language" deleted as duplicative of Article 7.

~~eighty (180) days of the issuance of the Certificate of Use, and is valid for a period not to exceed one year from the date of the issuance of the Certificate of Use. All Certificates of Use issued by the Building and Zoning Department shall be renewed by the applicant each year. The application for a Certificate of Use shall state the property address for which said permit is being issued along with legal description, folio number, the proposed use of the property, the use district, land use designation, and whether the parking requirements would be complied with for the proposed use. All Certificates of Use must be reviewed for concurrency as provided for by the Comprehensive Plan of the City.~~

Section 3-209. Resubmission of Application Affecting Same Property.

No application shall be accepted during the following time periods after the denial of a substantially similar application affecting the same property or any portion thereof:

- A. Conditional uses and variances: 6 months
- B. Rezoning, LDR text amendments, Comprehensive Land Use Plan Amendments and Application for Abandonment and Vacation of Non-fee Interests: 12 months

Existing section 25-9 contains a 1 year reapplication provision regarding rezonings which applies to the property in question and "other property similarly situated." There is an "out" by applying to the City Commission and obtaining a 4/5th vote. Other than for variances, there is no other prohibition on resubmissions in the Code that we found. This proposed provision is slightly more flexible in that it uses the term "substantially similar application" as the operative concept (see Article 8 for definition). This would be a determination of the Development Review Official as an initial matter. And, like other administrative determinations would be subject to appeal.

ARTICLE 3, Division 3
Uniform Notice and Procedure for Public Hearing

Section 3-301. Applicability.

The procedures set out in this Division shall be applicable to all public hearings required by any provision of these LDRs.

Section 3-302. Notice.

In every case where a public hearing is required pursuant to the provisions of these LDRs, the City Clerk shall provide a Notice of Public Hearing in the manner set out in this section and as summarized in the following graphic:
(2625, 3179, 3262, 3517)

This Division 3 replaces existing Sections 23-5, 25-7, 31-2-5(c), and 24-6. Section 25-7 has been edited to conform to other changes in the LDRs as well as to incorporate the notice provisions applicable to other decision-making bodies, including the Board of Architects. The violation provisions have been deleted as duplicative of Article 7. Please note that this division applies to ALL public hearings conducted by any decision making body.

NATURE OF APPLICATION	Type of Notice	Timing of Notice Before ...		
		Advisory Board Hearing (if required)	First Commission Meeting (if required)	Second Commission Meeting (if required)
REZONING				
Initiated by other than the City	Publication	10 days	No Notice Required	10 days
< 10 contiguous acres; city initiated	Mail	10 days	30 days	
	Posting	10 days	10 days	10 days
> 10 contiguous acres; city initiated	Publication	10 days	7 days	5 days
	Mail	10 days	7 days	10 days
LDRs TEXT AMENDMENT				
Amendment to Text that changes actual list of permitted, conditional, or prohibited uses within a zoning category	Publication	10 days	7 days	5 days
	Mail	10 days	7 days	10 days
DEVELOPMENT OF REGIONAL IMPACT*				
	Publication	10 days	60 days	5 days
COMPREHENSIVE PLAN				
Small Scale Development Amendments; city initiated	Mail	10 days	30 days	
Small Scale Development Amendments; initiated by other than the City	Publication	10 days	5 days	
Compliance Agreement with DCA	Publication	10 days	10 days	10 days
Comprehensive Plan Amendment, other than Small Scale	Publication	10 days	7 days	5 days
CONDITIONAL USE				
Minor Conditional Use – If Appealed	Publication	10 days		
	Posting	10 days		
	Mail	10 days		
Major Conditional Use	Publication	10 days	10 days*	10 days*
	Posting	10 days	10 days*	10 days*
	Mail	10 days	10 days*	10 days*
VARIANCES				
	Publication	10 days		
	Posting	10 days		
	Mail	10 days		
ABANDONMENT AND VACATIONS				
	Publication	10 days	10 days	10 days
	Posting	10 days	10 days	10 days
	Mail	10 days	10 days	10 days
HISTORIC PRESERVATION				
Notification to Owners Regarding Designation of Landmark or District	Publication	10 days		
Notification of Public Hearing Regarding Designation of Landmark or District	Posting	10 days		
	Mail	10 days		
Certificate of Appropriateness (Special)	Publication	10 days		
	Posting	10 days		
	Mail	10 days		
APPEALS				
	Mail	10 days	10 days	10 days

* Commission Meetings are only required if the Major Conditional Use is appealed by the City Manager or the Applicant.

A. Publication. The requirements for this type of public notice shall be as follows:

1. Notice shall be published at least one time in a newspaper of general circulation published in the City of Coral Gables, or in Miami-Dade County, Florida, at least ten (10) days prior to the date of any required public hearing.
2. The notice of ~~proposed enactment~~ shall state the date, time, and place of the meeting; the title or titles of proposed ordinances or a description of the substance of the matter being considered; and the place within the City where the proposed ordinances or other materials may be inspected by the public. The notice shall also advise that interested parties may appear at the meeting and be heard with respect to the matter proposed ordinance.
3. A copy of the notice shall be available for public inspection at City Hall during the regular business hours of the City. ~~clerk of the governing body~~.
4. ~~A proposed ordinance under consideration by the Planning and Zoning Board for a recommendation to the City Commission initiated by other than the City, that changes the actual zoning map/use and area map designation for a parcel or parcels of land shall be advertised pursuant to paragraph 1., above.~~ Notice for ordinances that change the actual list of permitted, conditional, or prohibited uses within a zoning category/use district, or ordinances initiated by the City that change the actual zoning map designation of a parcel or parcels of land involving ten (10) contiguous acres or more, shall be published at least ten (10) days prior to the Planning and Zoning Board public hearing, again at least seven (7) days prior to the first City Commission public hearing and again at least five (5) days prior to the second City Commission adoption hearing. Public notice shall be provided as described in the following subsections.
 - a. The required advertisements shall be no less than two columns wide by ten inches long in a standard size or tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be placed in a newspaper of general paid circulation in the municipality, not one of limited subject matter, pursuant to Chapter 50 of the Florida Statutes. Whenever possible, the advertisement shall appear in a newspaper that is published at least five (5) days a week unless the only newspaper in the City is published less than five (5) days a week.

Public notice is pursuant to Section 166.041, Fla. Stat. (2004)

Calendar days?

This includes Commission and all other Boards/Committees?

The City Clerk is given responsibility for notices. The Code allows for delegation of responsibility so some items regarding notice may be more appropriately handled by others.

Satisfies Florida Statutory requirements and any recent changes.

Chapter 50 of the Florida Statutes is entitled "Legal and Official Advertisements."

- b. The advertisement shall be in substantially the following form:

“Notice of (Type Of) Change

The City of Coral Gables proposes to adopt the following ordinance: (title of ordinance)....

A public hearing on the ordinance will be held ...(date and time)... at ...(meeting place)...”

Except for amendments which change the actual list of permitted, conditional, or prohibited uses within a zoning category, the advertisement shall also contain a geographic location map which clearly indicates the area covered by the proposed ordinance. The map shall include major street names as a means of identification of the general area.

- c. In lieu of publishing the advertisement set out in this section, the City may mail a notice to each person owning real property within the area covered by the ordinance. Such notice shall clearly explain the proposed ordinance and shall notify the persons of the time, place, and location of any public hearing on the proposed ordinance.
5. Ordinances initiated by other than the City that change the actual zoning map designation of a parcel of land or parcels of land shall be read by title, in full, at two separate City Commission hearings, and shall be published at least ten (10) days before the Planning and Zoning Board public hearing, and again at least ten (10) days before the City Commission adoption hearing.
6. Notice of small scale development amendments to the Comprehensive Land Use Plan, initiated by other than the City, shall be published at least ten (10) days before the Planning and Zoning Board public hearing, and again at least five (5) days before the City Commission adoption hearing.
7. All Comprehensive Land Use Plan amendments, other than small-scale amendments, shall be published at least ten (10) days before the Planning and Zoning Board public hearing, and again at least seven (7) days before the first City Commission meeting, and again at least five (5) days before the City Commission adoption hearing.

8. Failure to provide advertised notice as set forth in the foregoing notice requirements shall not affect any action or proceedings taken under this section, unless such notice is required by Florida Statutes.

City initiated small-scale development amendments to the Comprehensive Land Use Plan require notification by *mail* 30 days prior to the hearing. See section 3-302(c)(4).

B. Posting Property.

1. Except as provided in Subsection B2, all specific property being considered at a public hearing ~~by the Planning and Zoning Board~~ shall be posted at least ten (10) days in advance of the public hearing, provided, however, that the posting of specific property shall not be required when the property subject to change constitutes more than ten contiguous acres. Such posting shall consist of a sign, the face surface of which shall not be larger than forty (40) square inches in area, the color of which shall be day-glo orange with black lettering and shall contain the following language:

**NOTICE
OF
PUBLIC HEARING

BY [ENTER NAME OF DECISIONMAKING BODY]

PHONE: _____
HEARING DATE: _____
HEARING NO.: _____**

2. No posting shall be required for public hearings before the Board of Architects, unless the value of the proposed development exceeds \$25,000.
3. The sign shall be erected in full view of the public on each street side of such property. Where large parcels of property are involved with street frontages extending over considerable distances, as many signs shall be erected on the street frontage as may be deemed adequate by the Development Review Official ~~Planning Department~~ to inform the public.
4. If such sign is placed on a vacant lot or parcel of land, it shall be securely nailed or otherwise fastened securely to a stake or post which itself shall be fastened securely into the ground. Said sign shall not be located nearer than ten (10) feet nor more than fifteen (15) feet from the street property line, provided, however, that where said property is improved by

Posting is not required by Florida Statutes.

a building, the main part of which is less than ten (10) feet from said street property line, the sign may be placed upon the front and/or side of the building, or upon a front and/or side door and/or window of the building. Whenever a building on improved property is located more than ten (10) feet from the street property line, the sign shall be erected as provided for on vacant property.

5. The height of such sign shall be erected to project not more than three (3) feet above the surface of the ground.
6. Failure to post specific property shall not affect any action or proceeding taken hereunder.

C. Mail Notices.

1. Except for public hearings before the Board of Architects, a courtesy notice of public hearings affecting specific properties containing general information as to the date, time, place of the hearing, property location and general nature of the application may be mailed to the property owners whose addresses are known by reference to the latest ad valorem tax record, within a 1000' radius. This notification requirement is measured in feet from the perimeter boundaries of the subject property.

The Development Review Official ~~Planning Director~~ may require an additional area to receive a courtesy notice on any application. The Development Review Official ~~Planning Director~~ may also require courtesy notices on applications that are not typically required to be noticed if it is determined that such notification is desirable ~~required~~.

2. Courtesy notice shall be mailed at least ten (10) days prior to the date of the public hearing.
3. ~~Ordinances initiated by the City that change the actual zoning map/use and area map designation of a parcel or parcels of land shall be noticed pursuant to the following procedures:~~

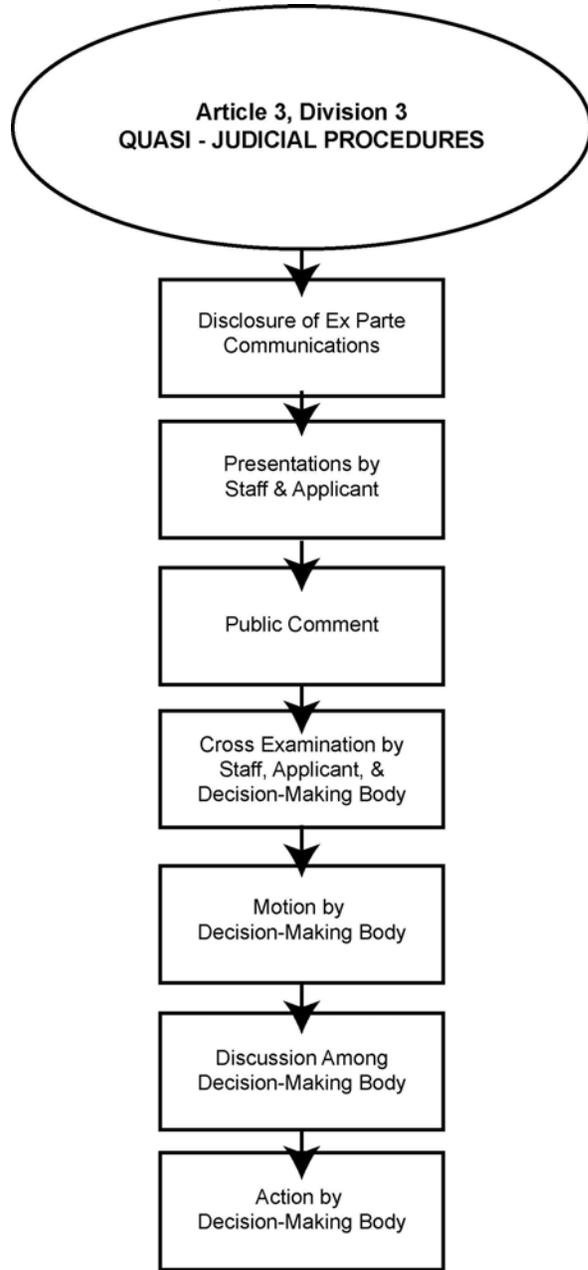
When a proposed ordinance is initiated by the City that changes the actual zoning map designation for a parcel or parcels of land less than ten (10) acres, the Secretary of the Planning and Zoning Board shall notify by mail each real property owner whose land the City will redesignate by enactment of the ordinance and whose address is known by reference to the latest ad valorem tax records. The notice shall state the substance of the proposed ordinance as it affects that property owner and shall set a time and place for the public hearing on such ordinance. Such notice shall be given at least ten (10) days prior to the date of the Planning and

Policy issue: It has been suggested that this threshold dollar figure be changed.

Zoning Board public hearing, and again at least thirty (30) days prior to the date of the City Commission public hearing.

4. Notice of small-scale development amendments to the Comprehensive Land Use Plan, initiated by the City, shall be mailed to each property owner of record in the current tax rolls. The notice shall state the substance of the proposed ordinance as it affects that property owner and shall set a time and place for the public hearing on such ordinance. Such notice shall be given at least ten (10) days prior to the date of the Planning and Zoning Board public hearing, and again at least thirty (30) days prior to the date of the public hearing.
5. Notice for ordinances that change the actual list of permitted, conditional, or prohibited uses within a zoning category/use district, or ordinances initiated by the City that change the actual zoning map designation of a parcel or parcels of land involving ten (10) contiguous acres or more, shall be mailed at least ten (10) days prior to the Planning and Zoning Board public hearing, again at least seven (7) days prior to the first City Commission public hearing and again at least five (5) days prior to the second City Commission adoption hearing.
6. A copy of mailed notice shall be available for public inspection during the regular business hours of the City Clerk ~~clerk of the governing body~~.
7. Failure to mail or receive courtesy notice shall not affect any action or proceeding taken under these LDRs. The applicant shall be required to provide a mailing list and labels of the area within the radius prescribed above to the City. Individual courtesy notices are not required when the property being considered constitutes more than ten contiguous acres.

Section 3-303. Quasi-Judicial Procedures.



This section regarding quasi-judicial procedures is entirely new. It has been our observation that the City would benefit from specific procedures for conducting these hearings.

A. Applicability. The provisions of this Section apply to all quasi-judicial hearings held pursuant to these LDRs.

B. Order of Presentation. Quasi-judicial hearings shall be conducted generally in accordance with the following order of presentation:

1. Disclosure of ex parte communications and personal investigations pursuant to Section 3-303D.
2. Presentation by City Staff.
3. Presentation by the applicant.
4. Public comment in favor of the application.
5. Public comment in opposition to the application.
6. Cross-examination by City Staff.
7. Cross-examination by applicant.
8. Cross-examination by decision-making body.
9. Motion by decision-making body with explanation of positions of negative or denial.
10. Discussion among members of decision-making body.
11. Action by decision-making body and entry of specific findings.

C. Ex Parte Communications.

1. Any person not otherwise prohibited by statute, charter provision, or ordinance may discuss the merits of any matter on which action may be taken by any decision-making body with any member of the decision-making body.
2. Members of a decision-making body shall disclose ex parte communications and personal investigations regarding pending quasi-judicial decisions as follows:
 - a. Each member shall disclose whether he or she has participated in ex parte communications or personal investigation regarding a pending

In accordance with section 286.0115 of the Florida Statutes.

quasi-judicial decision.

- b. If a member has participated in ex parte communications or personal investigation regarding a pending quasi-judicial decision, then the member shall disclose:
 - i. The subject of all ex parte communications (verbal, written, or otherwise) and the identity of the ex parte communicants;
 - ii. all personal investigations and site visits; and
 - iii. the substance of all expert opinions received, and the name of the expert who gave the opinion.
- c. Before the quasi-judicial hearing, all members shall forward all written communications that relate to pending quasi-judicial decisions to the City Clerk for public inspection and inclusion in the public record of the quasi-judicial proceeding.

3. The Chair of the decision-making body shall ensure that all persons who have opinions contrary to those expressed in ex parte communications are given a reasonable opportunity to refute or respond to the communication during the quasi-judicial hearing.

**ARTICLE 3 Division 4
CONDITIONAL USES**

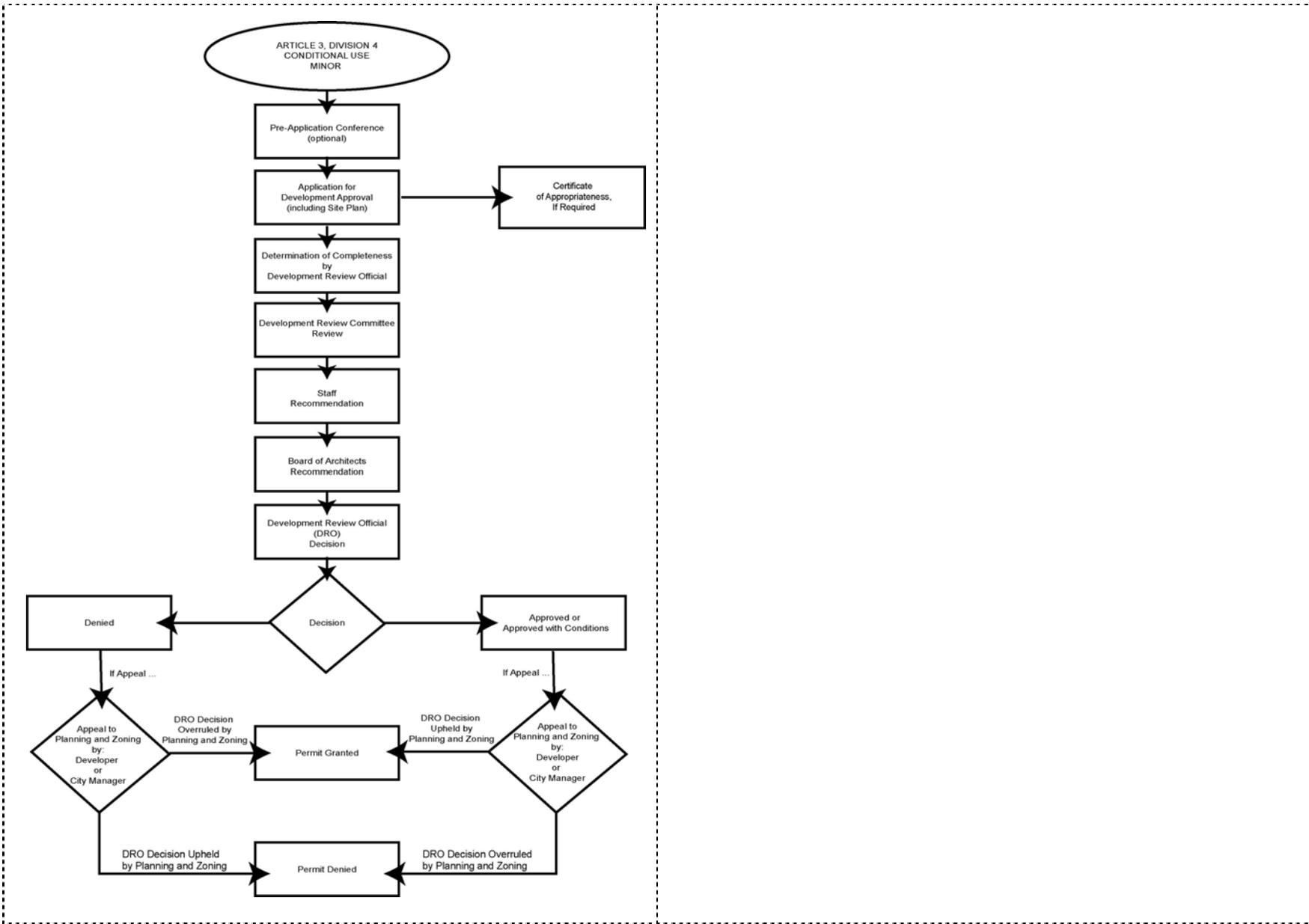
Section 3-401. Purpose and Applicability.

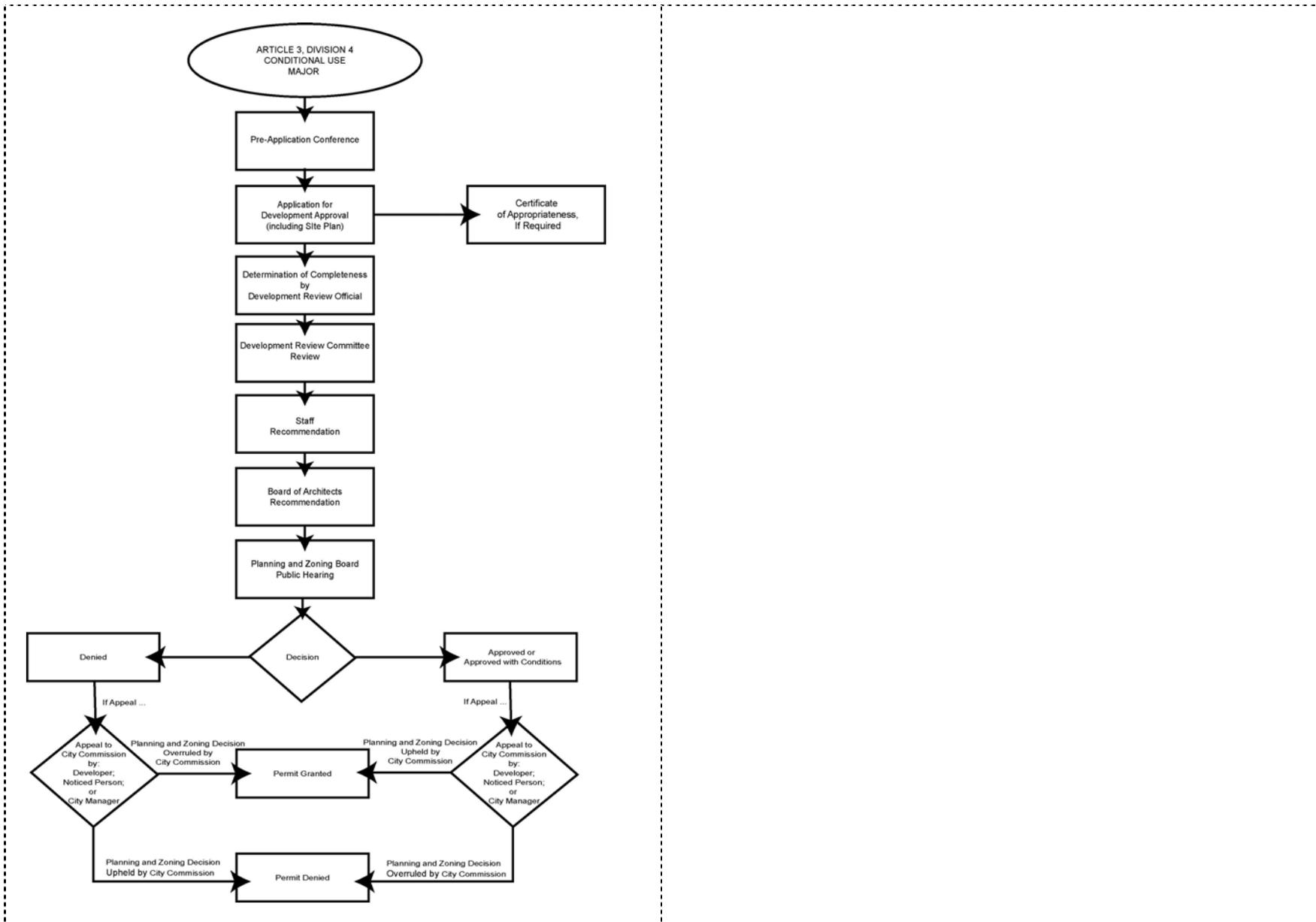
The purpose of providing for conditional uses within each zoning district is to recognize that there are uses which may have beneficial effects and serve important public interests, but which may, but not necessarily, have adverse effects on the environment, overburden public services, or change the desired character of an area. Individualized review of these uses is necessary due to the potential individual or cumulative impacts that they may have on the surrounding area or neighborhood. The review process allows the imposition of conditions to mitigate identified concerns or to deny the use if concerns cannot be resolved.

Section 3-402. General Procedures.

The following graphic summarizes the procedures required to obtain conditional use approval:

This Division is entirely new but is based on the existing conditional uses in existing Article 6. The idea is basically that each district will have certain uses identified that are only permitted after discretionary review by the Development Review Official with an appeal to Planning and Zoning for minor conditional uses and a decision by the Planning and Zoning Board with an appeal to the City Commission for major conditional uses.





Section 3-403. Application.

An application for conditional use approval shall be made in writing upon an application form approved by the City staff, and shall be accompanied by applicable fees.

Section 3-404. Staff Review, Report and Recommendation.

- A. City staff shall review the application in accordance with the provisions of Article 3 Division 2 of these LDRs. In the event that such application involves historic properties, it shall be referred to the Historic Resources Department for review and approval in accordance with Article 5, Division 11 prior to any further review under the provisions of this Division.
- B. Upon completion of review of an application, City staff shall:
 - 1. Provide a report that summarizes the application, including whether the application complies with each of the standards for granting conditional use approval in Section 3-412;
 - 2. Provide written recommended findings of fact regarding the standards for granting major conditional use approval in Section 411;
 - 3. Provide a recommendation as to whether the application should be approved, approved with conditions, or denied;
 - 4. Provide the report and recommendation, with a copy to the applicant, to the Board of Architects for review;
 - 5. In the event the application is for major conditional use application, schedule the application for hearing before the Planning and Zoning Board upon completion of the Board of Architect's review;
 - 6. Provide notice of the hearing before the Planning and Zoning Board in accordance with the provisions of Article 3 Division 3 of these LDRs;

7. In the event an appeal is filed of the Planning and Zoning Board's decision, schedule and provide notice before the City Commission in accordance with the provisions of Article 3 Division 3 of these LDRs.

Section 3-405. Board of Architects Review and Recommendation.

Upon receipt of the recommendation of City staff, the Board of Architects shall review the application, the recommendation of staff and conduct a review of the application in accordance with applicable provisions of these LDRs. Upon completion of its review, the Board of Architects shall submit its recommendation to the Planning and Zoning Board.

Section 3-406. Decision of Development Review Official – Minor Conditional Uses.

Upon receipt of the recommendation of City staff, the Development Review Official shall review the recommendation of the Board of Architects and the standards in Section 3-407, and grant the minor conditional use, grant the approval or deny the minor conditional use.

Section 3-407. Standards for Approval of Minor Conditional Uses.

The Development Review Officer shall review the application for minor conditional use and determine if the application complies with the following standards:

- A. The application is consistent with the Comprehensive Land Use Plan;
- B. The application is in compliance with the district regulations applicable to the proposed development;
- C. The application is consistent with the applicable development standards contained in these LDRs;
- D. Incorporates the streetscape character of adjoining properties;

- E. The proposed use is compatible with the nature, condition and development of adjacent uses, buildings and structures and will not adversely affect the adjacent uses, buildings or structures;
- F. The parcel proposed for development is adequate in size and shape to accommodate all development features;
- G. The proposed use will have a minimal adverse impact on the livability, value, and development of abutting properties;
- H. The nature of the proposed development is not detrimental to the health, safety and general welfare of the community;
- I. The collection of solid waste from the parcel proposed for development shall be minimized from interference with the use of adjacent property or traffic circulation.
- J. The design of the proposed driveways, circulation patterns and parking is well defined to promote vehicular and pedestrian circulation.

Section 3-408. Appeal of Approval of Minor Conditional Use.

The applicant or the City Manager may appeal the decision of the Development Review Official to the Planning and Zoning Board in accordance with the provisions of Article 3 Division 6 of these LDRs.

Section 3-409. Planning and Zoning Board Decision – Major Conditional Uses.

The Planning and Zoning Board shall review the application for major conditional uses, the recommendations of staff and Board of Architects, conduct a quasi-judicial public hearing on the application and grant the approval, grant the approval subject to specified conditions or deny the application. The Planning and Zoning Board may attach such conditions to the approval that are necessary to ensure compliance with the standards set out in Section 3-412. In the event the application involves the use of transfer of development rights, approval of the major conditional use shall be by the City Commission with a recommendation from the Planning and Zoning Board.

Section 3-410 Appeal of Major Conditional Use.

An appeal from a decision of the Planning and Zoning Board regarding a major conditional use may be taken to the City Commission by an aggrieved party in accordance with the provisions of Article 3 Division 6 of these LDRs.

Section 3-411. City Commission Decision – Appeal of Major Conditional Uses.

The City Commission shall review the application, the recommendations of staff and the Board of Architects and the decision of the Planning and Zoning Board and shall conduct a quasi-judicial public hearing on the appeal and grant the approval, grant the approval subject to specified conditions or deny the appeal. The City Commission may attach such conditions to the approval that are necessary to ensure compliance with the standards set out in Section 3-412.

Section 3-412. Standards for Review.

The Planning and Zoning Board shall provide findings of fact that a major conditional use complies with the following standards and the criteria applicable to each conditional use:

- A. The proposed conditional use is consistent with and furthers the goals, policies and objectives of the Comprehensive Land Use Plan and furthers the purposes of this Code and other City ordinances and actions designed to implement the Plan.
- B. The available use to which the property may be put are appropriate to the property that is subject to the proposed conditional use and compatible with existing and planned uses in the area.
- C. The proposed conditional use does not conflict with the needs and character of the neighborhood and the City.
- D. The proposed conditional use will not adversely or unreasonably affect the use of other property in the area.

- E. The proposed conditional use complies with the criteria in Section 3-407.
- F. The proposed conditional use satisfies the concurrency standards of Article 3, Division 13 and will not adversely burden public facilities, including the traffic-carrying capacities of streets, in an unreasonably or disproportionate manner.

Section 3-413. Effect of Decision.

Approval of a conditional use shall be deemed to authorize only the particular use for which it is issued and shall entitle the recipient to apply for a certificate of use or building permit or any other approval that may be required by these LDRs, the City or regional, state or federal agencies. In the event an approval of a conditional use affects the design of the proposed building, final review shall be conducted by the Board of Architects.

Section 3-414. Changes to Conditional Use Approvals.

- A. Minor Revisions. The Development Review Official is authorized to allow minor revisions to an approved Conditional Use after receipt of comments from the Development Review Committee. A minor revision is one which:
 - 1. Does not affect the conditional use criteria applicable to the conditional use.
 - 2. Does not alter the location of any road or walkway by more than five (5) feet.
 - 3. Does not change the use.
 - 4. Does not change a condition of approval.
 - 5. Does not increase the density or intensity of the development.
 - 6. Does not result in a reduction of setback or previously required landscaping.

7. Does not result in a substantial change to the location of a structure previously approved.
 8. Does not result in a material modification or the cancellation of any condition placed upon the use as originally approved.
 9. Does not add property to the parcel proposed for development.
 10. Does not increase the height of the buildings.
- B. Other Revisions. Any other adjustments or changes not specified as “minor” shall be granted only in accordance with the procedures for original approval.

Section 3-415. Expiration of Approval.

Unless otherwise specified in the approval, an application for a building permit shall be made within one (1) year of the date of the conditional use approval, and all required certificates of occupancy shall be obtained within one (1) year of the date of issuance of the initial building permit. Permitted time frames do not change with successive owners and an extension of time may be granted by the Development Review Official for a period not to exceed one (1) year and only within the original period of validity.

**Article 3, Division 5.
PLANNED AREA DEVELOPMENT**

Section 3-501. Purpose and Applicability.

- A. Purpose. The purpose of this Division is to encourage the construction of Planned Area Developments (PAD) by providing greater opportunity for construction of quality development on large tracts and/or parcels of land through the use of flexible guidelines which allow the integration of a variety of land uses and densities in one development. Furthermore it is the purpose of the PAD to: (2557, 2828)
1. Allow opportunities for more creative and imaginative development than generally possible under the strict applications of these LDRs so that new development may provide substantial additional public benefit;
 2. Encourage enhancement and preservation of lands which are unique or of outstanding scenic, environmental, cultural and historical significance,
 3. Provide an alternative for more efficient use and, safer networks of streets, promoting greater opportunities for public and private open space, and recreation areas and enforce and maintain neighborhood and community identity
 4. Encourage harmonious and coordinated development of the site, through the use of a variety of architectural solutions to promote Mediterranean architectural attributes, promoting variations in bulk and massing, preservation of natural features, scenic areas, community facilities, reduce land utilization for roads and separate pedestrian and vehicular circulation systems and promote urban design amenities.
 5. Require the application of professional planning and design techniques to achieve overall coordinated development eliminating the negative impacts of unplanned and piecemeal developments likely to result from rigid adherence to the standards found elsewhere in these LDRs.

This Division is based on existing Article 9. Edits have been made to conform to new format. Definitions in 9-2 have been moved to Article 8. It is proposed that all districts (except single family) have PAD listed as a conditional use, referring to the standards in this division. Note: conditional use approval procedures will need to be modified to required that PADs be approved by City Commission, if that is the desire of the City to continue that process.

- B. Applicability. A PAD may be approved as a conditional use in any zoning district, except single family residential, in accordance with the standards and criteria of this Division, the procedures of Article 3 Division 4 and other applicable regulations.

PADSection 3-502. Standards and criteria

The City Commission may approve a conditional use for the construction of a PAD subject to compliance with the development criteria and minimum development standards set out in this Division.

- A. Uses permitted. Unless approved as a mixed use development, the uses permitted within a PAD shall be those uses specified and permitted within the underlying District in which the PAD is located,
- B. Relation to general zoning, subdivision, or other regulations. The PAD Regulations shall apply generally to all PADs. Where there are conflicts between the PAD provisions and general zoning, subdivision or other regulations and requirements, these regulations shall apply, unless the Planning and Zoning Board recommends and the City Commission finds, in the particular case:
1. That the PAD provisions do not serve public benefits to a degree at least equivalent to such general zoning, subdivision, or other regulations or requirements, or;
 2. That actions, designs, construction or other solutions proposed by the applicant, although not literally in accord with these PAD regulations, satisfy public benefits to at least an equivalent degree. It is specifically provided, however, that where the floor area ratio and similar ratios, including land use and density, have been generally established for a particular type of district or in particular areas, the Planning and Zoning Board and City Commission shall not act in a particular case to alter said ratios. Except as indicated above, procedures and requirements set forth herein and in the guides and standards adopted as part of these regulations shall apply to all ~~Planned Area Developments~~

Explanatory material omitted as unnecessary.

Definitions in 9-2 moved to Article 8

PADs and to any amendments for such developments and issuance of all permits therefore.

C. Minimum development standards. Any parcel of land for which a PAD is proposed must conform to the following minimum standards:

1. Minimum site area. The minimum site area required for a PAD shall be not less than one (1) acre for residentially or commercially designated property.
2. Configuration of land. The parcel of land for which the application is made for a PAD shall be a contiguous unified parcel with sufficient width and depth to accommodate the proposed use. The minimum average width and or depth for any PAD shall be two-hundred (200) feet
3. Floor area ratio for a PAD. The floor area ratio for a PAD shall conform to the requirements for each intended use in the applicable zoning district³⁻⁵ provided, however, that the total combined floor area ratio for all uses within the PAD shall not exceed two and one-half (2½).
4. Density for multi-family dwellings and overnight accommodations. The density requirements for multi-family dwellings and overnight accommodations shall be in accordance with the provisions of the applicable zoning district.
5. Transfer of density within a PAD. The density within a PAD shall be permitted to be transferred throughout the development site
6. Landscaped open space. The minimum landscaped open space required for a PAD shall be not less than twenty (20%) percent of the PAD site.
7. Height of buildings. The maximum height of any building in a PAD shall conform to the provisions³⁻⁵of the applicable zoning district.
8. Design requirements. All buildings within a PAD shall conform

Unnecessary to refer to DRI requirements.

to the following:

- a. Architectural relief and elements (i.e. windows, cornice lines, etc.) shall be provided on all sides of buildings, similar to the architectural features provided on the front façade;
- b. Facades in excess of 150 feet in length shall incorporate design features such as: staggering of the façade, use of architectural elements such as kiosks, overhangs, arcades, etc.;
- c. Parking garages shall include architectural treatments compatible with buildings and structures which occupy the same street;
- d. No block face shall have a length greater than 250 feet without a public pedestrian passageway or alley providing through access;
- e. all buildings, except accessory buildings, shall have their main pedestrian entrance oriented towards the front or side property line.

9. Perimeter and transition. Any part of the perimeter of a PAD which fronts on an existing street or open space shall be so designed as to complement and harmonize with adjacent land uses with respect to scale, density, setback, bulk, height, landscaping and screening. Properties which are adjacent to residentially zoned or used land shall be limited to a maximum height of 45 feet within 50 feet of the adjacent right-of-way.

10. Minimum street frontage; building site requirement, number of buildings per site, lot coverage and all setbacks. There shall be no specified minimum requirements for street frontage, building sites, number of buildings within the development, or lot coverage.

11. Platting and/or replatting of development site. Nothing contained herein shall be construed as requiring the platting and/or replatting of a development site for a PAD provided, however, that the Planning and Zoning Board and City Commission may require the platting or replatting of the development site when it determines that the platting or replatting would be in the best interest of the community.

12. Facing of buildings. Nothing in this Division shall be construed

as prohibiting a building in a PAD from facing upon a private street when such buildings are shown to have adequate access in a manner which is consistent with the purposes and objectives of these regulations and such private street has been recommended for approval by the Planning and Zoning Board and approved by the City Commission.

13. Off-street parking and off-street loading standards and requirements. The off-street parking and off-street loading standards and requirements for a PAD shall conform to the requirements of the applicable zoning district. Off-street parking for bicycles shall be provided as may be required by the Planning and Zoning Board and approved by the City Commission. Where the parking for the development is to be located within a common parking area or a parking garage, a restrictive covenant shall be filed reserving within the parking area or the parking garage the required off-street parking for each individual building and/or use and such off-street parking spaces shall be allocated proportionately.
14. Boats and recreational vehicle, parking. No boats and/or recreational vehicles shall be parked on the premises of a PAD unless such boats and/or recreational vehicles are located within an enclosed garage.
15. Accessory uses and structures. Uses and structures which are customarily accessory and clearly incidental to permitted uses and structures are permitted in a PAD subject to the provisions of Article 5 Division 1. Any use permissible as a principal use may be permitted as an accessory use, subject to limitations and requirements applying to the principal use.
16. Signs. The number, size, character, location and orientation of signs and lighting for signs for a PAD shall be in accordance with Article 5 Division 23.
17. Refuse and service areas. Refuse and service areas for a PAD shall be so designed, located, landscaped and screened and the manner and timing of refuse collection and deliveries, shipment or other service activities so arranged as to minimize impact on adjacent or nearby properties or adjoining public

ways, and to not impede circulation patterns.

18. Minimum design and construction standards for private streets and drainage systems. The minimum design and construction standards for private streets in a PAD shall meet the same standards as required for public streets as required by the Public Works Department of the City of Coral Gables. The minimum construction standards for drainage systems shall be in accordance with the Florida Building Code.

19. Ownership of PAD. All land included within a PAD shall be owned by the applicant requesting approval of such development, whether that applicant be an individual, partnership or corporation, or groups of individuals, partnerships or corporations. The applicant shall present proof of the unified control of the entire area within the proposed PAD and shall submit an agreement stating that if the owner(s) proceeds with the proposed development they will:

- a. Develop the property in accordance with:
 - (i). The final development plan approved by the City Commission for the area.
 - (ii) Regulations existing when the PAD ordinance is adopted.
 - (iii) Such other conditions or modifications as may be attached to the approval of the special-use permit for the construction of such PAD.
- b. Provide agreements and declarations of restrictive covenants acceptable to the City Commission for completion of the development in accordance with the final development plan as well as for the continuing operation and maintenance of such areas, functions and facilities as are not to be provided, operated or maintained at general public expense.
- c. Bind the successors and assigns in title to any commitments made under the provisions of the approved PAD.

20. Compatibility with historic landmarks. Where an historic landmark exists within the site of a PAD the development shall be required to be so designed as to insure compatibility and

congruity with the historic landmark.

21. Easements. The City Commission may, as a condition of PAD approval, require that suitable areas for easements be set aside, dedicated and/or improved for the installation of public utilities and purposes which include, but shall not be limited to water, gas, telephone, electric power, sewer, drainage, public access, ingress, egress, and other public purposes which may be deemed necessary by the City Commission.
22. Installation of utilities. All utilities within a PAD including but not limited to telephone, electrical systems and television cables shall be installed underground.
23. Mixed-uses within a PAD. A PAD may be so designed as to include the establishment of complementary and compatible combinations of office, hotel, multi-family and retail uses which shall be oriented to the development as well as the district in which the development is located.
24. Common areas for PADs. Any common areas established for the PAD shall be subject to the following:
 - a. the applicant shall establish a property owner's association for the ownership and maintenance of all common areas, including open space, recreational facilities, private streets, etc. Such association shall not be dissolved nor shall it dispose of any common areas by sale or otherwise (except to an organization conceived and established to own and maintain the common areas), however, the conditions of transfer shall conform to the Development Plan.
 - b. Membership in the association shall be mandatory for each property owner in the PAD and any successive purchaser that has a right of enjoyment of the common areas.
 - c. The association shall be responsible for liability insurance, local taxes, and the maintenance of the property.
 - d. Property owners that have a right of enjoyment of the common areas shall pay their pro rata share of the cost, or the assessment levied by the association shall become a lien on the property.
 - e. In the event that the association established to own and

maintain commons areas or any successor organization, shall at any time after the establishment of the PAD fail to maintain the common areas in reasonable order and condition in accordance with the Development Plan, the City Commission may serve written notice upon such association and/or the owners of the PAD and hold a public hearing. If deficiencies of maintenance are not corrected within thirty (30) days after such notice and hearing the City Commission shall call upon any public or private agency to maintain the common areas for a period of one year. When the City Commission determines that the subject organization is not prepared or able to maintain the common areas such public or private agency shall continue maintenance for yearly periods.

- f. The cost of such maintenance by such agency shall be assessed proportionally against the properties within the PAD that have a right of enjoyment of the common areas and shall become a lien on said properties.
- g. Land utilized for such common areas shall be restricted by appropriate legal instrument satisfactory to the City Attorney as common areas in perpetuity. Such instrument shall be recorded in the Public Records of Dade County and shall be binding upon the developer, property owners association, successors, and assigns and shall constitute a covenant running with the land.

Section 3-503. Required Findings. The Planning and Zoning Board shall recommend to the City Commission the approval, approval with modifications, or denial of the plan for the proposed PAD and shall include not only conclusions but also findings of fact related to the specific proposal and shall set forth particularly in what respects the proposal would or would not be in the public interest. These findings shall include, but shall not be limited to the following:

- A. In what respects the proposed plan is or is not consistent with the stated purpose and intent of the PAD regulations.
- B. The extent to which the proposed plan departs from the zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to density, size, area, bulk and use, and the reasons why such departures are or are not deemed to be in the

public interest.

- C. The extent to which the proposed plan meets the requirements and standards of the PAD regulations.
- D. The physical design of the proposed PAD and the manner in which said design does or does not make adequate provision for public services, provide adequate control over vehicular traffic, provide for and protect designated common open areas, and further the amenities of light and air, recreation and visual enjoyment.
- E. The compatibility of the proposed PAD with the adjacent properties and neighborhood.
- F. The desirability of the proposed PAD to physical development of the entire community.
- G. The conformity of the proposed PAD with the goals and objectives and Future Land Use Maps of the City of Coral Gables Comprehensive Land Use Plan.

Section 3-504. Binding nature of approval for a PAD.

All terms, conditions, restrictive covenants, safeguards and stipulations made at the time of approval of the Development Plan for a PAD shall be binding upon the applicant or any successors in interest. Deviations from approved plans or failure to comply with any requirements, conditions, restrictions or safeguards imposed by the City Commission shall constitute a violation of these LDRs. **Section 3-505. Time Limit on Approval.** The developer shall obtain a building permit and begin construction of the improvements within the PAD within eighteen (18) months from the effective date of the ordinance approving the Development Plan (or subsequent updates).. If the developer fails to commence construction of the PAD within the specified the approval of the PAD shall expire.

If the PAD is to be developed in stages, the developer must begin construction of each stage within the time limits specified in the approved Plan (or subsequent updates). Construction in each phase shall include all the elements of that phase specified in the approved Plan.

PADs will be approved in accordance with the conditional use procedures in Article 3 Division 4 so the procedures in 9-4 and 9-5 are not necessary. Application requirements will be maintained and provided for by staff.

Sec 9-6 - Again this section is not necessary if using the conditional use procedures. Consideration should be given to incorporating the 20% provision into the conditional use amendment process.

9-7 deleted as not relevant to a conditional use.

*Existing section 9-12 et seq. ("UMCAD") has been moved to Article 4
Division 2 Section 4-203.*

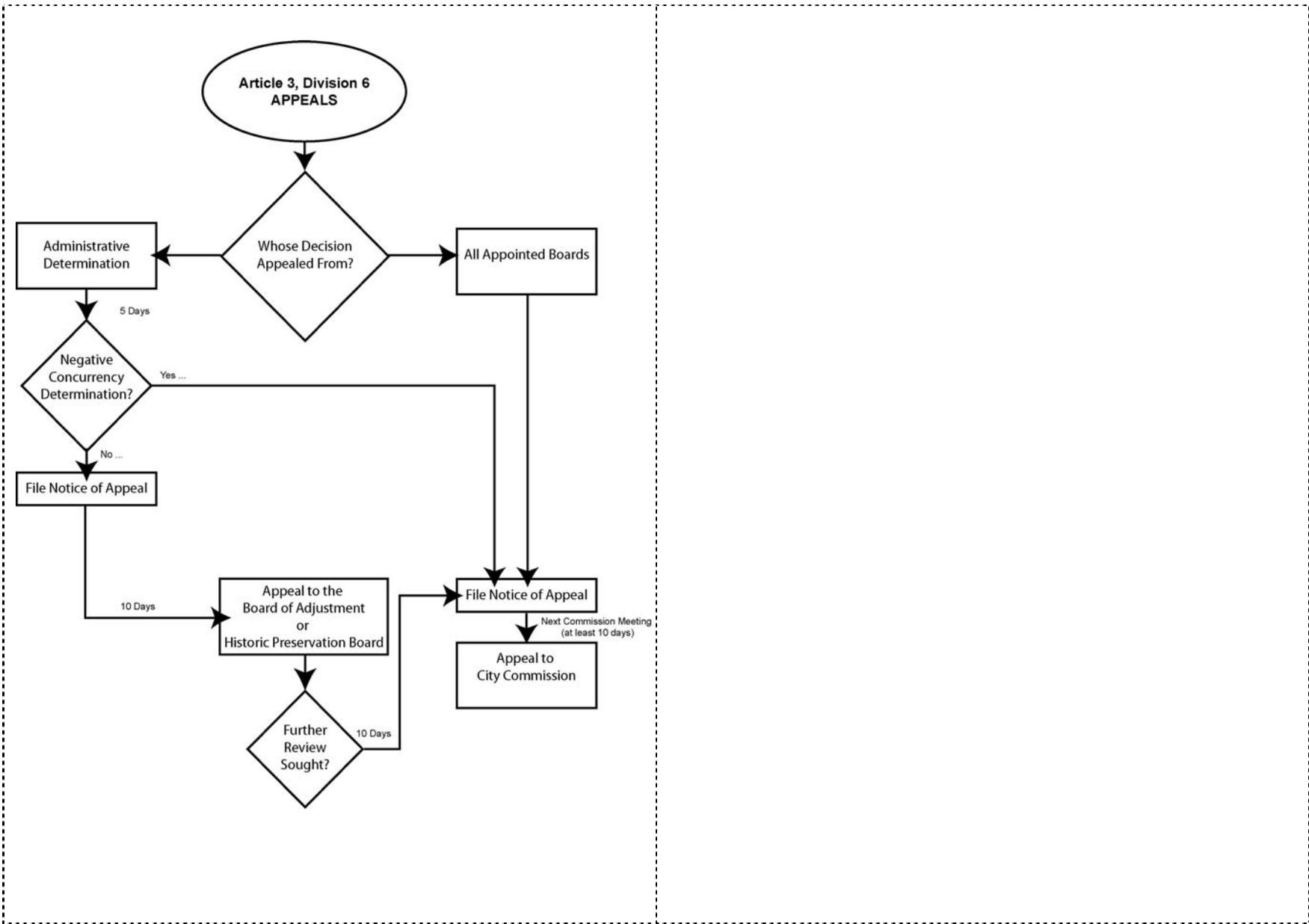
**ARTICLE 3, Division 6
APPEALS**

Section 3-601. Purpose and Applicability.

The purpose of this Division is to set forth procedures for appealing the decisions of City staff where it is alleged that there is an error in any order, requirement, decision or interpretation made in the enforcement or interpretation of these LDRs. Moreover, it is the purpose of this Division to set forth standard procedures for appealing the decisions of the City's decisionmaking bodies.

Section 3-602. General Procedures.

This Division is based on existing Article 26 and other provisions in the Code regarding appeals. The purpose of this Division is to establish clear and uniform ways of appealing decisions from staff and decisionmaking bodies. Because all appeals would be heard at a public hearing and we have uniform public hearing rules (in Article 3 Division 3), we do not need to keep repeating what happens at the public hearing.



Section 3-603. Appeals from negative concurrency determinations.

An appeal from a negative concurrency determination shall be taken to the City Commission by any aggrieved party in accordance with the procedures of Section 3-606.

Section 3-604. Appeals from Decisions of the Board of Architects or City Staff.~~Building and Zoning Director or Administrative Official.~~

An appeal from any decision of the Board of Architects or where it is alleged that there is an error in any order, requirement, decision or interpretation made in the enforcement or interpretation of these LDRs by City staff ~~Building and Zoning Director or Administrative Official~~, shall be taken by an aggrieved party to the Board of Adjustment or the Historic Preservation Board, in the case of an appeal from a decision of the Historic Preservation Officer, no later than sixty (60) days after the decision has been made. Application for postponement of the public hearing of an appeal shall be considered according to the provisions stated in Section 3-608. ~~26-4 herein.~~

~~At the time any such appeal is considered by the Board of Adjustment such Board shall give the Board of Architects, or the Building and Zoning Director or the Administrative Official, as the case may be, and the appellant, an opportunity to be heard. (3046, 3058)~~

Section 3-605. Appeals from decisions of the Board of Adjustment, Planning and Zoning Board and Historic Preservation Board. (3058, 3134, 3193)

An appeal from any decision of the Board of Adjustment, Planning and Zoning Board or Historic Preservation Board ~~upon any matter initiated before such Board, or before the Board of Adjustment upon appeal from the decision of the Board of Architects, Building and Zoning Director, or any Administrative Official of the City~~ may be taken to the City Commission by any aggrieved party.

Section 3-606. Procedures for Appeals

The following procedures shall govern the filing of appeals:

Section 3-604 is an edited version of sec. 26-1.

Section 3-605 is an edited version of the first part of section 26-2.

Section 3-606 is an edited version of 26-2.

- A. Appeals from Board of Architects and City Staff. An aggrieved party may file a written Notice of Appeal to the Board of Adjustment or the Historic Preservation Board with the Development Review Official within ten (10) days of the administrative decision or the decision of the Board of Architects being appealed from. The appeal should be accompanied by any relevant documents related to the appeal. The appeal shall be considered by the Board of Adjustment or Historic Preservation Board within fourteen (14) days after receipt of the notice. The Board of Adjustment or Historic Preservation Board shall grant the appeal, with or without conditions, or deny the appeal.
- B. Appeals of Decisions of Board of Adjustment, Planning and Zoning Board, and Historic Preservation Board. Any aggrieved party desiring to appeal a decision of the Board of Adjustment, Planning and Zoning Board, or Historic Preservation Board shall, ~~not less than five (5) days and within fourteen (14) days~~ within ten (10) days from the date of such decision, file a written Notice of Appeal with the City Clerk, whose duty it shall then become to send a written notice of such appeal to all persons previously notified by the Board in the underlying matter. The ~~appeal matter~~ shall then be heard by the City Commission at its next meeting, provided at least ten (10) days has intervened between the time of the filing of the Notice of Appeal and the date of such meeting; if ten (10) days shall not intervene between the time of the filing of the notice and the date of the next meeting, then the appeal shall be heard at the next following regular meeting of the City Commission and the City Commission shall render a decision, without any unnecessary or undue delay, unless application for deferral has been made as permitted in Section 3-609 of this Division.
- ~~C. Stay of Proceedings. Any individual or their agent or representative filing an appeal from a decision of the Board of Adjustment or Planning and Zoning Board upon any matter which they have initiated as an "applicant" before said Board shall pay a fee of two hundred (\$200.00) dollars to the City Clerk upon filing such appeal. Any "aggrieved party" filing an appeal from a decision of the Historic Preservation Board shall pay a fee of two hundred (\$200.00) dollars to the City Clerk upon filing such appeal. In cases where multiple~~

~~parties have filed an "aggrieved party" appeal, said appeal shall be heard as one appeal and said appeal fee shall be equally divided among the parties.~~ An appeal shall stay all proceedings in the matter appealed from until the final disposition of the appeal by the City Commission.

- D. ~~City Commission Decision. Upon the taking of an appeal,~~ The City Commission shall conduct a de novo review of the decision of the Board of Adjustment, Planning and Zoning Board or the Historic Preservation Board. The property owners, objectors or interested parties may offer or submit additional evidence and testimony at the hearing before the City Commission. The City Commission is authorized to affirm, affirm with conditions, override the decision of the Board of Adjustment, ~~or the Planning and Zoning Board,~~ or the Historic Preservation Board, ~~or remand for further proceedings to the applicable Board.~~ Any decision by the Board of Adjustment, ~~or Planning and Zoning Board,~~ or Historic Preservation Board can only be reversed by a majority vote of the City Commission. The granting of any appeal by the City Commission shall be by resolution.

Section 3-607. Appeals from Decision of the City Commission.

An action to review any decision of the City Commission under ~~these LDRs this Zoning Code~~ these may be taken by any person or persons, jointly or severally, aggrieved by such decision by presenting to the Circuit Court a petition for issuance of a Writ of Certiorari, duly certified, setting forth that such decision is illegal, in whole or in part, certifying the grounds of the illegality, provided same is done in the manner and within the time provided by Florida Rules of Appellate Procedure.

Challenges to development order decisions based on consistency or inconsistency of the development order with the City of Coral Gables Comprehensive Plan shall be governed by the provisions of Section 163.3215, Florida Statutes (1995). ~~For purposes of this section, the term "development order" shall have the same meaning as defined in Section 163.3164(7) (Florida Statutes).~~

~~No person aggrieved by any zoning resolution, order, requirement, decision or determination of any administrative official or by any decision of the Board of Architects, Board of Adjustment or Planning~~

Section 3-607 is an edited version of 26-3.

~~and Zoning Board may apply to the Court for relief unless he/she has first exhausted the remedies provided in Article 26 of the Zoning Code and taken all available steps provided therein.]~~

~~The record when pertaining to the record of the Commission or any board or official from which appeal is taken shall include any application, exhibits, appeal papers, written objections, waivers or consents, considered by the Commission, or such board, as well as transcripts or stenographic notes taken for the Department at a hearing held before the Commission or any such board, the City Commission minutes or the board's minutes and resolution showing its decision or action, and if the record of a lower board is transmitted to the City Commission, the record of the City Commission shall include the record of the lower board. The record shall also include any and all applicable portions of these LDRs, the Zoning Code and where applicable the City Code, the report and recommendations of City staff, the Departments, the City's Use and Area Maps and Comprehensive Land Use Plan, as well as applicable district boundary maps, aerial photographs and final zoning resolutions or ordinances. It shall also include the record made as a result of any prior zoning applications for development approval on the same property. The Clerk of the City Commission shall identify all exhibits used at the Zoning hearing. All exhibits so identified or introduced shall be a part of the record. [Interested parties are advised that review of certain comprehensive planning decisions may be subject to the review provisions contained in Chapter 163, Florida Statutes, and the Florida Rules of Appellate Procedure in lieu of the provisions of this Article]. (3212)~~

Section 3-608. Postponement of Appeals of the Board of Adjustment, Planning and Zoning Board, or Board of Architects.

- A. Applicants and/or aggrieved parties desiring postponement of an appeal before the City Commission on an application from the Board of Adjustment or an appeal to the Board of Adjustment on an application from the Board of Architects, or City Staff ~~building and Zoning Director, or Administrative Official~~, shall adhere to the following provisions for postponement:
1. First postponement must be requested in writing to the Office of the City Manager for items being considered by the City Commission, or to the Building and Zoning Director for items

Section 3-608 is an edited version of 26-4.

being considered by the Board of Adjustment, which will be automatically granted, upon payment of a fee established by City Code. ~~Payment of three hundred (\$300.00) dollars Postponement Fee shall be required to defray expenses associated with readvertisement and/or notification. The City and any Board member thereof shall not be required to pay for an appeal postponement.~~ The item will then be placed on the next month's agenda.

- ~~2. Second postponement by the same party must be requested in the same manner as the first postponement, which will be automatically granted upon payment of a fee established by City Code. ~~a three hundred (\$300.00) dollars Postponement~~~~
3. Following two postponements, the item will then be placed on the next month's agenda and there shall be no further postponements absent approval of the reviewing body. The third and each additional postponement, if approved, shall only be granted upon payment of a fee established by City Code.~~a three hundred (\$300.00) dollars Postponement Fee.~~

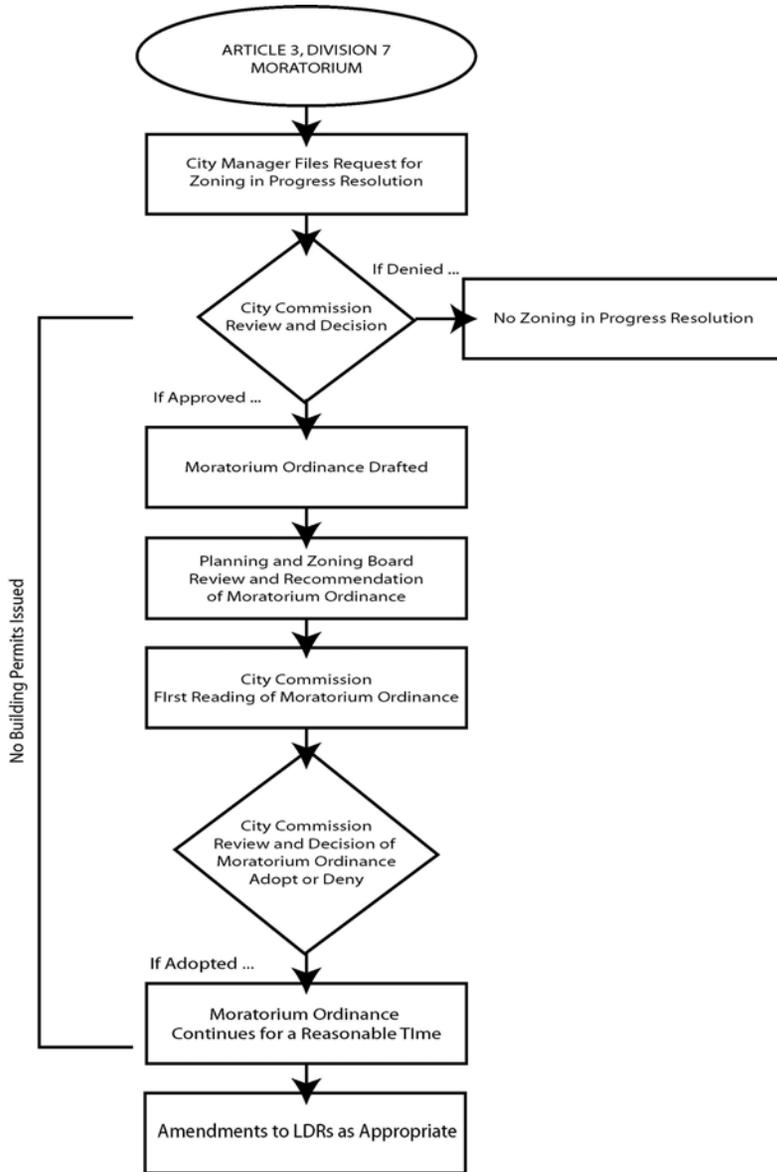
B. Applicants and/or aggrieved parties desiring postponement of an appeal before the City Commission on an application from the Planning and Zoning Board, shall adhere to the following provisions for postponements:

1. First postponement. Requests for initial postponement must be requested in writing to the Office of the City Manager. A copy of the request shall be forwarded to the Board Secretary and the City Clerk. The request shall include a specific time frame for postponement. No more than 90 calendar days may be requested and will be automatically granted.
2. Second postponement. Requests for second postponement must be requested in writing to the Office of the City Manager. A copy of the request shall be forwarded to the Board Secretary and the City Clerk. The second postponement request may not exceed 30 calendar days. The City Manager's Office shall evaluate the request and may administratively grant the request or schedule the request for City Commission review and

approval.

3. Third postponement. If the appeal is not considered by the City Commission within the 120 calendar days as provided above, the application shall be scheduled for City Commission consideration at the next available City Commission meeting. The City Commission shall evaluate the application and determine if additional postponement are warranted. The maximum time frame an appeal can be postponed from the initial date the application was scheduled for City Commission consideration is 180 days.
4. Appeal postponement fees. Applicants and/or aggrieved parties shall be required to pay all applicable costs for all postponement requests including applicable fees established by City Code, ~~which as a minimum shall include a three-hundred (\$300.00) dollar postponement fee to cover all applicable administrative costs in connection with the request.~~ If the City Commission requests adjacent property owners be notified or advertised, all costs shall be the responsibility of the applicant or aggrieved party.
5. Applicant responsibility. It shall be the responsibility of the applicant to adhere to the requirements provided in this Division herein, which shall include monitoring and insuring the application proceeds forward for City Commission consideration. Failure of the applicant to follow the above provisions shall terminate the appeal, ~~render the application as expired.~~
6. Appeal review expiration. Appeals which do not secure City Commission consideration as provided in the above sections or are not considered by the City Commission within six (6) months shall be deemed abandoned and void. ~~The applicant shall be subject to all applicable code provision under the appeal process.~~

**ARTICLE 3, Division 7
MORATORIUM**



Section 3-701. Purpose and Applicability.

The purpose of providing for a moratorium on development is to preserve the status quo for a reasonable time while the City develops and adopts a land use strategy to respond to new or recently perceived problems. The moratorium prevents developers and property owners from developing land under current land use rules that the community is in the process of changing. By so doing, a moratorium helps to accomplish the purpose of the new rules by preventing outdated development and allowing time to conduct a comprehensive growth management study which will be used to assist the City Commission in implementing needed changes to the LDRs.

Section 3-702. Zoning in Progress Request.

The City Manager may file a request with the City Commission for a Zoning in Progress Resolution. The request shall be made in writing and shall be accompanied by a City staff report summarizing the need for a revision to the LDRs and the area or areas within the City that will be affected. Such report shall contain a determination concluding the need for a resolution of the City Commission declaring Zoning in Progress and for the adoption of a formal moratorium.

Section 3-703. City Commission Zoning in Progress Resolution Review and Decision.

- A. The City Commission shall review the Zoning in Progress Resolution at the next available regularly scheduled meeting following the submittal of the Zoning in Progress Resolution.
- B. The City Commission shall make preliminary findings and accordingly approve or deny the City Manager's proposed Zoning in Progress Resolution.
- C. Should the City Commission determine that a moratorium pending the preparation of a detailed and comprehensive analysis of the area in question is reasonably necessary or desirable, it shall:
 - 1. approve the City Manager's Zoning in Progress Resolution; and

This Section is entirely new and is intended to give the reader an overview of this Division on Moratorium.

Section 3-702, 3-703, and 3-704 are entirely new sections and are intended to ensure that no development permits are issued from the time a need for change is determined until a moratorium ordinance is adopted.

2. order a fixed time, not to exceed 90 days, within which City staff shall report to the Planning and Zoning Board and the City Commission with its report, a proposed ordinance, and recommendations relating to a potential moratorium.

- D. The Zoning in Progress Resolution shall be for a period not to exceed the first regularly scheduled City Commission meeting after one hundred twenty (120) days, unless an extension not exceeding forty (40) days is ordered pursuant to section F below.
- E. The City Commission on its own motion or otherwise may extend any Zoning in Progress Resolution for a longer period of time if reasonably necessary and the public interest requires.
- F. Should City staff be unable to report back to the City Commission within the time prescribed by its order, upon timely request by City staff and after public hearing on the need, the City Commission may extend the time limitation one time for a period not to exceed forty (40) days.
- G. Upon adoption of the City Manager's Zoning in Progress Resolution, City Clerk shall publish the adopted resolution in a newspaper of general circulation published in the City of Coral Gables, or in Dade County, Florida, within ten (10) days following the date of adoption.

Section 3-704. Effect of Zoning in Progress Resolution.

- A. During the period of time that the Planning and Zoning Board and City Commission are considering a moratorium ordinance, no permit(s) or development order(s) of any kind shall be issued if issuance would result in the nonconforming or unlawful use of the subject property should the moratorium or text amendment or zoning district change be finally enacted by the City Commission.
- B. During the period of time that the Planning and Zoning Board and City Commission are considering a moratorium ordinance, no permit(s) or development order(s) of any kind shall be issued if issuance would result in the nonconforming or unlawful use of the subject property should a moratorium ordinance be adopted by the City Commission.

C. The period of time of such freeze on permits shall begin on the earlier of:

1. City Commission adoption of Zoning in Progress Resolution; or
2. notice has been given as required by law of the initial public hearing before the Planning and Zoning Board on the amendment to these LDRs.

Section 3-705. City Staff Review, Report and Recommendation.

A. In the event the City Commission determines a moratorium is necessary to give City staff sufficient time to complete planning studies or other analysis prior to instituting an amendment to the LDRs, the City Commission, as part of the Zoning in Progress Resolution, shall direct City staff to prepare a moratorium ordinance.

B. Within the time fixed by the City Commission, City staff shall first report to the Planning and Zoning Board and then the City Commission with its ordinance and recommendations regarding the moratorium and its scope.

C. City staff shall:

1. Provide a detailed report indicating the necessity for zoning changes;
2. Provide a recommendation as to whether the proposed moratorium ordinance should be approved, approved with conditions, or denied;
3. Schedule the moratorium ordinance for hearing before the Planning and Zoning Board; and
4. Provide notice of the Planning and Zoning Board hearing pursuant to Article 3, Division 3.

Section 3-706. Planning and Zoning Board Review and Recommendation.

The Planning and Zoning Board shall:

- A. Review the proposed moratorium ordinance at a public hearing;
- B. Make a written recommendation to the City Commission with regard to whether the proposed moratorium ordinance should be approved, approved with conditions, or denied.

Section 3-707. City Commission Review and Decision.

- A. Upon receipt of the report and recommendation of City staff and the Planning and Zoning Board, the City Commission shall review the report and recommendations at two public hearings.
- B. The City Commission shall read the moratorium ordinance by title, in full, on the first public hearing following receipt of the City staff's and the Planning and Zoning Board's recommendation.
- C. The City Commission shall hold a second public hearing and following the hearing adopt or deny the proposed moratorium ordinance.
- F. The City Commission may, upon request by City staff, amend the scope and timing of the moratorium as needed.
- G. The City shall consider such amendments to these LDRs as are appropriate in accordance with the provisions in Article 3 Division 14.

Section 3-708. Waivers.

If the City Commission has provided for waivers in the ordinance adopting a moratorium, the City Manager may grant a waiver of the moratorium where the applicant can show the following:

- A. The proposed development complies with the existing land development regulations;

This Section is entirely new. The Planning and Zoning Board review and recommendation was added for consistency – all amendments to these LDRs (which a moratorium is) must go through the Planning and Zoning Board pursuant to Article 3, Division 14.

3-707 is an edited version of existing Section 10-1 regarding the City Commission review process.

This Section 3-708 is entirely new and is intended to give an applicant an opportunity to receive a building permit if the applicant is in compliance with both the existing LDRs and the proposed changes to the LDRs.

B. The proposed development satisfies the objective of the City Commission in ordering a moratorium. For example, if the City Commission is considering increasing the minimum setback in a residential zoning district by two (2) feet, and the applicant demonstrates that it complies with the proposed modification to the setback, the City Manager may grant a waiver of the moratorium; and

C. The waiver will not hinder the intent of the City Commission in its proposed amendment to the LDRs.

Section 3-709. Exemptions.

Notwithstanding the adoption of a moratorium ordinance, the City Manager may authorize the issuance of building permits for nondeleterious items including, but not limited to, fences, repairs and similar matters, where he determines that such permit will not affect the outcome of the planning study; provided, however, that with regard to any particular moratorium the City Commission may by ordinance increase or decrease allowable exemptions and may by ordinance provide either a supplemental or exclusive procedure for acting upon requests for exemptions. Such procedure may vest jurisdiction and responsibility for acting upon requests for exemptions in the City Manager or any City administrative or quasi-judicial body or board.

Section 3-710. Variances, change of zoning or tentative plats during moratoria.

During the existence of zoning in progress or any moratorium, no applications for variances, changes of zoning, development orders or tentative plats within the affected area shall be acted upon by any City agency, except as provided in Sections 3-708 and 3-709, or unless otherwise specifically provided by the City Commission by ordinance with regard to a specific moratorium.

Section 3-709 is an edited version of existing Section 10-3.

Section 3-710 is an edited version of existing Section 10-4.

**ARTICLE 3 Division 8
VARIANCES**

Section 3-801. Purpose and Applicability.

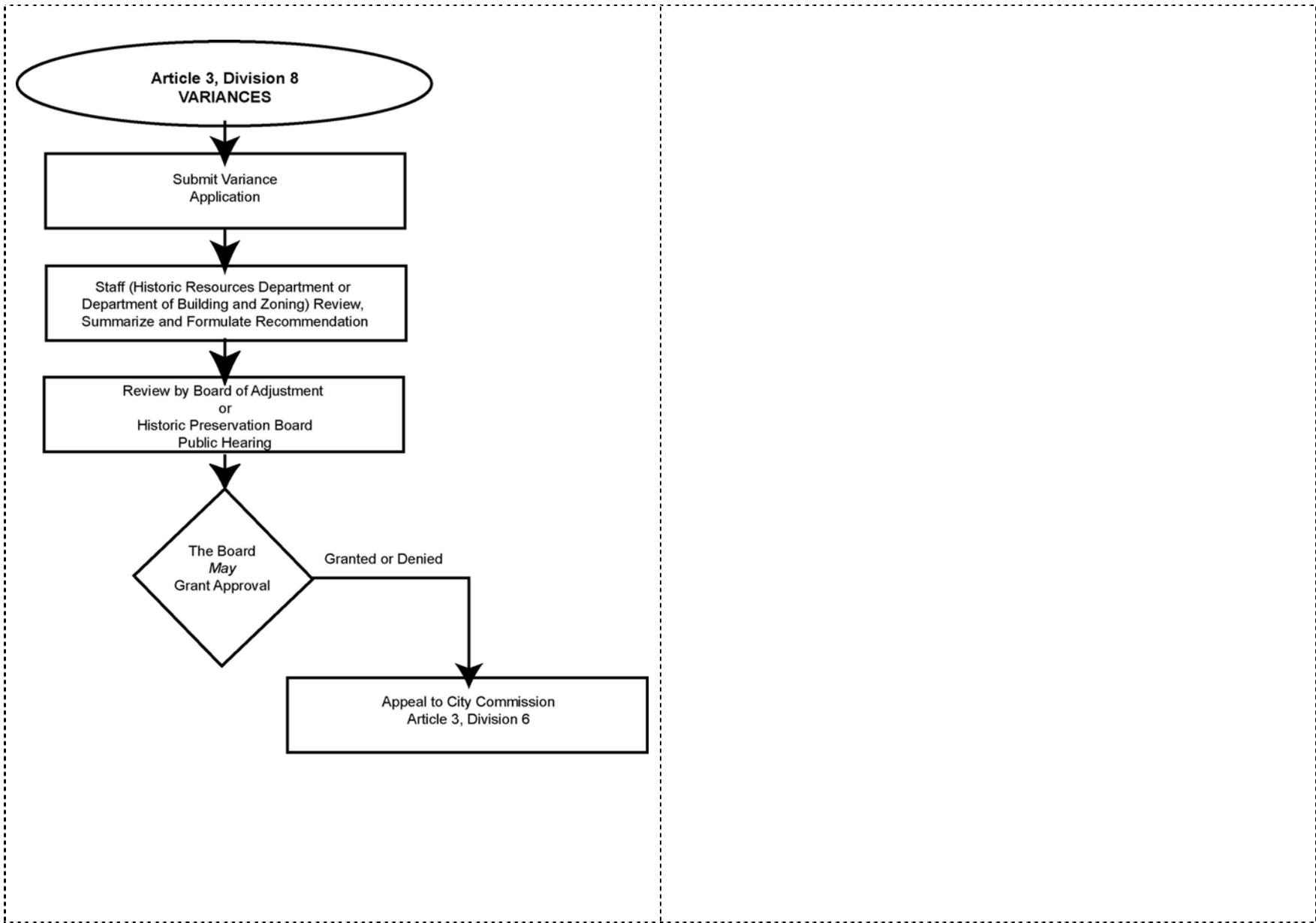
The purpose of this Division is to establish a procedure for granting variances from the literal terms of these LDRs where there are practical difficulties or unnecessary and undue hardships so that the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done.

Section 3-802. General Procedures.

This Division is based on existing sections 24-7, 24-8, 24-9, 24-10. The balance of Article 24 is included in Article 2 (decisionmaking bodies). Fees have been moved to the City Code, subsequent applications to Article 3 Division 2 and violation references to Article 7. The time limit on the use of variances granted has been toughened.

Section 3-801 is entirely new. Please note that we expect that there will be additional flexibility in the LDRs regarding items that are typically treated as variances today, precluding the need to have a variance in the future. Therefore the undue hardship standard remains in these provisions.

Section 3-802 is entirely new



Section 3-803. Application.

An application for a variance shall be made in writing upon an application form approved by the City staff, and shall be accompanied by applicable fees.

Section 3-804. City Staff Review, Report and Recommendation.

- A. City staff shall review the application in accordance with the provisions of Article 3, Division 2 of these LDRs.
- B. Upon completion of review of an application, City staff shall:
 - 1. Provide a report that summarizes the application and the effect of the proposed variance, including whether the variance complies with each of the standards for granting variances in Section 3-805;
 - 2. Provide written recommended findings of fact regarding the standards for granting variances as provided for in Section 3-805;
 - 3. Provide a recommendation as to whether the application should be approved, approved with conditions, or denied;
 - 4. Schedule the application for hearing before the Board of Adjustment or the Historic Preservation Board; and
 - 5. Provide notice of the hearing in accordance with the provisions of Article 3, Division 3 of these LDRs.

Section 3-805. Review, Hearing and Decision on Variances.

The Board of Adjustment or the Historic Preservation Board in the case of variance involving historic properties, shall review the application for a variance, the report, recommendation, and proposed findings prepared by City staff, conduct a quasi-judicial public hearing on the application in accordance with the requirements of Section 3-303 and render a decision, based upon written findings of fact, granting, granting with conditions, or denying the variance.

Section 3-803 is entirely new

Section 3-804 is entirely new

Section 3-805 is entirely new but is based on existing procedures.

Section 3-806. Standards for Variances.

A. In order to authorize any variance from the terms of these LDRs ~~the Zoning Code~~, the Board of Adjustment or Historic Preservation Board as the case may be ~~must and~~ shall find:

1. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.
2. That the special conditions and circumstances do not result from the actions of the applicant.
3. That granting the variance requested will not confer on the applicant any special privilege that is denied by these LDRs ~~this Ordinance~~ to other lands, buildings or structures in the same zoning district.
4. That literal interpretation of the provisions of these LDRs ~~the Zoning Code~~ would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these LDRs ~~the Zoning Code~~ and would work unnecessary and undue hardship on the applicant (~~see also definition of necessary hardship~~).
5. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.
6. That granting the variance will not change the use to one that is not permitted in the zoning district or different from other land in the same district.
7. That the granting of the variance will be in harmony with the general intent and purpose of these LDRs ~~the Zoning Code~~, and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Section 3-806 is an edited version of section 24-7. Violation language omitted as duplicative of Article 7. Additional language added for historic landmark variances.

Policy issue: change “undue hardship,” which is not required by law, to practical difficulties.

8. That the granting of the variance is appropriate for the continued preservation of an historic landmark or historic landmark district.

B. No non-conforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of land, structures, or buildings in other districts, shall be considered grounds for the issuance of a variance.

~~In granting any variance, the Board of Adjustment shall provide that any permit issued in connection with the variance shall conform to the plans submitted with the application and the Board of Adjustment may also prescribe appropriate conditions and safeguards in conformity with this Code. Violations of such and/or deviation from such plans, conditions and/or safeguards, shall be deemed a violation of this Code and punishable under Section 27-1 hereof.~~

C. Under no circumstances shall the Board of Adjustment or the Historic Preservation Board grant a variance to permit the following:

1. A use not permitted in the district involved, or any use expressly or by implication prohibited by the terms of these LDRs ~~this Code~~ in said district; and,

~~2. The reduction or diminishing of a building site upon which a single-family residence or duplex has heretofore been constructed. When a variance is granted, the proceedings of the Board shall state the basis for granting the variance.~~

D. The Board of Adjustment or the Historic Preservation Board may impose such reasonable conditions on the grant of a variance in order to ensure that the variance will have a minimum impact on surrounding properties.

Section 3-807. Time Limit for Variances.

Existing section 24-9.

Any variance granted under the provisions of this Division ~~authorized by Resolution~~ shall become null and void and of no effect twelve (12) months from and after the date of the approval ~~resolution~~ granting the

same, unless within such period of twelve (12) months a building permit for the building or structure involved embodying the substantive matter for which the variance was granted shall have been issued ~~and taken out~~; or if the use or adoption of such variance does not require the issuance of a building permit, unless the requested action permitted by the variance shall have taken place within the said twelve (12) month period. An extension of six (6) months may be granted by the Development Review Official for good cause shown. ~~Whenever the six (6) months period has elapsed without action by the applicant, the applicant shall be required to file a new application as set forth in Section 24-8 hereinabove.~~

~~However, upon application, the City Manager may, after review and determination that substantial progress has been achieved by the applicant in terms of project planning, extend the expiration date of the variance from an additional period of time not to exceed six (6) months. Said extension request shall be filed with the City Manager two (2) weeks prior to the expiration of the initial six (6) months effective period of the variance.~~

Section 3-808. Effect of Decision.

Approval of a variance shall be deemed to authorize only the particular use for which it is issued and shall entitle the recipient to apply for review by the Board of Architects, if applicable, a certificate of use or building permit or any other approval that may be required by these LDRs, the City or regional, state or federal agencies.

Section 3-809. Appeals.

An appeal from any decision of the Board of Adjustment or the Historic Preservation Board regarding variances may be taken to the City Commission by an aggrieved party in accordance with the provisions of Article 3 Division 7 of these LDRs.

Note: Limitation on re-filing is included in Section 3-208.

Section 3-809 is new but based on existing procedures.

**ARTICLE 3, DIVISION 9.
Submission of Land Plats.**

Section 3-901. Purpose and Applicability.

The purpose of this Division is to provide application and review procedures for the subdivision of land within the City. This Division shall be applicable to any subdivision or re-subdivision of land that creates one (1) or more parcels. No building permit shall be issued for construction of any improvements on a parcel that was not legally created in compliance with these regulations.

Article 3, Division 9. *This Division is based loosely on Chapter 23 of the City Code and provides the application and review procedures for plats.*

Sec. 3-901. *Note that Chapter 28 of the Miami-Dade County Code expressly pre-empts municipalities on platting. Specifically, the County Code sets forth the minimum requirements necessary and the City is free to provide more restrictive requirements.*

Chapter 28 of the Miami-Dade County Code also permits waivers of plat for minor dedications, re-subdivisions of land that have unusual conditions, or the re-subdivision of a lot that was platted prior to the effective date of the subdivision regulations (January 1, 1958). Section 23-2 of the existing City Code exempts such parcels from the platting process entirely (and does not require a waiver of plat). However, the County Code requires at a minimum that these types of re-plats be submitted for waiver of plat review and thus, could be construed to pre-empt the City's more general exemption.

We further note that Florida law does not require cities to exempt previously platted properties from the new platting requirements. In addition, Florida law does not prohibit the City from requiring lot assemblage for substandard lots (e.g. lots that were platted prior to January 1, 1958 that do not meet the new minimum size requirements). To the extent that lot assemblage is not possible, Florida law does permit hardship variances. The City may wish to consider a waiver of plat process for lots platted prior to January 1, 1958. Alternatively, the City can require lot assemblage or require the applicant to apply for a hardship variance.

Also note that the Miami-Dade County Code permits the construction of sales trailers, model homes, entrance features and lift stations after the tentative plat has been approved and commercial and industrial buildings. The City may wish to consider adding an exception to the general prohibition against the issuance of building permits until recordation of the final plat perhaps for commercial and industrial buildings.

Section 3-902. Tentative Plat.

- A. Pre-application Conference-Sketch Plan.** Prior to filing an application for tentative plat approval, the applicant shall have a pre-application conference as set forth in Section 3-201.
- B. Application.** An applicant for plat approval shall submit an application for review of a tentative plat upon an application form approved by the City Staff, and shall be accompanied by all applicable fees. In addition, the application shall be accompanied by any application for a variance of the subdivision requirements as set forth more fully in Section 3-904 below.
- C. DRC Report and Recommendation.**
1. The DRC shall review the application in accordance with the provisions of Article 3, Division 2 of these LDRs. Any such review by the DRC shall, at a minimum, include a review and comment by the Public Works Department.
 2. Upon completion of review of an application, the DRC official shall:
 - a. Prepare a report that summarizes the application, including whether the application complies with the Platting Standards set forth in Article 5, Division 17 and the requirement for the undergrounding of utilities in Article 5, Division 25 of these LDRs;
 - b. Provide written recommendations as to whether the application should be recommended for approval, approval with conditions, or denied;
 - c. Provide the report and recommendation, with a copy to the applicant, to the Planning and Zoning Board at least one (1) week prior to the next scheduled meeting of the Planning and Zoning Board;
 - d. Schedule the application for hearing before the Planning and Zoning Board; and

Sec. 3-902. *The contents for a tentative plat and final plat are presently addressed in Sections 23-47, 23-48, and 23-68 of the City Code. Chapter 28 of the Miami-Dade County Code contains all of these items and has been updated to require additional items. Staff should compile a list of items required based on the existing Code, Chapter 28 of the Miami-Dade County Code, and Chapter 177, Florida Statutes. All existing application requirements have been deleted from these provisions in accordance with the format of the new LDRs.*

e. Provide notice of the hearing before the Planning and Zoning Board in accordance with the provisions of Article 3, Division 3 of these LDRs.

D. Planning and Zoning Board Review. Upon receipt of the recommendations of the DRC, the Planning and Zoning Board shall conduct a public hearing on the tentative plat and shall review to ensure that it conforms to the requirements of these LDRs and the Comprehensive Plan.

E. Planning and Zoning Board Recommendation. Upon completion of its review, the Planning and Zoning Board shall either recommend the tentative plat for approval, approval with conditions, or disapprove the tentative plat.

F. Optional Review of Tentative Plat by City Commission. Where the applicant desires to obtain an expression from the City Commission on the tentative plat as recommended by the Planning and Zoning Board before proceeding to prepare the final plat, the applicant shall submit a written request to the Director of the Department of Planning who shall schedule the item for an informal review by the City Commission at the next available Commission date. During such an informal review, the City Commission shall evaluate the tentative plat for conformance with these LDRs. In addition, the City Commission may issue an advisory opinion as to the desirability of any requests for conditions or modifications to the tentative plat that were requested by the Planning and Zoning Board or the DRC.

G. Expiration of Tentative Plat and Variance. The tentative plat, and where applicable, any variance of these subdivision requirements shall expire and be of no further force and effect if a completed application for a final plat is not filed as set forth in Section 3-903 below within one hundred and eighty (180) days of the Planning and Zoning Board's recommendation. After the expiration of one hundred and eighty (180) days, the applicant will be required to re-submit the tentative plat for staff and Planning and Zoning Board review as set forth in this Section.

F. Section 23-52(1) of the present Code specifies that the Planning and Zoning Board's act in disapproving the tentative plat is final. In addition, Section 23-52(2) permits the applicant to appeal a decision of the Planning and Zoning Board to the City Commission. However, because the Planning and Zoning Board is only providing a recommendation (that is, the tentative plat is not a final plat), we have eliminated the appeal requirement. We note that Section 23-53 of the present Code already allows the developer who has received a recommendation of the Planning and Zoning Board to obtain an informal review from the City Commission. Accordingly, the ability to appeal appears to be redundant and we have kept the requirement for optional review (Subsection F.). Concerns regarding conditions imposed by the Planning and Zoning Board could be addressed during the optional review.

Section 3-903. Final Plat.

- A. Application.** The application for final plat review shall be accompanied by all applicable fees and prepared on a form approved by the City's staff.
- B. Incorporation of Changes.** The final plat shall have incorporated all changes or modifications recommended by the Planning and Zoning Board and (where applicable) the City Commission. To the extent that any such modifications have not been made, the applicant shall indicate in writing as part of the application the grounds for any such departure.
- C. DRC Review.** Upon receipt of a complete application for final plat review, the DRC shall review the submittal to ensure that all modifications requested by the Planning and Zoning Board and (where applicable) the City Commission have been made and that the final plat complies with these LDRs and the Comprehensive Plan. Any such review by the DRC shall, at a minimum, include a review and comment by the Public Works Department.
- D. DRC Report.** Upon completion of its review, the DRC Official shall:
1. Prepare a report that summarizes the application, including whether the applicant has complied with the recommendations of the Planning and Zoning Board and (where applicable) the City Commission.
 2. Provide written recommendations as to whether the final plat should be approved, approved with conditions, or denied.
 3. Provide the report, recommendation, and a copy of all prior recommendations to the City Commission with a copy to the applicant, at least one (1) week prior to the next scheduled meeting of the City Commission.
 4. Schedule the application for hearing before the City Commission.
 5. Provide notice of the hearing before the City Commission in accordance with the provisions of Article 3, Division 3 of these

Sec. 3-903. As drafted, Section 23-66 of the present Code requires the applicant to make any change requested by the Planning and Zoning Board and provides an avenue of appeal to the City Commission in the event that the applicant disagrees with a decision of the Planning and Zoning Board. In order to streamline the Code, we recommend requiring the applicant to indicate any changes not made between Planning and Zoning Board and final plat review by the City Commission and for staff to analyze such changes during the final plat stage. Alternatively, the applicant has the option of requesting an optional review of the tentative plat by the City Commission and could raise its disagreement with the Planning and Zoning Board at that time.

LDRs.

E. Preliminary Approval of Final Plat. Preliminary approval of a final plat may be given by the City Commission where bonds, engineering plans, or specifications have not been completed by the subdivider, and conditions make it desirable for the subdivider to obtain an expression from the City Commission before proceeding further. Preliminary approval shall vest the subdivider for a period of six (6) months with the right to obtain final approval upon the terms and conditions under which said preliminary approval is given. The City Commission shall reserve discretion to disapprove the final plat in the event that missing items (bonds, engineering plans, or other specifications) do not comply with these LDRs. Preliminary approval of a final plat shall confer upon the subdivider the right for a period of six (6) months, or such other period as the City Commission may designate, that the terms and conditions under which such approval is to be given will not be changed. However, no building permits may be issued until the final plat is approved and recorded.

F. Final Action on Final Plat. ~~Notice of action taken. The city commission shall determine whether the final plat shall be approved or disapproved, and shall give notice to the subdivider in the following manner:~~ The City Commission shall review the final plat for conformance to these LDRs and Comprehensive Plan. The City Commission shall either approve, approve with conditions, or deny the final plat by resolution. Said resolution shall include any acceptance of dedications made on the plat. Where applicable, the City Commission shall approve, approve with conditions, or deny a variance of the subdivision requirements prior to approving or denying the final plat. Approval or denial of such a variance shall be by ordinance. When approved, the Mayor, City Clerk and Public Works Director shall affix their signatures to the plat together with the City Seal and ~~ordinance~~ Resolution number. When disapproved, the City Clerk shall attach to the plat a statement setting forth the reasons for such action, and return it to the applicant.

G. Revisions After City Commission Approval and Prior to Recordation.

E. The basis for this Subsection is found in Section 23-70(a) of the present Code. Edits are made for clarity and to comply with Chapter 28 of the Miami-Dade County Code which prohibits construction absent a final plat. Edits also reserve discretion to the City in the event that it disagrees with the technical specifications or bonds submitted as part of the final plat application.

F. Section 23-70 of the present Code provides for approval by ordinance. However, pursuant to Section 166.041, an ordinance would require two readings. Consider approval of a final plat by resolution and the approval of a variance by ordinance. The remainder of F is taken from Section 23-70 of the present Code. In addition, for clarity, we have added that acceptances of dedications shown on the plat will be contained within the resolution.

G. This Section replaces Section 23-71 of the existing Code. The proposed language is taken from Section 28-6 of the Miami-Dade

1. Any changes, erasures, modifications or revisions to an approved plat prior to recordation may only be made by the Director of Public Works to correct scrivener's errors, reflect accurate legal descriptions and locate right-of-way dedications, drainage ways and easements. However, no such request shall be considered unless the application is made by the preparer of the final plat.

2. No other changes, erasures, modifications or revisions to an approved plat prior to recordation shall be made unless resubmitted for new approval provided, however, that the City Commission may, after public hearing and based only upon a recommendation of the Public Works Department, change, modify or revise dedicated road rights-of-way or drainage easements. No such change, modification, or revision of the dedication of road rights-of-way, or drainage easements shall be reviewed unless the application is made by the preparer of the final plat.

H. Recording. Following final approval of the final plat by the City Commission, the City Clerk shall notify the applicant by letter who shall record the final plat in the public records of Miami-Dade County. The final plat shall be recorded within twenty (20) days of final approval by the City Commission. After recordation of the final plat, the City Clerk shall obtain from the subdivider five (5) eighteen-by twenty-four-inch certified copies of the recorded final plat with one (1) copy going to the City Clerk's files, two (2) copies to the Public Works Director, one (1) copy to the Building and Zoning Director, one (1) copy to the Finance Director and one (1) copy to the Planning Director.

I. Building Permits. No building permits for residential or residential accessory structures shall be issued until all subdivision improvements required in Article 5, Division 17 (e.g. monuments, streets, sidewalks, parks, fire hydrants) have either been completed or sufficiently bonded on a form to be reviewed and approved by the City Attorney ~~Department of Planning and Zoning~~. As set forth in Section 5-1713, the subdivider shall indemnify the City from liability for all injuries to person or property caused by their actions or the action of their authorized agents, which injuries result from

County Code.

2. We have added the word "other" after the word "no" in this Subsection for the purpose of clarifying that any changes (other than changes to correct typographical errors in Subsection 1 or changes to dedications, changes, or modifications to road rights of way or drainage easement) must go through the entire plat review process. We note that without the addition of the term "other" the County Code's provision is ambiguous and requires all changes to go through the application process again. However, in our experience, other local governments in Miami-Dade County have similar provisions that permit staff to correct scrivener's errors or to locate easements provided that the preparer makes the application.

H. The 20 day recording requirement and number of copies is found in Section 23-70 (d) and (e) of the existing Code. This text replaces that Section.

I. This subsection combines and replaces Sections 23-116 through Section 23-120. Those Sections provide a list of subdivision improvements that must be provided and set forth the manner by which the cost of the bond is calculated. The list is set forth in the Design Standards. The bond requirements should be reviewed by Staff and incorporated in the application form.

the City's issuance of a building permit for a dwelling unit or its accessory structure pursuant to these LDRs.

J. Withholding of Public Improvements. ~~The city hereby defines its policy to be that the city will~~ The City shall withhold all public improvements of ~~whatever nature~~ including, but not limited to, the maintenance of streets, and the furnishing of sewage facilities and water service from all subdivisions that have not been approved, and from all areas dedicated to the public which have not been accepted in the manner set forth herein.

Section 3-904. Variance of Subdivision Requirements.

A. Purpose and Applicability. The City Commission may grant a variance of the subdivision requirements set forth in this Article and Article 5, Division 17, where the strict application of said requirements would cause an unnecessary and undue hardship on the property owner.

B. Application. An application for a variance of the subdivision standards shall be made in writing and shall accompany and be processed concurrently with the application for a tentative plat. The application for a variance shall be processed, noticed, and reviewed in the manner as the tentative plats as set forth in Section 3-902 above.

C. Standards for Review. The City Commission shall provide findings of fact that such variance complies with the following standards:

1. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.
2. That the special conditions and circumstances do not result from the actions of the applicant.
3. That granting the variance requested will not confer on the applicant any special privilege that is denied by these LDRs to other lands, buildings or structures in the same zoning district.

J. Taken from Section 23-121 of the City Code and updated with language taken from the Miami-Dade County Code.

Sec. 3-904. Sections 23-6 and 23-7of the existing Code permit variances for hardship and where the contemplated development is a "complete community." However, the term "complete community" is not defined. We note that the Section 28-19(b) of the Miami-Dade County Code has a similar provision. However, the Miami-Dade County Code similarly does not provide a definition or review criteria for a complete neighborhood. We recommend omitting this variance provision and adopts a procedure which allows variances but which is actually part of the plat approval process.

4. That literal interpretation of the provisions of these LDRs would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these LDRs and would work unnecessary and undue hardship on the applicant.
5. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.
6. That the granting of the variance will be in harmony with the general intent and purpose of these LDRs, and that such variance will not be injurious to the area involved or otherwise be detrimental to the public welfare.

Article 3, Division 10
Transfer of Development Rights. (3354)

Section 3-1001. Purpose and Applicability. It is the purpose of this Division policy of the City of Coral Gables to permit the Transfer of Development Rights (TDR) to allow the transfer of unused development rights or undeveloped floor area from sending sites and for those rights to be used in specific receiving areas of the City in order to encourage historic preservation and to provide an economic incentive to property owners to designate, protect, enhance and preserve historic properties.

Section 3-1002. Certificate of Transferable Transfer of Development Rights. The Historic Preservation Officer ~~Preservation Board~~ shall have the authority to grant certificates of ~~transfer of transferable~~ development rights (TDR) to property owner(s) of designated historic landmarks, either individual sites or buildings with districts as set forth in Table 4. The exercise of this authority shall be in accordance with the criteria and standards for transfer of development rights, as recommended by the ~~Planning and Zoning Board~~ and adopted by the City Commission.

- A. A property may be eligible for a Certificate of Transferable Development Rights if one (1) of the following criteria is met:
1. The sending site has been designated as an a local historic landmark or a contributing property within a local historic district pursuant to Chapter 11, Section 30 of the City Code Article 3 Division 11 of these LDRs; or
 2. The sending site is located within the boundaries of the Central business District ~~as defined in the Zoning Code;~~ or
 3. A sending site is a designated historic building in the North Ponce area; or
 4. Any commercially zoned property which is designated historic.
- B. In considering a Certificate of Transferable Development Rights, the Historic ~~Preservation Board~~ Preservation Officer shall review a

This Division is based on existing section 11-12 in the City's Code and a City Manual on the transfer of development rights dated 1998.

Sec 3-1001 is an edited version of 11-12(a)

Section 3-1002 is an edited version of 11-12(b) to clarify that the issuance of the Certificate of Transfer is an administrative calculation (as with all administrative decisions, subject to appeal). The maintenance/preservation plan for the sending site is linked to this Certificate.

Discussion item: Valencia as a potential sending site.

preservation plan which sets forth a maintenance schedule and/or rehabilitation treatment for those architectural elements that are deemed "character-defining" features. Those features are identified in part by the "Review Guide," a section of the local designation report produced by the Historic Resources Department, and will be further identified through an on-site inspection of the property prior to the public review of the application for issuance of a Certificate of Transferable Development Rights.

- C. The Certificate of Transferable Development Rights shall identify the rights eligible to be transferred from the property calculated as follows: the difference between the existing gross floor area on the property and the maximum floor area permitted on the property by the applicable zoning district.
- D. Following the granting of a Certificate of Transfer, and upon subsequent site plan approval by the Planning and Zoning Board and City Commission for the receiving site, an annual schedule will be established for the submission of the maintenance/preservation plan. A certified report, submitted by a certified architect of the State of Florida preservation expert, shall be submitted, and representatives of the City of Coral Gables shall be allowed the opportunity for an on-site inspection of the property to ensure compliance with the approved plan and/or schedule.

Section 3-1003. Use of Transferred of Development Rights (TDR) on to Receiving Properties Located in Central Business District (CBD).

Section 3-1003 is an edited version of 11-12(c)

- A. The City Commission, by ordinance, may grant the use of transferred of unused development rights as described on a Certificate of Transferable Development Rights rights or undeveloped floor area from properties containing a structure that has been designated for historic preservation, in accordance with this Section 3-1004, upon the advice recommendation of the Planning and Zoning Board. Such transfer shall meet all of the following conditions and requirements:
 - 1. This procedure shall be permitted only in the Central Business District (CBD), an area defined in this Code.
 - 2. The maximum amount of underdeveloped floor area that

~~may be transferred from a designated historic private property shall be the difference between the existing gross floor area in the designated structure (sending site) and the maximum gross floor area permitted in that site's zoning designation, as detailed in Table 1.~~

- ~~3. One hundred (100%) percent of the floor area as calculated according to Item 2 of this subsection may be transferred from a designated historic City owned public property to any single or multiple receiving properties. The proceeds of the sales shall be used for the preservation of City owned historic properties. (2003-25)~~
2. Every application shall contain the signatures of the owners of all properties involved.

B. Eligible Receiving Areas: The following areas in the City are eligible to receive rights transferred pursuant to this Division:

1. The Central Business District;
2. The North Ponce Area; and
3. Historically designated properties.

C. Criteria for development of receiving sites

1. To be eligible for use of TDRs, the proposed development must comply with the applicable requirements of the Mediterranean design standards in Article 5 Division 7. The FAR of a receiving site may be increased by 25% and the height of the building may be increased up to two (2) stories through the use of TDRs.
2. A receiving site in the North Ponce Area may expand the depth of a commercial property by 100'.
3. TDRs used on a receiving site adjacent to Ponce de Leon within the North Ponce Area may be used at a ratio of two (2) dwelling units per TDR.
4. TDRs used on a receiving site in the North Ponce Area but not

Delete city-owned property reference?

Additional guidelines re FAR and other design issues need to be developed.

adjacent to Ponce de Leon may be used at a ratio of one (1) dwelling unit per TDR.

- ~~6. A site plan shall be submitted for review by the Planning and Zoning Board, and referred to the City Commission detailing the receiving site and the proposed transfer of development rights. This site plan shall include: area analysis of surrounding properties; massing study; elevations; landscape plan; traffic and parking plans. Applications within five hundred (500) feet of a historic site will be referred to the Historic Preservation Board for review and comment.~~

~~Transfer of Development Rights Development Proposal. The Transfer of Development Rights Development Plan shall consist of a map or map series and any technical reports and supporting data necessary to substantiate, describe or aid the Transfer of Development Plan. The plans for the development proposal shall be drawn to scale as required by Section 22-4 herein and shall include the following written and graphic materials:~~

- ~~a. Site Condition Map: Site conditions map or map series indicating the following:~~
- ~~(1) Title of Transfer of Development Rights and name of the owner(s) and developer.~~
 - ~~(2) Scale, date, north arrow and the relationship of the site to such external facilities as highways, roads, streets, residential areas, shopping areas and contiguous buildings.~~
 - ~~(3) Boundaries of the subject property, all existing streets, buildings, easements, and other important physical features within the proposed project. Other information on physical features affecting the proposed project as may be required.~~
- ~~b. Plan of pedestrian and vehicular circulation showing the location and proposed circulation system of arterial, collector, local and private streets, including driveways, service areas, loading areas and points of access to existing public right-of-way and indicating~~

Application requirements have been deleted in accordance with other sections of the new code.

HPB review built into conditional use process.

- ~~the width, typical sections and street names.~~
- ~~e. Exterior façade elevations of all proposed buildings to be located on the development site.~~
 - ~~d. Isometrics or perspective and/or mass model(s) of the proposed development which demonstrates the as-of-right development potential as compared to the proposed transfer of development rights potential.~~
 - ~~e. Map of existing land use.~~
 - ~~f. Existing and proposed lot(s) lines and/or property lines.~~
 - ~~g. Master site plan — A general plan that shall show the general location, function and extent of all components or units of the plan, indicating the proposed gross floor area and/or floor area ratio of all existing and proposed buildings, structures and other improvements including maximum heights, types and number of dwelling units, landscaped open space provisions such as parks, passive or scenic areas, common areas, leisure time facilities, and areas of public or quasi-public institutional uses.~~
 - ~~h. Location and size of all existing and proposed signs (unless otherwise specified as in Section 9-22).~~
 - ~~i. General landscape plan indicating the proposed treatment of materials used for public, private and common open spaces and treatment of the perimeter of the development including buffering techniques such as screening, berms and walls, significant landscape features or areas shall be noted as shall the provisions for same.~~
 - ~~j. Description of adjacent land areas, including land uses, zoning, densities, circulation systems, public facilities, and unique natural features of the landscape.~~
 - ~~k. Proposed easements for utilities, including water, power, telephone, storm sewer, sanitary sewer and fire lanes showing dimensions and use.~~
 - ~~l. Statistical information including:
 - ~~(1) Total square footage and/or acreage of the development site.~~
 - ~~(2) Maximum building coverage expressed as a~~~~

- ~~percentage of the development site area.~~
- ~~(3) The land area (expressed as a percent of the total site area) devoted to:~~
- ~~i. Landscaped open space; and,~~
 - ~~ii. Common areas usable for recreation or leisure purposes.~~
- ~~m. Copies of any covenants, easements and/or agreements required by this section or any other ordinance and/or regulations for the Transfer of Development Rights.~~
- ~~n. Notice provision for transfer of development rights applications shall be the same as found in this Code.~~
- ~~o. Failure to comply with implementation of an approved maintenance/preservation plan shall result in fullest civil penalties allowed in this Code.~~
- ~~p. All applications fees shall be determined administratively.~~

Section 3-1004. Approval of Use of TDRs on Receiver Sites as Major Conditional Use. ~~Application and review procedures for Approval of Plans.~~

- A. An application for use of TDRs on a Receiver Site shall be reviewed and approved in accordance with the procedures required for major conditional uses in Article 3, Division 4 and the required findings in subsection B.
- B. Required findings.
1. In what respects the proposed plan is or is not consistent with the stated purpose and intent of the Transfer of Development Rights regulations, and the extent in which the proposed plan meets the requirements and standard of the Transfer of Development Rights regulations.
 2. The extent in which the proposed plan departs from the zoning and subdivision regulations otherwise applicable to the subject property, including but not limited to density, size, area, bulk and use, and the reasons why such departures are or are not deemed to be in the public interest.

This section 3-1004 is new – it ties into another existing process, major conditional use approval which in essence tracks the procedures set out in this existing section 11-12(d). No need to repeat here.

3. The physical design of the proposed Transfer of Development Rights and the manner in which said design does or does not make adequate provision for public services, provide adequate control over vehicular traffic, provide for and protect designated common open areas, and further the amenities of light and air, recreation and visual enjoyment.
4. The compatibility of the proposed Transfer of Development Rights with the goals and objectives of the City of Coral Gables Central Business District (CBD) Plan.
5. The conformity of the proposed Transfer of Development Rights with the goals and objectives of the City of Coral Gables Central Business District (CBD) Plan.
6. The conformity of the proposed Transfer of Development Rights with the goals and objectives of the City's Comprehensive Land Use Plan.

Section 3-1005. Approval of Transfers, Restrictions on Affected Properties.

A. The use of all transferable development rights approved by the City Commission together with the restrictions imposed on the sending and receiving sites (affected properties) as approved by the City Attorney shall be recorded by the City Clerk City Departments of Historic Preservation and Building and Zoning, and shall be registered as a restriction on the affected properties' deeds. The Historic Resources Department shall maintain an accounting chart detailing available development rights for all designated historic properties within the CBD.

~~(f) Consistency with Zoning Code. Notwithstanding anything in the Zoning Code to the contrary, the provisions of this section shall be deemed to supersede all conflicting provisions. This section is intended to ensure an equitable distribution of development rights as a means of addressing the burdens of protecting public and private resources of the historic properties.~~

~~(g) Penalty for Violation. Any person who shall violate a provision of~~

~~this section, or fails to comply therewith, or with any of the requirements thereof, shall upon conviction in the County Court, be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment in the County Jail for not more than sixty (60) days, or both such fine and imprisonment at the discretion of the judge. Any person who violates or fails to comply with this section shall also be subject to fines in accordance with Chapter 2 of the City Code. Each day any violation or non-compliance of any provision of this section shall continue, shall constitute a separate offense.~~

~~(h) Civil Liability; Penalties; and Attorneys' Fees.~~

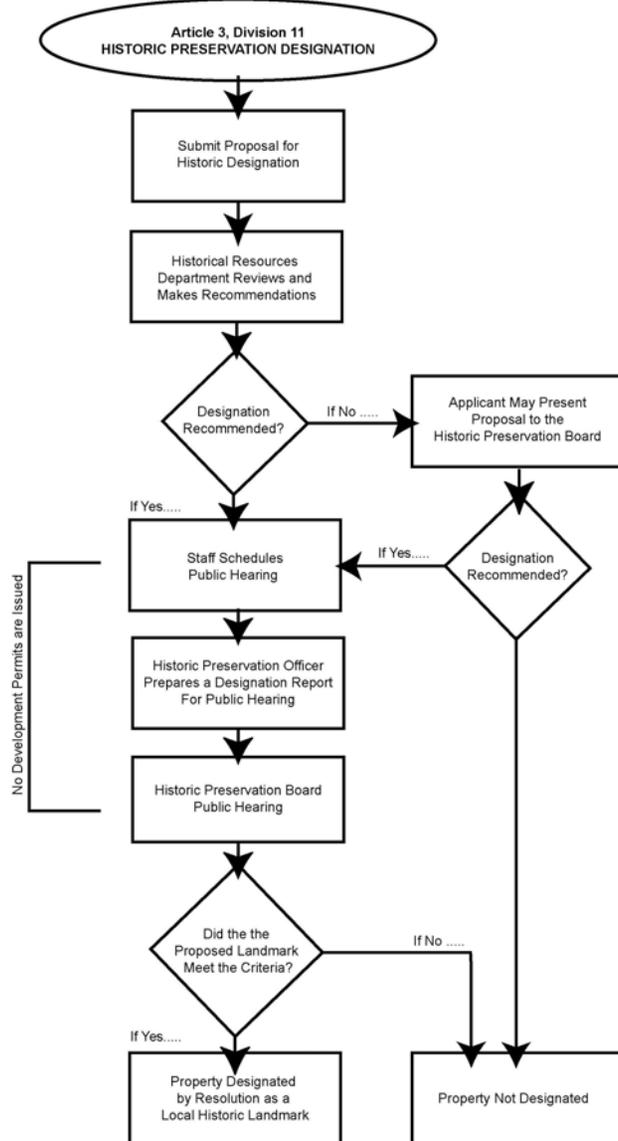
- ~~1. Any person who violates a provision of this section or any lawful rule, regulations or written order promulgated under this section is subject to injunction or other equitable relief to enforce compliance with or other prohibit the violation of this section. Further, such person is liable for any damages to the City caused by such violation, and for the reasonable costs and expenses incurred by the City in enforcing the provisions of this section, including but not limited to the costs of enforcement inspections, preparation of enforcement reports, photographs, title searches, postage and other demonstrable administrative costs for enforcement and collection. All such sums shall become immediately due and payable upon expenditure by the City and shall become delinquent if not paid within thirty (30) days after receipt by the violator of the City's bill itemizing the enforcement costs incurred in enforcing the provisions of this section. All such delinquent sums shall bear interest at the rate of twelve (12%) percent per annum.~~
- ~~2. In addition to the foregoing, any person who violates a provision of this section or any lawful, rule, regulation or written order promulgated under this section is subject to the judicial imposition of a civil penalty for each offense of an amount not to exceed five thousand dollars (\$5,000.00) per offense. In assessing the penalty, the court may receive evidence in mitigation. Each day any violation or portion of any violation occurs constitutes a separate offense.~~
- ~~3. Upon the rendition of a judgement or decree by any of the courts of this State against any person and in favor of the City in any action to enforce compliance with or prohibit the~~

All violation language is contained in Article 7.

~~violation of the provisions of this section, the court shall
adjudge or decree against that person and in favor of the
City a reasonable sum as fees or compensation for the
attorney acting on behalf of the City in the suit in which
recovery is had. Such fees or compensation shall be
included in the judgment or decree rendered in the case.~~

**ARTICLE 3, Division 11
HISTORIC PRESERVATION: DESIGNATIONS and CERTIFICATES
of APPROPRIATENESS**

This Division is an edited version of most of Article 31 Historic Preservation of the New Land Development Code.



Section 3-1101. Purpose. The purpose of the designation of historic landmarks and districts is to promote the educational, cultural, and economic welfare of the public by preserving and protecting historic structures or sites, portions of structures, groups of structures, manmade or natural landscape elements, works of art, or integrated combinations thereof, which serve as visible reminders of the history and cultural heritage of the city, region, state or nation. Furthermore, it is the purpose of this article to strengthen the economy of the City by stabilizing and improving property values in historic areas and to encourage new buildings and developments that will be harmonious with the existing historic attributes of the City including but not limited to buildings, entrances, fountains, etc.

Section 3-1102. Criteria for designation of historic landmarks or historic districts. In order to qualify for designation as a local historic landmark or local historic landmark district, individual properties must have significant character, interest or value as part of the historical, cultural, archaeological, aesthetic, or architectural heritage of the city, state or nation. For a multiple property nomination, eligibility will be based on the establishment of historic contexts, of themes which describe the historical relationship of the properties. The eligibility of any potential local historic landmark or local historic landmark district shall be based on meeting one (1) or more of the following criteria:

A. Historical, cultural significance:

1. Is associated in a significant way with the life or activities of a major historic person important in the past; or
2. Is the site of an historic event with significant effect upon the community, city, state, or nation; or
3. Is associated in a significant way with a major historic event whether cultural, economic, military, social, or political; or
4. Exemplifies the historical, cultural, political, economic, or social trends of the community; or
5. Is associated in a significant way with a past or continuing institution, which has contributed, substantially to the life of the

Section 31-1 Miscellaneous fees have been deleted – a comprehensive new section for all fees is recommended for the City’s Code – not to be included in the new LDRs.

3-1101=31-2.1

Section 31-2b regarding tax abatements is recommended to be included elsewhere in the City’s Code.

Section 31-2.2 Definitions have been moved to Article 8 of the new LDRs which will contain all definitions relevant to the new Code.

Sec. 31-2.3 appointment of the Historic Preservation Officer has been transferred to Article 2 where all other significant staff members and city decisionmakers are described.

3-1102=31-2.4

City.

B. Architectural significance:

1. Portrays the environment in an era of history characterized by one (1) or more distinctive architectural styles; or
2. Embodies those distinguishing characteristics of an architectural style, or period, or method of construction; or
3. Is an outstanding work of a prominent designer or builder; or
4. Contains elements of design, detail, materials or craftsmanship of outstanding quality or which represent a significant innovation or adaptation to the South Florida environment.

C. Aesthetic significance:

1. By being a part or related to a subdivision, park, environmental feature, or other distinctive area, should be developed or preserved according to a plan based on a historical, cultural, or architectural motif; or
2. Because of its prominence of spatial location, contrasts of setting, age, or scale, is an easily identifiable visual feature of a neighborhood, village, or the city and contributes to the distinctive quality or identity of such neighborhood, village, or the city. In case of a park or landscape feature, is integral to the plan of such neighborhood or the city.

D. Archaeological significance: Has yielded or may be likely to yield information important in prehistoric history or history.

E. Criteria considerations: Ordinarily cemeteries, birthplaces, or graves of historical figures, structures that have been moved from their original locations, reconstructed historic buildings, properties primarily commemorative in nature, and properties that have achieved significance within the past fifty (50) years shall not be considered eligible for the Coral Gables Register of Historic Places. However, such properties will qualify if they are integral parts of districts that do meet the criteria or if they fall within the following

categories.

1. A building or structure removed from its original location but which is significant primarily for architectural value, or which is the surviving structure most importantly associated with an historic person or event; or
2. A birthplace or grave of an historical figure of outstanding importance if there is not appropriate site or building directly associated with his or her productive life; or
3. A cemetery which derives its primary significance from graves of persons of transcendent importance, from age, from distinctive design features, or from association with historic events; or
4. A reconstructed building when accurately executed in a suitable environment and presented in a dignified manner as part of a restoration master plan, and no other building or structure with the same association has survived; or
5. A property primarily commemorative in intent if design, age, tradition, or symbolic value has invested it with its own exceptional significance; or
6. A property achieving significance within the past fifty (50) years if it is of exceptional importance.

Section 3-1103. Designation Procedures. Properties which meet the criteria for local historic landmarks and local historic landmark districts set forth in Section 3-1102 shall be designated according to the following procedures:

- A. Proposals for designation of potential local historic landmarks and local historic landmark districts:
 1. Proposals for designation of potential local historic landmarks and local historic landmark districts may be submitted to the Historical Resources Department for recommendation to the Historic Preservation Board by any citizen who provides information, which illustrates that the property meets the criteria

3-1103=31-2.5 (Procedures)

for listing as set forth in Section 3-1102. The information submitted must include sufficient preliminary information to enable the staff's review for an initial determination that the property meets the minimum eligibility criteria. The proposal shall include a legal description of the property and a statement explaining its historic, cultural, aesthetic or architectural significance. In addition to furnishing any necessary information, the applicant may be required to pay applicable fees, if any. If the department's initial determination is that the property does not meet the minimum eligibility criteria for listing, the applicant may present the proposal for designation to the Historic Preservation Board; or

2. The Board may, on their own or upon the recommendation from staff or any citizen pursuant to Subsection (a)1. of this section, direct staff to begin the designation process by preparing a designation report pursuant to Subsection (b) below of this section and any other standards the Board may deem necessary, submitting this report to the procedures described herein, and arranging for a public hearing before the Historic Preservation Board on this matter.
3. Whenever a determination is made by either the Director of the Historical Resources Department or the Historic Preservation Board that an application for historic designation shall proceed to public hearing as provided in this Division, no development permits shall be issued until the public hearing is held and a determination made on the subject designation in accordance with the provisions of Section 3-1103 C. In the case where an owner seeks a demolition permit, the public hearing shall be held at the next regularly scheduled meeting where notice can be provided.

B. Preparation of historic landmark designation report. For every proposed designated historic landmark and historic landmark district, the Historic Preservation Officer shall prepare a designation report, which shall be presented to the Board at a regularly scheduled meeting. The report shall contain the following:

1. Proposed boundaries. Boundaries for individual historic sites shall generally include the entire property or tract of land,

Minor changes made to clarify the effect of the decision to go to public hearing.

3-1103 B=2.5(b)

unless such tract is so large that portions thereof are visually and functionally unrelated to any significant historic improvement. Proposed historic district boundaries shall, in general, be drawn to include all appropriate properties reasonably contiguous within an area and may include noncontributing properties which individually do not conform to the historic character of the district, but which require regulation in order to control potentially adverse influences on the character and integrity of the district. Where reasonably feasible, historic district boundaries shall include frontage on both sides of streets and divide the proposed historic landmark districts from other zoning districts in order to minimize interdistrict frictions. Archaeological zone boundaries shall generally conform to natural physiographic features, which were the focal points for prehistoric and historic activities.

2. Optional internal boundaries. Internal boundaries may subdivide an historic landmark district into sub areas and transitional areas as appropriate for regulatory purposes. If a proposed historic landmark or historic landmark district is visually related to the surrounding areas in such a way that actions in the surrounding area would have potentially adverse environmental influences on its character and integrity, proposed boundaries for such transitional areas may be included within the historic landmark or historic landmark district.
3. Detailed regulations. Every historic landmark and historic landmark district may be assigned a set of detailed zoning district regulations. Such regulations may be designed to supplant or modify any element of existing zoning regulations, including but not limited to the following: use, floor area ratio, density, height, setbacks, parking, minimum lot size, and transfer of development rights, or create any additional regulations provided for in this section. The zoning amendment may identify individual properties, improvements, landscape features, or archaeological sites, or categories or properties, improvements, landscape features, or archaeological sites for which different regulations, standards and procedures may be required.

4. Significance analysis. A report shall be submitted establishing and defining the historic significance and character of the proposed historic landmark or historic landmark district, setting forth the criteria upon which the designation of the historic landmark, or historic landmark district, and its boundaries are based, and describing the improvements and landscape features of public significance, present trends and conditions, and desirable public objectives for future conservation, development, or redevelopment. The report shall include a review guide which identifies the major exterior features of any improvements or landscape features which contribute significantly to the historic character of the historic landmark site or historic landmark district. A designation report for an historic landmark shall also contain a location map and photographs of all designated exterior surfaces (and interior if applicable).

5. Optional designation of interiors. Normally interior spaces shall not be subject to regulation under this section; however, in cases of existing structures having exceptional architectural, artistic, or historical importance, interior spaces which are customarily open to the public may be specifically designated. The designation report shall describe precisely those features subject to review and shall set forth standards and guidelines for such regulations.

C. Procedures for notification and hearings on proposed designation. The Board shall hold a public hearing with notification as follows:

1. Notification of Owners. For each proposed designation of an historic landmark or historic landmark district, the Historical Resources Department is responsible for mailing a copy of the designation report and a courtesy notice of public hearing to all property owners of record whose properties are located within the boundaries of the designation. This notice shall serve as notification of the intent of the Board to consider designation of the property at least ten (10) days prior to a public hearing held pursuant to this section. However, failure to receive such courtesy-notice shall not invalidate the action of the Board. The property shall be posted at least ten (10) days prior to the hearing.

2. Notice of Public Hearings. Additional notice of public hearings shall be provided in accordance with the provision of Article 3, Division 3 of these LDRs.

3. Decision of the Board. If after a public hearing the Board finds that the proposed local historic landmark or proposed local historic landmark district meets the criteria set forth in Section 3-1102, it shall designate the property as a local historic landmark or local historic landmark district. All decisions of the Board shall be by Resolution. If zoning regulations are recommended to be changed in the designation report and the Historic Preservation Board agrees, then such recommendation shall be reviewed in accordance with the provisions of Article 3, Division 14 of these LDRs.

4. Notification of the Board actions. The Historic Preservation Officer shall provide a courtesy notice to the following of its action with a copy of the Resolutions:
 - a. Building and Zoning Department.
 - b. Planning Department.
 - c. City Clerk.
 - d. Public Works Department.
 - e. Owners of affected property and other parties having an interest in the property, if known.
 - f. Any other municipal agency, including agencies with demolition powers that may be affected by this action.

5. Development permits suspended during consideration of designation.
 - a. Upon the filing of a designation report by the staff with the Historic Preservation Board, the owner(s) of the real property which is the subject matter of the designation report or any individual or private or public entity shall not:
 - i. Erect any structure on the subject property, or
 - ii. Alter, restore, renovate, move or demolish any structure on the subject property until such time as a final administrative action, as provided by this division, is completed.
 - b. Suspension of development review shall expire when:
 - i. The Historic Preservation Board determines that the

Section 31-2.5(7) omitted as duplicative.

Clarification regarding role of City Commission in regard to changing LDRs.

Called "moratorium" now – Section 31-2.5c(5)

- property is not significant and an appeal to the City Commission is denied; or
- ii. An appeal to the City Commission for the designation of the property is upheld; or
- iii. A Certificate of Appropriateness is issued subject to the conditions herein.

- 6. Recording of designation. The City Clerk shall provide the circuit court clerk with all designations for the purpose of recording such designations in the public record.
- 7. Appeal of designation. Within fourteen (14) days from the date of a decision of the Historic Preservation Board, any resolution of the Historic Preservation Board may be appealed to the City Commission, as provided for under Article 3, Division 6, otherwise the Resolution will be final.

31-2.4 c 6

Section 3-1104. Procedures for review of national register properties. The City was granted certified local government (CLG) status in November of 1986. Review of national register nominations is a function of a CLG and shall be governed by "Florida Guidelines for Certified Local Governments."

3-1104=31-2.6
Sec. 31-3 the Historic Preservation Board was moved to Article 2 Division 5.

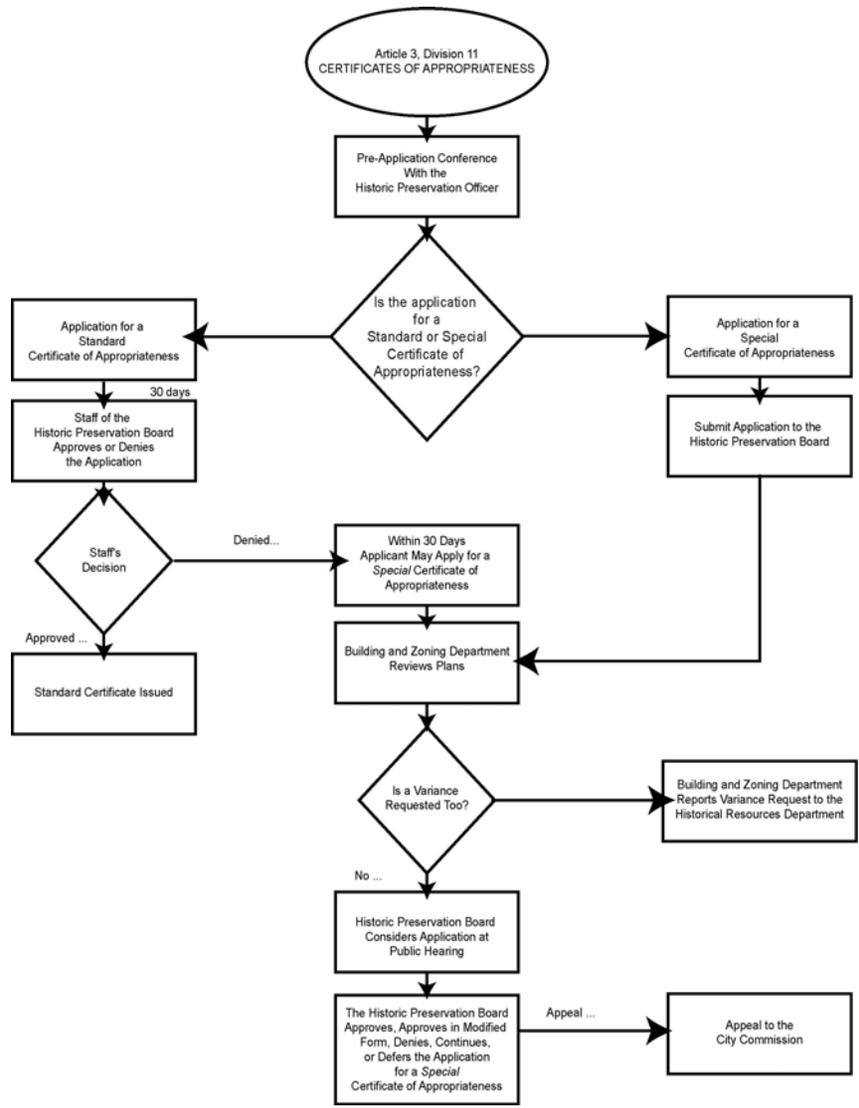
- A. The Historic Preservation Officer will, within thirty (30) days after receipt of a national register nomination, determine whether the nomination is technically complete and notify the nomination's sponsor of such determination.
- B. If the nomination is technically complete, the Historic Preservation Officer shall, at least thirty (30) days but not more than seventy-five (75) days prior to the Historic Preservation Board meeting at which the proposal is to be considered, notify the following:
 - 1. Owner(s) of record; and
 - 2. Appropriate local official(s).
- C. Nomination proposals to be considered by the Historic Preservation Board shall be on file in the office of the Historic Preservation Officer for at least thirty (30) days but not more than seventy-five (75) days prior to the Board meeting at which they

will be considered. A copy shall be made available by mail when requested by the public and shall be made available at a location of reasonable local public access so that written comments regarding a nomination proposal can be prepared.

- D. Nomination proposals shall be considered by the Historic Preservation Board at a public hearing, and all votes shall be recorded and made part of the permanent record of that meeting. All nomination proposals shall be forwarded, with a record of official action taken by the Board and the recommendation of the appropriate local officials, to the state historic preservation officer within thirty (30) days of the Board meeting at which they were considered. If either the Historic Preservation Board or appropriate local officials or both support the nomination, the state historic preservation officer shall schedule the nomination for consideration by the Florida Review Board of the National Register as part of the normal course of business at the next regular meeting.
- E. If both the Historic Preservation Board and appropriate local officials recommend that a property not be nominated to the national register, the state historic preservation officer shall take no further action on the nomination unless an appeal is filed with the state historic preservation officer. Any reports and recommendations that result from such a situation shall be included with any nomination submitted by the state historic preservation officer to the U.S. Secretary of the Interior.
- F. Any person or organization which supports or opposes the nomination of a property to the national register shall be afforded the opportunity to make its views known in writing. An owner or owners of a private property who wish to object to the nomination shall provide the Historic Preservation Board with a notarized statement certifying that the party is the sole or partial owner of the property as appropriate. All correspondence regarding a nomination proposal shall become part of the permanent record concerning that proposal and shall be forwarded with approved proposals to the state historic preservation officer.
- G. Appeals. Any person may appeal the decision of the Historic Preservation Board in its review of national register nominations.

Appeals should be directed to the state historic preservation officer in writing within thirty (30) days of the decision of the Historic Preservation Board. Nominations or proposals which have been appealed shall be considered by the Florida Review Board for the National Register as part of the normal course of business at its next regular meeting. If the opinion is that the property or properties is or are significant and merit nomination to the national register, the state historic preservation officer shall notify the City's Historic Preservation Board within thirty (30) days of the national register review Board meeting of its intent to forward the nomination to the national register with a recommendation that the property or properties be listed.

Section 3-1105. Certificates of appropriateness.



A. Certificate Required.

No building, structure, improvement, landscape feature, or archaeological site within the City, which has been designated an historic landmark or historic landmark district, shall be erected, altered, restored rehabilitated, excavated, moved, reconstructed or demolished until an application for a Certificate of Appropriateness regarding any architectural features, landscape features, or site improvements has been submitted and approved pursuant to the procedures in this division. ~~For reconstructed buildings which have been permitted pursuant to Section 31-4.18, the provisions of this section shall still apply. No Certificate of Appropriateness shall be approved unless the architectural plans for such construction alteration, excavation, restoration, rehabilitation, relocation, or demolition are approved by the board. Unless otherwise specified, exterior alterations to non-contributing structures or properties within historic landmark districts shall be reviewed and approved by the Historic Preservation Board and/or Historical Resources Department.~~

B. Guidelines for review of certificates.

1. The Historic Preservation Board has adopted the U.S. Secretary of the Interior's standards for rehabilitation as the standards by which applications for any Certificate of Appropriateness are to be measured and evaluated. In adopting these guidelines, it is the intent of the Board to promote maintenance, restoration, adaptive reuses appropriate to the property, and compatible contemporary designs which are harmonious with the exterior architectural and landscape features of neighboring buildings, sites and streetscapes. These guidelines shall also serve as criteria for staff to make decisions regarding applications for Standard Certificates of Appropriateness. From time to time, the Board may adopt additional standards to preserve and protect special features unique to the City.
2. For applications related to alterations or new construction, the proposed work shall not adversely affect the historic, architectural, or aesthetic character of the subject improvement or the relationship and congruity between the subject

~~3-1105=existing Section 31-4~~

~~Section 31-4-3 forms deleted – contained in other provisions~~

~~Section 31-4-4 deleted – Historic Preservation Board approving standard certificates – section not needed.~~

~~Reconstruction proposed to be treated the same as any other change to designated properties.~~

~~Definitions of architectural features and landscape features previously in this section (31-4.1) have been moved to Article 8 where all the definitions of the new Code are contained.~~

~~Unnecessary words have been deleted.~~

~~----31-4.2 – slightly modified~~

~~This subsection 3-1105 B 2 was moved from 31-4.13 so that all guidelines are together.~~

improvement and its neighboring improvements and surroundings, including but not limited to form, spacing, height, setbacks, materials, color, or rhythm and pattern of window and door openings in building facades; nor shall the proposed work adversely affect the special character of special historical, architectural or aesthetic interest or value of the overall designated historic landmark or historic landmark district. Except where special standards and guidelines have been specified in the ordinance creating a particular designated historic landmark or historic landmark district, or where the Board has subsequently adopted additional standards and guidelines for a particular designated historic landmark or historic landmark district, decisions relating to alteration or new construction shall be guided by the U.S. Secretary of the Interior's standards for rehabilitation.

C. Duration of approval of certificates. Unless otherwise provided in the Certificate of Appropriateness, both Standard and Special Certificates of Appropriateness shall expire after two (2) years if no building permit is issued. Staff may grant an extension of up to an additional 180 days for restoration or rehabilitation work subject to the following:

---31-4.2 – time period

1. Request for the extension is submitted in writing to the Historical Resources Department.
2. The work completed is consistent with the approved scope of work.

D. Preapplication conference.

31-4.5

Before submitting an application for a Certificate of Appropriateness, an applicant shall confer with the Historic Preservation Officer to obtain information and guidance before entering into binding commitments or incurring substantial expense in the preparation of plans, surveys, and other data. The Historic Preservation Officer or his/her representative, may, at the request of the applicant, hold additional preapplication conference(s) with the applicant. The purpose of such conference(s) is to further discuss and clarify conservation objections and design guidelines in cases that do not conform to established objectives and guidelines.

In no case, however, shall any statement or representation made prior to the official application review be binding on the Board, the City Commission or any City departments.

E. Standard certificates.

Based on the standards for rehabilitation, the designation report, a complete application for a Standard Certificates of Appropriateness, any additional plans, drawings or photographs to fully describe the proposed alteration and any other guidelines the Board may deem necessary, the Historic Preservation Officer (HPO) shall, within thirty (30) days from the date a complete application has been filed, approve or deny the application for a Standard Certificate of Appropriateness by the owner of an existing improvement or landscape feature within the boundaries of a designated historic landmark or historic landmark district. The findings of the staff shall be mailed to the applicant accompanied by a statement in full regarding the staff's decision. The applicant shall have an opportunity to challenge the staff's decision by applying for a Special Certificate of Appropriateness within thirty (30) days of the date of staff's findings.

Slightly reorganized section 31-4.6

F. Special certificates.

31-4.7

1. An applicant for a Special Certificate of Appropriateness, whether for alteration, addition, restoration, renovation, excavation, moving or demolition, shall submit his application to the Historic Preservation Board accompanied by full plans and specifications, site plan, and samples of materials as deemed appropriate by the Board to fully describe the proposed appearance, color, texture or materials, and architectural design of the building and any outbuilding, wall, courtyard, fence, landscape feature, paving signage, and exterior lighting. The applicant shall provide adequate information to enable the Board to visualize the effect of the proposed action on the applicant's building and its adjacent buildings and streetscapes. If such application involves a designated archaeological zone, the applicant shall provide full plans and specifications of work that may affect the surface and subsurface of the archaeological site. An applicant may apply for an accelerated Certificate of Appropriateness that is reviewed by the Historic

Preservation Board at the same meeting as the public hearing for designation of the subject property.

2. The Building and Zoning Department shall review all plans for alterations, additions, restoration or renovation of Historic Landmarks prior to the Board's consideration of such Special Certificate of Appropriateness and shall report any variance items in connection with the proposed construction to the Historical Resources Department.
3. In the event the applicant is requesting a Special Certificate for demolition, the Board shall be provided with the details for the proposed disposition of the site. The Board may require architectural drawings of any proposed new construction.
4. An applicant requesting a Special Certificate of Appropriateness for a reconstructed building, whether for alteration, addition, restoration, renovation, excavation, moving or demolition shall follow the same process to receive the Board's approval. A reconstructed building will be clearly identified for the public.
5. A public notice of a request for a Special Certificate of Appropriateness shall be published one (1) time in a newspaper of general circulation published in the City of Coral Gables, or in Miami-Dade County, Florida, at least ten (10) days prior to the date of such hearing. All such notices published in a newspaper shall state in substance the request and shall give the date, time, and place of the public hearing. All properties being considered by the Historic Preservation Board for a request for a Special Certificate of Appropriateness shall be posted at least ten (10) days in advance of the public hearing. Such posting shall consist of a sign, the face surface of which shall be not be larger than forty (40) square inches and shall contain the following language: NOTICE, HISTORIC PRESERVATION BOARD, PUBLIC HEARING, PHONE:____, HEARING DATE:____, HEARING NO:____.
6. The posting of the property shall comply with Article 3, Division 3 of these LDRs.

Courtesy notice.

G. Appeal of Decision of Board. An appeal from any decision of the Historical Preservation Board may be taken to the City Commission by any aggrieved party in accordance with the provisions of Article 3, Division 6.

Section 31-4-11 appeals omitted and standardized with Article 3 Division 6, governing all appeals from decisionmakers.

H. Decision of the Board.

3-1105 H 1 = 31-4.8

1. The decision of the Historic Preservation Board shall be based upon the guidelines set forth in Section 3-1105B as well as the general purpose and intent of this Division and any specific planning objectives and design guidelines officially adopted for the particular historic landmark or historic landmark district. No decision of the Board shall result in an undue economic hardship for the owner, provided, however, that the Board has determined the existence of such hardship in accordance with the provisions of Section 3-1113. The decision of the Board shall include a complete description of the reasons for such findings, and which details the public interest which is sought to be preserved, and shall direct one (1) or more of the following actions:

- a. Approval of a Special Certificate of Appropriateness for the work proposed by the applicant; or
- b. Approval of a Special Certificate of Appropriateness with specified modifications and conditions; or
- c. Denial of the application and refusal to grant a Special Certificate of Appropriateness for modification or demolition; or
- d. Approval of a Special Certificate of Appropriateness with a deferred effective date in cases of demolition or moving a significant improvement or landscape feature, pursuant to the provisions of Sections 3-1107 and 3-1108.

2. The Historic Preservation Board shall act upon an application within sixty (60) days of the Board's receipt of the completed application adequately describing the proposed action. The Board shall approve, approve in modified form, deny, continue or defer the application. The time limit may be waived at any time by mutual written consent of the applicant and the Board.

3-1105 H 2 = 31-4.9

3. Evidence of approval of the application shall be by the recording in the minutes of the Certificate of Appropriateness

3-1105 H 3 = 31-4.10

granted by the Board.

4. When an application is denied, the Board's notice shall provide an explanation of the basis of the decision. When a Special Certificate of Appropriateness is granted, the proceedings of the Historic Preservation Board shall state the basis for granting the Special Certificate of Appropriateness. Such record shall be filed in the office of the Historical Resources Department, and shall be open for public inspection.

3-1105 H 4 = 31-4.10

5. A written record of the proceedings of the Board shall be kept and produced, showing its action on each Special Certificate of Appropriateness considered. The record when pertaining to the record of the Board or official from which appeal is taken shall include any application, exhibits, appeal papers, written objections, waivers or consents, considered by the Board as well as transcripts or stenographic notes taken for the department at a hearing held before the Historic Preservation Board, the Board minutes, and resolution indicating its decision.

3-1105 H 5 = 31-4.10

I. Changes in approved work. Any change in work proposed subsequent to the issuance of a Certificate of Appropriateness shall be reviewed by the Board's staff. If the Board's staff finds that the proposed change does not materially affect the historic character, or the proposed change is in accord with approved guidelines, standards and certificates of appropriateness, it may issue a supplementary Standard Certificate of Appropriateness for such change. If the proposed change is not in accordance with guidelines, standards, or certificates of appropriateness previously approved by the Board, a new application for a Special Certificate of Appropriateness shall be required.

3-1105 I = 31-4.12

J. Ordinary Maintenance and Repair. Nothing in this Division shall be construed to prevent the ordinary maintenance or repair of any improvement which does not involve a change of design, appearance or material, or to prevent ordinary maintenance of landscape features.

Section 3-1106. Demolition.

3-1106 = 31-4.14

A. No permit for voluntary demolition of a designated building,

structure, improvement or site shall be issued to the owner thereof until an application for a Special Certificate of Appropriateness has been submitted and approved pursuant to the procedures in this Article. Denial of such application indefinitely and refusal by the Board to grant a Special Certificate of Appropriateness to demolish shall be evidenced by written order detailing the public interest which is sought to be served. The Historic Preservation Board shall be guided by the criteria contained in subsection (D) below.

- B. The Board may grant a Special Certificate of Appropriateness to demolish with a deferred effective date. The effective date shall be determined by the Board based upon the significance of the structure and the probable time required to arrange a possible alternative to demolition. During the demolition deferral period, the Board may take such steps as it deems necessary to preserve the structure concerned, in accordance with the purposes of this division. Such steps may include, but shall not be limited to, consultation with civic groups, public agencies and interested citizens, recommendations for acquisition of property by public or private bodies or agencies, and exploration of the possibility of moving one (1) or more structures or other features. After the specified expiration of the deferred Special Certificate of Appropriateness, a demolition permit shall be issued if requested forthwith by the appropriate administrative officials.
- C. As a condition of granting any Certificate of Appropriateness, standard or special, for demolition of buildings or improvements designated as historic landmarks or located in an historic landmark district, the Board may require at the owner's expense, salvage and preservation of specified classes of building materials, architectural details and ornaments, fixtures, and the like for reuse in restoration of other historic properties. The Board may also require, at the owner's expense, the recording of the improvement for archival purposes prior to demolition. The recording may include, but shall not be limited to, photographs and scaled architectural drawings.
- D. In addition to all other provisions of this Division, the Board shall consider the following criteria in evaluating applications for a Special Certificate of Appropriateness for demolition of designated properties:

1. The degree to which the building, structure, improvement or site contributes to the historic and/or architectural significance of the historic site or district;
 2. Whether the building, structure, improvement or site is one of the last remaining examples of its kind in the neighborhood, the county or the region;
 3. Whether the loss of the building, structure, improvement or site would adversely affect the historic and/or architectural integrity of the historic site or district;
 4. Whether the retention of the building, structure, improvement or site would promote the general welfare of the City by providing an opportunity for study of local history, architecture, and design or by developing an understanding of the importance and value of a particular culture and heritage;
 5. Whether architectural plans have been presented to the Board for the reuse of the property if the proposed demolition were to be carried out, and the appropriateness of said plans to the character of the historic site or district, if applicable; and demonstration as well as the posting of a bond requirement that there are sufficient funds in place to carry out such plans;
 6. Whether the building, structure, improvement or site poses an imminent threat to the public health or safety;
 7. Whether the applicant has demonstrated that retention of the building, structure, improvement or site would create an unreasonable or undue economic hardship as described in Section 3-1113.
 8. Whether there is a compelling public interest requiring the demolition.
- E. As a condition of granting a Certificate of Appropriateness for demolition, the Historic Preservation Board may require that no building permit be issued for the demolition of said structure until a building permit for the construction of a new building has been issued.

- F. The owner of the property shall permit access to the subject property for the purpose of inspections and/or appraisals required by the Historic Preservation Board or Historic Preservation Officer.
- G. No permit for demolition of a non-designated building shall be issued to the owner thereof without prior notification by the Building Official to the Historical Resources Department. All demolition permits for non-designated buildings must be approved and signed by the Director of the Department of Historical Resources. Such signature is valid for six (6) months and shall thereafter expire and the approval deemed void unless the demolition permit has been issued by the Building and Zoning Department. The Historical Resources Department may require review by the Historic Preservation Board if the building to be demolished is considered eligible for designation as a local historic landmark or as a contributing building or property within an existing local historic landmark district. The public hearing shall be held at the next regularly scheduled meeting if the provided statutory notice is complied with at which time the provisions of this Division shall apply.
- H. The demolition of any building, structure, improvement or site protected by this Division (a) for which a certificate of appropriateness for demolition has not been granted, or (b) which was carried out in violation of the provisions of this section, shall cause the City to reject an application for a building permit until the following criteria have been met:
1. A pre-application shall be submitted to the Historical Resources Department containing the following information:
 - a. A detailed sworn explanation outlining the facts surrounding the unlawful demolition.
 - b. Evidence that any and all code enforcement fines have been paid.
 - c. Evidence that all violations on the property have been corrected or a stipulation outlining the agreed upon steps to correct all outstanding violations.
 2. Review and approval of the Historical Resources Department

3-1106H = portions of 31-5-10.

checklist by the following departments so that the application for issuance of a building permit may proceed.

- a. Building and Zoning.
- b. Planning.
- c. Public Works.
- d. Public Service.
- e. Historic Resources.
- f. City Manager.
- g. City Attorney.

Section 3-1107. Moving of existing improvements. The moving of significant improvements from their original location shall be discouraged; however, the Historic Preservation Board may grant a Special Certificate of Appropriateness if it finds that no reasonable alternative is available for preserving the improvement on its original site and that the proposed relocation site is compatible with the historic and architectural integrity of the improvement.

3-1107 = 31-4.15

Section 3-1108. Removal or destruction of existing landscape features.

A. No Certificate of Appropriateness shall be granted for removal, relocation, concealment, or effective destruction by damage of any landscape features or archaeological sites especially designated as significant within the boundaries of an historic landmark or historic landmark district unless one (1) of the following conditions exists:

1. The designated landscape feature or archaeological site is located in the buildable area or yard area where a structure may be placed and unreasonably restricts the permitted use of the property; or,
2. The designated vegetation is inappropriate in a historical context or otherwise detracts from the character of district; or,
3. The designated vegetation is diseased, injured, or in danger of falling, unreasonably interferes with utility service, creates unsafe vision clearance or conflicts with other applicable laws

3-1108 = 31-4.16

The requirement of the Board of Adjustment review of variances for reconstruction is deleted (31-4.18). Historic Preservation Board has authority to grant all variances affecting certificates of appropriateness.

The requirement that Historic Preservation Board follow Board of Adjustment procedures has been omitted – variance is included as a part of certificates of appropriateness procedures (31-5.1) and, specifically cross-references Article 3 Division 9.

and regulations.

- B. As a condition contained in the Certificate of Appropriateness, the applicant may be required to relocate or replace designated vegetation.

Section 3-1109. Construction, excavation or other disturbance in archaeological zones. In cases where new construction, excavation, tree removal, or any other activity may disturb or reveal an interred archaeological site, the Historic Preservation Board may issue a Certificate of Appropriateness, standard or special, with a delayed effective date up to forty-five (45) days. During the delay period, the applicant shall permit the subject site to be examined under the supervision of an archaeologist approved by the Board. A Certificate of Appropriateness may be denied if the site is of exceptional importance and such denial would not unreasonably restrict the primary use of the property.

3-1109 = 31-4.17

Section 3-1110. Reconstruction of destroyed historic landmarks.

3-1110 = 31-4.18

- A. The loss of local historic landmarks within the City, destroyed by fire or other national disaster, may be ameliorated by efforts to reconstruct the resource. Reconstruction means the process of reproducing by new construction, the exact form and detail of a demolished building, structure or object, as it appeared at a certain point in time. Reconstruction shall be encouraged by the Historic Preservation Board when deemed appropriate. The Historic Preservation Board shall be guided by, but not limited to the following:
 - 1. Is there sufficient evidence (e.g. photo documentation; measured drawings; physical evidence, etc.) to accurately depict the form and detail of the original resource?
 - 2. Are the original construction materials readily available, or are substitute materials sufficiently similar so as to convey the original qualities of construction?
 - 3. Were the interior spaces especially significant to the form and function of the building? If so, the Board will define the

parameters necessary to adequately convey those interior spatial characteristics as requirements in the reconstruction effort?

4. Has the applicant demonstrated a commitment to the reconstruction effort by making every reasonable effort to preserve or salvage the remaining features of the property?
5. Are there other unique factors or circumstances that would make reconstruction desirable?

B. The applicant for the reconstruction effort shall provide the Board with details of the construction project, to include a description of the existing character of the site, and whether or not there is any salvage potential. Every reasonable effort shall be made to incorporate salvaged elements within the reconstructed historic resource.

C. Should the Board find that the reconstruction is desirable, and that the applicant has met the criteria enumerated herein, and has furnished sufficient evidence that the important exterior and interior form and detail can be reproduced then:

1. The Historic Preservation Board may grant a Special Certificate of Appropriateness in accordance with the provisions of this Division.
2. In cases where a change in land use is necessary to accomplish the goals of this division, the Historic Preservation Board may issue a recommendation in favor of that change to be considered by the Planning & Zoning Board and the City Commission in accordance with the provisions of Article 3, Division 15. The Board may also issue a recommendation as to whether or not any administrative fees, either in whole or in part, are to be waived. Any recommendation as to the waiver of fees or any portion thereof shall be binding.

Section 3-1111. Variances. The Historic Preservation Board shall have the authority to grant any variance from the terms of these LDRs of those properties designated as historic landmarks, either individual

3-1111 = 31-5.1

sites or buildings within districts, where it is deemed appropriate for the continued preservation of the historic landmark or historic landmark district. The Board shall only authorize such variances in conjunction with an application for a Special Certificate of Appropriateness, in accordance with the provisions of Section 3-1105 and Article 3, Division 8.

Section 3-1112. Transfer of development rights. The Historic Preservation Board shall have the authority to grant certificates of transfer of development rights (TDR) to property owner(s) of designated historic landmarks, either individual sites or buildings within districts in accordance with the criteria and standards for transfer of development rights in Article 3, Division 10 of these LDRs. Any historic landmark that has transferred development rights shall not be demolished.

Section 3-1113. Undue economic hardship. In any instance where there is a claim of under economic hardship, the property owner may submit, by affidavit, to the Board at least fifteen (15) days prior to the public hearing, the following information:

A. For all property:

1. The amount paid for the property, the date of purchase and the party from whom purchased.
2. The assessed value of the land and improvements thereon, according to the two (2) most recent assessments.
3. Real estate taxes for the previous two (2) years.
4. Annual debt service, if any, for the previous two (2) years.
5. All appraisals obtained within the previous two (2) years by the owner or applicant in connection with his purchase, financing or ownership of the property.
6. Any listing of the property for sale or rent, price asked and offers received, if any.
7. Any consideration by the owner as to profitable adaptive uses for the property.

B. For income producing property:

1. Annual gross income from the property for the previous two (2)

3-1112 = 31-5.2 (TDRs)

31-5.3 (Amendments) omitted as unnecessary

31-5.4 (Ordinary maintenance and repair) moved to 3-1105 J

31-5-5 (Enforcement of maintenance and repair provisions) moved to 7-601

31-5-8 (Undue economic hardship) moved to 7-401(B)

31-5-9 = 3-1113

years.

2. The assessed value of the land and improvements thereon, according to the two (2) most recent assessments.
3. Annual cash flow, if any, for the previous two (2) years.

C. The Board may require that an applicant furnish such additional information, as the Board believes is relevant to its determination of undue economic hardship and may provide, in appropriate instances that such additional information be furnished under seal. In the event that any of the required information is not reasonably available to the applicant and cannot be obtained by the applicant, the applicant shall file with his affidavit a statement of the information which cannot be obtained and shall describe the reasons why such information cannot be obtained.

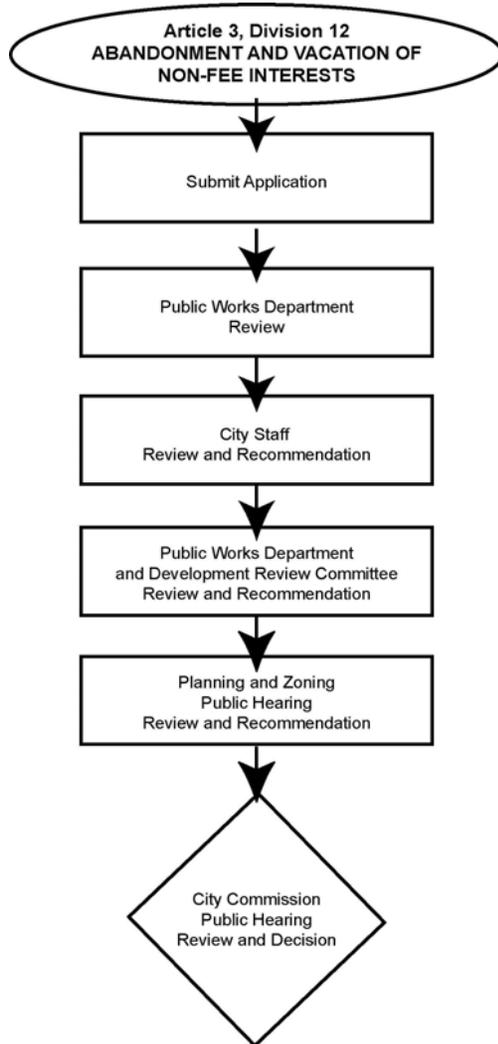
31-6 (Tax exemptions) moved to City Code

Section 3-1114. Unsafe structures. In the event the building official determines that any structure within a designated historic landmark or historic landmark district is unsafe pursuant to the applicable building code adopted by the City, he/she shall immediately notify the Historic Preservation Board with copies of such findings. Where reasonably feasible within applicable laws and regulations the building official shall endeavor to have the structure repaired rather than demolished and shall take into consideration any comments and recommendations by the board. The board may take appropriate actions to effect and accomplish preservation of such structure including, but not limited to, negotiations with the owner and other interested parties, provided that such actions do not interfere with procedures in the Florida Building Code.

Section 3-1115. Emergency conditions. For the purpose of remedying emergency conditions determined to be imminently dangerous to life, health or property, nothing contained herein shall prevent the making of any temporary construction, reconstruction, demolition or other repairs to an improvement, landscape feature, or site within a designated historic landmark district pursuant to an order of a government agency or a court of competent jurisdiction, provided that only such work as is reasonably necessary to correct the hazardous condition may be carried out. The owner of an improvement damaged by fire or natural calamity shall be permitted to stabilize the improvement immediately and to rehabilitate it later under the normal review procedures of this article.



**ARTICLE 3, Division 12.
Abandonment and Vacation of Non-fee Interests**



In general: Division 12 is a reworked version of the City's ordinance on vacations of rights-of-way. It is reorganized to fit the format of the proposed code. Division 12 does not relate to "fee simple" interests held by the City – only interests in the nature of easements and rights-of-way. Procedurally, Division 12 differs from the existing abandonment ordinance in that the Development Review Official, not the public works department, processes the application.

Section 3-1201. Purpose and Applicability.

The purpose of this Division is to establish a uniform procedure for the abandonment of non-fee property interests of the City. This Division applies to city streets, alleys, easements and other non-fee property interests of the city of similar character.

Section 3-1202. Application.

All requests for abandonment of city streets, alleys, easements and other non-fee interests which the City may have in real property shall be made in writing upon an application form approved by City staff, and shall be accompanied by applicable fees.

Section 3-1203. Standards.

Applications for abandonment of city streets, alleys, special purpose easements and other non-fee interests which the City may have in real property shall be approved provided that it is demonstrated that:

- A. The non-fee property interest sought to be abandoned:
 - 1. Does not provide a benefit to the public health, safety, welfare, or convenience, in that:
 - a. It is not being used by the City for any of its intended purposes; and
 - b. No comprehensive plan, special purpose plan, or capital improvement program anticipates its use; or
 - 2. Provides some benefit to the public health, safety, welfare, or convenience, but the overall benefit anticipated to result from the abandonment outweighs the specific benefit derived from of the non-fee property interest, in that:
 - a. The purpose of the interest sought to be vacated or abandoned will be adequately and appropriately served in an alternative manner when the interest is abandoned;

Section 2 of the City’s ordinance provides definitions. “Easement” and “right-of-way” are already defined. “Abandon” and “record owner” are added to definitions section in Article 8.

Section 3 of the City’s ordinance sets out what must be included on the application form. These requirements have been removed for all other applications.

The City’s ordinance makes a point of exempting the City from paying fees to process a City-initiated abandonment. We recommend a global exception (elsewhere in the Code of Ordinances) for the City with regard to fees.

Section 5 of the City’s ordinance provides for fee reduction and waiver at the discretion of the City Manager. We recommend a global approach to fee reduction and waiver. Section 5 of the City’s ordinance also sets the fee at \$1,500. We recommend consolidation of fees in an omnibus fee schedule adopted by resolution. As with other sections of the LDRs, we have removed all fees.

The standards set out in Section 3-1203 are intended, in general, to reflect the intent of the standards set out in Sections 6 and 8 of the City’s ordinance. They are re-stated such that the requirement of the standard for each of the subject areas is obvious from the regulatory language (e.g., compare “whether the subject Right-of-Way is useful . . .” to “the interest . . . is not being used by the City . . .”). A.1. provides a quick analysis for easements or rights-of-way that have never been used for their intended purpose. A.2. provides a more comprehensive analysis for easements or rights-of-way that are used. Section 3-1203A.2.a. is intended to encompass consideration of

<ul style="list-style-type: none"> b. The abandonment will not compromise the delivery of emergency services; c. The abandonment will not compromise pedestrian or vehicular safety; d. The abandonment will not interfere with solid waste removal services; e. The vacation or abandonment will not frustrate any comprehensive plan, special purpose plan, or capital improvement program of the City; f. The vacation or abandonment will not interfere with any planning effort of the City that is underway at the time of the application but is not yet completed; and g. The vacation or abandonment will provide a material public benefit in terms of promoting development or redevelopment of abutting property, removing blighting influences, or improving the City's long-term fiscal position. 	<p>mitigation plans, traffic studies, provision of alternative rights-of-way and the like.</p> <p>Section 3-1203A.2.g. is new.</p>
<ul style="list-style-type: none"> B. The proposed abandonment will be accomplished in accordance with all applicable standards of local, state, and federal authorities. C. The proposed abandonment will promote development or redevelopment that will maintain or enhance the character of the surrounding area. 	<p>Section 3-1203C. is new.</p>
<ul style="list-style-type: none"> D. The proposed abandonment will not have a negative fiscal impact on the City of Coral Gables or result in development that will have a negative fiscal impact on the City of Coral Gables. E. If the interest sought to be vacated or abandoned is located in Mixed-Use District: <ul style="list-style-type: none"> 1. A public benefit will result from the vacation or abandonment; 2. A restrictive covenant is offered in a form acceptable to the City Attorney that assures that: 	<p>Section 3-1203E. sets out the standards in the existing Section 3-5(d)10.i.(1)</p>

- a. The vacated property will not be applied to the calculation of floor area ratio or density of continuous property or properties; and
 - b. The property owner will convey the interest back to the City if the purpose for vacating or abandoning the interest ceases to exist.
3. Ground floor open space is provided on each contiguous parcel in an amount that is equal to the amount of land area added to the parcel as a result of the vacation or abandonment.
 4. The maximum height of the development that is facilitated by the vacation or abandonment is materially less than the maximum height permitted by the underlying district regulations, or the apparent mass of the building from abutting properties and public rights-of-way is materially less than what would be permitted by the underlying district regulations.

Section 3-1204. Staff Review, Report and Recommendation.

- A. Within five (5) days of receipt of an application pursuant to this Division, the Development Review Official shall review the application to determine whether it is complete.
- B. Within ten (10) days of receipt of a complete application, the Development Review Official shall distribute the application package by regular mail or hand delivery to all public utility companies and City-operated utilities that have facilities within the area of the interest sought to be abandoned. The notice shall request their review and comment within twenty (20) days, and shall be delivered to:
 1. City Manager;
 2. Planning Department;
 3. Public Works Department;
 4. Fire-Rescue Department;

Section 3-1203.E.2.b. reflects existing policy. However, it is complicated in that, for example, a vacated street will be divided among abutting properties to the centerline, even though only one property owner might ask for the abandonment. As such, the property owner cannot grant the entire interest back to the City if it demolishes the improvements for which the abandonment was requested.

Ground floor open space is a defined term in Article 8.

“Apparent mass” is defined in Article 8.

Section 3-1204(A) and (B)’s timing provisions are intended to be in line with the City’s ordinance (sections 3(A)7 and 4(A)). The balance of Section 3-1204 and Section 3-1205 are adapted from Section 7 of the City’s ordinance.

Section 3(B) of the City’s ordinance is deleted as not necessary: “The City, through the City Manager, may file an application with the Public Works Director to initiate a review of proposed abandonment, vacation and closure of City Right-of-Way or Easement. The City shall not file an application fee. The City application shall otherwise be reviewed and processed in accordance with the provisions of this Article of the Code.”

5. Police Department;
6. Public Service Department;
7. Parking Department;
8. Economic Development Department;
9. City Clerk;
10. City Attorney; and
11. Such other agencies as determined by the Director of Public Works.

B. Within forty-five (45) days of distribution of the application to public utility companies and City-operated utilities, the Development Review Official shall:

1. Review the application for compliance with the standards set out in Section 3-1203;
2. Provide a report which addresses the application's compliance with the standards set out in Section 3-1203 and summarizes all comments submitted with regard to the application;
3. Provide a proposed ordinance granting approval or approval with conditions;
4. Forward the entire record of the application, including all application materials, the report, the proposed ordinance granting approval or approval with conditions, and all correspondence related to the application, to the Planning and Zoning Board;
5. Schedule the application for hearing before the Planning and Zoning Board; and
7. Provide notice of the Planning and Zoning Board hearing pursuant to Article 3, Division 3.

The standards from Section 8 of the City's ordinance are consolidated in Section 3-1203 of this draft. Staff and review bodies consider the same standards.

C. Within thirty (30) days of the public hearing of the Planning and Zoning Board, the Development Review Official shall:

1. Schedule the application for hearing before the City Commission;
2. Forward the entire record of the application, including all application materials, the Staff report and recommendation, the ordinance granting approval or approval with conditions, all correspondence related to the application, the findings and recommendation of the Planning and Zoning Board, and the transcript of the Planning and Zoning Board proceeding, to the City Commission; and
3. Provide notice of the City Commission hearing pursuant to Article 3, Division 3.

Section 3-1205. Planning and Zoning Board Review and Recommendation.

The Planning and Zoning Board shall:

- A. Review the application at a public hearing;
- B. Make written findings with respect to whether the application complies with the standards set out in Section 3-1203; and
- C. Make a written recommendation to the City Commission with regard to whether the application should be approved, approved with conditions, or denied.

Section 3-1206. City Commission Review and Decision.

The City Commission shall review the application at two public hearings. At the second public hearing, the City Commission shall:

- A. Decide whether the application should be approved, approved with conditions, denied, or deferred;

- B. If the application is not deferred, make written findings with respect to whether the application complies with the standards set out in Section 3-1203;
- C. If the application is approved or approved with conditions, cause notice of the approval to be published as provided in Section 3-1208.C.

Section 3-1207. Effect of Vacation or Abandonment.

- A. The effective date of any ordinance pursuant to this Division shall be the date a replat is approved that shows the abandoned property and the properties that benefited from the abandonment. If the replat is not finalized within eighteen (18) months of the date of hearing at which the abandonment was approved or approved with conditions, the City Commission shall reconsider the application, which shall be denied if the applicant fails to show good cause for the delay in replatting.
- B. A vacation or abandonment pursuant to this Division shall renounce and disclaim any rights in any land delineated on any recorded map, and shall abrogate the easement theretofore owned, held, claimed or used by or on behalf of the public. The title of fee owners shall be freed and released there from, and if the fee of road space has been vested in the City of Coral Gables, it is surrendered and will vest in the abutting fee owners to the extent and in the same manner as in case of termination of an easement for road purposes.
- C. Whenever any street, alley or other public way is vacated or abandoned, the zoning regulations governing the property abutting upon each side of such street, alley or public way shall be automatically extended to the center of the former street, alley or public way.
- D. Whenever land that is the subject of a vacation or abandonment has been built-up by fill of formerly submerged lands, the zoning regulations applying to the land immediately adjoining such built-up land shall be automatically extended thereto.

Section 3-1207 is new.

Section 3-1207A. requires an applicant to replat abandoned rights of way and benefited properties within 18 months, by extending the effective date of the abandonment ordinance to the date the property is replatted. If the applicant fails to replat the property within 18 months without a good reason, the City Commission reconsiders the application and denies it.

The City's ordinance provides, "The Public Works Department may reject the application if a similar application has been considered at any time within one year of the date the application is submitted." The one-year bar on resubmittal of denied applications is addressed in Article 3, Division 2, Section 3-208, along with other applications which are denied.

Section 3-1208. Publication and Recording of Abandonment.

Notices of adoption of an ordinance approving an application or approving an application with conditions shall be provided at the applicant's expense as follows:

- A. Publication in a newspaper of general circulation in the City of Coral Gables within thirty (30) days of the City Commission's decision to approve or approve with conditions the application for abandonment.
- B. Recording in the Public Records of Dade County, Florida the following documents:
 - 1. Proof of publication of notice of public hearing;
 - 2. The ordinance as adopted; and
 - 3. Proof of publication of the notice of the adoption of such ordinance.

**ARTICLE 3, Division 13
CONCURRENCY REVIEW**

Section 3-1301. Purpose and Applicability.

It is the purpose of this Division to provide a process for ensuring that the public facilities and services needed to support development are available concurrent with the impacts of such development.

Section 3-1302. Concurrency Review Required.

- A. Unless exempted under the provisions of Section 3-1302B, all applications for development approval shall include an application for concurrency review.
- B. Concurrency review is not required for the following:
1. Applications for single-family residential development platted prior to December 8, 1992.
 2. Applications for additions, renovations, or reconstruction of residential dwellings which do not increase the number of dwelling units placed on the premises or approved for the property.
 3. Additions, renovations, or reconstruction of uses accessory to residential dwellings.
 4. Sign permits.
 5. Applications which will not result in either an Intermediate Development or Final Development Order;
 6. Applications requesting modifications of previously approved Development Orders where it is determined that the impacts on the prescribed levels of service imposed by the requested modifications will be no greater than the impacts posed by the previously approved development order or the previously existing use.

This Division is based on Chapter 7.5 of the City's Code and the City's administrative manual regarding concurrency. It is our understanding that this matter is under review by other consultants.

Sec. 3-1301 is an edited version of sec.7.5-1.

3-1302 includes part of sec. 7.5-8 and the exceptions listed in the manual.

Signs not specifically called out in existing regs as exempt. Other uses should be considered to be listed here, such as: utility uses, certain municipal facilities, telecommunication towers, parking garages and lots.

<p>7. Applications on properties where a Development of Regional Impact has been approved for which the development is proceeding in compliance with the conditions of the DRI approval.</p> <p>8. Applications where the particular type of Intermediate or Final Development Order would not result in a reduction in the level of service for any of the services or facilities prescribed in the Concurrency Management Program.</p> <p>9. Applications for development approval within areas designated by the City where all services or facilities have sufficient surplus capacity to sustain projected development of specified types for one to five or more years as applicable to the service.</p> <p>10. Vested projects.</p> <p>Section 3-1303. Application.</p> <p>All applications for concurrency review shall accompany all applications for development approval, unless otherwise exempt under the provisions of this Division. Such applications shall be made in writing upon an application form approved by City staff and shall be accompanied by applicable fees.</p> <p>Section 3-1304. Staff Review and Determination.</p> <p>A. City staff shall review each application for a development order and shall determine whether the application:</p> <ol style="list-style-type: none"> 1. requests approval of an initial, intermediate or final development order; or 2. would have no impact or would have impacts on levels of service that fall below thresholds for public facilities and services prescribed in the concurrency manual. <p>B. In the event that staff determines that there is no impact, a statement of no impact shall be issued to the applicant and the</p>	<p>Sec.7.5-4</p>
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Board or other decision maker responsible for the issuance of the development order. Such statement of no impact shall be valid for a period not to exceed one (1) year from issuance.

C. Initial development orders.

1. A concurrency information statement shall be prepared prior to the issuance of any initial development order and provided to the applicant, Board or other decision-maker responsible for the issuance of the initial development order.
2. The purpose of the concurrency information statement is to provide general information and guidance regarding the available capacity of public facilities and services. The concurrency information statement does not ensure that capacity will be available at the time of the issuance of an intermediate or final development order, nor does it obviate the need for concurrency review prior to the issuance of an intermediate or final development order.

D. Intermediate development orders.

1. Each application for an intermediate development order shall be evaluated on the basis of the concurrency review criteria contained in Section 3-1305. City Staff shall determine whether or not a proposed development would result in a reduction in levels of service for public facilities and services below adopted levels of service and shall issue a concurrency impact statement to the applicant.
2. If the concurrency impact statement indicates that the proposed development would not result in a reduction in adopted levels of service, the statement shall be furnished to the applicant, Board or other decision maker responsible for the issuance of the intermediate development order.
3. If the concurrency impact statement indicates that the requested intermediate development order cannot be issued because the proposed development would result in a reduction in adopted levels of service, the applicant may modify the

application, submit an enforceable development agreement or the intermediate development order may be issued subject to appropriate conditions. Such modifications, agreements or conditions shall ensure that the necessary public facilities and services shall be available concurrent with the impacts of development. The concurrency impact statement shall specify the modifications, agreements or conditions which shall be satisfied prior to the issuance of an intermediate development order or final development order or both. The concurrency impact statement shall be furnished to the applicant and to the Board or other decision-maker responsible for the issuance of the intermediate development order.

E. Reservation of capacity.

Upon payment of a fee prescribed in the concurrency manual, the holder of an affirmative intermediate development order may reserve capacity for up to twelve (12) months for the approved project by the City's issuance of a document signifying capacity reservation. This fee payment and capacity reservation is optional and is not required of recipients of affirmative intermediate development orders. Failure to pay the necessary fee and obtain a capacity reservation forfeits any right of reliance upon an affirmative intermediate development order to ensure service capacity availability and reservation. Such reservation shall ensure that the City does not permit other development which would result in a reduction in levels of service for public facilities and services follow the adopted levels of service during the period of reservation.

F. Final development orders.

1. Applicants filing complete applications for issuance of a final development order within twelve (12) months from the date of issuance of an intermediate development order shall be exempt from the requirement of further concurrency review (but not exempt from the payment of any applicable administrative fee set forth in the concurrency manual), provided that (a) no significant changes have been made to the proposed development from the approved intermediate development

order; (b) all modifications, agreements, or conditions of the concurrency impact statement, if applicable, have been satisfied; and (c) the City has reserved capacity for the development pursuant to subsection 3-1304 E. In the absence of these provisions, the applicant is not entitled to rely upon an intermediate development order for concurrency compliance, and must follow prescribed procedures for the issuance of a concurrency compliance statement.

2. With the exception of final development orders for which applications have been timely filed and capacities have been reserved pursuant to Sections 3-1304 E and 3-1304 F 1 above, or certificates of use and occupancy as described in Section 3-1304 F 6 below, City staff shall evaluate each application for a final development order on the basis of the concurrency review criteria contained in Section 3-1305.
3. City staff shall determine whether or not the proposed development would result in a reduction in levels of service for public facilities and services below adopted levels and shall issue a concurrency compliance statement to the applicant. If the concurrency compliance statement indicates that that issuance of the proposed final development order would not result in a reduction in levels of service for public facilities and services below adopted levels of service, the concurrency compliance statement shall be furnished to the person, board or agency responsible for the issuance of the final development order and the final development order may be issued.
4. If the concurrency impact statement indicates that the requested final development order cannot be issued because the proposed development would result in a reduction in adopted levels of service, the applicant may modify the application, submit an enforceable development agreement, or the final development order may be issued subject to appropriate conditions. Such modifications, agreements or conditions shall ensure that the necessary public facilities and services shall be available concurrent with the impacts of development. The concurrency impact statement issued in conjunction with a final development order application shall

specify any modifications, agreements, or conditions which shall be satisfied prior to the issuance of a building permit or certificate of use and occupancy or both. The concurrency impact statement issued in conjunction with a final development order application shall be furnished to the applicant and to the applicant, Board or other decision maker responsible for the issuance of the final development order.

5. Except where applicants have obtained a vested rights determination pursuant to Article 3 Division 18, or the final development order application is exempt from the requirement of a concurrency compliance statement, all applications or final development orders must obtain written confirmation that all required levels of service for public facilities and services have been satisfied. Required modifications and/or conditions noted in previously issued concurrency compliance statement. If the property for which application for a final development order is made holds an expired reservation that was previously of record in accordance with Section 3-1304 E, the applicant must obtain an updated concurrency impact statement and is not entitled to rely on said expired reservation. At the times of the issuance of a final development order building permit, the permit holder shall be automatically required to pay a fee prescribed in the concurrency manual to reserve service capacities for a period of twelve (12) months from the date of final permit issuance, unless the building permit lapses in accordance with other city regulations. In addition, the holder of an affirmative final development order may extend service capacity reservations for an additional twelve (12) months in accordance with the fees and terms prescribed in the concurrency manual.
6. Certificates of use and occupancy may be issued without the requirement for further concurrency review where the applicant for the certificate of use and occupancy holds a valid, unexpired building permit for the identical use of the subject structure or site or pertinent portion thereof; provided said building permit is not subject to an enforceable development agreement of other conditions requiring the applicant to provide or contract for the construction of necessary public services and facilities or other

appropriate service impact mitigation measures. Where the building permit is subject to such enforceable development agreement or appropriate conditions, no certificate of use and occupancy shall be issued until the department determines that all agreements and conditions have been satisfied. (Ord. No. 3013, § 1, 12-8-92)

Section 3-1305. Concurrency Review Criteria.

- A. The public facilities and services needed to support development shall be deemed to be available concurrent with the impacts of development if the following criteria are satisfied:
1. The necessary public facilities and services are in place at the time a final development order issues; or
 2. A final development order is issued subject to the condition that the required public facilities and services will be in place when the impacts of the development occur; or
 3. The necessary public facilities are under construction at the time the final development order is issued and such construction is the subject of enforceable assurance that it shall be completed and serviceable without unreasonable delay; or
 4. The necessary public facilities and services are the subject of a binding executed contract for the construction of the facilities or the provision of services at the time the final development order is issued; or
 5. The necessary public facilities are funded and programmed for implementation in the capital improvements element of the comprehensive plan for construction in year one of the city's adopted capital budget, or similarly adopted budget of other government agencies; or
 6. The necessary traffic circulation and mass transit facilities or services or both are programmed in the capital improvements element of the comprehensive plan for construction in or before year three of the city's adopted budget or similarly adopted

Existing Section 7.5-5

budget of other governmental agencies including the county's capital budget of the state agency having operational responsibility for affected facilities; in all cases, such facilities must be committed for construction in or before year three; or

7. The necessary public facilities and services are guaranteed in an enforceable development agreement to be provided by the developer. An enforceable development agreement may include but is not limited to development agreements pursuant to Section 163.3220, Florida Statutes, or an agreement or development order issued pursuant to Chapter 380, Florida Statutes; or
8. Timely provision of the necessary public facilities and services will be guaranteed by some other means or instrument providing substantially equivalent assurances; and
9. In all instances where a decision to issue a building permit is based on the foregoing provision (5), (6) or (7), the following conditions shall apply:
 - a. The necessary public facilities and services shall not be deferred or deleted from the capital improvements element of the comprehensive plan work program or adopted one (1) year capital budget unless the dependent final development order expires or is rescinded prior to the issuance of a certificate of use and occupancy.
 - b. The public facilities and services necessary to serve development must be contracted for construction no later than thirty-six (36) months after the date that the initial certificate of use and occupancy is issued for the dependent development; and
 - c. Construction of the necessary public facilities and services must proceed to completion with no unreasonable delay or interruption.

B. In determining the availability of public facilities and services, the applicant may propose and the City may approve development in

stages or phases so that the public facilities and services needed for each stage or phase will be available in accordance with the criteria required by this chapter. (Ord. No. 3013, § 1, 12-8-92)

Section 3-1306. Concurrency Manual.

The City shall promulgate and maintain a concurrency manual which shall contain the administrative procedures and fees to be applied in the implementation of this Division. The concurrency manual shall include:

- A. Examples of preliminary, intermediate, and final development orders.
- B. Examples of development orders which would have no impact or which would have impacts on levels of service which fall below the thresholds for public facilities and services.
- C. The methodologies to be used by the department in monitoring available capacity of public facilities and services and in preparing concurrency statements.
- D. The methodologies to be used by the department in evaluating applications for development orders for compliance with the concurrency review criteria.
- E. The methodologies to be used by the department in identifying geographic areas having surplus capacity for certain public facilities and services.
- F. The time frames within which the department and the applicant must complete any action which is required by this chapter.
- G. An administrative fee schedule.
- H. Examples of exceptions from concurrency review requirements.
- I. Procedures for obtaining relief from these regulations. (Ord. No. 3013, § 1, 12-8-92)

Existing Section 7.5-6

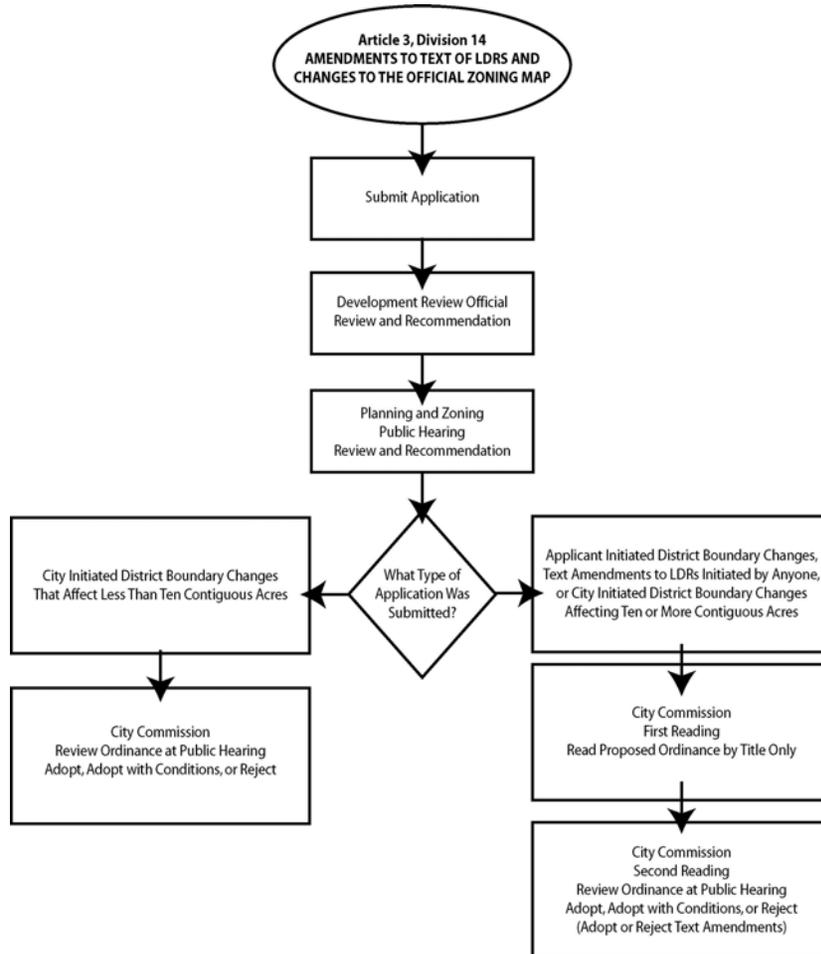
Section 3-1307. Appeals.

An appeal from a negative determination of capacity may be taken to the City Commission by an aggrieved party in accordance with the provisions of Article 3 Division 6 of these LDRs.

Please note that all appeals under these LDRs have been standardized to the extent possible and are covered by Article 3, Division 6. Existing Section 7.5-8 (Exhausting Administrative Remedies) has been incorporated into Article 3, Division 18 which applies to all provisions of the LDRs.

**ARTICLE 3, Division 14
AMENDMENTS TO TEXT OF LDRs AND CHANGES TO THE
OFFICIAL ZONING MAP**

Basically this Division is new. However, it incorporates principles in Section 1-2, Section 25-6.



Section 3-1401. Purpose and applicability. The purpose of this Division is to establish a uniform procedure for district boundary changes and for text amendments to these LDRs. This Division applies to all such amendments, whether initiated by the City or by one or more private property owners.

Section 3-1402. Application. All applications for district boundary changes or text amendments to these LDRs shall be made in writing upon an application form approved by City staff, and shall be accompanied by applicable fees.

Section 3-1403. Standards for applicant-initiated district boundary changes.

- A. An applicant-initiated district boundary change shall be approved if it is demonstrated that the application satisfies all of the following:
1. It is consistent with the Comprehensive Land Use Plan in that it:
 - a. Does not permit uses which are prohibited in the future land use category of the parcel proposed for development;
 - b. Does not allow densities or intensities in excess of the densities and intensities which are permitted by the future land use category of the parcel proposed for development;
 - c. Will not cause a decline in the level of service for public infrastructure to a level of service which is less than the minimum requirements of the Comprehensive Land Use Plan;
 - d. Does not directly conflict with any objective or policy of the Comprehensive Land Use Plan; and
 2. Will provide a benefit to the City in that it will achieve two or more of the following objectives:
 - a. Improve mobility by reducing vehicle miles traveled for residents within a one-half mile radius by;

Applicant is entitled to quasi-judicial process with regard to a district boundary change. Standards for the Planning and Zoning Board's recommendation and the City Commission's decision (both after quasi-judicial hearings) are provided in Section 3-1403(A).

Section 3-1403.A.2.A. provides several ways to evaluate whether a proposed amendment would be likely to have a positive impact on mobility within the City. One way is to improve the balance of land uses

- i. balancing land uses in a manner that reduces vehicle miles traveled;
- ii. creating a mix of uses that creates an internal trip capture rate of greater than twenty percent (20%); or
- iii. increasing the share of trips that use alternative modes of transportation, such as transit ridership, walking, or bicycle riding.

- b. Promote high-quality development or redevelopment in an area that is experiencing declining or flat property values;
- c. Create affordable housing opportunities for people who work in the City of Coral Gables; or
- d. Implement specific objectives and policies of the Comprehensive Land Use Plan; and

3. Will not cause a substantial diminution of the market value of adjacent property or materially diminish the suitability of adjacent property for its existing or approved use.

B. An applicant may propose limitations regarding the use, density or intensity which will be permitted on the parcel proposed for development in order to achieve compliance with the standards of Section 3-1403.A. Such limitation(s) shall be offered by a restrictive covenant or declaration of use that is provided to the City in a recordable form acceptable to the City Attorney.

Section 3-1404. Standards for Text Amendments to these LDRs and for City-Initiated District Boundary Changes. The Planning and Zoning Board shall not recommend adoption of, and the City Commission shall not adopt, text amendments to these land development regulations or City-initiated district boundary changes unless the text amendment or City-initiated district boundary change:

- A. Promotes the public health, safety, and welfare;
- B. Does not permit uses the Comprehensive Land Use Plan prohibits in the area affected by the district boundary change or text amendment;

in the area, that is, to bring a variety of uses closer together so that people do not have to travel long distances to work, shop, and play. This can be evaluated with readily available public and proprietary transportation, demographic, employment, and consumer spending pattern data sets. Some of the data sets include pre-packaged analysis of, for example, retail market saturation.

Another way to improve mobility is to create a mix of uses that has a meaningful internal trip capture rate (which reduces the impacts on external roads and improves access to a variety of uses for people who live, work, play, or shop in a development). Internal trip capture is a standard calculation used by traffic engineers.

Another way to improve mobility is to design and locate development in such a way that it is likely to increase the proportionate number of trips that use alternative modes of transportation compared to the single-passenger automobile. Examples include development that functionally integrates transit (e.g., development that integrates a Metrorail stop), and development with a pattern and amenities that are "pedestrian friendly." Traffic engineers can evaluate the likely impact of a project on the share of trips that will utilize alternative modes of transportation.

Section 3-1403.B. allows site-specific regulations.

Text amendments and City-initiated district boundary changes are generally legislative matters, so the guidelines for legislative decision-making in Section 3-1404 provide more flexibility than those standards in Section 3-1403.

- C. Does not allow densities or intensities in excess of the densities and intensities which are permitted by the future land use categories of the affected property;
- D. Will not cause a decline in the level of service for public infrastructure which is the subject of a concurrency requirement to a level of service which is less the minimum requirements of the Comprehensive Land Use Plan; and
- E. Does not directly conflict with an objective or policy of the Comprehensive Land Use Plan.

Section 3-1405. City Staff Review, Report and Recommendation.

- A. Upon receipt of an application pursuant to this Division, the Development Review Official shall review the application in accordance with the provisions of Article 3, Division 2.
- B. Upon completion of review of an application, the Development Review Official shall:
 - 1. Review the application for compliance with the standards set out in Section 3-1403 or 3-1404, as applicable.
 - 2. Provide a report with regard to the application's compliance with the standards set out in Section 3-1403 or 3-1404, as applicable;
 - 3. Provide a recommendation as to whether the application should be approved, approved with conditions, or denied;
 - 4. Schedule the application for hearing before the Planning and Zoning Board; and
 - 5. Provide notice of the Planning and Zoning Board hearing pursuant to Article 3, Division 3.
- C. Upon receipt of the recommendation of the Planning and Zoning

Board, the Development Review Coordinator shall:

1. Schedule the application for hearing before the City Commission;
 2. Forward its report and recommendation and the findings and recommendation of the Planning and Zoning Board to the City Commission; and
 3. Provide notice of the City Commission hearing pursuant to Article 3, Division 3.
- D. If a second public hearing of the City Commission is required, City staff shall provide timely notice of the public hearing pursuant to Article 3, Division 3.

Section 3-1406. Planning and Zoning Board Review and Recommendation. The Planning and Zoning Board, sitting as the Local Planning Agency, shall:

- A. Review the application at a public hearing;
- B. Make written findings with respect to whether the proposed district boundary change or text amendment to these LDRs is consistent with the Comprehensive Land Use Plan; and
- C. Make a written recommendation to the City Commission with regard to whether the application should be approved, approved with conditions, or denied.

Section 3-1407. City Commission Review and Decision.

- A. For applicant-initiated district boundary changes, text amendments to these LDRs, and City-initiated district boundary changes that affect ten (10) or more contiguous acres of property, the City Commission shall hold two (2) public hearings, as follows:
 1. At the first public hearing, the City Commission shall read the proposed ordinance by title only.

Review is pursuant to Section 166.041, Fla. Stat. (2004).

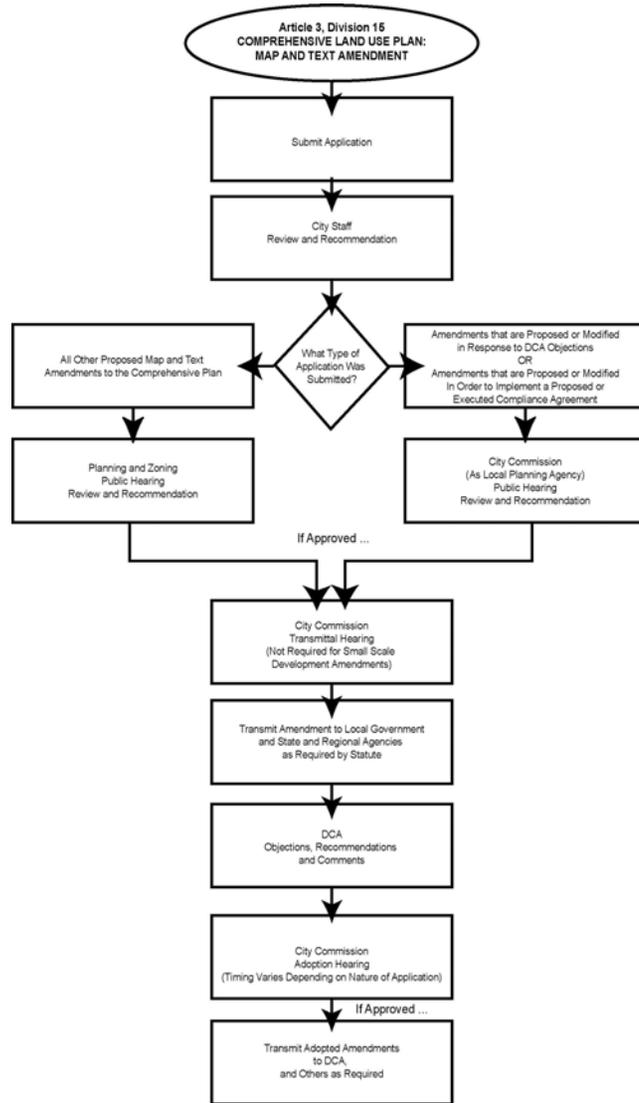
The way this is drafted, no evidence is taken at first reading. If the City wants to hear evidence at first reading, Section 3-1407 could be changed.

2. At the second public hearing, the City Commission shall:
 - a. If the proposed ordinance is applicant-initiated, review the application for compliance with the standards set out in Section 3-1403 and decide whether to adopt, adopt with conditions, or reject the proposed ordinance; or
 - b. If the proposed ordinance is City-initiated, review the application for compliance with the standards set out in Section 3-1404 and decide whether to adopt, adopt with conditions, or reject the ordinance.
3. If the proposed amendment is a district boundary change, changes the list of permitted, conditional, or prohibited uses in a use district, then one of the public hearings shall be held after 5:00 p.m. on a weekday, unless the City Commission, by a majority plus one vote, elects to conduct that hearing at another time of day.

- B. For City-initiated district boundary changes that affect less than ten (10) contiguous acres of property, the City Commission shall hold one public hearing, at which it shall:
 1. Review the proposed ordinance for compliance with the standards set out in Section 3-1404; and
 2. Adopt, adopt with conditions, or reject the proposed ordinance.

The Florida Statutes provide that city-initiated district boundary changes of less than 10 acres require only one hearing (even though they are by ordinance), although the City could hold more than one if it wants to. See § 166.041(3)(c)(1), Fla. Stat. If so, Section 3-1407B. could be consolidated into Section 3-1407A.

**ARTICLE 3, Division 15.
COMPREHENSIVE LAND USE PLAN: MAP AND TEXT
AMENDMENTS**



Note: This Division is entirely new, and generally tracks the requirements of Section 163, Pt. II, Fla. Stat.

Section 3-1501. Purpose and Applicability. The purpose of this Division is to establish a uniform procedure for amending the text and maps of the Comprehensive Land Use Plan. This Division does not supercede the requirements of Section 163, Part II, Florida Statutes, as may be amended from time to time. If any part of this Section conflicts with Section 163, Part II, Florida Statutes, the statutory requirement shall control. This Division applies to all text and map amendments to the Comprehensive Land Use Plan, whether initiated by the City or by one or more private property owners.

Section 3-1502. Comprehensive Land Use Plan Amendment Cycles. The City shall provide two comprehensive plan amendment cycles per calendar year for proposed amendments that are not exempt from the two amendments per year limitation of Section 163.3187(1), Florida Statutes.

Section 3-1503. Application. All applications for amendments to the text or maps of the Comprehensive Land Use Plan shall be made in writing upon an application form approved by the City staff, and shall be accompanied by the applicable fees.

Section 3-1504. Conditions of Approval.

- A. An applicant may propose additional limitations regarding the use, density or intensity which will be permitted on a parcel proposed for development. Such limitation shall be offered by executed restrictive covenant or declaration of use that is provided to the City in a recordable form that is acceptable to the City Attorney, and if the amendment is approved with the restrictive covenant or declaration of use, the recording information shall be set out on the Comprehensive Land Use Map.
- B. The City Commission may condition the grant of a Comprehensive Land Use Map amendment upon the timely development of the parcel proposed for development, and may include provisions that the district boundary change does not become effective until a complete application for development approval is accepted by the City staff.

§ 3-1502 reflects the statutory limitation on the number of comprehensive plan amendment cycles.

§ 3-1504 reflects the common local government practice of allowing an applicant to ask for less than the future land use district would otherwise allow in order to facilitate approval of the applicant's project. It is not a statutory requirement.

Section 3-1505. City Staff Review, Report and Recommendation.

- A. Upon receipt of an application pursuant to this Division, the Development Review Coordinator shall review the application in accordance with the provisions of Article 3, Division 2.
- B. Upon completion of review of an application, the Development Review Coordinator shall:
 - 1. Provide a report that summarizes the application and the effect of the proposed amendment, including:
 - a. Whether it specifically advances any objective or policy of the Comprehensive Plan;
 - b. Its effect on the level of service of public infrastructure;
 - c. Its effect on environmental resources;
 - d. Its effect on the availability of housing that is affordable to people who work in the City of Coral Gables; and
 - e. Any other effect that the City staff determines is relevant to the City Commission's decision on the application;
 - 2. Provide a recommendation as to whether the application should be approved, approved with conditions, or denied;
 - 3. Provide a proposed ordinance that could be used to adopt the proposed amendment;
 - 4. Schedule the application for hearing before the Planning and Zoning Board; and
 - 5. Provide notice of the Planning and Zoning Board hearing pursuant to Article 3, Division 3.
- C. Upon receipt of the decision of the Planning and Zoning Board, the Development Review Coordinator shall:

The statute is not clear whether an LPA meeting is required if a comprehensive plan amendment is modified after transmittal in response to DCA objections. As we understand it, the practice is that such a meeting is not required. However, in an abundance of caution, the City Commission is designated LPA in these limited cases (§3-1506(B)) in order to facilitate meeting statutory deadlines and to facilitate the execution and implementation of compliance agreements.

1. Schedule the application for hearing before the City Commission;
2. Forward its report and recommendation and the recommendation of the Planning and Zoning Board to the City Commission; and
3. Provide notice of the City Commission hearing in accordance with the provisions of Article 3, Division 3.

Section 3-1506. Planning and Zoning Board Review and Recommendation.

- A. The Planning and Zoning Board shall:
 1. Review the application at a public hearing that is held before the transmittal hearing, or if no transmittal hearing is required, before the adoption hearing; and
 2. Make a written recommendation to the City Commission with regard to whether the proposed amendments should be adopted, adopted with conditions, or rejected.
- B. The City Commission shall serve as the Local Planning Agency with respect to:
 1. Amendments that are proposed or modified in response to DCA objections;
 2. Amendments that are proposed or modified in order to implement a proposed or executed compliance agreement.

Section 3-1507. Transmittal Hearing.

- A. A transmittal hearing by the City Commission shall be held on each proposed comprehensive plan amendment except small-scale development amendments.
- B. All transmittal hearings shall be held on weekdays.

- C. If the City Commission approves the plan amendment at the transmittal hearing, the City shall immediately transmit the amendment to those local governments and state and regional agencies to which transmittal is required by state statute or administrative rule.

Section 3-1508. DCA Objections, Recommendations, and Comments.

- A. If DCA comments on and/or formally objects to a privately initiated amendment, the City shall promptly notify the applicant in writing which shall include a copy of the Objections, Recommendations, and Comments Report.
- B. The applicant may submit a draft response to the City within fifteen (15) days. If City staff determines that the draft response is appropriate and responsive to the objection, City staff shall forward the response to DCA.
- C. The City may respond to DCA objections on behalf of an applicant who does not provide an appropriate and responsive objection, but shall not be obligated to do so.

Section 3-1509. Adoption Hearing.

- A. The adoption hearing by the City Commission shall be scheduled as follows:
1. After City staff review if the amendment is a small-scale development amendment.
 2. Within sixty (60) days of:
 - a. Receipt of DCA's Objections, Recommendations, and Comments Report if DCA provides said report; or
 - b. The date the DCA review period ends if the amendment:
 - i. Was transmitted to DCA; and

§ 3-1509 is the statutory requirement.

§ 3-1509(A)(1) - DCA does not review small-scale development amendments. "Small scale development amendments" are defined as those that are set out in Section 163.3187(1)(c), Fla. Stat. See Article 8.

§ 3-1509(A)(2) - Amendments that are reviewed must be heard within sixty (60) days of the ORC report.

- ii. DCA did not object; and
- iii. No affected person requested review within thirty-five (35) days of the date the proposed amendment was transmitted.

3. If submitted as part of the statutory evaluation and appraisal process, within one hundred twenty (120) days of receipt of DCA's Objections, Recommendations, and Comments Report if DCA provides said report.

B. At the adoption hearing, the City Commission shall adopt the proposed amendment, adopt the proposed amendment with amendments that respond to DCA objections, recommendations, or comments, or reject the proposed amendment.

Section 3-1510. Transmittal of Adopted Amendments. The City shall transmit all adopted Comprehensive Plan and Future Land Use Map amendments to DCA, the South Florida Regional Planning Council, and any other unit of local government or governmental agency which has requested the amendment in writing within ten (10) working days after the adoption hearing. If the amendment is a small-scale development amendment, the City shall include copies of the public notices with the transmitted material.

Section 3-1511. Compliance Agreements. The City Commission may enter into a compliance agreement with DCA with regard to any proposed or adopted Comprehensive Plan amendment, as follows:

- A. If the City elects to commence negotiation of a compliance agreement with DCA, it shall mail notice to all parties that have intervenor status in proceedings before DCA at least seven (7) days before substantive negotiations commence. Parties that have intervenor status in proceedings before DCA shall be afforded a reasonable opportunity to participate in the negotiation process.
- B. All negotiation meetings with the City and/or the parties with intervenor status in proceedings before DCA shall be open to the public.

§ 3-1509(A)(3) - EAR Amendments that are reviewed must be heard within one hundred twenty (120) days of the ORC Report.

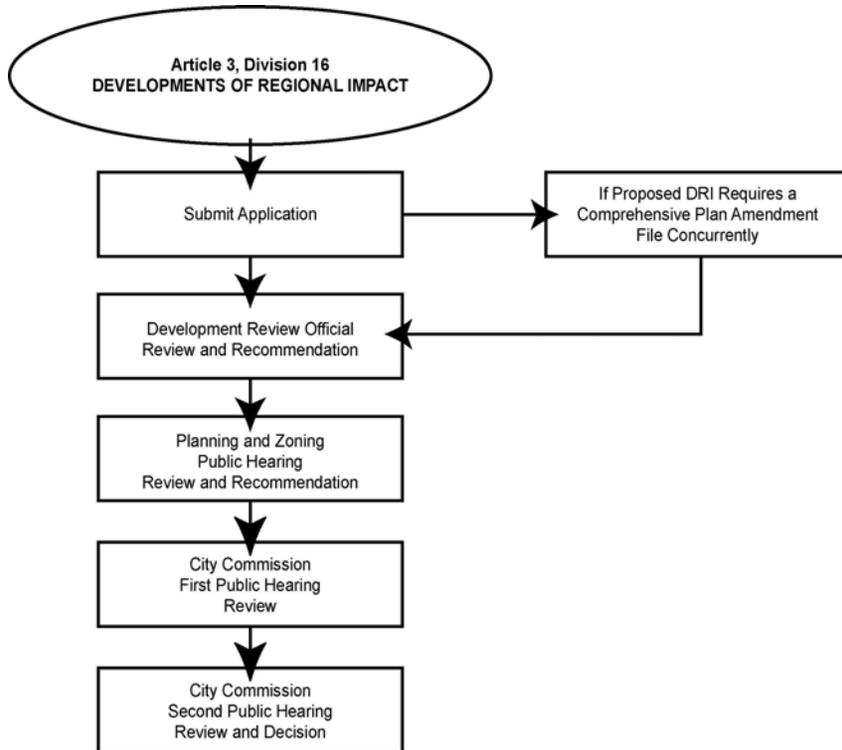
§ 3-1510 is the statutory requirement.

§ 3-1511 is the statutory requirement.

C. No compliance agreement shall be executed by the City unless such execution is considered at a public hearing of the City Commission.

**ARTICLE 3, Division 16.
DEVELOPMENTS OF REGIONAL IMPACT.**

This Division is entirely new. Developments of regional impact are mentioned in Sec. 6-8(a), 9-3(a)(4), 9-5(a), 18-23(a), 25-7(a)3.a., 25-8(a), but no specific development review process is provided.



Section 3-1601. Purpose and Applicability.

The purpose of this Division is to establish uniform procedures for the City Commission to issue development orders for developments of regional impact as authorized by Chapter 380, Florida Statutes. Where provisions of this Division directly conflict with provisions of Chapter 380, Florida Statutes, the provisions of Chapter 380, Florida Statutes shall control.

Section 3-1602. Application.

- A. All applications for development orders with regard to a development of regional impact shall be made in writing upon an application form approved by City Staff, and shall be accompanied by the applicable fees.
- B. If implementation of the proposed development of regional impact requires a comprehensive plan amendment, an application for a comprehensive plan amendment shall be filed concurrently with the application for development of regional impact approval. The application shall be considered concurrently filed if it is received no later than:
 - 1. For a new development of regional impact, the pre-application conference required by Chapter 380.06(7)(a), Fla. Stat.; or
 - 2. For modification of an approved development of regional impact, the submission of an application to modify the development of regional impact.

Section 3-1603. Standards for Review of Developments of Regional Impact.

- A. An application for a development of regional impact shall be approved if it is demonstrated that the development of regional impact:
 - 1. Is consistent with the Comprehensive Land Use Plan in that it:
 - a. Does not permit uses which are prohibited in the future

Note: For application requirements, look to Chapter 380.06(6)(a), and 380.06(8), Fla. Stat.

Section 3-1602(B) is a requirement of Chapter 380.06(6)(b), Fla. Stat.

Chapter 380.06(11), Fla. Stat. requires consideration of DRIs in the same manner as rezonings are considered. Section 3-1603(A)(1)-(3) are the same as Section 3-1503(A)(1)-(3) (Amendments to text and map of LDRs). Section 3-1603(A)(4)-(6) are additional requirements of Chapter 380.06(14).

land use category of the parcel proposed for development;

- b. Does not allow densities or intensities in excess of the densities and intensities which are permitted by the future land use category of the parcel proposed for development;
 - c. Will not cause a decline in the level of service for public infrastructure to a level of service which is less than the minimum requirements of the Comprehensive Plan;
 - d. Does not directly conflict with any objective or policy of the Comprehensive Plan; and
2. Will provide a benefit to the City in that it will achieve two or more of the following objectives:
- a. Improve mobility by reducing vehicle miles traveled for residents within a one-half mile radius;
 - b. Promote high-quality development or redevelopment in an area that is experiencing declining or flat property values;
 - c. Create affordable housing opportunities for people who work in the City of Coral Gables;
 - d. Provide a net benefit to the long-term fiscal position of the City of Coral Gables; or
 - e. Implement specific objectives and policies of the Comprehensive Land Use Plan;
3. Will not cause a substantial diminution of the market value of adjacent property or materially diminish the suitability of adjacent property for its existing or approved use;
4. Is consistent with these Land Development Regulations;
5. Is consistent with the report and recommendations of the South Florida Regional Planning Council; and

City Staff asked who determines whether an application will “provide a net benefit to the long-term fiscal position of the City of Coral Gables,” and “will not cause a substantial diminution of the market value of adjacent property or materially diminish the suitability of adjacent property for its existing or approved use.” The applicant has the burden of proving compliance with all of the standards in Section 3-1603, including the two that are referenced.

Because the applicant must prove that its application complies with the standards in Section 3-1603, the application materials will be designed so that the applicant is required to submit its evidence, analysis, and expert opinions for review by the City. In other words, staff may determine that a demonstration of compliance with Section 3-1603A.3, requires the submittal of a professional appraisal. If an appraisal is required, staff will include it in the general requirements for DRI applications.

The City Commission (after hearing the recommendation of staff and the Planning and Zoning Board) ultimately decides whether the applicant has demonstrated compliance with these standards.

6. Is consistent with the State Comprehensive Plan. In consistency determinations the plan shall be construed and applied in accordance with s. 187.101(3), F.S.

B. An applicant may propose limitations regarding the use, density or intensity which will be permitted on the parcel proposed for development in order to achieve compliance with the standards of Section 3-1703.A. Such limitation(s) shall be offered by a restrictive covenant or declaration of use that is provided to the City in a recordable form acceptable to the City Attorney.

Section 3-1604. City Staff Review, Report and Recommendation.

A. Upon receipt of an application pursuant to this Division, the Development Review Coordinator shall review the application in accordance with the provisions of Article 3, Division 2.

B. Upon completion of review of an application, the Development Review Coordinator shall:

~~1. Review the application for compliance with the standards set out in Section 3-1603;~~

1. Provide the Planning and Zoning Board with a report with regard to the application's compliance with the standards set out in Section 3-1603;

2. Provide the Planning and Zoning Board with a recommendation as to whether the application should be approved, approved with conditions, or denied; and

3. Make a copy of the Staff report and recommendations available to the applicant.

4. Schedule hearings before the Planning and Zoning Board and the City Commission.

~~C. Prior to the public hearing of the Planning and Zoning Board, Staff shall:~~ After the Planning and Zoning Board hearing, the Development Review Coordinator shall forward the staff report and

B.1. is deleted because it overlaps with Article 3 Division 2.

Staff sets the City Commission hearing date early in the process because of the logistics of compliance with the deadlines and notice requirements of the statute.

recommendation (with revisions, if appropriate) and the findings and recommendation of the Planning and Zoning Board to the City Commission.

- ~~1. Schedule the application for hearings before the Planning and Zoning Board and City Commission;~~
- ~~2. Forward its report and recommendation and the findings and recommendation of the Planning and Zoning Board to the City Commission.~~

- D. Staff shall provide notice of public hearings in accordance with the requirements of Article 3 Division 3. In addition to the requirements in Article 3 Division 3, such notice shall state that the proposed development is undergoing development of regional impact review.
- E. In addition to the notice requirements of Article 3 Division 3, notice of public hearings shall be promptly mailed to DCA, the South Florida Regional Planning Council, any state or regional permitting agency participating in a conceptual agency review process pursuant to Section 380.06(9), Fla. Stat., and to such other persons as may have been designated by DCA as entitled to receive such notices.
- F. If the application is being processed concurrently with a Comprehensive Land Use Plan amendment, Staff shall, unless the applicant agrees otherwise in writing:
1. Provide notice of the transmittal hearing on the Comprehensive Land Use Plan amendment pursuant to Article 3, Division 3 within thirty (30) days of the date the application for the amendment is filed; and
 2. Schedule the public hearing on the transmittal for no later than sixty (60) days after the application for the amendment is filed.

Section 3-1605. Planning and Zoning Board Review and Recommendation.

Chapter 380.06(11)(a), Fla. Stat. requires that the notice state that the development is undergoing development of regional impact review.

Chapter 380.06(11)(c), Fla. Stat. requires the mailed notices in Section 3-1604E.

Chapter 380.06(11), Fla. Stat. requires consideration of DRIs in the same manner as rezonings are considered. Section 3-1605 is the same

A. The Planning and Zoning Board, sitting as the Local Planning Agency, shall hold a public hearing on the application after:

1. Notice from the South Florida Regional Planning Council that the application is complete; or
2. Notice from the applicant that additional information requested by the South Florida Regional Planning Council will not be supplied.

B. The Planning and Zoning Board shall:

1. Make written findings with respect to whether the proposed development of regional impact is consistent with the Comprehensive Plan; and
2. Make a written recommendation to the City Commission with regard to whether the application should be approved, approved with conditions, or denied.

Section 3-1606. City Commission Review and Decision.

A. A public hearing date shall be set by the appropriate local government at the first scheduled meeting after:

1. Notice from the South Florida Regional Planning Council that the application is complete; or
2. Notice from the applicant that additional information requested by the South Florida Regional Planning Council will not be supplied.

B. The public hearing date shall be no later than ninety (90) days after the notices set out in Section 3-1606(A)(1) or (2), unless an extension is requested by the applicant and granted by the City Commission.

C. The City Commission shall hold two public hearings after the public hearing of the Planning and Zoning Board.

as Section 3-1606, except that it builds in the timing requirements of Chapter 380.06.

Staff asked whether the Planning and Zoning Board was commissioned as the Local Planning Agency. It is so designated in Section 2-201.A.

Chapter 380.06(11), Fla. Stat. requires consideration of DRIs in the same manner as rezonings are considered. Section 3-1606(C) is essentially the same as Section 3-1607.

Chapter 380.06(6)(b)6., Fla. Stat. requires the City to hear the comp.

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| <p>D. If application for a development of regional impact development order or modification to a development of regional impact development order was filed concurrently with an application for a comprehensive plan amendment, the City shall hear both the application for development approval or the proposed change and the comprehensive plan amendments at the same hearing. However action on each application shall be taken separately.</p> | <p>plan amendment and the DRI application at the same hearing, but to take separate action on them.</p> |
| <p>E. At the second public hearing, the City Commission shall decide whether to approve, approve with conditions, or deny the application. If the City Commission decides to approve with conditions, said conditions shall be in accordance with the requirements of Chapter 380.06(15)(d) and (e), Fla. Stat.</p> | <p>Chapter 380.06(15)(d) and (e), Fla. Stat. restrict the types of conditions that a local government is permitted to impose on a DRI.</p> |
| <p>F. The City Commission shall render its order within thirty (30) days of the public hearing, unless the applicant requests and extension in writing. If the order approves the application or approves the application with conditions, the order shall meet the minimum requirements of Chapter 380.06(15)(c), Fla. Stat.</p> | <p>Chapter 380.06(15)(a) requires rendition of the DRI development order within 30 days of the hearing unless the developer requests an extension.</p> |
| <p>G. The applicant shall record notice of the development order in accordance with Chapter 380.06(15)(f), Fla. Stat.</p> | |
| <p>H. Administration of the development of regional impact development order shall be in accordance with the requirements of Chapter 380, Fla. Stat.</p> | |

ARTICLE 3, Division 17.

Protection of Landowners' Rights; Relief from Inordinate Burdens.

Section 3-1701. Purpose and Applicability. It is the purpose of this Division to provide a process for applicants to notify the City of potential litigation and invoke the exercise of the City's authority and discretion pursuant to Article VIII, Sections 2(b) and 6(e) of the Florida Constitution, Sections 5.01 and 5.02 of the Charter of Miami-Dade County, Article 1, Section 8 of the Charter of the City of Coral Gables, and policies 1-1.1.4 and 9-1.6.3 of the City of Coral Gables Comprehensive Plan, to avoid expensive, uncertain, unnecessary, and protracted litigation regarding the application of these land development regulations to individual properties. The City may grant relief pursuant to this Division only when it is demonstrated that the applicant for said relief has been unfairly, disproportionately and inordinately burdened by a final order of the City that either denied development approval to the applicant or imposed one or more conditions of approval on the applicant. This Division does not apply to matters that arise from the application of the Florida Building Code.

Section 3-1702. Application.

- A. All requests for relief pursuant to this Division shall be made in writing upon an application form approved by City staff, and shall be accompanied by applicable fees.
- B. Applications pursuant to this Division shall be filed no later than fifteen (15) days from the date a final order is rendered which the applicant alleges unfairly, disproportionately, and inordinately burdens its real property.

Section 3-1703. Guidelines.

- A. If the City Commission finds that an applicant has demonstrated that it has suffered an unfair, disproportionate and inordinate burden as a result of the application of these land development regulations to its property, the City Commission may grant appropriate relief. Proposed terms may include, but are not limited to:

This Division is entirely new. It is intended to provide a means for the City to prevent uncertain, costly and unnecessary litigation that may arise from individual applications of its land development regulations. It could be applied in addition to, or in the alternative to, the special master process set out in Chapter 2, Article III, Division 6 of the City Code.

Relief pursuant to this Division is only available to an applicant who has been denied development approval, or was granted development approval with conditions that the applicant alleges are unfair, disproportionate and inordinately burdensome. No relief is available pursuant to this Division for other parties.

Disputes that arise from the application of the Florida Building Code are resolved by the Florida Building Commission or a local board of appeal. See § 553.77 and 553.80, Fla. Stat. (2004).

The City Commission has the inherent authority to settle litigation or head-off potential litigation. If the City Commission finds that a property owner has made a meaningful case for relief, the City Commission may exercise its authority to settle the case before it reaches the courts.

The City Commission's authority in this regard is plenary, provided that

<ol style="list-style-type: none"> 1. Relief from the application of particular LDRs. 2. The transfer of developmental rights from one parcel to another within the City. 3. Approval of the original application with conditions; or modifications to any previously imposed conditions of approval. <p>B. The decision to grant relief to an applicant pursuant to this Division rests in the sound discretion of the City Commission in the exercise of its inherent sovereign powers to settle legitimate disputes. The policy of the City is to fashion a proposal for resolving the dispute based on a considered balance of the following factors:</p> <ol style="list-style-type: none"> 1. The degree of burden suffered by the applicant. 2. The nature and significance of the public interest that is served by the application of the regulation to the applicant's property. 3. The likelihood of litigation, and its likely cost, the City's potential exposure, the uncertainty of outcome, the timetable for resolving the issues, and whether there is a perceived need for a judicial determination of the issues raised by the application. <p>C. In general, it is the policy of the City to resolve disputes in a manner that does not require significant financial expenditures by the City.</p> <p>D. All relief granted pursuant to this Division shall be consistent with the City of Coral Gables Comprehensive Plan and shall not violate any controlling federal law, state statute, or Miami-Dade County ordinance.</p> <p>E. All relief granted pursuant to this Division is conditioned upon the execution of a release of all claims that may arise from or relate to the application of the land development regulations that allegedly created the unfair, disproportionate and inordinate burden. The release of claims shall be in a form that is acceptable to the City Attorney and shall be recorded at the applicant's expense.</p>	<p>the proposed dispute resolution agreement is not inconsistent with the Comprehensive Plan; and the proposed resolution of the dispute does not violate other controlling law.</p> <p>Section 3-1703.A. permits the City to propose a dispute resolution agreement that includes extraordinary relief without engaging in further process, such as a variance proceeding.</p> <p>Section 3-1703.B. sets out City policy with regard to how the legislative body will consider an application for relief, but does not constrain the legislative body to a quasi-judicial process.</p> <p>Section 3-1703.C. expresses City policy to avoid significant monetary settlements if creative, non-monetary solutions are practicable.</p> <p>Section 3-1703.D. limits the terms of the dispute resolution agreement to those that are consistent with the comprehensive plan and do not violate any controlling laws. The Harris Act (§70.001, Fla. Stat.) gives the City the authority to violate state law in the settlement of a Harris Act claim. However, this Division is an alternative to the Harris Act, and the City does not have the authority to violate state law, except that which is specifically granted by the Harris Act. See Art. VIII, § 2(b), Fla. Const.; § 5.01 Miami-Dade County Charter.</p> <p>Section 3-1703.E. ensures that a dispute resolution agreement settles all issues and forestalls litigation.</p>
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Section 3-1704. Staff Review, Report and Recommendation.

- A. Within five (5) days of receipt of an application pursuant to this Division, City Staff shall review the application to determine whether it is complete.
- B. Within seven (7) days of receipt of a complete application, City Staff shall deliver a copy of the complete application to the City Manager, the Planning Department, the Building and Zoning Department, the City Attorney, and any other department as directed by the City Manager.
- C. The City Manager shall direct the departments to provide a joint evaluation of the merits of the application, which shall include:
 - 1. The principal purpose or purposes for the regulation that was applied to the applicant's property. These purposes may include, but are not limited to:
 - a. to address specific, identified public health and safety concerns;
 - b. to protect or enhance community character;
 - c. to protect archaeological or historic resources;
 - d. to protect environmental resources (water supply, listed species, air quality); and
 - e. to comply with state infrastructure concurrency mandates.
 - 2. The recommendation of the department directors with regard to whether the applicant has been unfairly, disproportionately and inordinately burdened by the application of these land development regulations that is the subject of the application, in light of the purposes for which the regulations that created the alleged burden are intended to serve, and the burden (or potential burden) carried by other property owners who are similarly situated, if any.
- D. Within forty-five (45) days of receipt of a complete application pursuant to this Division, the City Manager shall provide the City Commission with a report and recommendation on the application and a proposed dispute resolution agreement, and shall place the

matter on the agenda of the City Commission.

Section 3-1706. City Commission Review and Decision; Execution of Dispute Resolution Agreement.

- A. The City Commission shall review the application at a public hearing, and shall decide whether to make an offer to resolve the dispute with the applicant. The hearing is not quasi-judicial, and is not subject to rules of quasi-judicial procedure.
- B. The City Commission may approve, approve with conditions, or reject the proposed dispute resolution agreement. If the City Commission requires modifications to the proposed dispute resolution agreement, the City Manager shall cause a new proposed dispute resolution agreement to be drafted within fourteen (14) days.
- C. When the City Commission has approved a proposed dispute resolution agreement or approved a proposed dispute resolution agreement with conditions, the City Manager is authorized to execute said dispute resolution agreement (as modified, if applicable).
- D. Once executed by the City Manager, the dispute resolution agreement shall be placed on the next available consent agenda of the City Commission for ratification. The item shall not be pulled from the consent agenda except by supermajority vote of the entire membership of the City Commission.

Section 3-1707. Effect of Dispute Resolution Agreement.

- A. Dispute resolution agreements that are executed pursuant to this Division shall not be effective until the later of:
 - 1. the date executed by the applicant;
 - 2. the date ratified by the City Commission; or
 - 3. such other date that is set by the parties to the agreement.
- B. When relief is provided in a dispute resolution agreement pursuant to this Division, no further procedures are necessary to give effect to said relief unless:

The City Commission hears the application at a public hearing, but since offers of settlement of litigation or potential litigation are a sovereign function that does not require notice and an opportunity to be heard, the hearing is not subject to quasi-judicial procedures.

City Commission ratification of the dispute resolution agreement ensures that City Commission approves of the City Manager's implementation of the City Commission's proposed terms.

Section 3-1707.B. prevents challenges to dispute resolution agreements based on questions of whether they must be implemented by further procedures, such as an application for a variance. Put

1. the further procedures are specifically required by the dispute resolution agreement; or
2. the City agreed to consider a district boundary change or text amendment to these land development regulations.

C. Dispute resolution agreements that are executed pursuant to this Division shall run with the land.

Section 3-1708. Recording of Dispute Resolution Agreement.

All dispute resolution agreements that are executed pursuant to this Division shall be recorded in the public records of Miami-Dade County, Florida. If the agreement is silent with regard to who bears the cost of recording, the cost shall be borne by the applicant.

another way, if the City modifies or waives parts of its land development regulations in a dispute resolution agreement, then the agreement itself operates as the modification or waiver. That said, a dispute resolution agreement may require further process by agreement of the parties.

District boundary changes and text amendments are subject to notice and hearing requirements imposed by state law. This Division does not authorize those requirements to be waived by dispute resolution agreement. See, e.g., *Chung v. Sarasota County*, 686 So. 2d 1358 (Fla. 2d DCA 1996).

ARTICLE 3, Division 18.

Protection of Landowners' Rights; Vested Rights Determinations.

Section 3-1801. Purpose and Applicability. It is the purpose of this Division to provide an administrative remedy for applicants who allege that their vested rights have been abrogated by a final action of the City. This Division sets out a process for obtaining an official and binding determination of vested rights to use or develop property in a particular manner.

Section 3-1802. Application.

- A. All applications for a determination of vested rights pursuant to this Division shall be made in writing upon an application form approved by City staff, and shall be accompanied by applicable fees.
- B. Applications pursuant to this Division shall be filed no later than thirty (30) days from the date a final action is taken which allegedly abrogates rights the applicant claims to be vested pursuant to the standards in Section 3-1803.

Section 3-1803. Standards. The City Commission shall grant an application for a determination of vested rights if it is demonstrated that:

- A. A valid, unexpired governmental act of the City of Coral Gables authorizes the specific development for which the determination is sought;
- B. Expenditures or obligations were made or incurred in reliance upon the authorizing act that are not reasonably usable in a development that is permitted by these LDRs;
- C. It would be highly inequitable to deny the applicant the opportunity to complete the previously approved development, in that:
 - 1. actual construction has commenced;
 - 2. the injury suffered by the applicant outweighs the public cost of allowing the applicant's development to proceed;
 - 3. the development was economically viable at the time it was approved;

This Division is based loosely on the existing Section 7.5-8 (Exhaustion of administrative remedies). It provides a process for officially recognizing vested rights. The determination is not necessarily based on "hardship" or "inordinate burdens," (like other remedies offered by the LDRs and City Code) but rather, on a determination of the legal status of the applicant's development rights.

The standards for vested rights are based on the legal theory of equitable estoppel, that is, that property owners who rely in good faith on the action of government and then suffer detriment when the government changes its position are entitled to be treated fairly, and their prior rights will be recognized, at least to a degree that alleviates a "highly inequitable" situation.

- 4. the expenses or obligations incurred in good faith, and without notice of a pending change in regulations that would prohibit the development for which vested rights are sought; and
- 5. the applicant cannot make a reasonable return on its previous expenditures on the project by developing according to the requirements of the current LDRs.

D. The relief granted is the minimum relief necessary to provide the applicant with a reasonable rate of return on his investment made before the effective date of the regulations which the applicant alleges have abrogated its vested rights.

Section 3-1804. Staff Review, Report and Recommendation. Staff review of the application shall be conducted pursuant to Article 3, Division 2 of these LDRs.

Section 3-1805. City Commission Review and Decision. The City Commission shall review the application at a public hearing, and shall decide whether the application should be approved, approved with conditions, or denied.

Section 3-1806. Effect of Vested Rights Determination.

- A. A vested rights determination shall be set out in writing which specifically sets forth the rights that have been recognized by the City Commission as vested.
- B. Vested rights shall be utilized within two (2) years of the date that the determination is rendered. If substantial development pursuant to the vested rights determination has not begun within said time period, the vested rights shall be extinguished without further notice or hearing.

Staff review is procedurally the same as any other development approval.

Only one hearing is required for a vested rights determination. It is by the City Commission.

Section 3-1806 requires a written order, and requires that the vested rights be utilized within a reasonable period of time (2 years) or they expire and cannot be re-established (unless there is another change in the LDRs that restores them generally).

**ARTICLE 3, Division 19.
DEVELOPMENT AGREEMENTS.**

Section 3-1901. Purpose and Applicability.

The City Commission may enter into development agreements in accordance with the provisions of this Section and applicable Florida law to encourage a stronger commitment to comprehensive and capital facilities planning, ensure the provision of adequate public facilities for development, encourage the efficient use of resources, and reduce the economic cost of development.

Section 3-1902. Application.

- A. All applications for a determination of a development agreement pursuant to this Division shall be made in writing upon an application form approved by City staff, and shall be accompanied by applicable fees.
- B. Applications pursuant to this Division shall be filed no later than thirty (30) days from the date a final action is taken.

Section 3-1903. Staff Review and Report.

The Development Review Official shall review the application for a development agreement with the Development Review Committee in accordance with the provisions of Article 3, Division 2 and shall prepare a written recommendation to the Planning and Zoning Board.

Section 3-1904. Planning and Zoning Board Review.

The Planning and Zoning Board shall review the proposed development agreement, the recommendation of the Development Review Official, and the testimony at the public hearing, the standards in Section 3-1906 and shall issue a recommendation to the City Commission for approval or denial of the development agreement.

Section 3-1905. City Commission Review.

The City Commission shall conduct a public hearing on the proposed

development agreement. Upon conclusion of the public hearing, the Commission shall review the proposed development agreement, the recommendation of the Development Review Official, the recommendation of the Planning and Zoning Board, the testimony at the public hearing and approve, approve with modifications, or deny approval of the proposed development agreement.

Section 3-1906. Standards for Review.

In reaching a decision as to whether or not the development agreement should be approved, approved with changes, approved with conditions, or disapproved, the City Commission shall determine whether the development agreement is consistent with and furthers the goals, policies and objectives of the Comprehensive Land Use Plan.

Section 3-1907. Contents of Development Agreement/Recording.

- A. Contents. The approved development agreement shall contain, at a minimum, the following information:
1. A legal description of the land subject to the development agreement.
 2. The names of all persons having legal or equitable ownership of the land.
 3. The duration of the development agreement, which shall not exceed ten (10) years.
 4. The development uses proposed for the land, including population densities, building intensities and building height.
 5. A description of the public facilities and services that will serve the development, including who shall provide such public facilities and services; the date any new public facilities and services, if needed, will be constructed; who shall bear the expense of construction of any new public facilities and services; and a schedule to assure that the public facilities and services are available concurrent with the impacts of the development. The development agreement shall provide for a cashier's check, a payment and performance bond or letter of

credit in the amount of one hundred fifteen (115) percent of the estimated cost of the public facilities and services, to be deposited with the City to secure construction of any new public facilities and services required to be constructed by the development agreement. The development agreement shall provide that such construction shall be completed prior to the issuance of any certificate of occupancy.

6. A description of any reservation or dedication of land for public purposes.
7. A description of all local development approvals approved or needed to be approved for the development.
8. A finding that the development approvals as proposed is consistent with the Comprehensive Land Use Plan and these LDRs. Additionally, a finding that the requirements for concurrency as set forth in Article 3, Division 13 of these regulations have been satisfied.
9. A description of any conditions, terms, restrictions or other requirements determined to be necessary by the City Commission for the public health, safety or welfare of the citizens of the City of Coral Gables. Such conditions, terms, restrictions or other requirements may be supplemental to requirements in existing codes or ordinances of the City.
10. A statement indicating that the failure of the development agreement to address a particular permit, condition, term or restriction shall not relieve the developer of the necessity of complying with the law governing said permitting requirements, conditions, terms or restrictions.
11. The development agreement may provide, in the discretion of the City Commission, that the entire development or any phase thereof be commenced or be completed within a specific period of time. The development agreement may provide for liquidated damages, the denial of future development approvals, the termination of the development agreement, or the withholding of certificates of occupancy for the failure of the

developer to comply with any such deadline.

12. A statement that the burdens of the development agreement shall be binding upon, and the benefits of the development agreement shall inure to, all successors in interest to the parties to the development agreement.

13. All development agreements shall specifically state that subsequently adopted ordinances and codes of the City which are of general application not governing the development of land shall be applicable to the lands subject to the development agreement, and that such modifications are specifically anticipated in the development agreement.

B. Recording. No later than fourteen (14) days after the execution of a development agreement by all parties thereto, the City shall record the development agreement with the Clerk of the Circuit Court in Miami-Dade County. The applicant for a development agreement shall bear the expense of recording the development agreement. Additionally, the City shall submit a recorded copy of the development agreement to the State of Florida Department of Community Affairs no later than fourteen (14) days after the development agreement is recorded.

Section 3-1908. Effect of Decision.

A. The codes and ordinances of the City governing the development of land subject to a development agreement, in existence at the time of the execution of a development agreement, shall govern the development of the land for the duration of the development agreement. Upon the expiration or termination of a development agreement, all codes and ordinances of the City in existence upon the date of expiration or termination shall become applicable to the development regardless of the terms of the development agreement.

B. The City may apply codes and ordinances adopted subsequent to the execution of a development agreement to the subject property and development only if the City Commission, upon holding a public hearing, has determined that such subsequent codes and

ordinances are:

1. Not in conflict with the laws and policies governing the development agreement and do not prevent development of the land uses, intensities or densities in the development agreement.
2. Are essential to the public health, safety or welfare, and expressly state that they shall apply to a development that is subject to a development agreement.
3. Are specifically anticipated and provided for in the development agreement.
4. The City demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of the development agreement.
5. The development agreement is based on substantially inaccurate information supplied by the developer.

Section 3-1909. Changes to Development Agreements.

A development agreement may be amended by mutual consent of the parties, provided the notice and public hearing requirements of Article 5, Division 3 of these LDRs are followed. A party to a development agreement may request one (1) extension of the duration of the development agreement, not to exceed one (1) year from the date of expiration of the initial term of the development agreement, by submitting an application to the Development Review Official at least sixty (60) days prior to the expiration of the initial term of the agreement. The application shall address the necessity for the extension and shall demonstrate that the extension is warranted under the circumstances. The Development Review Official shall schedule the requested extension as a proposed amendment to the development agreement for public hearing before the Planning and Zoning Board and City Commission, in accordance with Article 5, Division 3 of these LDRs.

Section 3-1910. Expiration or Revocation of Approval.

The City Manager shall review all lands within the City subject to a development agreement at least once every twelve (12) months to determine if there has been demonstrated good-faith compliance with the terms of the development agreement. The City Manager shall make an annual report to the City Commission as to the results of this review. In the event the City Commission finds, on the basis of substantial competent evidence, that there has been a failure to comply with the terms of the development agreement, the development agreement may be revoked or modified by the City Commission upon giving at least fifteen (15) days written notice to the parties named in the development agreement. Such termination of a development agreement shall occur only after compliance with the public hearing and notice requirements of Article 5, Division 3.