

Article 16

Application Review and Approval Requirements

Section 16.1. General Requirements for Applications

Applications required under this Article must be submitted in a form and in such numbers as specified below. Application forms and checklists of required submittal information are available from the official responsible for accepting the application.

- (a) **Application Filing Fee.** Applications must be accompanied by the fee that has been established by the City Council. Fees are not required with applications initiated by the City Council or an advisory board of the City. In addition, application filing fees shall not be required of any public agency, whether local, county, regional, state or federal. Unless otherwise expressly stated in this Article, application fees are nonrefundable.
- (b) **Application Completeness and Accuracy.** An application will be considered complete if it is submitted in the required number and form, includes all mandatory information, is accompanied by the applicable fee, and all information material to the application is accurate. This provision does not preclude the identification and correction of inaccurate or misleading information submitted by the applicant after an application is accepted.
- (c) **Acceptance for Processing.** Determination of application completeness shall be made within ten business days of application filing. If an application is determined to be incomplete, the Zoning Official shall provide written notice to the applicant along with an explanation of the application's deficiencies. No further processing of the application shall occur until the deficiencies are corrected. The deficiencies must be addressed by the applicant in writing within 30 days of the date of the deficiency notice provided by the Zoning Official. If all of the deficiencies are not addressed, the application shall be considered withdrawn. In the event an application is deemed withdrawn under this provision, the applicant shall be entitled to a refund of 90 percent of the application filing fee.
- (d) **Burden of Proof or Persuasion.** In all cases, the applicant shall have the burden of establishing that an application complies with applicable approval criteria.
- (e) **Pre-Application Conference.** A pre-application conference is required in the case of Map Amendments, Special Exceptions and Comprehensive Plan Amendments. In all

other cases, applicants are encouraged to schedule and attend a pre-application meeting with the appropriate Community Development Department staff prior to submitting an application for review under this Article. The purpose of a pre-application conference is to inform the applicant of review procedures, submittal requirements, development standards, and other pertinent matters before the applicant finalizes the development proposal. Staff opinions presented during a pre-application meeting are informational only and do not represent a commitment on behalf of the City regarding the acceptability of the development proposal.

- (f) Official Review. In conducting required reviews, the Zoning Official shall be authorized to distribute the application and other submittals to other departments and agencies for the purpose of soliciting comments and ensuring that the proposal complies with all applicable standards and requirements.
- (g) Notice Provisions. Upon receipt of a complete application, the City shall fix a date, time and place for a public hearing(s) and publish notice of such hearing(s) in the following manner. Each notice shall describe the property involved by street address and/or property identification number along with the intent and purpose for the application and where additional information on the matter may be obtained.
 - (1) Newspaper notice. The City shall publish notice in a newspaper of general circulation in the City, at least 15 days prior to the time set for the public hearing. Prior to final action on the application, the City Clerk shall be responsible for certifying that notices have been published.
 - (2) Mailed notice. The City shall prepare and mail notice of the hearing by first class mail to all owners of record, whose name appears on the latest available tax rolls of the County and to all parcels within 200 feet of the boundary line of the property for which the application applies. The notice shall be mailed at least 10 days prior to the hearing. Where the land is part of, or adjacent to, land owned by the same person, the 200 foot distance shall be measured from the boundaries of the entire ownership, except that notice need not be mailed to any property owner located more than 600 feet from the land for which the application applies. Prior to the final action on the application, the City Clerk shall be responsible for certifying that notices have been mailed.
 - (3) Posted notice. The City shall post a notice which is no less than 1.5 square feet in area in a manner clearly visible to neighboring residents and passers-by from each public street bordering the property involved. At least one sign shall be posted at least 15 days prior to the public hearing. Prior to final action on the application, the Urban Design Manager shall provide evidence that notices have been posted.

Section 16.2. Application for Appeal of Administrative Decision

Any person or persons claiming to be aggrieved on account of any ruling by an official charged with enforcing the land development regulations may appeal to the official involved and to the Planning and Zoning Board (PZB), other than appeals of decisions on Certificates of Appropriateness which must follow the procedures in Section 16.3, and other than appeals of minor variation decisions and architectural review decisions in the Traditional Punta Gorda, TPG zoning district, as provided in Section 3.2(i). Appeals of administrative decisions must be filed in writing within 30 days after the act or decision upon which any appeal is made and must specify the grounds thereof.

- (a) **Application Filing.** The filing of a complete application for appeal from ~~the Zoning an~~ official's ruling shall stay all proceedings and all work on the premises involved unless such stay shall be deemed to imperil life or property. In such cases, proceedings or work shall not be stayed except by an order granted by the City Council or by the Circuit Court if the same shall have been refused by the City Council.
- (b) **Record of Administrative Decision.** Upon acceptance of a complete application of the appeal of administrative ruling, the Zoning Official shall transmit to the PZB all papers or other records upon which the action or decision of appeal was taken.
- (c) **Public Hearing by the PZB.** The PZB shall hold a public hearing and thereafter determine whether the requested relief should or should not be granted. The public hearing requires newspaper notice as set out in Section 16.1(g). Any party in interest may appear in person or by agent or attorney. Unless an appeal is filed in writing within 30 days of the written decision, the PZB's decision shall be final. An appeal may be filed by the applicant or by any person who provided input on the appeal or who owns property within 200 feet of any boundary line of the property for which the appeal is being requested.
- (d) **Public Hearing by City Council.** If a valid appeal is filed in writing within 30 days, the City Council shall hold a public hearing. The public hearing requires newspaper notice as set out in Section 16.1(g). The City Council may reverse or affirm, wholly or partly, or may modify the order, requirement or decision or determination made by the City in the enforcement of any adopted zoning regulation or may make such decision or take such activities as the Zoning Official should have made or taken.
- (e) **Approval Criteria.** An appeal shall be sustained only if the PZB or City Council finds that the administrative official erred. The decision shall be accompanied by written findings of fact and conclusions stating the reason for the decision. The Zoning Official shall serve a copy of the decision on the applicant and upon each other person who was a party of record at the hearing.
 - (1) Consideration for appeals.

In reaching a decision, the following criteria shall be considered as well as any other issues which are pertinent and reasonable:

- a. Whether or not the appeal is of a nature properly brought to them for decision, or whether or not there is an established procedure for handling the request other than through the appeal process (i.e. variance, special exception, etc.)
 - b. The intent of the regulation in question.
 - c. The effect the ruling will have when applied generally to the zoning regulations.
 - d. Staff recommendation, the testimony of the appellant and the testimony of substantially interested parties shall also be considered.
- (f) Appeal. Any person aggrieved by a decision of the City Council may appeal said decision to the Circuit Court within 30 days from the date of the decision.
- (g) Withdrawal of Appeal. An appeal may be withdrawn by the applicant at any time prior to the deadline of cancellation of the newspaper advertisement for the public hearing on the application; after this deadline an appeal may be withdrawn only with the permission of the PZB or City Council.

Section 16.3. Application for Certificate of Appropriateness

No structure, building, or sign shall be erected, reconstructed, altered, or restored on designated property until a Certificate of Appropriateness has been approved by the City in accordance with the procedures of this Section. A structure shall include anything man-made, including but not limited to outbuildings, fences, walls, lamp posts, light fixtures, signs, sign posts, driveways, walkways, and paving. The provisions of this Section shall not apply to the regular maintenance of structures, buildings, or signs.

For the purposes of this Section, the term “designated property” shall be defined as any lot with a structure listed on the Local Register of Historic Places. See Section 8.1.

Applications for a Certificate of Appropriateness may ~~shall~~ be approved by the Zoning Official. Certain applications as specified below shall only be reviewed by the Zoning Official ~~and~~ while certain other applications shall first be submitted to the Historic Preservation Advisory Board (HPAB) for review and recommendation to the Zoning Official. All decisions on an application for a Certificate of Appropriateness shall be based upon the fullest possible compliance with the relevant architectural provisions in Section 3.2(f), while considering the scale, massing, and detailing of nearby designated properties and the extent of changes resulting from a proposed rehabilitation. These architectural standards will be evaluated in a manner that takes into account site constraints and technical feasibility and that avoids creating unreasonable economic hardships.

- (a) Zoning Official Approval without HPAB Review. For the purposes of this Section, applications for Certificates of Appropriateness for the following activities on designated property may be approved or denied by the Zoning Official without HPAB review and recommendation:
- (1) Minor-changes in the exterior, appearance, or material of existing buildings or structures that do not constitute major rehabilitation (see subsection (b) below). (Changing the color of paint on painted surfaces is not regulated.)
 - (2) New construction of outbuildings or of additions to existing buildings that are not readily noticeable from the street.
 - (3) Reconstruction of existing walls and fences, or construction of new walls and fences in side and back yards.
 - (4) Lamp posts, light fixtures, ~~sign posts~~, mailboxes, rooftop solar panels, driveways, paving, and similar minor accessory structures.
- (b) HPAB Review Recommendation. For the purposes of this Section, applications for Certificates of Appropriateness for the following activities on designated property shall first be reviewed by the HPAB for recommendation purposes:
- (1) Moving any building or structure (see Section 8.1).
 - (2) Demolition of any building or structure, in whole or in part (see Sections 8.1 and 16.5).
 - (3) Signs.
 - (4) Variances (see Section 8.1).
 - (5) Special Exceptions (see Section 8.1).
 - (6) Major rehabilitation that affects the exterior appearance or a building, structure, or other physical feature.
 - a. Rehabilitation means updating a structure through repair, remodeling, or alteration to allow efficient contemporary use while preserving those portions or features which are significant to its historic, architectural, or cultural value. Major rehabilitation specifically includes the following:
 - i. Visible additions that physically expand a building either outward or upward.
 - ii. Replacement of windows or doors that are visible from the street.
 - iii. Replacement of roofing, siding, and/or exterior trim other than restoration or replacement of original materials.
 - iv. Changes to porches and decks that are readily visible from the street.
 - v. Changes to fences in front yards or readily visible from the street.

- vi. New, expanded, or modified accessory structures such as garages, carports, stairways, ramps, or pools that are readily visible from the street.
 - vii. Removal or severe pruning of heritage or specimen trees.
 - viii. Changes to significant landscape elements such as patios or walkways that are readily visible from the street.
- b. Major rehabilitation specifically excludes the following:
- i. Minor exterior changes that do not involve substantial alterations, additions, or demolition that could impair the integrity of a structure.
 - ii. Ordinary maintenance and repair that does not change the design, material, or appearance of exterior elements.
 - iii. Changing the color of paint on painted surfaces (paint colors are not regulated).
- (7) New construction of a principal building that would replace a contributing building that has been demolished or relocated in accordance with the provisions of Section 8.1(g).
- (c) Required Contents of Applications. Applicants for a Certificate of Appropriateness shall have the burden of demonstrating that the proposed activity complies with all provisions of this code. At a minimum, applications for Certificate of Appropriateness shall submit the following information:
- (1) Architectural elevations drawn to scale.
 - (2) Site plans.
 - (3) Exterior materials list, with product images or samples
 - (4) Photographs or drawings relating the proposed project to the surrounding streetscape.
 - (5) Lighting, if being altered.
 - (6) Landscaping, if being altered.
 - (7) A scale drawing of any proposed sign, including proposed materials, lighting method, style and size of lettering, and a sketch or photograph showing the proposed location of the sign on the building or site.
 - (8) Structural engineer's analysis of structure, if required by the Zoning Official.
- (d) Required Procedures. An application for a Certificate of Appropriateness shall be obtained from and, when completed, filed with the Urban Design Department.

- (e) Decisions on Certificate of Appropriateness Applications. The HPAB shall review all Certificate of Appropriateness applications required to come before them at their next regularly scheduled meeting, but no later than 45 days after a complete application has been filed. The HPAB shall make a recommendation on the matter presented at the public meeting or continue until the next regularly scheduled meeting. If the HPAB determines that the proposed improvement complies with all relevant provisions of Sections 8.1 and 16.3, it shall recommend approval and issuance of the Certificate of Appropriateness to the Zoning Official. If the HPAB determines the proposed improvement does not comply with these provisions, the HPAB shall present its reasons for noncompliance on the record and shall make a recommendation to the Zoning Official that a Certificate of Appropriateness should not be issued, or should be issued only if specified changes are made. The Zoning Official shall review the application and the minutes of the HPAB meeting, which includes the HPAB's recommendation, and shall thereafter determine whether the applicant demonstrated compliance with this code. The Zoning Official shall then issue or deny the Certificate of Appropriateness and notify the applicant of such determination, furnishing the applicant a copy of reasons and recommendations, if any, as they appear in the records of the HPAB and in the Zoning Official's findings. In all matters coming before the HPAB, the applicant shall have the burden of providing clear, competent and substantial evidence in support of the application.
- (f) Appeals.
 - (1). Appeal of a decision of the Zoning Official shall be heard by the Historic Preservation Advisory Board.
 - (2). Appeal of a decision of the Historic Preservation Advisory Board shall be heard by City Council.
- (g) Preservation of Features in Public Right-of-Way. In order to prevent destroying or seriously damaging the historic, architectural, or aesthetic values of the physical features lying within public rights-of-way, all public utility companies and transportation departments shall be required to obtain a Certificate of Appropriateness prior to initiating any changes to the character of streetscapes, paving, and sidewalks.
- (h) Interior Arrangements Not Considered. The HPAB shall not consider interior arrangement nor take any action to restrict interior changes except for the purpose of preventing the construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant features, or outdoor advertising signs which would be incongruous with the historic aspects.

- (i) Reasons for HPAB Actions to Appear in Minutes. The HPAB shall cause to be entered into the minutes of its meeting the basis for its recommendations, whether it be approval, approval with modifications, or denial.
- (j) Submission of New Application. If the staff determines that a Certificate of Appropriateness should not be issued, a new application affecting the same property may be submitted only if substantial change is made in plans for the proposed construction, reconstruction, alteration, restoration, or moving.
- (k) Valid for 18 months. A Certificate of Appropriateness shall be valid for a period of 18 months from the date of issuance. Failure to secure a building permit within a 6-18 month period shall be considered as a failure to comply with the Certificate of Appropriateness and the Certificate shall become null and void. If a building permit is not required, failure to complete the approved work within 18 months shall also cause the Certificate to expire. The Certificate may be renewed by the staff upon written request of the applicant if the request is received not more than 2 years from the date of original issuance.

Section 16.4. Application for Concurrency

Prior to development plan application approval the Zoning Official shall make a finding and certify in writing that public facilities and services needed to support the development will be available concurrent with the impacts of the development upon such facilities and services.

- (a) Concurrency Verification. Concurrency review shall be limited to the availability of roadway facilities, potable water service, sanitary sewerage service, stormwater drainage facilities, solid waste removal service, public schools and park facilities. Concurrency verification shall be based upon maintaining the level of service for these public facilities and services as adopted and as may be amended in the City's Comprehensive Plan. A development plan shall be approved only if one of the following conditions is met:
 - (1) The necessary facilities are in place or will be in place when the impacts of development occur.
 - (2) The necessary facilities are under construction when a permit is issued.
 - (3) The necessary facilities are subject to a binding contract/development agreement for their construction.
 - (4) The necessary facilities have been included in the local government's capital budget.
- (b) Concurrency Review. The Zoning Official, through review and approval by the responsible department shall initiate the review to certify that public facilities and

services will be available concurrent with the impacts generated by the proposed development. Specifically, the Zoning Official shall proceed as follows with the review:

- (1) The current available capacity of roadway facilities, water service, sewerage facilities, stormwater drainage, solid waste removal service, public schools and parklands shall be established [i.e., sewer plant capacity equals 800,000 gallons per day unreserved].
- (2) The projected impact on each of the seven public services and facilities listed above will be calculated for the proposed development using the required levels of service contained in the City's Comprehensive Plan, and in this section, as may be amended from time to time [i.e., single-family home will use 190 gallons per day of the unreserved sewer plant capacity].
- (3) The projected impacts on the seven public services and facilities shall be subtracted from the current available capacity presented in A. above [i.e., 800,000 gallons per day in sewer plant minus 190 gallons per day equals 799,810 gallons per day new capacity].
- (4) Certify that the new capacity of the seven public facilities and services is not below zero. At such time the available capacity for any of the seven public facilities is less than 25 percent of the total capacity of the facility, then the Development Review Committee (DRC) shall be alerted to this fact [i.e., sewer plant total capacity equals 4,000,000 gallons per day, and the current available capacity equals 0.25 times 4,000,000, or 1,000,000 gallons per day]. If the available capacity of any of the seven public services falls below this 25 percent level then all concurrency shall be granted at the time a building permit is issued for the development. There shall be no reservation of capacity at the time of final development plan approval.
- (5) A written statement certifying the availability, or lack of availability, of capacity in each of the seven public facilities and services shall be forwarded to the DRC prior to the issuance of a development permit, and to the Building Department prior to the issuance of a building permit for all one- and two-family dwellings.
- (6) Upon issuance of a development plan or a building permit, the capacity of the seven public services and facilities needed to meet the demands of the development being approved shall be reserved for a period of one year. The Zoning Official, upon a recommendation from the DRC, may reserve the public service capacities for a period no longer than one year, unless a valid and binding development agreement between the City and a developer is executed extending the time period.
- (7) As an alternative to analyzing capacity for each proposed development as described in subsections (1) through (5), the Zoning Official may conduct a quarterly or annual concurrency review that compares the remaining capacity of

each of the seven public facilities and services to development that is anticipated during the same period. If adequate capacity is available to meet the anticipated development, the Zoning Official shall submit that a written statement to that effect to the DRC and to the Building Department, including a conclusion as to whether any public facility or service would have less than 25 percent capacity remaining. The DRC and Building Department may rely on this written statement of the Zoning Official in issuing development permits and building permits, unless development being approved during that period would exceed the level anticipated by the Zoning Official in the quarterly or annual concurrency review.

- (c) Concurrency Review Standards. When a development plan application or a building permit request is submitted to the Zoning Official, the following criteria shall be applied to determine whether or not sufficient public services and facilities capacity exists. A finding that services and facilities will be available must be based upon a capital improvements project currently funded by the City and/or County that demonstrates there is a plan to construct or expand the required services and facilities with sufficient capacity to provide for the needs of the development proposed by the applicant, and for other developments in the service area which are occupied, available for occupancy, for which building permits are in effect, or for which capacity has been reserved. The proposed development shall be designed and constructed to provide adequate area and rights-of-way which may be necessary for the installation and maintenance of the roadway system, which meet all applicable federal, state and local regulations.
 - (1) Roadway Facilities. Roadway facilities must be available prior to occupancy to provide for the needs of the proposed development. A finding must be made that the level of service standard for average peak hour and peak season traffic flows shall be maintained on the various types of roadways for the time period listed in Table 16.1. In considering whether the roadway has such capacity to maintain level of services, only the portion of the roadway within one mile of the applicant's property shall be considered. Street capacities shall be determined by standards established by or approved by the Florida Department of Transportation as they may be amended from time to time.

Table 16.1.

Type of Roadway	Classification	Urbanized Area
State / County	Limited access	D
	Principal arterial	D
	Major arterial	D
	Minor arterial	D
	Major collector	D
	Minor collector	D
City	Major arterial	D
	Minor arterial	D
	Major collector	D
	Minor collector	D

- (2) Potable Water Facilities. Potable water service from the City must be available prior to occupancy to provide for the needs of the proposed development. The proposed development shall be designed and constructed to provide adequate areas and easements which are necessary for the installation and maintenance of potable water distribution systems which meet all applicable federal, state and local regulations. A finding must be made that the existing City water supply and distribution system has sufficient capacity to provide 141 gallons per person or 287 gallons per ERU per day for residential uses and at an equivalent residential unit rate established by the City for non-residential structures or uses. A finding must be made that the potable water supply needs of the service area for which building permits have been issued, which are occupied, available for occupancy, or for which water treatment capacities have been reserved, have sufficient existing water treatment.

- (3) Sanitary Sewers Facilities Concurrency Findings. Sanitary sewer facilities must be made available from the City prior to occupancy to provide for the needs of the proposed development. The proposed development shall be designed and constructed to provide adequate areas and easements which are necessary to the installation and maintenance of sanitary sewer distribution system. A finding must be made that the existing sanitary sewer facilities have sufficient capacity to provide 83 gallons per person per day per residential use or 169 gallons per ERU per day at an equivalent residential unit rate established by the City for non-residential structures or uses. A finding must be made that the sanitary sewer facility needs of the service area for which building permits have been issued, which are occupied, available for occupancy, or for which sanitary sewer facilities have been reserved, have sufficient existing wastewater capacity.

- (4) Stormwater and Drainage Facilities. Stormwater and drainage facilities must be made available prior to occupancy to provide for the needs of the proposed development by the City where on-site retention is not required by Code. In the case where the City is required to provide stormwater facilities a finding

will be made that such facilities will be made available. Where on-site stormwater retention is required of an applicant, the DRC shall ensure such facilities are in place prior to the impacts of the development. This shall be accomplished via a copy of the letter of substantial compliance from the engineer of record, and a copy of a letter of acceptance from the Southwest Florida Water Management District. The proposed development shall be designed and constructed to provide adequate areas and easements needed in the installation and maintenance of any public stormwater facilities. A finding must be made that the existing stormwater and drainage facilities, including any on-site facilities required of the applicant/developer, will retain a 25-year frequency design storm with a 24-hour duration in accordance with current Southwest Florida Water Management District regulations [type 2 modified storm with 7.5 inches of total rainfall]. A finding must be made that the stormwater retention needs of the service area for which building permits have been issued, or which are occupied, available for occupancy, or for which stormwater facilities capacity have been reserved, have sufficient existing retention capacity.

- (5) Solid Waste Removal. Solid waste removal facilities must be made available by the City prior to occupancy to provide for the needs of the proposed development. A finding that solid waste removal service will be made available must be based upon existing removal capacity or upon a capital improvement project currently funded by the City that demonstrates there will be sufficient removal service available at the time that the demand for service from the development will occur. In addition, a finding must be made that sufficient solid waste removal facilities exist for other developments in the service area which are occupied, available for occupancy, for which building permits are in effect or for which solid waste removal capacity has been reserved, prior to the issuance of a development order for a new development project. The existing City solid waste removal facilities shall be capable of removing up to 7.2 pounds per person per day for any new development. Criteria for the storage and removal of solid waste in a development project shall follow those standards contained in Chapter 10 of the City Code.
- (6) Parks and Recreation. City-provided park and recreation facilities must be made available by the City prior to occupancy to provide for the needs of any proposed residential development. A finding that parklands and recreation facilities will be made available must be based upon existing facilities or upon a capital improvements project currently funded by the City that demonstrates there is a plan to acquire and/or develop such facilities which will meet the needs of the development proposed by the applicant. In addition, a finding must be made that sufficient parklands and recreation facilities exist for other developments in the service area which are occupied, available for occupancy, for which building permits are in effect or for which parkland and recreation facility capacity has been reserved. A finding must be made that the existing City parks and recreation inventory has sufficient capacity to provide five acres of parkland per thousand functional residents for any new residential development. The

standards for provision of recreation facilities shall be those contained in the City comprehensive plan. The proposed development shall be designed to provide adequate access to and use of any adjacent public parks or recreation facilities. Private recreation facilities and open spaces shall be designed so that existing water bodies, vegetation, and other natural features are preserved. Area-wide accessibility by car, boat, or bike, environmental problems, and maintenance factors should also be considered in the design of any recreation or park facilities.

- (1) Public Schools. Public School facilities must be in place at the time a residential development order or permit is issued, or the developer, prior to occupancy, provide for the needs of any proposed residential development. A finding that public school capacity must exist based upon existing facilities and services, currently in place or under construction; or the residential development is considered exempt from the requirements of school concurrency by meeting one or more of the following criteria:
 - a. The residential development consists of single family lots of record at the time the School Concurrency implementing ordinance becomes effective;
 - b. The residential development that has a site plan, subdivision plan, preliminary or final plat approval or the functional equivalent for a site specific development order prior to the commencement date of the School Concurrency Program;
 - c. The residential development is an age restricted community with no permanent residents under the age of 18. Exemption of an age restricted community must be subject to a restrictive covenant limiting the age of residents to 18 years and older;
 - d. The residential development, or the amendment to previously approved residential development, is calculated to generate less than one student. Such development shall be subject to payment of school impact fees;
 - e. The development order or permit issued subject to the condition that, at the time of site plan approval, subdivision approval, preliminary plat approval or functional equivalent, the school capacity necessary to serve the new residential development is scheduled to be in place or under actual construction within the first three years of the School Board's adopted 5-Year District Facility Work Program;
 - f. At the time the development order or permit is issued, the necessary facilities and services (mitigation) are guaranteed in a binding and enforceable agreement with the School Board, County and City. Acceptable forms of mitigation may include, but are not limited to:

1. Contribution of land or payment for land acquisition in conjunction with the provision of additional school capacity; or
2. Mitigation banking based on the construction of a public school facility in exchange for the right to sell capacity credits; or
3. Provision of additional student stations through the donation of buildings for use as a primary or alternative learning facility; or
4. Construction or expansion of permanent student stations or core capacity; or
5. Construction of a public school facility in advance of the time set forth in the School District's 5 Year Work Program.

A finding must be made that at the time the development order or permit is issued Public Schools have sufficient capacity to provide a level of service as follows:

1. Elementary 95% utilization for any new residential development.
2. Middle School 100% utilization for any new residential development.
3. High School of 100% utilization for any new residential development.

The issuance of a School Concurrency Approval Determination Letter (SCADL) by School Board staff identifying that capacity exists within the adopted Level of Service (LOS) indicates only that school facilities are currently available, and capacity will not be reserved for the applicant's proposed residential development until the City issues a Certificate of Concurrency (COC). The City shall not issue a COC for a residential development until receiving confirmation of available school capacity within the adopted level of service for each school type, in the form of a SCADL from the School Board staff. Once the City has issued a COC, school concurrency for the residential development shall be valid for the life of the COC. Expiration, extension or modification of a COC for a residential development shall require a new review for adequate school capacity to be performed by the School District.

The City shall notify School Board staff within ten working days of any official change in the validity (status) of a COC for a residential development.

The City shall not issue a building permit or its functional equivalent for a non-exempt residential development without confirming that the development received a COC prior to site plan, subdivision plan, plat approval or functional equivalent, and the COC is still valid. Once the City has issued a COC, school concurrency for the residential development shall be valid for the life of the COC.

- (d) Development Agreement Required. In the event a finding is made by the Zoning Official and/or the Development Review Committee that adequate capacity to meet

the needs of a development with regard to roadways, water, sewer, stormwater, solid waste, public schools or park facilities does not and will not exist at the projected time of occupancy, then a development agreement must be entered into to establish how the municipal service capacity for each of the seven facilities will be made available concurrent with the needs or impacts of the development.

- (e) Capital Improvements Program Review. In order to ensure that proposed capital improvement projects are being planned to meet the concurrency requirements outlined in this Section, the DRC shall draft and review the City's 5-year capital improvements program [CIP]. Following the Development Review Committee's drafting of the CIP, the chairman shall forward it to the Planning Commission for their review and amendment.

Section 16.5. Application for Demolition Permit

Unless otherwise expressly exempted, a person shall not demolish, remove or begin demolition of a structure or part of a structure without review and approval of a demolition permit from the City.

- (a) Exemptions. A demolition permit is not required for demolition of a fence, demolition work performed is in conjunction with remodeling, alteration, or repair of a structure for which a permit is obtained; or demolition of a structure with a total gross floor area of less than 150 square feet, unless specifically required in other sections of this code.
- (b) Application Submittal. Every application for a demolition permit shall be submitted to the City and be accompanied by plans in duplicate, drawn to scale, showing actual shape and dimensions of the lot upon which the demolition is to take place; the exact location, size, elevation and height of any building or structure to be removed or demolished; the existing and intended use of each building or structure or part thereof; the number of families or housekeeping units the building is designed to accommodate; and, such other information required by the Zoning Official with regard to the lot and neighboring lots as may be necessary for the enforcement of this Ordinance.
- (c) Demolition Requirements.
 - (1) If the primary structure and use is being demolished, all other accessory structures, such as but not limited to driveways and driveway aprons, parking lots, walkways, swimming pools, sheds or detached garages must also be demolished and removed from the property.
 - (2) If a permit for a new primary structure is submitted in conjunction with the demolition permit and construction of the new primary structure commences within six (6) months of the demolition, conforming accessory structures will not

be required to be removed. Any non-conforming accessory structures will be required to be removed in any case.

- (3) Extensions. The Zoning Official or designee may grant an extension of the time limits proposed by this subsection for an additional period of time where it is found that such additional period of time is necessary in order to avoid unnecessary hardship not caused by the petitioner and such extension is not contrary to the public interest. As a condition of any extension of time, the property owner shall be responsible for continued property maintenance to prevent any detrimental effect on the neighborhood.
 - (4) Any person aggrieved by the requirement to demolish all accessory structures may appeal said decision pursuant to the provisions of Section 16.2 of this Chapter.
 - (5) Failure to complete required demolitions within six (6) months of issuance of demolition of the primary structure shall be deemed guilty of a noncriminal infraction and the City of Punta Gorda Code Enforcement Board shall have jurisdiction to hear and decide cases when a violation is alleged.
- (d) Additional Requirements. An application for demolition or relocation of a historic building or structure shall be referred to the Historic Preservation Advisory Board for review and recommendation. See Section 8.1 of this code for additional requirements for demolition permits for historic buildings and structures.
- (e) Display of Permit. Upon receipt, a demolition permit shall be posted in a prominent place on the premises during the period of demolition or removal.
- Before a demolition permit is issued the plans and intended use shall indicate conformity in all respects to the provisions of this Code.
- (f) Lapse of Permit. Every demolition permit shall expire and become void unless the activity authorized therein commences within 60 days of the date of issue.
- (g) Upon completion of any demolition of a single-family residence, or other single family structure such as but not limited to detached garages, swimming pools or sheds, all rights-of-way and drainage areas along sideyards and property within six feet of the seawall shall be sodded completely. The remainder of the lot or property may be stabilized by the combined use of strip sodding and seeding provided each row of sod is separated by no more than 12 inches. In all cases, a minimum 32 inch wide strip of existing grass or newly placed sod shall form the perimeter of all disturbed areas.

- (h) For demolition of any multi-family or commercial structure, all vacant land areas are required to be completely sodded.
 - (1) The use of hydro-seeding to prevent soil erosion and promote grass growth may be permitted on parcels that are 100 feet or more in distance to an improved lot, provided the property is cleared of all debris, concrete, rocks and the grade has been leveled and is without ruts prior to seeding. All areas of the lot within 100 feet of an improved lot must be sodded.
 - (2) The hydro-seed slurry must be sprayed over the prepared ground in a thick uniform layer that is easily visible.
 - (3) Repeat applications will be required if the grass does not begin growing within two weeks of the hydro-seeding, or if a healthy stand of grass, free of bare spots is not established.

Section 16.6. Application for Development Plan (Development Review Committee)

Where a zoning district requires a Development Plan to initiate a specific use of land or construct a specific building, there shall be no development activity until a Development Plan approval letter is issued by the Zoning Official verifying concurrence with the requirements of this Ordinance. If it is determined by the Zoning Official and/or the Development Review Committee (DRC) that physical or environmental problems may exist, they may, at their discretion, ask for additional reports from the developer before or during the review of a Development Plan. Any member of the DRC may require additional information not specified herein, when it serves the health, safety or welfare of the community or is deemed pertinent to the approval.

- (a) Procedure. Where approval of a Development Plan is required prior to the issuance of a building permit:
 - (1). Development Plan shall be submitted to the Zoning Official.
 - (2). Zoning Official shall circulate the Development Plan to the Development Review Committee (DRC), for review and comments.
 - (3). Recommendations of the DRC along with all pertinent comment and criticism shall be submitted to the Zoning Official.
 - (4). Applicant shall be responsible for addressing any and all issues prior to issuance of a final approval letter.
 - (5). In order to receive the final approval letter, the applicant shall submit—final complete CAD Deliverables reflecting the final approved plans, including all boundary and property lines, all utilities (lines, hydrants, etc.) and the

topographic survey shall be delivered to the Zoning Official as individual layers. CAD Deliverables shall include 2 points tied to the Stateplane Florida West-Zone 3626, Datum: NAD83, Units: meters.

- (6). Development Plan approval shall be valid for a period of one year, and shall in effect reserve any existing water, sewer, solid waste removal, drainage, park, and roadway capacities needed to meet the needs of the approved project for the same one-year period.
- (b) Plan Submission and Review. Any Development Plan required to be submitted under the provisions of this Ordinance shall include the following elements, unless the Zoning Official determines that one or more of said elements does not apply to the particular development:
- (1) Statement of ownership and control of the proposed development.
 - (2) Statement describing in detail the character and intended use of the development.
 - (3) General location maps showing relation of the site for which development plan approval is sought to major streets, schools, existing utilities, shopping areas, important physical features in and adjoining the projects site, and the like.
 - (4) If common facilities, such as recreation areas or structures, private streets, common open space, etc., are to be provided, statements as to how such facilities are to be permanently maintained. Such statements may take the form of proposed deed restrictions, deeds of trust, homeowners association, surety arrangements, or other legal instruments providing adequate guarantees to the City that such common facilities will not become a future liability of the City.
 - (5) Storm drainage and sanitary sewage plans.
 - (6) Architectural definitions for buildings in the development; exact number of dwelling units, sizes and types.
 - (7) Plans for signs, if any.
 - (8) Landscaping plan, including types, sizes and locations of vegetation and decorative shrubbery, and showing provisions for irrigation and maintenance.
 - (9) Plans for recreation facilities, marinas, docking facilities, both accessory and principally permitted uses, and any buildings and/or structures related to such uses.
 - (10) The location and proposed use of any historic structures or artifacts as defined by the City historic preservation ordinance.

- (11) A written natural resources impact statement disclosing any land use activities proposed for the site which might degrade local air or water quality, alter any existing wetlands or designated environmentally sensitive areas, involve any mining or excavation, disturb or destroy existing wildlife habitats, and affect in any way a threatened or endangered plant or animal.
 - (12) Additional data, maps, plans, surveys or statements as may be required for the particular use or activity involved.
 - (13) Any additional data the applicant may believe is pertinent to the Development Plan.
 - (14) A Development Plan containing the title of the project and the names of the project planner and developer, date, and north arrow, and based on an exact survey of the property drawn to a scale of sufficient size to show:
 - a. Boundaries of the project, any existing streets, buildings, watercourses, natural features, vegetation and topography, easements, and section lines;
 - b. Exact location of all buildings and structures;
 - c. Access and traffic flow and how vehicular traffic will be separated from pedestrian and other types of traffic;
 - d. On-site parking and loading areas;
 - e. Recreation facilities locations;
 - f. Refuse collection areas; and
 - g. Access to utilities and points of utilities hookups.
 - h. Tabulations of total gross acreage in the project, and the percentage devoted to each proposed use, the ground coverage of each structure, and the total impervious surface area on the site.
 - i. Tabulations indicating the derivation of numbers of on-site parking and loading spaces
 - j. Total project density in dwelling units per acre.
- (c) Urban Design Findings. Before any Development Plan shall be approved, approved with changes, or denied, the Urban Design Manager or designee shall make a written finding that the specific land use and development requirements governing the individual use or building type have or have not been met and, further, that the development plan has or has not met the following standards:
- (1) Streets and roads shall conform to criteria and design characteristics established in the comprehensive plan and this code.

- (2) Rights-of-way and streets which are located on the traffic circulation plan maps of the City shall be conveyed to the City by deed, grant of easement or reserved to be acquired by the City at a later date. The minimum right- of-way for the various roadway types shall be:

Roadway Type	Urban
Local	50 feet
Collector	70 feet
Minor arterial	80 feet
Major arterial	100 feet

NOTE 1: At the city's discretion, a street section described in article 9 of this code may be selected for any of these roadway types, in which case the right-of-way widths described in article 9 would replace these widths.

- a. A maximum of two driveways may be permitted for ingress and egress purposes to and from a single property or development on each road abutting the property, to include phased developments.
 - b. Two driveways may be allowed to enter a single street from a single property, to include phased developments if the minimum distance between the 2 driveways measured at the property line is equal to or exceeds 20 feet in residential districts and 50 feet for other districts.
 - c. In tract development where the minimum distance between adjacent driveways on a single street exceeds 100 feet or the development exceeds 2 acres of land area, the number of driveways may be increased upon the recommendation by Urban Design.
 - d. The minimum distance from the property line on any ingress or egress driveway to the outer edge of any interior drive or parking space shall be 10 feet.
- (3) Building setbacks shall comply with the requirements of this Ordinance.
- (4) Landscaping and tree preservation shall comply with the standards of this Ordinance.
- (5) Bikeways and walkways shall be required as part of any development plan when these facilities would further the implementation of the sidewalk and/or trail network as identified in the adopted City of Punta Gorda Comprehensive Plan or in the judgment of the Zoning Official or their designee these facilities they will enhance the use and connection of adjoining areas.
- (6) All on-site parking areas shall be arranged and marked in compliance with the provisions of Article 10.

- (7) Conservation of natural resources. At the determination of the Zoning Official the applicant may be required to submit natural resources impact statement. The Zoning Official shall, provide recommendations on the potential impacts of proposed developments upon the natural environment prior to plan approval, and shall consider the following standards for review:
 - a. The performance standards contained in this Ordinance shall be applied to all development projects.
 - b. Development Plans submitted for review should seek to leave natural drainage features, such as sloughs, wetlands, lakes, rivers, etc., unaltered.
 - c. Any alteration of natural drainage features, in particular wetlands and any parts of the estuarine system, must be mitigated to offset the wetland values lost.
 - d. Alterations of isolated wetlands greater than one-half acre in size are subject to Southwest Florida Water Management District regulations.
 - e. Naturally vegetated upland buffers in compliance with the provisions of Article 12, will be required around natural drainage features, particularly wetlands, except for those uses requiring access to the water such as docks and boat ramps. Bridges, utility crossings, removal of prohibited trees, etc., shall be some of the permitted activities in an upland buffer.
 - f. All mining or excavation activities shall be prohibited. This prohibition excludes activities related to on-site cut and fill operations as permitted by an approved Southwest Florida Water Management District Permit and/or Army Corps of Engineers permit.
 - g. When endangered or threatened species of plants or animals are known to live on a development site the applicant must identify them, and provide a plan acceptable to State and/or Federal agencies for their protection.
- (8) Preservation of any historic structures, artifacts, or archeological sites shall comply with provisions of this Code.
- (9) Signage shall be comply with-in the provisions of this Code.
- (10) The Zoning Official in consultation with the City Fire Marshal shall ~~has issued~~ issue street numbers for all buildings and unit numbers within buildings where required.
- (d) Public Works Findings. Before any development plan shall be approved, approved with changes, or denied, the Public Works Director or designee shall make a written finding that the following standards have been met:
 - (1) Access to arterials, collectors and local streets shall be designed to facilitate the safe and efficient movement of vehicles between the City and/or County

streets and the proposed development and shall comply with the following requirements:

- a. A minimum deceleration lane 12 feet wide with a 150 foot transition taper shall be provided unless a traffic engineering study demonstrates the absence of such a lane will not adversely impact traffic conditions.
 - b. Acceleration lanes shall be constructed in compliance with Florida Department of Transportation standards and regulations based upon the posted speed limits of the roadway being accessed.
 - c. A left turn storage lane with a minimum 150 foot long storage lane and a 100 foot transition taper shall be provided for each driveway when the average peak hour inbound left turn volume is 25 vehicles or more.
 - d. A joint access driveway will be considered as adequate access for any two adjacent developments. For any development where an additional driveway is requested and where the driveways do not meet the spacing requirements, the applicant/s shall be required to provide a written traffic statement justifying the need. This traffic statement will describe the internal circulation and parking arrangements and identify the apparent impact of the development on the operation of the adjacent street system.
 - e. Access to a lot is limited to streets other than major and minor arterials whenever possible. However, commercial and industrial development shall not be given access by a residential street. No new development shall be platted to be allowed to have direct driveway access to a major or minor arterial or a collector road unless it shall first receive a variance from the City Council.
 - f. On any properties where an applicant proposes development of an area abutting any street, a distance of 300 feet or more, the Public Works Department may require the applicant to construct a marginal access street, such street intended to provide limited access to streets and providing direct access to each business use along the property which it abuts. The cost of constructing marginal access streets shall be borne by the applicant.
 - g. No point of access shall be allowed within 40 feet of the intersection of 2 right-of-way lines of any 2 intersecting public streets.
- (10) Signalization of any driveway or intersection shall conform to those warrants specified in the manual of uniform traffic control devices.
- (11) A minor arterial may intersect a major arterial if aligned with and extending an existing minor arterial as shown on the City traffic circulation map or if it

is located a minimum distance of 2,640 feet from the nearest intersection of another existing minor arterial and major arterial.

- a. A collector may intersect an existing major or minor arterial if aligned with and extending an existing collector street as shown on the City traffic circulation map or if it is located a minimum distance of 1,320 feet from the nearest intersection of another existing collector or arterial.
 - b. A collector may intersect another collector but only if aligned with an extending and existing collector as shown on the City traffic circulation map or if it is located a distance of 660 feet from the nearest intersection of another existing collector.
 - c. A local street may not intersect a major or minor arterial unless unavoidable, in which case the local street may intersect an arterial but only if aligned with and extending an existing local street which intersects the arterial at a minimum distance of 660 feet from the nearest intersection of the existing major or minor arterial.
 - d. A local street may intersect a collector if spaced at a minimum distance of 660 feet from any other intersection, or in the case of a "T" type intersection, at a minimum distance of 330 feet from any other intersection.
 - e. The minimum spacing requirements may be reduced by the Public Works Department upon a finding that such reduction will not compromise operational or safety standards.
- (12) No median opening shall be spaced at a distance less than 660 feet from any other median opening unless approved by the City Engineer or [on] a finding that the particular conditions of the proposed development will not compromise traffic operations and safety. Where dedicated public streets intersect along a roadway having center medians, they are given priority considerations for new openings.
- (13) Sight distance standards shall comply with standards of this Ordinance.
- (14) Traffic impact analysis shall be required for all projects larger than 5 acres. The traffic impact analysis shall be prepared by a registered professional engineer according to guidelines acceptable to the City.
- (15) Hurricane evacuation provisions for all development plans shall be evaluated for their impact upon area-wide hurricane evacuation. The Development Review Committee's review should consider the following information, to be submitted by the applicant:

- a. The traffic impact upon designated hurricane evacuation routes and evacuation times, and any proposals to maintain acceptable times.
 - b. The impact of residential developments in category 1 and category 2 storm zones on inland storm shelters, and identification of any available inland shelter space which could be used by residents of the development.
 - c. All matters related to Stormwater drainage requirements of and related to National Pollution Discharge Elimination System permit regulations and Southwest Florida Water Management District regulations.

- (e) Utilities Department Findings. Before any Development Plan shall be approved, approved with changes, or denied, the Utilities Director or designee shall make a written finding that the following standards have been met:
 - (1) Utilities easement for water and wastewater lines to be maintained by the City which are installed by a private company shall be installed in a dedicated easement or in a dedicated right-of-way as approved by the Utilities Director. The standards for such easements are as follows:
 - a. A lot line easement shall be a minimum of 12 feet and may be shared by adjoining lots or parcels.
 - b. A minimum ten-foot separation shall be maintained between water and wastewater lines, and should be considered in the design and acceptance of any easements, unless otherwise required by the City Engineer.
 - c. An easement adjacent to a dedicated road right-of-way shall be parallel to the road right-of-way and 12 feet in width, and shall not be part of the road dedication.

 - (2) All utility issues as they relate to Best Management Practices.

- (f) Building Department Findings. Before any Development Plan shall be approved, approved with changes, or denied, the Building Official or designee shall make a written finding that the following standards have been met:
 - (1) Where site development leaves an area of land without vegetative cover and exposed land shall be staked and entrenched with hay bales, siltation screens or other barriers designed to stop soil erosion and siltation into the adjacent water feature.

 - (2) FEMA Regulations will be enforced by the Building Department.

 - (3) Handicap parking requirements will be enforced by the Building Department.

- (4) DRC evaluations/approvals do not vest building permit approval.
- (g) Fire and Police Department Findings. Before any development plan shall be approved, approved with changes, or denied, the Police Chief and Fire Chief or designees shall make a written finding that the following standards have been met:
 - (1) Fire flow and hydrant spacing shall be designed and constructed in accordance with all state and federal standards, including the Standard Fire Code and all the appendices as referenced in Chapter 9C of the City Code.
 - (2) A plan for evacuation and/or sheltering of residents of a development project who may have limited mobility and needs for special care [i.e., nursing home, ACLF, etc.].
 - (3) Public safety, health, and welfare issues.

Section 16.7. Application for Ordinance Text Amendments

Whenever the public necessity, convenience, general welfare, or practice requires, the City Council may amend, supplement, change or repeal the regulations in this Ordinance in conformity with the provisions of this Article. Amendments to the text of this Ordinance may be initiated by City Council, motion of the Planning and Zoning Board (PZB), or as provided for in the City Charter. The City Council shall either initiate the text amendment requested, or shall deny the petition.

- (a) Public Hearing Notice. The PZB and City Council shall hold public hearings on proposed Ordinance Text Amendments. Each public hearing requires notice as set out in Section 16.1(g).
- (b) PZB Review and Recommendation. The Zoning Official shall set a time and a place for a public hearing by the PZB on a proposed Ordinance Text Amendment. Following the public hearing, the PZB shall forward the proposed amendment to the City Council, together with its recommendation and a statement setting forth its reasons for such recommendation. The PZB shall make its recommendation within 60 days after the first meeting of the ~~Commission~~ PZB after the proposed amendment has been referred to it unless the City Council specifies a shorter time period, or unless the proposed amendment has been withdrawn by the applicant prior to the expiration of the time period.
- (c) City Council Review and Decision. Once the PZB has forwarded a recommendation to the City Council, the Zoning Official shall set a time and a place for a public hearing by the City Council. The City Council may act upon a text amendment within

60 days unless the applicant requests or consents to action beyond that period or unless the proposed amendment has been withdrawn.

- (d) Approval Criteria. In acting on proposed text amendments, the PZB and City Council shall consider whether the proposal is consistent with the Comprehensive Plan and the stated purposes of this Ordinance.

Section 16.8. Application for Special Exception

The special exception process provides the City of Punta Gorda ~~Council~~ with the opportunity to exercise discretionary powers in considering the establishment of certain uses that, due to their nature, design or location, may have the potential for adverse impacts on adjacent land uses and/or the health, safety or welfare of the community. This Ordinance designates such uses “special exceptions.” When considering such uses, the City ~~Council~~ shall have the authority to impose conditions that are designed to remove or mitigate potentially adverse impacts upon the community or other properties in the vicinity of the proposed use. Special exception uses shall only be allowed if reviewed and approved in accordance with the procedures of this section.

- (a) **Initiation of Application.** An application for a special exception may be filed with the Urban Design Department by a property owner, board or bureau of any government or their agent, or other parties provided by law.
- (b) **Pre-application Meeting.** Prior to filing an application for a special exception, the applicant shall meet with the Urban Design ~~Division~~–Department to discuss the requirements of this Section and the nature of the special exception use proposed. For the purposes of this meeting, the applicant may provide a concept plan of the proposed use drawn to scale, showing the general layout of the special exception and its relationship to the surrounding area.
- (c) **Application Filing.** Special Exception applications shall be filed with the Urban Design Department. The required application form must be completed and signed by the applicant and owner/s of the property or their agents. Upon receipt of an application, the Zoning Official shall acknowledge acceptance or rejection of the application within ten business days from the date of submittal. Upon acceptance of a completed application, the application shall be forwarded to all appropriate reviewing agencies for comment. Once the Urban Design Division has received all comments, the comments shall be forwarded to the applicant for resolution.
- (d) **Concurrent Review.** If the property subject to the special exception application is also under consideration for a map amendment, the special exception application will be reviewed concurrently with the amendment application. A separate application form and applicable fee must be submitted for each review process. A concurrent review of the special exception application and the amendment application shall automatically waive the specific time limitations otherwise applicable to special exception matters, but will not waive any of the time limitations applicable to a map amendment.
- (e) **Submittal Requirements.** A special exception application shall be accompanied by the following items:
 - (1) An application on a form provided by the City, completed and signed by the applicant and owner/s of the property or their agents.

- (2) Associated fee, payable to the City of Punta Gorda.
- (3) Written statement with supporting evidence regarding compliance with subsection (k), (l) or (m) below as applicable, and use standards of Article 3, if applicable.
- (4) A disclosure statement of the real parties in interest on a form provided by the City, signed by the applicant and notarized. The applicant shall keep this information current at all times during processing of the application.
- (5) Applications for Special Exception requests for all uses ~~except home occupations~~ shall submit two (2) copies, or other number as determined by the Zoning Official, of a concept plan, drawn to ~~a scale of 1 inch = 100 feet,~~ ~~or~~ a scale agreed to by the City, containing the following information:
 - a. Boundaries of the entire property;
 - b. Total area of the property in square feet and acres;
 - c. Location of all existing and proposed structures, including but not limited to lighting, signs and buildings;
 - d. Location and distance of all off-site structures within 50 feet of the property, including but not limited to lighting, signs and buildings;
 - e. All required minimum yards and the distances of all existing and proposed structures to the lot lines;
 - f. Public right/s of way, indicating names, route numbers, and width;
 - g. Proposed means of ingress and egress to the property from a public street;
 - h. Parking spaces, existing and/or proposed, indicating minimum distance from the nearest property line/s;
 - i. Where applicable, seating capacity; usable outdoor recreation area, emergency access, fencing, limits of clearing, landscaping and screening, outside lighting, loudspeakers and required and/or proposed improvements to public rights-of-way; and
 - j. Existing zoning designation and use of subject and adjacent properties.
- (6) RESERVED
- (7) Written statement describing the proposed use and providing the following information:
 - a. Type of operation;
 - b. Hours of operation;

- c. Traffic impacts, including the maximum expected trip generation and the distribution of such trips by mode and the time of day based on current Institute of Transportation Engineers [ITE] Manual, internal road network, and connection into the existing transportation network. A traffic study will be required for all applications that contain or are adjacent to roads that carry or are proposed to carry more than 1,000 Annual Average Trips per Day (AADT); and
 - d. Impacts on adjacent uses and measures proposed to mitigate such impacts.
- (f) Waivers/Modifications of Submittal Requirements. Any submittal requirements that accompany the application, with the exception of the applicable fee, may be waived by the Zoning Official. The applicant must clearly indicate by section and paragraph in the application or in a letter attached to the application, which waiver or modification is requested. To grant a waiver or modification the Zoning Official must determine that a requirement is not necessary for the full and adequate consideration of the application. The Zoning Official shall set forth in writing the reasons for such determination.
- (g) Public Hearing Notice. A public hearing shall be held on proposed Special Exception applications. Each public hearing requires notice as set out in Section 16.1(g).
- (h) Planning and Zoning Board Review and Decision. Upon acceptance of a completed application, the Zoning Official shall set a time and a place for a public hearing by the Planning Commission. Following the public hearing, the Planning Commission shall issue its decision in writing with a statement setting forth its reasons for such decision within a reasonable time. Unless an appeal is filed in writing within 30 days of the written decision, the Planning and Zoning Board's decision shall be final. An appeal may be filed by the applicant or by any person who provided input on the requested Special Exception or who owns property within 200 feet of any boundary line of the property for which the Special Exception is being requested.
- (i) City Council Review and Decision. If a valid appeal is filed in writing within 30 days, the Zoning Official shall set a time and place for a public hearing by the City Council. The City Council shall take action to approve, approve with conditions or deny the application for a Special Exception with a statement setting forth its reasons for such decision within a reasonable time of the public hearing.
- (j) Withdrawal of Applications. Any application filed with the City may be withdrawn upon written request by the applicant at any time. However, if the request for withdrawal is made after publication of the notice of hearing, such withdrawal shall be only with the consent of either the Planning and Zoning Board or the City Council, whichever body has advertised the hearing. No new application concerning any or all of the same property shall be filed within 12 months of the consent to withdrawal action unless the consent of action specifies that the time limitation shall not apply and permits the

application to be withdrawn “without prejudice.” In the event an application is withdrawn, all action on the application will cease and the file will be closed out.

- (k) Approval Criteria for Requests Other Than an Additional Driveway. The Planning and Zoning Board and City Council shall use the following criteria, in addition to other reasonable considerations, in making their decision regarding approval or disapproval of a special exception application:
 - (1) The proposed use will not adversely affect the use of neighboring properties.
 - (2) The use shall comply with applicable district regulations and applicable provisions of the adopted Comprehensive Plan and Citywide Master Plan.
 - (3) The location, size and height of buildings structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings.
 - (4) The proposed use will be such that pedestrian and vehicular traffic generated will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood and on the streets serving the site.
- (l) Reserved.
- (m) Approval Criteria for Special Exception Requests for three driveway ingress/egress access for a single family property.
 - (1) Subject property must have a minimum of 150 linear feet of street frontage on a single street.
 - (2) The proposed driveways will not adversely affect the access or use of neighboring properties.
 - (3) The proposed driveways must maintain a minimum 20 foot separation through the right-of-way between each driveway.
 - (4) Maximum width. One driveway may be up to 24 feet in width through the right-of-way. Driveways two and three shall not exceed 16 feet in width through the right-of-way.
 - (5) No driveway shall be located closer than 7.5 feet from an adjoining lot under other ownership or in a recorded easement.
 - (6) All driveways shall meet all other regulations as delineated in Chapter 26, Article 10, Punta Gorda Code.
- (n) Compliance with Use Standards. As part of its special exception approval action, the Planning and Zoning Board and City Council shall have the authority to waive or modify

applicable use standards for particular uses set forth in Article 3 when determined necessary to accommodate reasonable use of the subject property. The Planning and Zoning Board and City Council shall have no authority to waive or disregard any of the Approval Criteria noted above.

- (o) Conditions and Safeguards. The Planning and Zoning Board and City Council may impose such additional conditions and safeguards as deemed necessary for the protection of the general welfare and individual property rights, and to ensure compliance with the intent and objectives of this Ordinance. Additional conditions may include, but need not be limited to, the following:
 - (1) Hours of operation;
 - (2) Landscaping, screening, buffer-yard and other site-related development standards;
 - (3) Access to the subject property;
 - (4) Lighting of the site, to include intensity and shielding, so as not to adversely affect adjacent or nearby property owners;
 - (5) Noise limitations as necessary to protect nearby property owners;
 - (6) Location, size and height of buildings;
 - (7) Location and height of walls and fences;
 - (8) Timing or phasing of development;
 - (9) Control of smoke, dust and odors; and
 - (10) Bonds and other performance guarantees, as required to ensure standards are met, plans are met and plans are implemented.
- (p) Amendments to Approved Special Exceptions. An amendment is a request for any enlargement, expansion or increase in intensity, or relocation of any previously approved and currently valid special exception use or condition thereof. The application and review process for an amendment of a special exception shall be the same as specified for the approval of the original exception.
- (q) Termination of Use. A special exception use shall be deemed terminated upon the occurrence of any of the following conditions:
 - (1) Two (2) years after the date of the approval of a Special Exception, unless a permit or occupancy permit has been issued for the use, if required. The Planning and Zoning Board or City Council, whichever issued final approval of the Special Exception, shall have in its sole discretion the authority to grant additional time, not to exceed a total of five (5) years from the initial Special Exception approval date, if no less than ninety (90) days prior to the date of expiration of the Special

Exception, the property owner makes application for an extension of the approved Special Exception. As part of the application, the property owner shall demonstrate that since the date of Special Exception approval it has been pursuing in good faith all required governmental authorizations for its proposed use and additional time is necessary to secure all such approvals.

- (2) If the use is discontinued, vacant or inactive for any reason for a continuous period of two years or more. The use shall be re-established only if a new Special Exception approval is obtained.
- (r) Revocation. A special exception approval may be revoked by the City Council, upon non-compliance and/or violation of any condition attached to the special exception, after notice and a public hearing pursuant to this Article.
- (s) Successive Applications. No application for a special exception use, which has been denied wholly or in part by the City Council, shall be resubmitted until the expiration of 12 months or more from the date of such denial, except on grounds of newly discovered evidence or proof of changed conditions found to be sufficient by the Zoning Official to justify consideration by the City Council.

Section 16.9. Temporary Use Permits

- (a) Uses Permitted with a Temporary Use Permit.
 - (1) Retail sales of Christmas Trees, produce stands and other seasonal agricultural products and related goods on commercially zoned property, not to exceed 60 days.
 - (2) Temporary storage container on residential single family private property during minor construction or renovation/repair, not to exceed 45 days.
 - (3) Temporary office use, not to exceed six months; may be renewed if conditions warrant.
 - (4) Temporary construction office/sales center for associated development.
 - (5) If a State of Emergency is activated, the time allowances of temporary uses may be extended.
 - (6) Uses not otherwise permitted in the zone that can be made compatible for periods of limited duration and/or frequency.
 - (7) Limited expansion of any use that is otherwise allowed in the zone but which exceeds the intended scope of the original land use approval.

- (8) Other temporary uses, which, in the opinion of the Zoning Official are similar to the uses listed in this section or would be needed in a State of Emergency.

- (b) Any person desiring to establish a temporary use shall submit an application for a temporary use permit to the Zoning Official on an application provided by the City. Upon receipt of the temporary use application the Zoning Official shall determine if Development Review Committee review and/or City Council decision is required. If the Zoning Official deems that City Council decision is not required the Zoning Official is hereby authorized to grant a temporary use permit.

- (c) Criteria for Approval:
 - (1) The proposed temporary use will be compatible with adjacent uses and will not adversely affect the surrounding neighborhood by means of odor, noise, dust or other nuisances.
 - (2) If additional parking is required by the temporary use, the parking shall be provided on site.
 - (3) Increase in traffic caused by the temporary use will not adversely affect the surrounding neighborhood or City at large.
 - (4) The proposed site for the temporary use or structure is adequate in size and shape to accommodate the temporary use.
 - (5) The proposed site is adequately served by streets or highways having sufficient width and improvements to accommodate the kind and quality of traffic that such temporary use will or could reasonably generate.
 - (6) Permanent alterations to the site are prohibited.
 - (7) Permanent signs are prohibited. All approved temporary signs associated with the temporary use shall be removed when the activity ends.
 - (8) Placement of paper “flyers” on parked vehicles is prohibited.
 - (9) No person who is a repeat violator of the provisions of this Section may be issued a Temporary Use Permit for the use that was in violation.

- (d) General Regulations:
 - (1) Each temporary use shall be described in a permit thereby issued by the Zoning Official prior to commencement of the use. This permit shall be in addition to all other licenses, permit or approvals otherwise required by any governmental entity.

- (2) The number of additional parking spaces required for the temporary activity shall be determined by the Zoning Official.
 - (3) All sites shall be completely cleaned of debris and temporary structures including, but not limited to: trash receptacles, signs, stands, poles, electrical wiring or any other fixtures and appurtenances or equipment connected therewith within twenty-four hours after the termination of the sale or temporary use.
 - (4) Sanitary facilities: either portable or permanent, shall be made available to all employees, attendants and participants of the activity during its operation hours, as approved by the Zoning Official.
 - (5) No area of public right-of-way may be used without obtaining approval from the City Council.
 - (6) Proof of ownership or a notarized, signed letter from either the property owner or their authorized representative, for the property on which the activity is to take place shall be presented at the time the temporary permit is requested.
- (e) Conditions of Approval. The Zoning Official may impose such conditions on a temporary use permit as is necessary to meet the purposes of the Code and protect the public health, safety and welfare and adjacent uses. Conditions which may be imposed may include, but are not limited to:
- (1) Yard setback and open space requirements and visibility triangle.
 - (2) Parking.
 - (3) Fences, walls or other screening.
 - (4) Signs.
 - (5) Vehicular and pedestrian ingress and egress.
 - (6) Property maintenance during the course of the activity.
 - (7) Control of illumination, noise, odor, vibration or other nuisances.
 - (8) Hours of operation.
 - (9) Exterior lighting.
- (f) Termination. At the end of the time period for which the temporary use was permitted, including any renewal or extension periods, the use shall be discontinued and all temporary structures and signs shall be removed within twenty-four (24) hours. Failure to comply with this requirement shall be a violation of this Ordinance. The Zoning Official reserves the right to terminate any temporary use permits to protect the public health, safety and welfare.

- (g) Renewals, Extensions. Requests for the renewal or extension of a temporary use permit shall be made to the Zoning Official. The procedure for the renewal of a temporary use permit shall be the same as specified in this section for the approval of the original temporary use permit.
- (h) Revocation of Permit. The Zoning Official may revoke a temporary use permit at any time upon the failure of the owner or operator of the use covered by the permit to observe all requirements of the permit, this section and other relevant provisions of law, including failure to obtain appropriate business licenses. Notice of such revocation shall be given in writing by the Zoning Official to the owner or operator of the use, by hand delivery or certified mail, setting forth the reasons for the revocation, the date and time upon which the revocation is effective and the appeals procedure. This provision shall not preclude the use of any other remedy prescribed by law with respect to violations of the provisions of this Ordinance.
- (i) Appeal. Any person aggrieved by an action of the Zoning Official in granting, denying or revoking a temporary use permit may appeal the decision pursuant to Chapter 26-16.2 of the City Code. In the case of an appeal from the revocation of a temporary use permit, the aggrieved party may request a meeting with the Zoning Official. Within two business days of the meeting, the Zoning Official shall inform the aggrieved person, in writing, of the decision to affirm, modify or rescind revocation of the permit.

Section 16.10. Application for Variance

Owners of lands or structures or their designated agents may apply to the City of Punta Gorda for variance from the requirements or restrictions of the land development regulations; except that no appeal for use or density issues may be considered. Such applications must be submitted through the Zoning Official, stating specific variances requested.

- (a) Application. An application for a variance shall be filed with the Zoning Official on forms within the Urban Design Department. Required application forms, completed and signed by the applicant and property owner, shall accompany each application. Upon receipt of an application, the Zoning Official shall acknowledge acceptance or rejection of the application within ten business days from the date of submission. Upon acceptance, the Zoning Official shall determine if the application may be approved administratively or be transmitted to the Planning and Zoning Board for decision.

An application for a variance shall include a written statement with supporting evidence regarding compliance with the following approval criteria:

- (1) The particular provision of the Code which prevents the proposed construction on, or use of the property.
 - (2) The existing zoning of the property, including any previously approved conditions, or modifications.
 - (3) The special circumstances, conditions or characteristics of the land, building or structure that prevent the use of the land in compliance with the terms of this Ordinance.
 - (4) The particular hardship that would result if the specified provisions of the ordinance were to be applied to the subject property.
 - (5) The extent to which it would be necessary to vary the provisions of this Ordinance in order to permit the proposed construction on, or use of, the property.
 - (6) A disclosure statement of the real parties in interest signed by the applicant and notarized
- (b) Approval Criteria. No variance shall be approved unless all of the following statements are true with respect to the subject property:
- (1) That special conditions or circumstances exist which are particular to the size and characteristics of the land, structure or building involved which are not applicable to other lands, structures or buildings in the same zoning district.
 - (2) The strict and literal enforcement of the zoning regulations would create an undue hardship as distinguished from a mere inconvenience on the property owners. Physical handicaps or disability of the applicant and other considerations may be considered where relevant to the request.
 - (3) That such hardship is not shared generally by other properties in the same zoning district and in the same vicinity.
 - (4) The granting of the variance would not be injurious to or incompatible with contiguous uses, the surrounding neighborhood or otherwise detrimental to the public welfare.
 - (5) That the variance requested is the minimum modification of the regulation at issue that will afford relief.
 - (6) The condition giving rise to the requested variance has not been created by any person presently having an interest in the property and/or the conditions

cannot reasonably be corrected or avoided by the applicant.

- (7) The variance requested does not involve any use which is prohibited in the district where the property is located.
 - (8) The requested variance is consistent with the City of Punta Gorda Comprehensive Plan.
- (c) Burden of Persuasion. The burden of showing that a variance should be granted to alleviate undue hardship shall be on the applicant. The applicant shall be required to demonstrate that the granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant or that strict application of the ordinance would effectively prohibit or unreasonably restrict reasonable use of the property by reason of any one of the following:
- (1) Exceptional narrowness, shallowness, size or shape of a specific piece of property at the time of enactment of this Ordinance.
 - (2) Exceptional topographic conditions or other extraordinary and exceptional situation or condition of such property.
 - (3) The condition situation or development of property immediately adjacent to the subject property.
- (d) Administrative Variance Approval. A variance application may be approved by the Zoning Official if the application meets the following requirements:
- (1). Variance requested must be for a relaxation of the minimum development standards of no more than ten (10) percent of the requirements but no greater than one foot of minimum yard requirements for an existing building. Existing buildings, as it applies to variances, means a building that has had the Certificate of Occupancy issued and has received approval for all location surveys as required during construction or has had the Certificate of Occupancy issued for a minimum period of three years prior to the discovery of a setback encroachment.
 - (2). Variance request must meet all of the conditions required by subsection (a), (b), and (c) above.
 - (3). Notice of intention to grant the required variance, stating the description of the property affected, including a description by street address if possible, the nature of the variance requested, and the existence of the right of appeal, shall be:

- a. published one time in a newspaper of general circulation published in the county
 - b. mailed to the owners as revealed by the current tax roll of each contiguous parcel
- (4). Within 15 calendar days of the publication of notice, but not thereafter, any interested person may apply in writing stating his name, the nature of his interest, and the nature of his objection, for a hearing of the matter before the BZA which shall conduct a public hearing on the matter in accordance with the procedures of subsections (e) through (l) below
- (e) Public Hearing. A public hearing shall be held on proposed variance applications. In the event the variance request is for a structure or modification of the lands located within six feet of the seawall for structures other than the required six feet of sod, a public hearing shall also be held before the appropriate canal advisory board to provide a ~~for~~ recommendation to the PZB. In addition to the variance criteria contained in Subsection (b) of this Section, applicants for variances to allow structures within six feet of a seawall must present evidence demonstrating that the proposed structures will not be detrimental to the integrity of the seawall, tie rods or deadmen. Absent a finding that the proposed structure will not be detrimental to the integrity of the seawall, tie rods or deadmen, the variance must be denied. Each public hearing requires newspaper and mail notification as set out in Section 16.1(g) of this Article.
- (f) PZB Review and Decision. Upon acceptance of a completed application, the Zoning Official shall set a time and a place for a public hearing by the PZB. The Zoning Official shall investigate the conditions pertaining to the particular variance requested and shall submit a written report at the hearing giving the facts involved. The parties in interest may appear. Following the public hearing, the PZB shall issue its decision in writing with a statement setting forth its reasons for such decision within a reasonable time. Unless an appeal is filed in writing within 30 days of the written decision, the PAB's decision shall be final. An appeal may be filed by the applicant or by any person who provided input on the requested Variance or who owns property within 200 feet of any boundary line of the property for which the Variance is being requested.
- (g) City Council Review and Decision. If a valid appeal is filed in writing within 30 days, the Zoning Official shall set a time and place for a public hearing by the City Council. The City Council shall take action to approve, approve with conditions or deny the application for a Variance with a statement setting forth its reasons for such decision within a reasonable time of the public hearing.
- (h) Approval. A variance shall be sustained only if the PZB or City Council finds through written findings of fact and conclusions that all of the conditions required by subsections (a), (b), and (c) above exist. The PZB or City Council shall file with the

Zoning Official its findings and shall provide a copy of the decision to the applicant and upon each other person who was a party of record at the hearing.

- (i) Conditions. In granting the variance, the PZB or City Council may prescribe appropriate conditions and safeguards in conformity with the zoning regulations, including but not limited to reasonable time limits within which the action for which variance is required shall be begun or completed, or both. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of zoning regulations.
- (j) Withdrawal of Application. A variance may be withdrawn by the applicant at any time prior to the deadline for cancellation of the newspaper advertisement for the public hearing on the application. After that deadline, an application may be withdrawn only with the permission of the PZB or City Council.
- (k) Re-Application. If the appeal of a variance decision is denied by the City Council on its merits, no application requesting the same relief with respect to all or part of the same property shall be considered by the City within 12 months after the date of such denial.
- (l) Appeal. Any person aggrieved by the approval or denial of a variance by the City Council may appeal said decision to the Circuit Court within 30 days from the date of the decision.

Section 16.11. Zoning Map Amendments

Whenever the public necessity, convenience, general welfare, or practice requires, the City Council may amend, supplement, change or repeal the regulations in this Ordinance, or the boundaries or classification of property on the Zoning Map, in conformity with the provisions of this section.

- (a) Initiation of Application. Amendments to the boundaries or classification of property shown on the Official Map may be initiated by City Council, motion of the Planning and Zoning Board, or application of the owner, owner's authorized agent, or contract purchaser with the owner's written consent.
- (b) Pre-application Meeting. Prior to filing an application, the applicant shall meet with representatives from the Urban Design Department to discuss the requirements and the nature of the proposal. For purposes of this meeting, the applicant may provide a sketch plan of the proposed use drawn to scale, showing the general layout of the development and the relationship to the surrounding area.
- (c) Application Filing. Amendment applications shall be filed with the Urban Design

Department. The required application form must be completed and signed by the applicant and owner[s] of the property or their designated agent. Upon acceptance of a completed application, the application shall be forwarded to all appropriate reviewing agencies for comment.

- (d) Submittal Requirements. All amendment applications shall be accompanied by the following items:
 - (1) An application, on a form provided by the City, completed and signed by the applicant and owner[s] of the property or their designated agent.
 - (2) A disclosure statement of the real parties in interest signed by the applicant and notarized. The applicant shall keep this information current at all times during the processing of the application.
 - (3) A survey, signed and sealed by a certified land surveyor, completed not longer than 12 months in advance of the date of the application that contains the following information:
 - a. Boundaries of the entire property, with bearings and distances of the perimeter property lines and of each existing and proposed district classification.
 - b. Total area of the property and of each existing and proposed district classification presented in square feet and acres.
 - c. Scale and north arrow, with north, to the extent feasible, oriented to the top of the plat.
 - d. Location of all existing buildings and structures.
 - e. Names and route numbers of all boundary roads or streets, and the width of existing rights-of-way.
- (e) Planned Developments. Planned Development Districts shall be established in accordance with the procedures of this Section, as supplemented by the standards and procedures of Article 5.
- (f) Request for Waivers/Modifications of Submittal Requirements. Any submittal requirements may be waived by the Zoning Official. The applicant must clearly indicate by section and paragraph in the application and in a letter attached to the application, which waiver or modification is requested. To grant a waiver or modification the Zoning Official must determine that a requirement is not necessary for the full and adequate consideration of the application. The Zoning Official shall set forth in writing the reasons for such determination.
- (g) Consistency with City Plan. All amendment applications shall be reviewed for

consistency with the City's Comprehensive Plan. Inconsistency with the Plan shall be ~~one~~ reason for denial of an application.

- (h) Public Hearing Notice. The Planning and Zoning Board and City Council shall each hold a public hearing. The public hearing requires notice as set out in Section 16.1(g).
- (i) Planning and Zoning Board (PZB) Review and Recommendation. Upon acceptance of a completed application, the Zoning Official shall set a time and a place for a public hearing by the PZB. Following the public hearing, the PZB shall forward the proposed amendment to the City Council, together with a statement setting forth its reasons for such recommendation.
- (j) Withdrawal of Applications. Any application filed with the City of Punta Gorda may be withdrawn upon written request by the applicant at any time. However, if the request for withdrawal is made after publication of the notice of hearing, such withdrawal shall be only with the consent of either the Planning and Zoning Board or the City Council, whichever body has advertised the hearing. No new application concerning any or all of the same property shall be filed within 12 months of the consent to withdrawal action unless the consent of action specifies that the time limitation shall not apply and permits the application to be withdrawn "without prejudice." In the event an application is withdrawn, all action on the application will cease and the file will be closed out.
- (k) Approval Criteria. The Planning and Zoning Board and City Council shall use the following criteria, in addition to other reasonable considerations, in making their decision regarding approval or disapproval of an amendment application:
 - (1) Consistency with the Comprehensive Plan, including but not limited to the Land Use
 - (2) Compatibility policies.
 - (3) Consistency with any binding agreements with Charlotte County, as amended, or any regional planning issues, as applicable.
 - (4) Mitigation of traffic impacts.
 - (5) Compatibility with surrounding neighborhood and uses.
 - (6) Provision of adequate public facilities.
- (l) Successive Applications. Upon denial by the City Council of any application, the

same application shall not be filed within 12 months of the date of denial.

- (m) Appeals. An action contesting a decision of the City Council, adopting or failing to adopt a proposed map amendment, shall be filed within 30 days of the decision with the Circuit Court having jurisdiction of the land affected by the decision.
- (n) Amendment to Official Map. No changes or amendments to the Official Map shall be adopted, except in compliance and conformity with all procedures and requirements of this Ordinance. If, in accordance with procedures of this Ordinance, changes are made in district boundaries or other such information portrayed on the Official Map, such changes shall be made by the Zoning Official after adoption of the amendment. It shall be unlawful for any person to make any unauthorized change in the Official Map.