
Sec. 94-54. - Downtown master plan (DMP) development approval process.

The process and procedure to request approvals for any new construction, reconstruction, alteration, addition or improvement to an existing structure or appurtenance within the DMP area shall be as follows:

a. *Formal site plan review.*

1. *Application and review process.* An application for a formal site plan review shall be submitted to the planning and zoning department on city approved forms. After an application is deemed complete by city staff, the application will be placed on the agenda for the next available plans and plat review committee (PPRC) meeting. At the meeting, the PPRC will review the project for compliance with governing ordinances and regulations.

The applicant shall address any comments of the PPRC and submit a revised application within 60 days of the meeting. Failure to make the required submittals within the 60-day deadline will deem the application as withdrawn. At least 15 days prior to the expiration of the 60-day revision period, the applicant may request a 30-day extension. No further extension request is permitted. Comments relating to revised applications shall be addressed within 30 days of the date of such comments. As part of the PPRC review, staff shall identify any need for additional approvals such as DAC special review, variances, and class B special use permits as required by the DMP urban regulations. Such additional approvals shall be sought within the formal site plan review period, and shall be required prior to any site plan approval. A formal site plan application shall be considered withdrawn after 90 days of inactivity.

2. *Exceptions.* The following types of applications do not require formal site plan review, and may proceed directly to building permit application if other approvals such as variances, or class B special use permits are not required:
 - a. Any modification of an existing structure that does not increase the total square footage of the structure or change the building footprint.
 - b. One- and two-residential unit structures in residential districts.
 - c. Outbuildings and accessory structures of fewer than 1,000 gross square feet.
 - d. Additions of fewer than 1,000 gross square feet to existing residential and nonresidential structures.
 - e. Addition of awnings, canopies, or decorative architectural elements.
 - f. Redesign of existing surface parking facilities, drives, and driveways.
 - g. Swimming pools, including redesign and relocation.
 - h. Minor structural additions or alterations, such as porches, terraces, and fencing.
 - i. Addition of parking spaces to existing surface parking facilities not exceeding 25 percent of the existing number of spaces or 20 spaces, whichever is less.
3. *Formal site plan approval.* After completion of the PPRC formal site plan review process, and after obtaining any additional approvals required, a formal site plan approval letter will be issued stating the terms and conditions of the approval. Proposed developments with formal site plan approvals shall commence construction within 24 months following the date of formal site plan approval. If commencement of construction does not occur during such 24-month period, the formal site plan approval shall automatically expire without further action by the city.

Projects approved as phased development shall commence construction of the first phase within 24 months following the date of formal site plan approval. Following phases shall commence construction according to the timeframes established on the site plan approval. If construction of subsequent phases does not comply with the established timeframes, the formal site plan approval shall automatically expire without further action by the city.

Formal site plan approvals involving the TDR program shall include a condition stating that the TDRs shall be approved by DAC and the certificate of transfer shall be obtained prior to the expiration of the site plan approval.

4. *Formal site plan approval extensions.* At least 30 days prior to the expiration of the 24-month period to commence construction, a developer may apply for a six-month formal site plan approval extension. No further extension may be requested.
- b. *Special review by DAC.*
1. The following proposed developments are subject to special review and approval by DAC as part of the formal site plan review process:
 - a. Any proposed development within the boundaries of the Clematis waterfront conservation district (CWD-CD).
 - b. Any proposed development fronting the proposed new roadway parallel to the FEC railroad right-of-way, the extension of Douglass Avenue, or the extension of Division Avenue, pursuant to Figure 4 of the DMP zoning atlas.
 - c. Any modification to a site designated as urban open space on Figure 3 of the DMP zoning atlas.
 - d. Any proposed development seeking to utilize any incentive program.
 - e. Any proposed development requesting the abandonment by the city of any portion of an alley or right-of-way.
 - f. Any proposed development with a lot area greater than 50,000 square feet.
 - g. Any proposed development within the boundaries of the Flagler waterfront district (FWD).
 2. *Standards for special review.* Proposed developments which are subject to special review shall be evaluated based on the following qualitative principles as well as the quantitative requirements of the urban regulations:
 - a. *Relationship of building to site and surroundings.* The proposed development should be designed in consideration of a three dimensional context that includes surrounding private properties and public realm. The effects of the proposed building scale and form on adjacent streets, neighboring properties, and the overall development of the district in which it is located, shall be assessed to ensure any possible negative impacts are minimized.

The form and scale of each building shall meet the requirements for each subdistrict, as defined in the corresponding building requirements table. Proposed developments shall submit floor plans, building elevations, building cross-sections and street-level three-dimensional renderings for the proposed development and all buildings on adjacent sites, public spaces and streets to illustrate how the new building relates to the surrounding area. All the quantitative requirements included in section 94-109 will be used as references to evaluate the relationship of building to site and surroundings.
 - b. *Circulation and traffic flow.* The proposed development should promote pedestrian circulation by providing attractive, safe and comfortable paths of travel. Vehicular circulation should be efficient and limit impacts to pedestrian movement around and through the site. Vehicular circulation should not detract from the active uses occurring on-site or on adjacent sites.
 - c. *Building design.* While architectural style should not be restricted, the proposed development should be evaluated based upon the quality and execution of the design, as well as its relationship to surrounding buildings. The architectural elements chosen should be consistent across the entire development. Consistency will be determined based upon mass, bulk, proportion, fenestration, and rhythm of building elements when reviewed together and as separate elements.
 - d. *Public realm.* The proposed development should enhance the quality of the public realm. Enhancement may be determined based upon the provision of open space, public amenities, landscaping, or a building design with features which contribute to the viability and attractiveness of the public realm. The public realm space should be integrated with the building site plan in a way that not only fully incorporates surrounding pedestrian circulation at the ground level, but also allows visual interaction with the floors above the ground level.
 3. *Community meetings.* As part of the special review process, and prior to a DAC public hearing, the planning director may require an applicant to conduct a community meeting to advise the surrounding neighborhood of the proposed development. If required, the application shall not be scheduled for DAC hearing until the community meeting is conducted.
- c. *Class B special use permits.* The following requirements and procedures govern the process to obtain a class B special use permit:
1. If a class B special use permit is required by the urban regulations, an application for approval of a class B special use permit by DAC shall be submitted to the department on city approved forms.

2. After an application is deemed complete, the application shall be placed on the next available PPRC meeting for review. After the comments from PPRC have been addressed, the application shall be placed on the next available DAC agenda.
 3. Class B special use permit applications shall be evaluated by the DAC pursuant to the special use standards contained in subsection 94-36(e)(3), and (e)(4) of this chapter. In those cases where the special use is located within a residential enclave planning area, the application shall also be evaluated pursuant to special use standards contained in subsection 94-36(e)(5) of this chapter.
 4. Class B special uses may be approved subject to additional conditions or limitations upon the establishment, location, construction, maintenance, or operation of the use, as may be necessary to protect the public interest and welfare.
 5. The class B special use permit runs with the property until the permit expires or it is revoked.
 6. A class B special use permit may be revoked upon a determination by DAC that any of the following have occurred:
 - a. Failure to comply with all conditions or requirements of the class B special use permit approval.
 - b. Failure, without good cause, to correct violations of conditions or requirements of the class B special use permit within the time period contained in the notice of violation.
 7. All plans, specifications, representations, drawings and statements submitted with the application for a class B special use permit or made part of the record of the DAC with respect to the application, shall become a part of the terms and conditions of any approval, except as revised by the DAC.
 8. *Time limitations.* Class B special use permits shall expire if not exercised within 18 months of the date authorized. At least 30 days prior to expiration, an applicant may request in writing an additional six-month extension from DAC. If granted, no further extension may be requested.
- d. *Variances.* Applications for a variance from the urban regulations are subject to the following requirements and procedures:
1. If a variance is required from the urban regulations, an application for approval of a variance by DAC shall be submitted to the department on city approved forms.
 2. After the application is deemed complete, the application shall be placed on the next available DAC agenda.
 3. Variances shall be evaluated by the DAC pursuant to the variance standards contained in subsection 94-38(d)(6).
 4. *Unauthorized variances.* The DAC is not authorized to grant variances for any of the following:
 - a. Any action which would be inconsistent with the comprehensive plan.
 - b. An increase in building height above the maximum height allowed by the corresponding building requirement table.
 - c. An increase in floor area ratio (FAR) above the maximum FAR allowed by the corresponding building requirement table.
 - d. A decrease of more than five percent in required ground floor setbacks fronting a street designation for lots within all subdistricts, with the exception of NWD-R, BPD-R, PP-R, PPD-PO, and LD-R.
 - e. An increase in maximum building footprint above the maximum footprint allowed by the urban regulations.
 - f. An establishment or expansion of a use in a district in which such use is not permitted by this chapter.
 - g. A decrease in open space requirements below the minimum size required by the corresponding building requirement table.
 5. Variances may be approved subject to conditions deemed necessary by DAC to ensure compliance with this chapter.
 6. *Time limitations.* Variances shall expire if not exercised within 18 months of the date authorized. At least 30 days prior to expiration, an applicant may request in writing an additional six-month extension from DAC. If granted, no further extensions may be requested. If the proposed development requesting the variance is required to obtain a formal site plan approval, variances for such developments shall be valid for the same period as the site plan approval. If a site plan approval has not been obtained within 18 months of the variance approval, the variance shall become void.
- e. *Appeal process.*

1. Appeals of decisions of the planning director in interpreting, administering or enforcing the urban regulations shall be directed to DAC, whose decision shall be final. Written notice of the appeal, including justification for the action, shall be filed with the department on city approved forms within 60 days after the disputed interpretation, administration, or enforcement.
2. Decisions of DAC regarding variances, special use permits and special review approvals may be appealed to a circuit court within 30 days from the date of the decision by DAC.
3. An appeal shall not operate as a stay of the decision unless a stay of the decision is ordered by the court having jurisdiction of the appeal.

(Ord. 4213-09, § 5, 6-29-2009)