

City of Lake Alfred  
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**Community Development**

Building | Code Enforcement | Planning | Zoning

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**PLANNING BOARD  
AGENDA**

**CITY HALL CHAMBERS  
AUGUST 11, 2020  
6:00 P.M.**

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**CALL TO ORDER**

**INVOCATION AND PLEDGE OF ALLEGIANCE**

**ROLL CALL:** Ameer Bailey, City Clerk

**APPROVAL OF MINUTES:** February 25, 2020

**BUSINESS ITEMS:**

1. ULDC Process and Procedure Discussion

**PUBLIC COMMENTS:**

**BOARD MEMBER COMMENTS:**

**NEXT MEETING:**

- Regular Meeting – September 8, 2020

**ADJOURN:**

*Any person who decides to appeal any recommendation of the City Commission and/or Planning Board with respect to any matter considered at this meeting will need a record of the proceedings, and for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. Persons with disabilities needing special accommodations to participate in this proceeding should contact the City Clerk no later than five days prior to the proceeding at 291-5748.*

**DRAFT MINUTES**  
**CITY OF LAKE ALFRED**  
**PLANNING BOARD MEETING**  
**TUESDAY, JUNE 23, 2020**  
**CITY HALL**

**Call to Order:** Chair Joe Hults

**Invocation and Pledge of Allegiance:** Chair Joe Hults

Board Members in attendance were Chair Joe Hults, Attending via Zoom: Board Members Wanda Daley, Karen Abdul-Hameed, and Matthew Noone

Board Members Absent/Excused, Loretta Vittorio, Herb Nigg, and Betty Biggars

The applicant Ms.Sarah Case was present.

Staff in attendance: Community Development Director Ameen Bailey, Assistant City Attorney Seth Claytor, and Planner Felicia Hutchinson,

**Chair Hults** made a motion to approve the minutes from the February 25, 2020 meeting, seconded by **Board Member Noone**. A unanimous voice call vote approved the motion.

**Assistant City Attorney Claytor** reviewed the meeting procedures and administered the witness oath.

**Chair Hults** asked Director Bailey to present the first case.

**1.) Final Plat Acceptance-The Lakes, Tract 5**

**Director Bailey** stated this case was advertised in the News Chief on June 8, 2020, and 53 notices were mailed out to the property owners within 300' of the site. The current request, from Clayton Properties Group, is for approval for The Lakes Tract 5 final plat. Staff has reviewed and approved the construction plans, and construction is currently underway. Zoning for the property is split between R-1AC and R-1AAC.

The Planning Board reviews the final plat along with the staff comments and makes a recommendation to the City Commission to approve or disapprove the plat. The applicant has provided a performance bond for all of the work estimated. Staff has reviewed the plat technical requirements and finds it is consistent with the Comprehensive Plan and The Land Development Code. A final performance bond has been issued and meets the requirements of Chapter 177.

Staff recommends approval of the final plat of Tract 5 of The Lakes.

**Chair Hults** opened the public hearing.

**Sarah Case**, the applicant, stated she had nothing to add to Director Bailey's presentation.

**Chair Hults** closed the public hearing and asked the board if there were questions.

**Board Member, Noone**, made a motion for the Planning Board to forward Tract 5, at The Lakes final plat to the City Commission with a recommendation of approval, **Board Member Abdul Hameed** seconded the motion. A unanimous voice call vote approved the motion.

## **2) Workshop: ULDC Discussion**

**Director Bailey** stated the second agenda item is for a motion to approve a workshop to discuss changes to the ULDC on June 30, 2020. The notice requirement is seven (7) days; if a workshop is called for tonight, it will satisfy the requirement.

**Chair Hults** made a motion to have a workshop on June 30, 2020, at 6:00 pm, **Board Member Noone** seconded the motion. A unanimous voice call vote approved the motion.

**Director Bailey** asked the Board Members to call with any questions as they review the first four (4) chapters of the code rewrite.

**Board Member Abdul Hameed** made a motion to adjourn. **Board Member Noone**, seconded the motion. The meeting adjourned at 6:30 pm.

Respectfully Submitted,

Mamie Drane  
Deputy City Clerk

**CITY OF LAKE ALFRED  
PLANNING BOARD WORKSHOP  
TUESDAY, JUNE 30, 2020  
CITY HALL**

Lack of a quorum was noted, the decision was made to proceed and review the action items and to formulate a recommendation by consensus of the members.

**Director Bailey** stated there would be a reorganizing of the Code, some chapters will be split, and others will be enhanced with more information. Sections will be consolidated and simplified, and redundancy will be alleviated. Instead of having rules for each district scattered throughout the Code, it will be found in one place, making it easier for everyone to find the Code applicable to their situation. The objective is to tie everything together.

**Director Bailey** gave a brief overview of the suggested changes.

**Planning Board Member Nigg** stated it looks like the ULDC has been designed for the internet. He asked if the plan is to have the Code on the internet and searchable, commenting that it would be interesting to have the map now for the review. He commended Director Bailey on her accomplishment so far with the rewrite.

**Director Bailey** stated the goal is to have links within the document, and if you click on the links, you will be directed to a different area. Staff would like to include a map to go along with the Code.

**Mike Noonan** stated he believes the code rewrite has been a significant effort on the City staff and City Managers' part. He has been waiting and asking when the rewrite will be moving forward, as the development he is associated with is in the Green Swamp. He commended the effort the City has put forth on the Downtown Overlay District, but the developers are concerned about the Code that will affect them. They would like a time frame to work into their schedule.

**Director Bailey** stated the Planning Board and City Manager had the Code rewrite for a week. This Workshop is the introduction and overview and a guide on how to proceed. Everyone has their area of concern. The next updated sections should be out by next month. Consultant teams that are reviewing the updates are taking longer than expected.

**City Manager Leavengood** stated the City has not taken on something of this magnitude before. It's coming together, but at this point, staff wanted to present it to the board, understanding this is not the full Planning Board, but this is encouraging to continue forward.

**Kris Kaye** with Carter and Kaye asked about commenting and responses moving forward, will there be a formal process and will everyone be able to see the comments and revisions. He asked if there will be a tracking process that the public can see.

**Director Bailey** stated she has not been sending out the comments. There have been over one hundred (100) pages of comments received. They are reviewed, and changes will be made when needed. The adjustments being made and the comments submitted will not be included in future packets.

**Chair Hults** asked if anyone else would like to come forward. Seeing no one, the Workshop was adjourned.

Respectfully Submitted,

Mamie Drane  
Deputy City Clerk

# Article 9. Administration and Procedures



## Article 9. Administration and Procedures

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## Sec. 9.1. Review & Approval Processes

### Sec. 9.1.1. General Provisions

#### A. Purpose.

#### B. Applicability.

1. Prior to undertaking any development or use of land, a development approval shall be obtained in accordance with the procedures of this Article according to the type of use or development, unless otherwise exempt.
2. All development and use of land, whether or not subject to the procedures of this Article, are subject to all other provisions of this Code.

#### C. Applicants.

1. Applications may be initiated by the City, by a property owner or agent of a property owner, or by citizens or interested parties who have established standing to bring applications to the City for consideration.
2. Applications submitted for real property by anyone other than the owner of record must have the application signed by the owner of record or provide a letter of authorization signed by the owner of record.
3. Applicants for appeals may be exempt from these requirements but must meet the requirements for standing in Section 9.2.B.

#### D. Application Submittals.

1. Applicant must submit a complete application form and any required attachments, along with the required review fee as established by the City Commission.
2. The number of copies to be submitted, the fees to be submitted and the deadlines for submission shall be in accordance with the latest administrative procedures.
3. The Planning Official will review the application submittal to ensure that the application is sufficient and complete. If submittal documentation must be modified or additional documentation is required, the applicant will be notified and a resubmittal may be required.

4. Once the application is deemed sufficient, the Planning Official, will forward the application to the appropriate reviewers.

**E. Modifications.** After approval has been issued, it shall be unlawful to substantially change, modify, alter, or otherwise deviate from the terms or conditions of the plan or approval without first obtaining an approval of a modification.

#### F. Illegal Activity.

1. Prior to seeking any level of development approval (including variances, temporary uses, or modifications to prior approvals), the owner, applicant, or occupant must cease and desist all activity on the subject property that is not legally in compliance with this Code or any other condition imposed through prior development approval. This includes but is not limited to construction, excavation, parking or vehicles, storage of materials, or the operation of a business that is not legally meeting the requirements or exempted from this Code.
2. No earth moving, utility work, grading, construction or development activity may be undertaken unless the activity is authorized pursuant to this Code.

### Sec. 9.1.2. Processing Time for Applications

**A. Purpose.** To provide applicants with an identified period for development review. All reviews will be completed based on the latest administrative procedures with the maximum timeframes identified within this section.

#### B. Review Timeframes.

1. **Sufficiency.** Florida statutes require cities to review and issue a letter to each applicant indicating the application is complete or specifying deficiencies within 30 days after receipt of the application. If deficiencies are identified, applicants have 30 days to submit the required additional information, otherwise the application will be deemed as withdrawn.
2. **Application Review.** Within 120 days after an application is deemed complete, or 180 days for an application that requires final action through a quasi-judicial or public hearing, cities must approve, approve with conditions or deny each application. These limits may be reasonably extended by mutual agreement of the applicant and the city.



3. **Reasonable extension of time.** The City of Lake Alfred defines a reasonable extension of time as:
  - a. **Initial application review.** Up to 30 additional days to complete an initial or revised application review;
  - b. **Application deficiency.** Up to 60 additional days to submit additional information to correct an application deficiency;
  - c. **Final action.** Up to 90 additional days for final action approving, approving with conditions, or denying an application for a development order or development permit.
4. **Hearing Timeframes.**
  - a. The Planning and Zoning Board shall act on the matter within 45 calendar days after an application has been submitted.
  - b. In not more than sixty (60) days of receipt of the Planning and Zoning Board recommendation, the City Commission shall hold a public hearing, after due public notice, on all recommendations associated with a Plan Amendment from the Planning and Zoning Board.
  - c. If an application is not acted upon finally by the City Commission within six months of the date upon which the Planning and Zoning Board made a recommendation to the City Commission, the application shall be deemed denied without prejudice. However, no application shall be deemed denied if the City Commission has continued its consideration to a date certain, or has stayed action on the application by enactment of a moratorium ordinance.
  - d. The City Commission may act on any application without a recommendation from the Planning and Zoning Board if the board has not acted on the matter within 45 calendar days of the date of the first regular meeting of Planning and Zoning Board after an application has been submitted.

### Sec. 9.1.3. Public Notice

- A. **Purpose.** This section identifies the minimum notice requirements for development orders that are subject to public notice requirements of this Code, other City Ordinances, or Florida Statutes.
- B. **Fees.** The original cost of advertising is included in the application fees. A request by the applicant to continue a hearing, continuance of a case, or other instances where additional notices are required, the applicant shall incur any re-notification and re-advertising costs.
- C. **Applicability.** The type of public notice and for which application types are identified on Table 9.1.
- D. **Legal Advertisements in Newspaper.**
  1. Legal ads for public notice shall be in accordance with Florida Statutes.
  2. Legal ads for ordinances shall be noticed 10 calendar days prior to the date of the hearing.
  3. Legal ads for variance hearings have no size requirement required by any other provisions may be placed in the classified ad section of a newspaper.
  4. Legal ads shall identify the physical address of the subject property; the date, time, and location of the public hearing; and a description of the application including the nature and degree of the request, potential uses, and other information as required.
- E. **Mailed notice.**
  1. Notice to affected property owners shall be per Florida Statutes.
  2. 1. Notice to affected property owners shall be mailed to all real property owners whose land will be affected and whose property lies within 300 feet of any affected property.
  3. Not required for text amendments unless associated with a specific property.
  4. Unless otherwise provided by law, addresses for mailed notice required by this Article shall be obtained from the latest ad valorem tax records provided by the County Property Appraiser.
  5. The notice shall identify the physical address of the subject property; the date, time, and location of the public hearing; and a description of the application including the nature and degree of the request, potential uses, and other information as required by the City.
  6. The notice shall be mailed at least 15 calendar days prior to the date of the hearing.

7. The failure of any person to receive a mailed notice shall not invalidate an action if a good faith attempt was made to comply with the notice requirements.

**F. Posted notice.**

1. Public hearings shall be posted at City Hall and on the City's website least five (5) calendar days prior to the public hearing.
2. The City may post a development site.

**G. Local Government Notification.** When a proposed case lies within 300 feet of another local government, the jurisdiction shall be notified so that they may provide written comments or have an opportunity to send a representative to the public hearing.

**H. Additional Public Notice/Hearing Standards.**

1. **City Ordinances.** Section 2.09 of the City Code of Ordinances regulates ordinances, in general, for the City of Lake Alfred and includes notice procedures.
2. **City Emergency Ordinances.** Section 2.10 of the City Code of Ordinances regulates ordinances emergency ordinances; however F.S. 166.041 limits the use of emergency ordinances or resolutions for zoning actions. An emergency ordinance or a resolution may not be used to make Comprehensive Plan amendment changes.
3. **Annexations** are regulated by F.S. Chapter 171.
4. **Comprehensive Plan** amendments are regulated by F.S. Chapter 163.
5. **Zoning** amendments are regulated by F. S. 166.041.
6. **Development Agreements** are regulated by F.S. Chapter 163.3225 and at least one public hearing shall be held by the Planning and Zoning Board.
7. **Code Enforcement Special Magistrate** hearings are regulated pursuant to Sections 2-281 and 32-3 of the City Code of Ordinances and F.S. Chapter 162.

## Sec. 9.1.4. Types of Review & Approval Processes

### A. Table of Review and Approval Processes

Table 9.1 summarizes the case types, approval process, authorities, and public notice requirements for development applications in Lake Alfred.

Application Types:	Approval Process [see Sec. 9.1.4]	Review & Approval Authority [see Sec. 9.8]					Appeals Process [Sec. 9.2] Dev. Review Magistrate	Public Notice [see Sec. 9.1.3]		
		Building Official	Planning Official	Technical Advisory Committee	P & Z Board	City Commission		Newspaper Ad	Mailed Notice	Posted Notice
<b>Legislative Review [see Sec. 9.3]</b>										
Comp. Plan Text Amendment	Commission	—	R	R	R-PH	D-PH		Y	—	—
Comp. Plan Map Amendment	Commission	—	R	R	R-PH	D-PH		Y	Y	Y
ULDC Text Amendment	Commission	—	R	R	R-PH	D-PH		Y	—	—
ULDC Map Amendment (Zoning)	Commission	—	R	R	R-PH	D-PH		Y	Y	Y
<b>Site Development Review [see Sec. 9.4]</b>										
Conditional Use Permit - A	Admin	R	R	D	—	—	A	—	—	—
Conditional Use Permit - B	Board	—	R	R	D-PH	A-PH		Y	Y	Y
Conditional Use Permit - C	Commission	—	R	R	R-PH	D-PH		Y	Y	Y
Planned Unit Development (PUD)	Commission	—	R	R	R-PH	D-PH		Y	Y	Y
Dev. Agreements	Commission	—	R	R	R-PH	D-PH		Y	Y	Y
<b>Subdivision Review [see Sec. 9.5]</b>										
Lot Split & Replat	Admin	—	R	D	—	A-PH		—	—	—
Platted Subdivision	Commission	—	R	R	—	D-PH		—	—	—
<b>Development Permit Review [see Sec. 9.6]</b>										
Construction Plans	Admin	R	R	D	—	—	A	—	—	—
Building Permit	Admin	D	—	—	—	—	A	—	—	—
Temporary Use Permit	Admin	R	R	D	—	—	A	—	—	—
<b>Relief [see Sec. 9.7]</b>										
Administrative Waiver	Admin	D	D	D	—	—	A	—	—	—
Minor Variance	Board	—	R	R	D-PH	A-PH	D-PH	Y	Y	Y
Major Variance	Commission	R	R	R	R-PH	D-PH		Y	Y	Y

**B. Administrative Process.**

1. **Application Types.** City staff have decision-making authority for:
  - a. Application Types listed in Table 9.1 as having decision authority by the Building Official, Planning Official, or the Technical Review Committee (TRC).
  - b. Administrative Determinations as identified through this Code.
  - c. Minor Alternate Site Design in DOD as listed in Section 2.3.2.
  - d. Conditional Uses in Table 3.1.4 requiring Administrative (A) approval.
  - e. Temporary use including Special Event permits as listed in Section 3.9.
  - f. Change of Use as listed in Section 4.1.
  - g. Minor modifications to a PUD as listed in Section 2.???
  - h. Minor modifications to a CUP as listed in Section 2.???
  - i. Lot Split as listed in Section 9.??
  - j. Temporary use and Special Event permits as listed in Chapter 6, Section 38-5, and ??? of the City Code of Ordinances.
2. **Technical Review.**
  - a. Upon determination of a complete application, the Planning Official will begin review of the application and delegating review authority to the Technical Review Committee if deemed appropriate.
  - b. Each application will be reviewed against criteria respective of the request.
  - c. The Technical Review Committee shall provide the applicant an opportunity to meet with the committee to discuss any comments.
3. **Administrative Decision.** Upon technical review of the application, the appropriate administrative shall provide a determination of approval, approval with conditions, or denial.

**C. Planning and Zoning (P&Z) Board Process.**

1. **Application Types.** The Planning and Zoning Board has decision-making authority for:
  - a. Application Types listed in Table 9.1 as having decision authority by the Planning and Zoning Board.

- b. Major Alternate Site Design in DOD as listed in Section 2.3.2
- c. Conditional Uses in Table 3.1.4 requiring Board (B) approval and their modifications.
- d. Variances

**2. Technical Review.**

- a. Upon determination of a complete application, the Planning Official will forward the application to the Technical Review Committee.
- b. The TAC shall review the application in accordance with the application-specific review criteria outlined in the proceeding sections.
- c. The TAC shall provide comments, findings, and prepare a recommendation to the Planning and Zoning Board to approve; approve with conditions; or deny based upon a determination that the proposed development, even with reasonable modifications and conditions, does not meet the review criteria set forth in this section.

**3. Planning and Zoning Board Decision.**

- a. The Planning and Zoning Board shall review the application, Planning Official's report and the TAC findings and recommendations at a public hearing.
- b. When reviewing the application, the Planning and Zoning Board may receive and consider the comments and concerns of members of the public.
- c. This Planning and Zoning Board shall provide a decision of approval, approval with conditions, or denial to the application.

**D. Development Review Magistrate Process.**

1. **Application Types.** The Development Review Magistrate has decision-making authority for:
  - a. Application Types listed in Table 9.1 as having decision or appeals authority by the Development Review Magistrate.
  - b. Variances and Variance Appeals.
2. **Technical Review.**

- d. Upon determination of a complete application, the Planning Official will forward the application to the Technical Review Committee.
- e. The TAC shall review the application in accordance with the application-specific review criteria outlined in the proceeding sections.
- f. The TAC shall provide comments, findings, and prepare a recommendation to the Magistrate to approve; approve with conditions; or deny based upon a determination that the proposed development, even with reasonable modifications and conditions, does not meet the review criteria set forth in this section.

3. **Appeal Review.** See Section 9.2

4. **Development Review Magistrate Decision.**

- d. The Development Review Magistrate shall review the application, Planning Official's report and the TAC findings and recommendations at a public hearing.
- e. When reviewing the application, the Development Review Magistrate may receive and consider the comments and concerns of members of the public.
- f. This Development Review Magistrate shall provide a decision of approval, approval with conditions, or denial to the application.

E. **City Commission Process.**

1. **Application Types.** City Commission has decision-making authority for:

- a. Conditional Uses in Table 3.1.4 requiring City Commission (C) approval.
- b. Special Event Permits requesting fire-works per the City Code of Ordinances Section 34-6.
- c. Agreements as required by Sec. 9.4.7.
- d. Application Types listed in Table 9.1 as having decision authority by the City Commission.

2. **Technical Review.**

- a. Upon determination of a complete application, the Planning Official will forward the application to the

Technical Review Committee.

- b. The TAC shall review the application in accordance with the application-specific review criteria outlined in the proceeding sections.
- c. The TAC shall provide comments, findings, and prepare a recommendation to the Planning and Zoning Board. to approve; approve with conditions; or deny based upon a determination that the proposed development, even with reasonable modifications and conditions, does not meet the review criteria set forth in this section.

3. **Planning and Zoning Board Recommendation.**

- a. The Planning and Zoning Board shall review the application and TAC findings at a public hearing. When reviewing the application, the Planning and Zoning Board may receive and consider the comments and concerns of members of the public and other relevant boards serving the City Commission.
- b. The Planning and Zoning Board shall make a recommendation of approval, approval with conditions, or denial to the City Commission regarding the application.

4. **City Commission Decision.**

- a. The City Commission shall consider the application at a public hearing if required by law for all Legislative Review and major plats.
- b. The transmittal may include all pertinent documents submitted by the applicant, the Planning Official's report and recommendation, the Planning and Zoning Board findings and any other applicable documentation or graphics.
- c. The City Clerk shall keep all this material as part of the public record of the City Commission.
- d. This City Commission shall provide a decision:
  - i. **Approve.**
  - ii. **Approve with Conditions.** The City Commission may attach whatever reasonable conditions or requirements deemed necessary to ensure compliance with the Code standards or maximum mitigation of the adverse impacts of the development.

- iii. **Modify.** Modify the application so that these standards are met.
- iv. **Phase.** Phase the application to ensure compliance with the standards herein and other standards and requirements in this Code.
- v. **Deny.** With or without prejudice.

**F. Code Enforcement Special Magistrate (CESM) Process.**

- 1. The proceeding process for the CESM are described in Section 2-281 and 2-283 of the City Code of Ordinances and are pursuant to F.S. Chapter 162.
- 2. The CESM has decision-making authority to make decisions regarding alleged violations pursuant to Section 2-270 of the City Code of Ordinances.

**Sec. 9.2. Appeals Process**

**Sec. 9.2.1. General Provisions.**

- A. **Purpose.** Provide a process for injured parties to reverse a development approval.
- B. **Applicability.** Following a decision by the authority, prior to approval of any subsequent process.
- C. **Notice.** A notice of appeal, together with the applicable fee and any submittal requirements established by the City, shall be filed with the city within 30 calendar days of the effective date of the board decision at issue. The notice of appeal shall set forth a detailed basis for the appeal.
- D. **Stay during appeal.** The filing of a timely notice of appeal shall stay all proceedings in furtherance of the decision being appealed, including the issuance of any building permit or development order, until the appeal has been concluded in accordance with this Article. The applicant may file applications, plans, or other information with the City pending the outcome of the review, but the filing of such shall create no rights to any related approval by the City.
- E. **Intervening parties.** Within 20 calendar days of the filing of a notice of appeal pursuant to this section, any person with standing may intervene and become a party to the appeal by filing a notice of appeal in accordance with this section.
- F. **Scheduled hearing.** The matter shall be set for a public hearing within 50 calendar days of the date of the notice of appeal. This period may be extended by agreement of the city and all parties appealing the decision.
- G. **Limited hearing.** The hearing shall be limited to the record on appeal and shall consist of oral argument by city staff and parties with standing, each of whom may be represented by legal counsel, and the party challenging the administrative decision shall have the burden of proof. The hearing shall be conducted in accordance with established Florida law for quasi-judicial hearings.
- H. **Standing.**
  - 1. **Adversely affected party.** An applicant who is adversely affected by the decision.

2. **Property owner.** A property owner whose property is the subject of the decision.
3. **Neighboring property.** All owners of real property that lies within 400 feet of the property that is the subject of the decision.
4. **Party with contractual interest.** Any resident, landowner, or person having a contractual interest in land in the city who demonstrates a direct adverse impact from the decision that exceeds in degree the general interest in community good shared by all persons.

### Sec. 9.2.1. Appeals of administrative decisions.

- A. **Authority.** The Development Review Magistrate has authority to hear and decide appeals of administrative decisions, orders, requirements, interpretations, determinations, or actions.
- B. **Record on appeal.**
  1. **The record on appeal shall consist of the following:**
    - a. the application and accompanying information; and
    - b. the written administrative decision and accompanying information.
  2. **All parties may freely refer to provisions from the following:**
    - a. The Comprehensive Plan, Land Development Code, and any other City ordinance, resolution, or rule; and
    - b. Any federal or state statute, rule, or decision.
  3. **Additional evidence.** If any party desires to admit any additional evidence, the additional evidence shall be disclosed to the other parties and the Development Review Magistrate not less than five calendar days before the hearing. At the beginning of the hearing, the Development Review Magistrate shall rule on whether such additional evidence may be presented and shall freely allow the evidence when such evidence is relevant to the issue on appeal.
- C. **Appeal criteria.** The Development Review Magistrate shall make a decision based on the appeal criteria provided in this section.
  1. The Development Review Magistrate shall give deference to the administrative official's final decision, order, requirement, interpretation, determination, or action.
  2. In making a decision, the Development Review Magistrate

may take any action that the administrative official was authorized to take.

3. The Development Review Magistrate shall use binding, and may use persuasive, Florida case law as it relates to this standard of review.
  4. The Development Review Magistrate may affirm, reverse, or modify the decision or action of the administrative official.
  5. The Development Review Magistrate may only reverse or modify such when the Development Review Magistrate finds that the administrative official's final decision, order, requirement, interpretation, determination, or action:
    - a. **Unreasonable.** Was clearly erroneous or patently unreasonable and will result in a miscarriage of justice;
    - b. **No foundation in reason.** Has no foundation in reason, meaning the absence of a situation where reasonable minds could disagree, and is a mere arbitrary or irrational exercise of power having no substantial relation to the public health, morals, safety, or welfare;
    - c. **Ultra vires act.** Was an ultra vires act, meaning the administrative official clearly lacked the authority to take the action under statute or the City of Gainesville Charter Laws or Code of Ordinances.
- D. **Development Review Magistrate Decision.** The decision of the Development Review Magistrate shall be rendered in writing not later than seven (7) calendar days after the date of the hearing's conclusion, and shall include findings of fact, if any, and conclusions of law.
  - E. **Final decision.** The decision of the Development Review Magistrate shall be final, and may be subject to judicial review as provided in law.

### Sec. 9.2.2. Appeals of Planning and Zoning Board decisions

- A. **Authority.** The City Commission has authority to hear and decide appeals of the decisions of the Planning and Zoning Board, when all of the following criteria are met:
  1. **Quasi-judicial decision.** The board decision was quasi-judicial, meaning the board applied established policy or law to a specific, individualized situation. Quasi-judicial board decisions include but are not limited to variances, and development plan



review.

2. **Final decision.** The board decision was final, and not advisory.

**B. Record on appeal.** The record on appeal shall consist of an exact replication of the information that was before the board for the decision being appealed, which may include the following:

1. The application and accompanying information.
2. Staff reports and recommendations, and any accompanying information.
3. All exhibits and documentary evidence.
4. The summary, findings, conclusions, and decision of the board that is the subject of the appeal.
5. Any audio or video recording of the board hearing that is the subject of the appeal.
6. Any verbatim transcript available of the board hearing that is the subject of the appeal.

**C. Appeal criteria.** The City Commission shall make a decision based on the appeal criteria provided in this section.

1. The City Commission shall use established Florida law as it relates to this standard of review.
2. The City Commission may either affirm the board decision or remand the decision back to the reviewing board with specific issues for the reviewing board to address.
  - a. **Affirming the board.** If the City Commission affirms the board decision at issue, the decision shall be final and may be subject to judicial review as provided in law.
  - b. **Remanding the board.** If the City Commission remands the board decision at issue, the reviewing board shall reconsider its decision and shall consider the issues specified and may accept, reject, or modify the findings and conclusions in making the final decision. After considering the City Commission findings and conclusions, the reviewing board's decision shall be final and may be subject to judicial review as provided in law.
3. The City Commission shall affirm the board decision unless an appealing party with standing demonstrates that any one of the following three requirements was not met.
  - a. **Procedural due process.** Were the appealing parties

afforded procedural due process, which includes:

- i. Notice of the board hearing that is the subject of the appeal;
  - ii. A fair hearing before an impartial decision-maker;
  - iii. An opportunity to be heard and present evidence at the hearing; and
  - iv. The opportunity to cross-examine any witnesses.
- b. **Essential requirements of law.** Were the essential requirements of law observed by the reviewing board:
- i. A departure from the essential requirements of law. A decision made according to the form of the applicable law and the rules prescribed for rendering it, although it may be erroneous in its conclusion as applied to the facts, is not an act that amounts to a departure from the essential requirements of law.
  - ii. Seriousness of error. The seriousness of any error shall be examined and discretion exercised only when there has been a violation of a clearly established principle of law that results in a miscarriage of justice.
- c. **Competent substantial evidence.** Was the decision supported by competent substantial evidence:
- i. **Competent substantial evidence.** Competent substantial evidence means such evidence that may establish a substantial basis from which the fact at issue can be reasonably inferred, or material and relevant evidence that a reasonable mind could accept as adequate to support a conclusion. The opinions and recommendations of experts, including city staff, are deemed expert testimony and constitute competent substantial evidence. Citizen testimony during any public comment portion of a hearing may constitute competent substantial evidence if it is fact-based and not a mere generalized statement of support or opposition.
  - ii. **Basis for rule.** The City Commission may not reweigh the evidence or substitute their judgment



for that of the reviewing board, but rather shall rule upon only whether the reviewing board's decision was supported by any competent substantial evidence.

- D. **City Commission Decision.** The decision of the City Commission shall be rendered in writing not later than seven (7) calendar days after the date of the hearing's conclusion, and shall include findings of fact, if any, and conclusions of law.

### Sec. 9.2.4. Other Appeals

- A. **Authority.** The Circuit Court has authority to hear and decide appeals decisions of the City Commission and the Code Enforcement Special Magistrate.
- B. **Code Enforcement Special Magistrate (CESM). Additional information on** The appeal process for the CESM are described in Section 2-284 and 32-6 of the City Code of Ordinances.

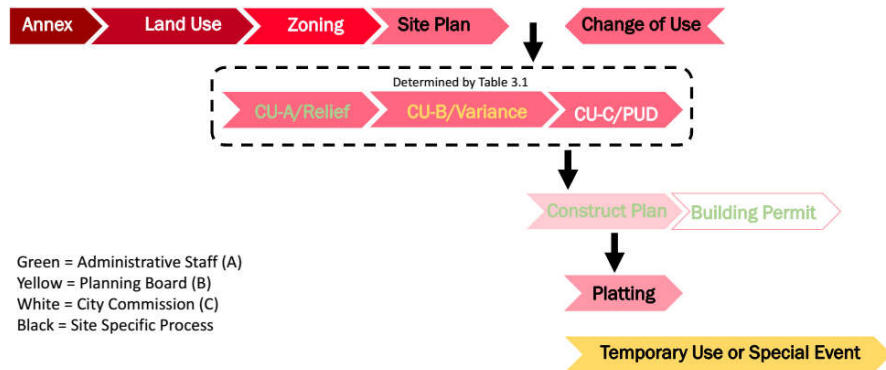
## Sec. 9.3. Legislative Review

### Sec. 9.3.1. General provisions for Legislative Review

- A. **Purpose.** Requests that amend or modify land development policy are considered legislative matters and require public hearing review by the Planning and Zoning Board and final decision by the City Commission.
- B. **Applicability.** Applicant initiated process, must be in place prior to development of any site to establish the development standards.
- C. **Defined.** Such requests include the following:
  1. **Comprehensive plan text amendments**
  2. **Comprehensive plan map amendments**
  3. **ULDC text amendments**
  4. **ULDC map amendments (Zoning)**
- D. **Types of Amendments.**
  1. **Text amendments.** Amendment to the goals, objectives, and policies of the Comprehensive Plan or to the development standards in the Unified Land Development Code .
  2. **Map amendments.** Amendment of a Comprehensive Plan Map Series of the Unified Land Development Code Map Series.
  3. **Multi-purpose amendments.**
    - a. Applications may include a text and map components for either the Comprehensive Plan or Unified Land Development Code.
    - b. Separate applications must be processed for amendments to the Comprehensive Plan and Unified Land Development Code.
    - c. The most restrictive review standards will apply.

## Development Review Process

ULDC



### Sec. 9.3.2. Application Requirements

- A. **All applications.** All applications for legislative review must include the following:
  1. **Project narrative.** A description of the proposed amendment and how it is consistency with the existing goals, objectives, and policies of the Lake Alfred

Comprehensive Plan and Unified Land Development Code.

2. **Supporting data.** Data and analysis that supports the proposed amendment, specifically, new data that would alter the assumptions in the Comprehensive Plan or Unified Land Development Code and would, therefore, justify the amendment.

#### **B. Text Amendments.**

1. **Narrative.** A description of the proposed text amendment and objective.
2. **Proposed text.** A strike through/underline version of the text to be modified, deleted, or added.

#### **C. Site Specific amendments.**

1. **Location map.** The location of all public and private streets, driveways and utility easements within and adjacent to the subject property.
2. **Future land use and zoning maps.** Detailed maps showing the proposed future land use designation and/or zoning district for the subject site and surrounding properties.
3. **Certified survey.** A certified boundary survey of the subject property, prepared by a surveyor registered with the State of Florida. The survey must show the location and type of boundary evidence related to the State Plane Coordinate System, if available, and the total acreage of the tract to the nearest tenth of an acre. Survey must have been done within one year prior to filing.
4. **Legal description.** A metes and bounds legal description of the subject property, including the size of the area in acres.
5. **Site inventory and concurrency analysis:**
  - a. Terrain, soils, surface waters, wetlands, floodplains
  - b. Endangered plant and animal species, vegetation and habitats
  - c. Existing sewer service and potable water facilities with capacities and the future demand associated with the proposed development

- d. Functional classification of roads serving the area with estimated daily traffic volumes; an analysis detailing the future volumes and their effect on roadway, location of all public and private streets, driveways and utility
- e. Easements within and adjacent to the site.
- f. Recreation land and facilities needs generated by the proposed development
- g. Current or former use of site, surrounding uses, community need for the development, creates or maintain a proper mix of uses in the area/City, type of buffer needed between proposed development and existing land uses.
- h. Said analysis must address the site as it now exist, and as it may exist in the future, as a result of the implementation of the amendment to the goals, objectives, policies, or maps of the Comprehensive Plan

#### **Sec. 9.3.3. Review Criteria**

- A. **Level of Review.** The Planning and Zoning Board may recommend and the City Commission may approval of an application for an Amendment only when all of the following conditions are met by one of the standards listed:
- B. **Consistency with comprehensive plan.**
  1. The proposed plan amendment is consistent with the goals, objectives and policies of the City of Lake Alfred Comprehensive Plan.
  2. Or the proposed plan amendment proposes goals, objectives and policies that will be consistent with the City of Lake Alfred Comprehensive Plan.
- C. **Concurrency analysis.**
  1. The proposed Plan Amendment will not degrade the Level of Service of one or more public facilities and services as identified in Article 8, and does not increase the cost of improvements to be undertaken by the City as stated in the Capital Improvements Element.
  2. Or the Plan Amendment contains commitments to make improvements to maintain Levels of Service established by the Comprehensive Plan, and identifies the timing of

improvements to maintain Levels of Service established by the Comprehensive Plan; and estimates the cost of such improvements to the City and to the developer.

**D. Context compatibility.**

1. The proposed Plan Amendment will not have any adverse impacts to adjacent land uses, the character of the neighborhood, parking, or other matters affecting land use compatibilities and the general welfare of the City.
2. Or the proposed Plan Amendment; and contains commitments to make improvements to mitigate for the adverse impacts or proposes goals, objectives and policies to mitigate or eliminate adverse impacts.

**E. Community needs analysis.**

1. The proposed Plan Amendment will benefit the community and will not result in a detrimental concentration of a particular use within the City or within the immediate area.
2. Or the Plan Amendment contains sufficient proof to convince the Planning and Zoning Board and the City Commission that the proposed Plan Amendment supplants the analysis that supported the establishment of the existing goals, objectives, policies, or maps.

**F. ULDC site-specific amendments.** The following additional criteria shall be considered when reviewing a ULDC amendment:

1. **Substantial changes in land use circumstances.**
  - a. The proposed amendment is not a significant change in land use in the vicinity of the proposed rezoning.
  - b. Or the proposed amendment is a significant change and impacts have been mitigated in the plan.
  - c. Such changes are substantial if they include: a widening of a street, expansion of existing permitted uses, the completion of a subdivision that was previously platted, the construction of a new public facility, such as a park, or any number of other examples.
  - d. One such change may not be significant and may not justify the rezoning, but several would be and

may justify rezoning to higher intensities.

2. **Time vacant.** The proposed property has been vacant significantly longer than property similar situated with the same classification within the City.
3. **Effect on property values.** The proposed amendment would not have a significantly negative impact on adjacent property values.

**Sec. 9.3.4. Approval Process**

**A. Comprehensive Plan Amendments.** Plan Amendments are subject to review by the Florida Department of Economic Opportunity (DEO) under Chapter 163, Florida Statutes. Florida Statutes require different adoption processes, with accompanying effective dates, for each amendment type.

1. **Small scale amendments.**

- a. 10 acres or fewer - 20 acres in a designated Rural Area of Opportunity
- b. Limited to Future Land Use Map (FLUM) changes for site-specific small-scale development activities - no text changes except those that relate directly to and are adopted simultaneously with the small scale FLUM change
- c. Pursuant to F.S. 163.3187
- d. Requires one public hearing before the Planning and Zoning Board.
- e. Requires one public hearing before the City Commission
- f. Become effective 31 days after adoption if no challenge is filed.
- g. The City Commission may adopt a small scale amendments before transmission to DEO.

2. **State coordinated review amendments.**

- a. Areas of Critical State Concern pursuant to F.S. 380.05
- b. Rural Land Stewardship pursuant to F.S. 163.3248
- c. Sector plans or amendment pursuant to F.S. 163.3245
- d. Comprehensive plans based on evaluation and appraisal reports pursuant to F.S. 163.3191
- e. Propose a development that qualifies as a development

of regional impact pursuant to F.S.380.06

- f. Requires one public hearing before the Planning and Zoning Board.
- g. Requires two public hearings before the City Commission
- h. Requires transmission to DEO prior to adoption.
- i. Become effective pursuant to the State Land Planning Agency's Notice of Intent.

3. **Expedited review amendments.**

- a. All other comprehensive plan map amendments
- b. Pursuant to F.S.163.3184
- c. Requires one public hearing before the Planning and Zoning Board.
- d. Requires two public hearings before the City Commission
- e. Requires transmission to DEO prior to adoption.
- f. Become effective 31 days after the State Land Planning Agency notifies the local government that the amendment package is complete.

**B. Unified Land Development Amendments.**

1. **Submittal Requirements.**

- a. Submittal requirements for all legislative applications (see Sec. 9.3.1.C)
- b. **Generalized site plan** of any proposed development including; the number of units proposed and resulting net density; number of proposed parking spaces and location; footprint of all proposed buildings and structures on the site, including setbacks; proposed landscape or buffer yards areas; and sign locations.

2. **Public Hearings.**

- a. Pursuant to F. S. 166.041
- b. Requires one public hearing before the Planning and Zoning Board.
- c. Requires one public hearings before the City Commission.
- d. Becomes effective 10 days after City Commission approval or as otherwise provided such as when a ULDC amendment is contingent on a Comprehensive Plan amendment.

- 3. **State Review.** Amendments within the Green Swamp Area of Critical State Concern are required to issue and to render to the Department of Economic Opportunity (DEO) development orders pursuant to FAC 73C-44.002.

## Sec. 9.4. Site Development Plan Review

### Sec. 9.4.1. General Provisions

- A. Purpose.** The site development plan process ensures that site-specific development projects meet the requirements of this Code and that infrastructure is in place to support. Site Plan approval also provides assurance to a developer that upon receipt of this approval that development may proceed in accordance with existing laws and policies, subject to the conditions of a site plan approval and any corresponding agreement. This strengthens the public planning process, encourages sound capital improvement planning and financing, assists in assuring there are adequate capital facilities for the development, encourages private participation in comprehensive planning, and reduces the economic costs of development.
- B. Applicability.** Site development plan approval shall be required for all uses prior to the issuance of construction plan approval, platting, or a building permit. In addition, a change of use, expansion or reconfiguration of any type of development is subject to site development plan approval.
- C. Defined.** Such requests include the following:
- 1. Conditional Use /Change of Use**
  - 2. Planned Unit Development (PUD)**
  - 3. Development or Developers Agreement (DA)**
- D. Exemptions.**
1. Single-family dwelling or duplex on a lot in a valid recorded subdivision plat or on a lot of record.
  2. Bona fide agricultural activity as defined by Florida Statutes.

### Sec. 9.4.2. Application Requirements

- A. Pre-Application.**
1. A pre-application conference is suggested for all site plan reviews.
  2. Pre-applications shall include a project narrative, location map, and preliminary development plan.
  3. Pre-applications are required for projects within the DOD (Section 2.3.2) or Green Swamp Overlay District (Section 2.3.3).
- B. Site Plan Application.** All applications for site plan review must

include the following contents, unless otherwise exempted:

- 1. Project narrative.**
  - a. A description of the proposed development and how it is consistency with the existing goals, objectives, and policies of the Lake Alfred Comprehensive Plan.
  - b. A statement or map indicating the distance to all public improvements such as schools, firehouses, public recreational areas, that would serve the subject development.
  - c. A statement by the applicant of the major planning assumptions and objectives of the development project including but not limited to:
    - i. Size and/or scope of development.
    - ii. Projected Population.
    - iii. Proposed timing and phases of development.
    - iv. Proposed ownership and forms of organization to maintain common open space and facilities.
  - d. A concurrency analysis of all public facilities and services for which a Level of Service has been established in the Comprehensive Plan, pursuant to the standards and procedures in Article 6 of this Code.
  - e. A transportation analysis, prepared by a professional in the field of transportation planning, to include an estimate of average trips/land use, total average daily trips, distribution of total peak hour trips on existing and/or proposed transportation network, and distribution splits onto existing and/or proposed transportation network.
- 2. Proof of ownership.**
  - a. Firm evidence of control by the applicant(s) of the entire proposed site.
  - b. **Conditions of Approval.** Agreeance to abide by the officially approved Site Plan of the development, and such other conditions and modifications as may be included.
  - c. **Agreements and Covenants.** Provide proposed agreements, covenants, or other appropriate mechanisms for completion of the undertaking in accordance with the approved Site Plan as well as for the continuing operation and maintenance of such areas, functions, and facilities as are not to be provided, operated and maintained at

general public expense.

- d. **Bind Development Succession.** Agreement to bind their development successors in title to any commitments made as a condition of development approval.

3. **Cover Page Information.**

- a. **Plan name.** Site development name.
- b. **Owner information.** The property owner's name, address and telephone number; and the designated project applicant or representative if other than property owner.
- c. **Engineer information.** The engineer's name, address, telephone number and registration number.
- d. **Legend block.** North arrow, scale and date prepared.
- e. **Location Map.** Site location block or map on the drawing showing the subdivision's relationship to City limits and major roads. A general location map showing the relationship of the subdivision tract to such external facilities as streets, residential area, commercial facilities, and recreation or open space areas, and greenways, within one mile of the tract.
- f. **Future land use and zoning.** Future land use and zoning district assigned to the property that is the subject of the site plan and to the properties contiguous thereto.
- g. **Site Data.** Tabular data block including total site acreage, acres of the site in wetlands, acres of the site in water bodies, area and delineation of the site within the 100-year flood zone as identified by FEMA, area in stormwater management, acres of pervious and impervious areas, and acres of site in common area, open space and recreation use.
- h. **Approval Stamp.** Reservation of a blank space, three inches wide and three inches high for the use of the approving authority near the title block or engineers information.

4. **Certified survey.**

- a. A certified boundary survey of the tract and adjacent properties a minimum of 100 feet showing the location of utilities, structures, and type of boundary evidence related to the State Plane Coordinate System.
- b. Prepared by a surveyor registered with the State of Florida.
- c. Accurate metes and bounds legal description of the property with a computation of the total acreage of the tract to the

nearest tenth of an acre.

- d. Identification of the name, plat book and page number of any recorded subdivision comprising all or part of the site.
- e. Survey must have been completed within one year prior to filing.

5. **Topography map.**

- a. Existing site topography and a minimum of 100 feet or more of the surrounding area as required to determine the offsite drainage and any impacts caused by or related to the offsite drainage.
- b. Prepared by a surveyor registered with the State of Florida.
- c. Maximum intervals of one foot where overall slopes are no more than two percent, two feet where slopes are between two and ten percent, and five feet where slopes are ten percent or greater based on North American Vertical Datum, 1988.

6. **Preliminary Lot Layout.**

- a. **Layout.** General layout and typical dimensions of proposed lots, blocks, parcels, tracts, sites, common areas and streets; which meet the minimum zoning district standards for width, depth and area.
- b. **Layout Data.** Proposed use and the number of acres devoted to each use. Total number of lots, number of existing and proposed units and resulting gross density and/or floor area intensity of non- residential uses.
- c. **Streets and easements.** Location and names of all existing and proposed right-of-ways for public and private streets, driveways and utility easements, within and adjacent to the site. Number of required and provided off-street parking and loading spaces.
- d. **Phase lines.** Phase lines, if the development is constructed in phases.
- e. **Typical Lot.** Typical lot layout for interior and corner lots showing minimum building setbacks in accordance with the adopted zoning;

7. **Site Plan.** The site plan shall be legibly drawn at a scale of at least one inch equals 100 feet using a sheet size of 24 inches by 36 inches, reserving a three-inch binding margin on the left-

hand side and a one-inch margin on the other three sides. If more than one sheet is required, an index map relating each sheet shall be provided.

- a. **Building footprint.** The footprint of all proposed buildings and structures on the site, including setbacks.
  - b. **Parking.** Number of parking lots and spaces required and proposed.
  - c. **Open space.** Open space expressed in square feet and as a percentage of the overall site.
  - d. **Sign locations.**
  - e. **Stormwater management.** Provisions for both on- and off-site stormwater drainage and detention related to the proposed development.
  - f. **Utilities.** All existing and proposed utilities with anticipated demands, including but not limited to:
    - i. Water and sanitary sewer pipe and fire hydrant locations and flows.
    - ii. Telephone, electric, gas and other utilities.
    - iii. Location of major solid waste receptacles.
  - g. The development site shall be designed to provide all required facilities, including parking and stormwater retention; no such facilities shall be located off-site.
8. **Special Area Maps.**
- a. Existing trees having a measured trunk diameter of five (5) inches or more, four (4) feet above grade and understory vegetation that may provide wildlife habitats or other environmentally unique areas.
  - b. Required landscape and buffer yards.
  - c. All wetlands as delineated by the National Wetlands Inventory, water management district, or qualified professional.
  - d. All flood-prone areas as delineated by the Flood Insurance Rate Maps published by the Federal Emergency Management Agency (FEMA).
  - e. Identification of watercourses, or any other environmentally sensitive areas as determined by any appropriate agency.

- C. **Phased Development.** Development built in phases or stages must clearly show the various phases or stages of the proposed

development on the site development plan and on all subsequent site development plans.

- D. **Joint Review of Applications.** At the time of site plan review applicants may also request an administrative waiver or variance. Under no circumstances shall any site development plan be approved that is inconsistent with any term contained in this Code unless a variance or waiver has been authorized in accordance with the provisions of Section 9.7.
- E. **Application Exemptions.** The Planning Official may reduce or waive certain criteria, data, or other submission requirements as appropriate and in consideration of items such as:
  1. No existing structure will be expanded by more than thirty percent (30%) of its total floor area and/or seating.
  2. No change in the existing use of the site is proposed.
  3. No utility or street network infrastructure is needed.
  4. No existing nonconforming use would be expanded, and all other aspects of the site are in conformity with the requirements of this Code.
  5. The development site will not be reduced in size.

#### Sec. 9.4.3. Review Criteria

- A. **Consistency with comprehensive plan.** The proposed development is consistent with the goals, objectives and policies of the City of Lake Alfred Comprehensive Plan.
- B. **Code Compliance.** The proposed development is in conformity with these regulations or as to desirable modification of such regulations in the particular case, based on determination that such modifications are justified as meeting public purposes or is a rezoning recommended.
- C. **Suitability.** The area is suitability of the type and pattern of development proposed in relation to the physical characteristics of the land, relation to surrounding areas, and other requirements of this Code.
- D. **Concurrency analysis.**
  1. The proposed development will not degrade the Level of Service of one or more public facilities and services as identified in Article 8, and does not increase the cost of improvements to be



undertaken by the City as stated in the Capital Improvements Element.

2. Or the proposed development contains commitments to make improvements to maintain Levels of Service established by the Comprehensive Plan, and identifies the timing of improvements to maintain Levels of Service established by the Comprehensive Plan; and estimates the cost of such improvements to the City and to the developer.

E. **Context compatibility.**

1. The proposed development will not have any adverse impacts to adjacent land uses, the character of the neighborhood, parking, or other matters affecting land use compatibilities and the general welfare of the City.
2. Or all steps possible have been taken to minimize any adverse effects of the proposed development on the immediate vicinity and on the public health, safety, and welfare in general.
3. Or the proposed development contains commitments to make improvements to mitigate for the adverse impacts or proposes goals, objectives and policies to mitigate or eliminate adverse impacts.

F. **Community needs analysis.**

1. The proposed development is necessary, beneficial, or desirable to the community and in the interest of furthering the Comprehensive Plan, of providing for the public convenience, or of contributing to the general welfare of Lake Alfred and Polk County; and will not result in a detrimental concentration of a particular use within the City or within the immediate area.
2. Or the proposed development site is not better suited for, or likely to be needed for, uses that are permitted as a matter of right within that district and are in accordance with the future planned development in the area or goals, objectives and policies of the Comprehensive Plan.
3. Or the proposed development contains sufficient proof that supplants the analysis that supported the establishment of the existing goals, objectives, policies, or maps.

G. **Other considerations.**

1. Evidence of unified control of the overall development site.
2. Suitability of any proposed agreements, or contracts, or other instruments that are to be executed to create, provide, operate and

maintenance of common properties and/or facilities.

3. The need for such instruments or for amendments in those that have been proposed. Whether and to what extent, existing zoning and land use in the vicinity of the Conditional Use require special considerations and conditions

**Sec. 9.4.4. Conditions of Approval**

A. **Purpose.** Conditions or safeguards may be considered as necessary to ensure the compatibility of the Site Plan with surrounding properties or the community in general.

B. **Site Development Conditions.** Conditions placed on a development request may include requiring the applicant to make said improvements at their own cost and expense These may include, but not limited to:

1. **Public investments.** Finance or dedicate land for public rights of way, easements, parks and open space, school sites, or other such sites as may be necessary to protect the health, safety, and welfare of City residents.
2. **Utility investments.** Finance or construct potable water, wastewater or drainage facilities.
3. **Hours of Operation.** Requiring restrictions on hours of operation and size of buildings.
4. **Landscaping.** Requiring additional landscape, buffer areas, fences, or walls.
5. **Site layout.** Limiting vehicular access points, prescribing the location of off-street parking,
6. **Other conditions** that are reasonable and necessary to ensure compliance with the intent of this Code and preserve the general welfare of the City of Lake Alfred.

C. **Agreements.**

1. Attachment of conditions shall be voluntary on the part of the applicant, and an agreement by the applicant to provide any conditions will not, in any way, obligate the City to approve the subject application.
2. Any condition shall be based solely on the fact that the development application, as modified or conditioned, meets the standards or intent of this Code, and may not be based solely on the granting of certain conditions deemed favorable by the City.



3. Any conditions adopted as a part of the approval of shall be explicitly stated in the Development Order, and shall be the basis for any subsequent Agreement.
4. Agreement pursuant to Section 9.4.7.
5. Any reasonable conditions necessary, if the applicant agrees in writing in a recordable agreement binding upon his successors and assigns, that no further processing of the development request, pursuant to the provisions of this Code, shall occur until the requirements of this Code are met.

### Sec. 9.4.5. Terms of Approval

- A. **State Review.** Site Plan approvals within the Green Swamp Area of Critical State Concern are required to issue and to render to the Department of Economic Opportunity (DEO) development orders pursuant to FAC 73C-44.002.
- B. **Record Copies.** On approval of a site development plan, the applicant will submit the required number of signed and sealed copies.
- C. The development and use shall be in accordance with the approved Site Development Plan and application materials.
- D. No development site, once granted site development plan approval, shall be divided except through the site development plan modification process established in Section 9.5.
- E. **Development in stages.** Rather than construct the entire site at once, the developer may choose to build the project in stages. Phased development is permissible under the following conditions:
  1. **Site Plans.** Each phase of the development must be approved on the original site plan or a site development plan must be submitted for each successive phase of the development prior to construction plan review.
  2. **Construction schedule.** Developer must submit a construction schedule covering all phases to the Planning Official. This schedule may be revised from time to time as necessary.
  3. **Adequate infrastructure.** All roads, drainage and utility facilities needed to support any stage shall be completed and available for use prior to issuance of any building permits.
  4. **Stormwater.** Any amenity or stormwater management system proposed in any future phase shall be constructed in the first phase of development.
  5. **Open space requirement.** All recreation facilities for the phase shall be completed and available for use prior to issuance of building permits.
  6. **Density/intensity.** No site or individual stage shall exceed the overall density approved on the Site Development Plan.
- F. **Approval Period.**
  1. Approved site development plans are valid for one-year.

2. Site plans shall remain valid after the original one-year approval, if a construction and/or building permit(s) are obtained and have not expired. If these permits have expires the site plan approval will also be considered expired.
3. The Planning Official may grant approval to extend the approval for a single period up to one year from the date when a site development plan would otherwise expire.
4. An extension may be granted if the Planning Official concludes that the recipient of the approved site development plan has proceeded with due diligence and in good faith, and that conditions have not changed substantially so as to warrant a new application.
5. All such requests for extensions must be submitted in writing, not less than thirty (30) days before the expiration of the approved site development plan stating the reason for the time extension request.
6. Site Plan approvals, including any development conditions, shall run with the land and shall be binding on the original applicant as well as any successors or assigns.

G. In the event of an amendment to the Comprehensive Plan, the Land Development Code, or other applicable regulations that occurs prior to completion of construction of the PUD, all subsequent development that has not received approval under Section 7.06.00 (Subdivision Regulations) or Section 7.05.00 (Site Development Plan Regulations) as of the date of the amendment shall be consistent with the new regulations. Approval of development under these sections of the Code shall be valid for one (1) year. Unless construction begins on or before the first anniversary date, development approval shall be null and void, and the new standards shall apply.

#### H. Modification of Site Development Plans

1. **Modifications.** Any modification, variation or adjustment of a stamped approved site development plan shall require approval of a site development plan amendment.
  - a. **Boundaries.** A change in the boundaries of the approved site.
  - b. **Use.** A change from the approved use.
  - c. **Development increase.** A change in density or intensity.
  - d. **Relocation.** A change in the location of structures or

infrastructure.

#### 2. Level of Review.

- a. The Planning Official shall determine whether a proposed site development plan modification is a major modification or a minor modification.
- b. Site Plan modifications are generally approved by the original reviewing authority, however the Planning Official may approve a minor modification to any approved Site Plan.

#### 3. Major Modification.

If the proposed change or amendment is determined to be substantial, including:

- a. increase in density, intensity, or parking greater than ten percent whether at one time or incrementally.
- b. change in permitted uses,
- c. substantial changes in the approved location of principal or accessory structures
- d. Structural alterations significantly affecting the basic size, form, style, ornamentation, and appearance of principal or accessory structures.
- e. Substantial changes in approved pedestrian or vehicular access or circulation.
- f. Substantial change in the approved amount or location of landscape screens or buffers.
- g. change in stormwater runoff characteristics
- h. change in traffic patterns and trip generation
- i. the addition to or removal of any tract or parcel

#### 4. Minor Modification.

- a. Any proposed change or amendment that is not determined to be substantial.
- b. Planning Official may, at their discretion, forward any application to one or more members of the TAC for review and recommendation to:
  - a. Determining the type of modification - major or minor amendment.
  - b. Determine whether a minor modification should be approved, approved with conditions, or denied.

**I. Abandonment.**

- a. The Planning Official may approve the abandonment of a Site Plan approval provided no construction has begun.
- b. If the use allowed by a Site Plan has been abandoned for a continuous period of 12 months, the permit shall be void.
- c. The process to determine whether a use has been abandoned shall be the same as that provided for nonconforming uses in Section 2..

**J. Non-Compliance.**

- 1. **Violation.** Violation or failure to comply with the approved Site Plan, any condition or safeguard, or time limits for performance shall be deemed a violation of this Code.
- 2. **Penalty.** Any action, construction, development or use of property undertaken in violation of the provisions of this Section for a Site Plan shall constitute a violation of this Code and may be subject to revocation of any Site Plan approval, suspension or denial of building permits, a stop-work order, in addition to any other remedy for such violation provided in this Code.
- 3. **Revocation.**
  - a. The City may, after giving proper notice to the permit holder, revoke the permit at a public hearing.
  - b. The permit may be reinstated by the Planning Official if the circumstances leading to the revocation are corrected.
- 4. **Building Permits.**
  - a. Non-compliance shall be cause to deny issuance of a building permit
  - b. Where a permit has been issued pursuant to a stamped approved site development plan, the permit may be render invalid.

**Sec. 9.4.5. Conditional Use/ Change of Use**

- A. **Level of Review.** Applications and their modifications are approved by the reviewing authority listed on Table 3.1.4.
  - 1. **Administrative (A)**
  - 2. **Planning and Zoning Board (B)**
  - 3. **City Commission (C)**
- B. **Supplemental Application Requirements.** In addition to the submittal requirements for all Site Plan applications (see Sec. 9.4.2.C), the following materials are also required:
  - 1. Information on the specific use, such as hours of operation, numbers of employees, customer volumes, etc.
  - 2. Any other information deemed necessary to confirm compliance with the Code requirements of other Sections.
- C. **Supplemental Review Criteria.**
  - 1. **Change of Use.** A change of use on existing developed site shall be reviewed in accordance with the procedures for a site plan modification as described in Section 9.4.5 (H).
  - 2. **Level-of-Review.** The Planning Official may also need to determine the reviewing authority for a Change of Use based on the criteria in Table 3.1.4 and Section 9.4.5(H).
- D. **Supplemental Conditions of Approval.** None.

#### Sec. 9.4.6. Planned Unit Development (PUD)

- A. **Level of Review.** Applications and their modifications are approved by the City Commission pursuant to Section 2.6.5 and Table 9.1.
- B. **Supplemental Application Requirements.** In addition to the submittal requirements for all Site Plan applications (see Sec. 9.4.2.C), the Planning Official or the City Commission may require the owner of the property to undertake specific studies or reports directly related to the PUD request and its potential impacts.
- C. **Supplemental Review Criteria.** The property owner may be required to provide whatever design features are necessary to minimize adverse impacts on the community or abutting properties, including the provision of any needed off-site improvements.
- D. **Supplemental Conditions of Approval.** A PUD may be approved as either a preliminary or final PUD.
  - 1. **Preliminary PUD** - The master site plan for a preliminary PUD provides generalized planning areas and shall establish the overall development concept and uses.
    - a. Dividing the development site into tracts.
    - b. Assigning the tracts generalized land use types (i.e., recreation, retail commercial, townhouses, low-density single family, etc.).
    - c. Depicting the approximate locations of roads, water bodies, utility facilities, and other features of the development site.
    - d. Provided the proposed residential densities, and/or Commercial intensities (i.e., single family residential, multifamily residential, commercial shopping center, hotel/motel, mixed use, etc.).
    - e. Will require approval of a final site plan or final PUD prior to approval of construction plans.
  - 2. **Final PUD** – The master site plan for a final PUD provides a detail plan meeting all the Site Plan requirements of this Section 9.4.1 through 9.4.4.

#### Sec. 9.4.7. Developer/ Development Agreements

- A. **Level of Review.**
  - 1. This intent is to exercising the authority granted to the City to enter into development agreements with developers under F.S. Sections 163.3220 through 163.3243. This Section shall be regarded as supplemental and additional to the powers conferred upon the City by other laws and shall not be regarded as in derogation of any powers now existing.
  - 2. Applications and their modifications are approved by the City Commission pursuant to Table 9.1.
- B. **Supplemental Application Requirements.**
  - 1. **Approved Site Plan.** An approved site development plan, with a listing of conditions and modifications, if required, in order for a final development order to be issued.
  - 2. **Title opinion.**
  - 3. A legal description of the land subject to the agreement and the names of its legal and equitable owners.
  - 4. The duration of the agreement.
  - 5. The development uses permitted on the land, including population densities, and building intensities and height.
  - 6. A description of public facilities that will service the development, including who shall provide such facilities; the date any new facilities, if needed, will be constructed; and a schedule to assure public facilities are available concurrent with the impacts of the development.
  - 7. A description of any reservation or dedication of land for public purposes.
  - 8. A description of all local development permits approved or needed to be approved for the development of the land.
  - 9. A finding that the development permitted or proposed is consistent with the City's Comprehensive Plan and land development regulations.
  - 10. A description of any conditions, terms, restrictions, or other requirements determined to be necessary by the City for the public health, safety, or welfare of its citizens.
  - 11. A statement indicating that the failure of the agreement to address a particular permit, condition, term, or restriction shall not relieve the developer of the necessity of complying with the law governing said permitting requirements, conditions, term, or

restriction.

12. A development agreement may provide that the entire development or any phase thereof be commenced or completed within a specific period of time.
13. The failure to list all requirements of this Code and other regulations of the City shall not relieve the applicant from complying with such requirements and regulations at the time of issuance of a final development order.

#### C. **Supplemental Review Criteria.**

1. **Consistency with Plan and Regulations.** A development agreement and authorized development shall be consistent with the City's Comprehensive Plan and this Code.
2. **Development Governed By Laws in Effect at Execution.** The City's laws and policies governing the development of land at the time of the execution of the development agreement shall govern the development of the land for the duration of the development agreement.
3. **Applicability of Subsequent Laws.** The City may apply subsequently adopted laws and policies to a development that is subject to a development agreement only if the City has held a public hearing and determined:
  - a. They are not in conflict with the laws and policies governing the development agreement and do not prevent development of the land uses, intensities, or densities in the development agreement;
  - b. They are essential to the public health, safety, or welfare, and expressly state that they shall apply to a development that is subject to a development agreement;
  - c. They are specifically anticipated and provided for in the development agreement;
  - d. The City demonstrates that substantial changes have occurred in pertinent conditions existing at the time of approval of the development agreement; or
  - e. The development agreement is based on substantially inaccurate information supplied by the developer.
4. **Rights Vested Pursuant To Common Law.** This Section does not abrogate any rights that may vest pursuant to common law.

#### D. **Supplemental Conditions of Approval.**

##### 1. **Preliminary agreement.**

- a. **Initial determination.** An initial determination of concurrency.
- b. **Terms of Approval.** A preliminary development order shall be effective for six months from the date of approval. During this six- month period, the applicant shall seek final development approval. At the request of the applicant and for good cause shown, the reviewing authority may extend the period for obtaining final development order approval for a period of up to 12 months from the date of approval of the preliminary development order.

##### 2. **Final agreement.**

###### a. **A certificate of final concurrency.**

###### b. **Terms of Approval.**

- i. A final development order shall remain valid only if development commences and continues pursuant to an active building permit to completion with due diligence and in good faith according to the terms and conditions of approval.
  - ii. **Effective duration.** A final development order shall be effective for a period of one year from the date of approval unless otherwise specified in the order.
  - iii. **Maximum duration.** The duration of a development agreement shall not exceed five (5) years. It may be extended by mutual consent of the City and the developer, subject to a public hearing. All request for extensions must be in writing 60 days prior to the expiration of the agreement.
- c. **Recording of Agreement.** Within 14 days after the City enters into a development agreement, the City shall record the agreement with the Clerk of the Circuit Court. A copy of the recorded development agreement shall be submitted to the Department of Economic Opportunity within 14 days after the agreement is recorded. The burdens of the development agreement shall be binding upon, and the benefits of the agreement shall inure to, all successors in interest to the parties to the agreement.
  - d. **Enforcement of Agreement.** Any party, any aggrieved or adversely affect person as defined in F.S. 163.3215(2), or the Department of Economic Opportunity, may file an action for injunctive relief in circuit court to enforce the terms of a

development agreement or to challenge the validity of the agreement.

- e. **Periodic Review of Agreements.** The City shall inspect land subject to development agreement at least once every 12 months to determine if there has been demonstrated good faith compliance with the terms of the development agreement. If the City finds, on the basis of substantial competent evidence, that there has been a failure to comply with the terms of the development agreement, the agreement may be revoked or modified by the City.
3. **Amendments to approved development plans.**
- a. After a final development order has been issued, it shall be unlawful to change, modify, alter, or otherwise deviate from the terms or conditions of the order without first obtaining an amendment to the approved development order.
  - b. Amendment of the development plan shall be made in accordance with the process for site plan review.
  - c. Any modifications shall be described in sufficient detail and exactness to inform the applicant to amend the plan accordingly.
  - d. **Amendment or Cancellation of Agreement.** A development agreement may be amended or canceled by mutual consent of the parties to the agreement or by their successors in interest.
  - e. **Modification or Revocation to Comply with Subsequent State and Federal Law.** If state or federal laws are enacted after the execution of a development agreement that are applicable to and preclude the parties' compliance with the terms of a development agreement, such agreement shall be modified or revoked as is necessary to comply with the relevant state or federal laws.
4. **Penalties.**

## Sec. 9.5. Subdivision Review

### Sec. 9.5.1. General provisions for subdivision review

- A. **Purpose.** The purpose of this Section is to establish minimum procedures and standards to further the provisions of State Law that regulates and requires the platting of land for development; to further the goals and policies of the Lake Alfred Comprehensive Plan; and to set forth a process for approval of the subdivision of land within the jurisdiction of the City.
- B. **Applicability.**
  - 1. Applicant initialed process.
  - 2. These regulations shall apply to all subdivisions, including those intended for commercial and industrial development.
  - 3. The provisions of this Section are applicable to the division of a parcel of land, which is defined to mean the division of contiguous land holdings by a single owner or multiple owners, regardless of how said parcels are described or recorded, into two or more parcels, lots, tracts or sites for the purpose of transfer of ownership or building development.
  - 4. Whenever any subdivision of land is proposed and before any contract is made for the sale of any part thereof and before any permit for the installation of utilities, either public or private; construction; paving and drainage; or structures in a proposed subdivision shall be granted, the subdivider, or his authorized agent, shall apply for and secure approval of the proposed subdivision.
- C. **Defined.** Such requests include the following:
  - 1. **Lot Splits**
  - 2. **Minor Plats and Replats**
  - 3. **Platted Subdivision**
  - 4. **Plat Vacations**

### Sec. 9.5.1. Lot Splits

- A. **Purpose.** Dividing one unplatted lot of record into less than three (3) lots of record. Single-lot replats may be replatted under this section.
- B. **Level of Review.** Technical Review Committee.
- C. **Application Requirements.**
  - 1. **Property deed.** A copy of the deed to the property. If the



applicant does not own the property, written permission from the owner must be obtained, including a notarized signature, authorizing the application.

2. **Certified Survey.** Certified survey and legal description of the property and proposed split pursuant to Section 9.4.2.B.4.

**D. Review criteria.**

1. **Maximum lots.** The proposed lot split does not result in the creation of more than two new lots.
2. **Conforming lots.** The proposed lot split does not create a lot, or lots, that do not meet applicable zoning district standards for width, and area. Proposed split does not create a flag lot.
3. **Public frontage.** Each proposed lot has the required frontage on a public road, and no new public streets are needed to serve the proposed lots. The existing rights-of-way meet City standards for width and facilities.
4. **Existing utilities.** No extension of a public water or sewer system, fire protection systems, or sanitary service is needed. No proposed lots will be served by a well or septic tank.
5. **Drainage facilities.** There will be no necessity for drainage facilities serving the proposed lots or other properties to cross any lot affected by the administrative approval. Certification shall be provided by a professional engineer registered in the State of Florida.
6. **Other improvements.** No site improvements such as a street, right-of-way, sidewalk, bikeway, bridge, drainage facility, screening wall or any other improvement are necessary or required under this Code.
7. **Single lot replats.** Individual lots shown on recorded plats that depict easements or front, side, or rear building setback lines. The lot shall be improved (building or structure) and there shall be an encroachment upon one or more of the building setback lines or easements indicated on the recorded plat.

**E. Conditions of Approval.**

1. The Planning Official shall provide a notice of approval to the lot owner, allowing the lot split to be recorded at the Polk County Property Appraiser's office.
2. No further division of an approved lot split is permitted, unless a subdivision or record plat is prepared and submitted in accordance with this Code.

3. After acceptance of the final subdivision plat the applicant may submit building permit applications.

**Sec. 9.5.2. Minor Plats and Replats**

- A. Purpose.** modification of lots within a platted subdivision.

- B. Applicability.**

- C. Level of review.**

- D. Defined.**

1. **Minor Plat.**

2. **Minor Replat.**

3. **Major Replat.**

- E. Application Requirements.** Must provide a subdivision plat as specified in Section 9.5.3.C.

- F. Minor Plat.** Dividing unplatted lot(s) of record into more than three (3) lots of record.

1. **Review Criteria.** Must meet the review criteria as specified in Section 9.5.1.D.

2. **Recording.** Upon determining that the subdivision plat complies with the site plan, if applicable, and review criteria, the subdivision plat shall be placed on the City Commission consent agenda for acceptance and recording.

3. **Conditions of Approval.** After acceptance of the final subdivision plat the applicant may submit building permit applications.

- G. Minor Replat.** Splitting of lot(s) within a platted subdivision record into more than three (3) lots of record.

1. **Review Criteria.** Must meet the review criteria as specified in Section 9.5.1.D.

2. **Recording.** Upon determining that the subdivision plat complies with the site plan, if applicable, and review criteria, the subdivision plat shall be placed on the City Commission consent agenda for acceptance and recording.

3. **Conditions of Approval.** After acceptance of the final subdivision plat the applicant may submit building permit applications.

- H. Major Replat.** A lot, tract, or series of such within a platted subdivision to be reconfigured into more than three (3) lots of record.
- 1. Review Criteria.** Must meet the review criteria as specified in Section 9.5.3.E.
  - 2. Conditions of Approval.** Must meet the conditions as specified in Section 9.5.3.F
  - 3. Recording.** If necessary, the previous plat can be vacated at the time of replatting.

### Sec. 9.5.3. Platted Subdivision

- A. **Purpose.** The purpose of the plat is to establish a legal record of the subdivision.
- B. **Applicability.** Upon completion of all subdivision infrastructure improvements, or guarantee thereof, the subdivider shall apply for and receive approval of a Final Subdivision Plat before applying for permits to build structures on the lots thus created.
- C. **Level of Review.** Technical Review Committee.
- D. **Application Requirements.**
- 1. Property deed.** A copy of the deed to the property. If the applicant does not own the property, he must obtain written permission from the owner, including a notarized signature, authorizing him to make the application.
  - 2. Certified Survey.** Certified survey and legal description of the property and proposed split pursuant to Section 9.4.2.B.4.
  - 3. As-built drawings.**
    - a. City approved engineering as-built drawings shall be submitted with the final subdivision plat.
    - b. All as-built drawings shall contain a certification by a professional engineer or registered land surveyor.
    - c. Verification of the exact location and dimensions of all completed improvements.
    - d. Certification that all utilities have been installed in accordance with specifications.
  - 4. Developer infrastructure form** with final cost of all infrastructure improvements
  - 5. Permits.** All required final permits and approvals issued by agencies and governing bodies having jurisdiction over properties

- being subdivided. The subdivision plat shall not be approved without submission of the final permits and approvals.
- 6. Subdivision Plat.** The subdivision plat shall be prepared by a land surveyor in accordance with and include all of the information required by F.S. Ch. 177.
    - i. The final plat shall be legibly drawn at a scale of at least one inch equals 100 feet using a sheet size of 24 inches by 36 inches, reserving a three-inch binding margin on the left-hand side and a one-inch margin on the other three sides.
    - ii. If more than one sheet is required, an index map relating each sheet to the entire subdivision shall be shown on the first sheet.
  - 7. Supplemental Plat Information.**
    - a. Tabular data block including total site acreage, future land use and zoning, and any required open space or recreational areas.
    - b. Layout and dimensions of proposed lots, which meet the minimum zoning district standards for width, depth and area.
    - c. Existing easements identified in the title opinion or property information report must be shown on the plat and cross-referenced in the notes, and their intended use shall be clearly stated.
    - d. Locations of adjoining subdivisions, streets, and platted rights-of-way, whether or not the platted streets have been built.
    - e. The front building setback line for each lot.
  - 8. Declarations, Covenants, Deed Restrictions.**
    - a. Applicable requirements of this subsection shall be inserted into the legal documents of the homeowners association or similar organization having legal ownership of common properties. These legal documents shall be structured to serve the following purposes:
      - i. **Identifying ownership.** To define what is owned and by whom, including the specific location and parameters of the individual units and the ownership interest in the common elements of the owners of the association or organization;
      - ii. **Binding agreements.** To establish a system of interlocking relationships binding each owner to all other owners for the purpose of maintaining and preserving what is owned and used in common;
      - iii. **Level of appearance.** To establish an array of protective standards or restrictions designed to establish limits and



assure that a certain level of appearance is maintained;

- e. **Owners association.** To create an administrative vehicle, the owners association, to manage those elements shared in common and to enforce standards;
- f. **Association financing.** To provide for the operation and financing of the association;
- g. **Transfer of control.** To specify the process involved in effecting the transfer of control of the association and responsibility for the common elements from the developer to the unit owners collectively; and,
- h. **Easements.** To set forth proper access and utility easements for the owners and the association.

#### E. Review criteria.

- 1. The subdivision plat must meet all the requirements of this Code.
- 2. The subdivision plat shall conform with all requirements of F.S. Section 177.
- 3. The subdivision plat shall conform to the approved site plan, construction plans and preliminary plat.
- 4. The subdivision plat shall incorporate all modifications and revisions specified in the approval, or as required by field adjustments.
- 5. **Field adjustments** that such create shifts in stormwater and roadway facilities but do not change lot layout may deviate from conformance with the construction plan with approval from the Planning Official.
- 6. All common areas are to be properly defined in legal descriptions.
- 7. **Inspections.** The Technical Review Committee will inspect all improvements for conformance with the City Code and the approved construction plans.
- 8. **Ownership and Maintenance of Common Property.**
  - a. The developer shall establish a property owner's association or similar legal entity for the perpetual ownership and maintenance of open space, drainage facilities and other community facilities designated on the Site Development Plan or subdivision.
  - b. These facilities include, but are not limited to, pedestrian or bike paths, playgrounds, landscaped open spaces, lakes, swimming pools, bath houses, tennis courts, parking lots, utilities, drainage channels, and retention/detention ponds. Roads shall also be included unless dedicated to the City of

Lake Alfred for public use.

- c. Such organizations shall be created by covenants running with the land, and such covenants shall be included as part of the final site development plan or subdivision plat of each phase and subject to approval of the City Commission.
- d. The cost of such maintenance by the designated public or private agency shall be assessed proportionately against the properties within the PUD that have a right of enjoyment of the common open space, and shall become a lien on said properties.

#### F. Conditions of approval.

- 1. In granting approval, the City Commission may impose such conditions, safeguards and requirements as deemed necessary to implement the intent and purpose of this Section.
- 2. **Bonds.**
  - a. **Performance Bond.** If at the time of application for final subdivision plat approval all improvements are not satisfactorily installed, the subdivider shall post a bond in an amount estimated as one hundred twenty percent (120%) of the engineer certified cost of all improvements to secure to the City the satisfactory construction, installation and dedication of all required improvements. Such performance bond shall comply with all statutory requirements and shall be satisfactory to the City Attorney as to form, sufficiency and manner of execution as set forth in these regulations. The period within which required improvements must be completed shall be specified by the City Commission as part of the approval action on the final plat and shall be incorporated in the bond and shall not, in any event, exceed two (2) years from date of final City approval. The City Commission may at any time during the period of such bond accept a substitution of principal or sureties on the bond upon recommendation of the City Attorney.
  - b. **Maintenance warranty bond.** A maintenance warranty bond in the amount of 10 percent of the total cost of the construction of all public improvements, to be in force for a period of two (2) years following acceptance by the City of the final construction of said public improvements.
  - c. All bonds shall be from a company licensed as a surety in the State of Florida, listed by the U.S. Treasury Department and rated A:AAA in Best's Insurance Guide. Upon acceptance of

all improvements, said performance and payment bonds shall be released.

3. **Recording.**

- a. Upon determining that the final subdivision plat complies with the site plan, conditions of approval construction plan, site improvements and the subdivision requirements the plat shall be placed on the City Commission consent agenda for acceptance and recording.
- b. As part of any final subdivision plat approval the City Commission will issue a resolution outlining the conditions of approval and whether any plat dedications to the City were accepted.
- c. Upon approval by the City Commission, the final subdivision plat shall be recorded with the associated resolution with the Circuit Court of the Polk County.

4. **Terms of Approval.**

- a. After acceptance of the final subdivision plat the applicant may submit building permit applications.
- b. If the dedications were not accepted as part of the plat acceptance and recording, no Certificates of Occupancy may be issued. Upon completion, inspection, and approval of all infrastructure, the City Commission may issue a new resolution releasing the performance bond and accepting any dedication to the City. Certificates of occupancy may be issued upon recording of the new resolution.
- c. In the event that the organization established to own and maintain common open space, or any successor organization, shall at any time after the establishment fails to maintain the common areas as previously defined above, in reasonable order and condition, and in accordance with the adopted plans and subsequent final development plans, the City may serve written notice upon such organization and/or the owners or residents of the development and hold a public hearing. If deficiencies of maintenance are not corrected within thirty (30) days after such notice and hearing, the City shall call upon any public or private agency to maintain the common open space for a period of one year. If the City determines that the subject organization is not prepared or able to maintain the common open space, such public or private agency shall continue maintenance for

yearly periods.

**Sec. 9.5.4. Plat Vacations**

- A. **Purpose.** To remove (vacate and annul) the existing plat, replat, right-of-way, or portion thereof, from the official records of the City of Lake Alfred and Polk County.
- B. **Application Requirements.**
  1. **Vacating of Plat by Owner.**
    - i. The owner of any land subdivided into lots may petition the City under the provisions of Chapter 177.101, Florida Statutes.
    - ii. Certificate of title
    - iii. Statement of taxes and resolution.
  2. **Vacating of Plat by City.** The City Commission may petition to vacate and annul all or any part of a subdivision within its jurisdiction.
- C. **Review Criteria.**
  1. The proposed vacation and annulment of the plat will result in greater conformity with the comprehensive plan of the City, and the public health, safety, and welfare will be promoted.
  2. **Vacation of Streets.** The City Commission shall not vacate, any street or part of a street dedicated for public use, if such vacation interferes with the uniformity of the existing street pattern or any future street plans adopted for the area.
  3. **Access to Individually Owned Parcels.** No owner of any parcel of land in a subdivision shall be deprived by the vacation and annulment of a plat, or a portion of a plat, of reasonable access to such parcel, nor of reasonable access therefrom to existing facilities to which such parcel presently has access; provided that such access remaining or provided after such vacation need not be the same as that previously existing.
- D. **Conditions of approval.**
  1. The Planning Official may require any division or combination of previously platted property to comply with the complete platting process as set forth in this Section.
  2. Notwithstanding these provisions, the City may require conformity with existing standards for all or parts of subdivisions as outlined in this Section.
  3. **Recording.** Upon determining that the request meets the

review criteria, the request shall be placed on the City Commission agenda for acceptance and recording.

4. **Public Hearing.** Before acting on a proposal for vacation and annulment of subdivided land the Commission shall hold a public hearing, with notice of intent as set forth by Chapter 166, F.S.
5. **Terms of Approval.**

## Sec. 9.6. Development Permit Review

### Sec. 9.6.1. General Provisions.

- A. **Purpose.**
- B. **Define.** Development permit means any official city document that authorizes the commencement of construction or land alteration without need for further application and approval.
  - a. **Construction Plans** including: grading and clearing permits, tree removal permits, utility, and stormwater.
  - b. **Building Permits** including; plumbing, electrical, foundation, mechanical, and sign permits
  - c. **Commercial Use Permits**
  - d. **Temporary Use/Special Event Permits**

### Sec. 9.6.2. Construction Plan

- A. **Purpose.** The purpose of the construction plans is to allow the Technical Review Committee to review and approve the technical specifications for all proposed site improvements prior to construction.
- B. **Applicability.** Construction plans shall be reviewed after approval of the Site Development Plan and prior to construction of the site improvements and the review of the final subdivision plat. The construction plan is the instrument by which improvements to the site will be constructed and inspected, and by which final inspection and site certificate of completion shall be issued.
- C. **Application Requirements.** All applications for subdivision review must include the following:
  1. **Survey.** Boundary and topographic survey prepared by a Professional Surveyor and Mapper registered by the State of Florida.
  2. **Preliminary Plat.** The preliminary plat should meet the standards of F.S. Ch. 177, Section 9.5.2.D regarding final subdivision plats, and include the an inscription stating "PRELIMINARY PLAT, NOT FOR RECORDING."
  3. **Engineered Construction Plans.**
    - i. The construction plan shall be signed and sealed by a Professional Engineer licensed by the State of Florida
    - ii. Drawn to a scale of not more than 1 inch = 50 feet. The size of sheets shall be 24 inches by 36 inches.

- iii. If more than one sheet an index sheet shall be provided.
- iv. The exact locations, names, and widths of all existing streets, alleys, and recorded easements within and immediately adjoining the subdivided lands.
- v. **Final dimensions.** Final alignments, dimensions, grades and profiles of proposed streets, utilities, drainage and other improvements to be constructed.
- vi. **Finished grade.** Proposed finished grading by contours supplemented where necessary by spot elevations and at those locations along lot lines.
- vii. **Utilities.** All existing and proposed utilities, including but not limited to: Water and sanitary sewer pipe sizes, rim and invert elevations, direction of flow and top and bottom elevations and fire hydrant locations and flows.
- viii. **Other.** Such other calculations, computation and details as may be necessary to determine the limits of wetlands, the groundwater table, off-site impacts of the proposed development, and other technical matters that may be specified by the TAC. Square footage and percent of total subdivision tract to consist of impervious surface.

**4. Landscape Plan.**

- i. A plan for the elimination and future control of invasive non- native plant species from the site. The non-native removal shall be completed as specified in the management plan prior to the issuance of the first certificate of occupancy and yearly inspections for three years to assure that infested areas have remained at less than ten percent of the initial population.
- ii. A landscape and irrigation plan prepared consistent with the requirements provided in Section 4.5 of this Code. The landscape plan may be submitted separately, but shall be a part of a site development plan submission, where site development plan submission is required. No building, grading or site preparation shall be allowed until the landscape plan has been approved by the City.
- iii. The landscape plan showing tree canopy and buffer yard information required shall be drawn to a scale with sufficient clarity and detail to indicate the type, nature and character of the improvements on the site,

and the relative location of all landscaping in relation to said improvements.

- iv. The landscape plan shall include the type, number, and size of all proposed landscaping plants and materials. Calculations for impervious areas and compliance with tree canopy and bufferyard requirements shall be provided.
- 5. If the proposed site contains land located within the floodplain as shown on the community determined flood control maps and FEMA maps, the applicant shall be required to submit topographic information for areas adjoining sides of the channel, cross sections for land to be occupied by the proposed development, high water information, boundaries of the land within the floodplain and other pertinent information.
- 6. If the proposed site includes regulated surface waters or wetlands, or regulated natural and archaeological resources, the applicant shall be required to submit the following additional information for those areas designated:
  - i. A preliminary plat showing buffer distances between the areas to be developed and regulated surface waters and wetlands, and regulated natural and archaeological resources.
  - ii. A description of strategies to protect or restore environmental features on the subdivision tract
  - iii. Projected on-site and off-site water quality impacts to outstanding Florida waters (OFW) that may result from the proposed subdivision.
  - iv. Any required set-aside, conservation management area, or mitigation area.

**D. Review Criteria.**

- a. **Compliance with this Code and Technical specifications.**
- b. All construction plan approvals issued for any project requiring site development plan review shall be consistent with the stamped approved site development plan.
- c. The approval of a site development plan shall not, under any circumstances, be construed to waive or otherwise diminish the applicable City requirements for construction or installation of structures or materials.

- d. Whenever a conflict between the site development plan and such construction details occurs, the more restrictive or that requiring the higher standard shall prevail.

#### E. **Conditions of Approval.**

1. Upon approval the developer will submit a minimum of three sets of 24x36 plans sheets, one 11x17 set, and one digital set for stamping. One set will be returned to the applicant for the site.
2. The Planning Official will provide a letter of approval with any outstanding items listed to be addressed prior to construction.
3. No construction activity, including clearing and grubbing shall take place until after the pre-construction meeting.
4. Terms of Approval. The construction plans are valid for two years. If no activity has commenced after two years the plans will be considered expired.
5. The Planning Official may grant approval to extend the approval for a single period up to one year from the date when a site construction plan would otherwise expire.
6. All such requests for extensions must be submitted in writing, not less than thirty (30) days before the expiration of the approved construction plan stating the reason for the time extension request.

#### F. **Commencement of Construction.**

1. **Bonding.** Prior to commencement of construction, the developer shall file the following items with the Planning Official:
  - a. **Public improvements.** A performance, labor and material payment bond for the completion of the construction of all public improvements specified in the Preliminary Subdivision Plan or Site Development Plan within one (1) year.
  - b. **Common property.** A performance, labor and material payment bond for the completion of the construction of all common properties specified in the Preliminary Subdivision Plan or Site Development Plan within one (1) year.
  - c. **Escrow account.** In lieu of any bond, the developer may use an escrow account to insure the performance of the construction as planned if said account and the

administration thereof is approved by the City Commission.

- d. All bonds shall be from a company licensed as a surety in the State of Florida, listed by the U.S. Treasury Department and rated A:AAA in Best's Insurance Guide. Upon acceptance of all improvements, said performance and payment bonds shall be released.

2. **Permits.** All permits must be received from all federal, state, county or other agencies with jurisdiction. F.S.

- a. **Access permits.** Any permit or permits from an agency or agencies approving access to State, county, or local roadways.

- b. **Stormwater permits.** Any permit(s) from an agency or agencies approving the proposed stormwater management system.

- c. **Utility permits.** Any permit(s) from permitting agencies approving the utilities plan and water consumption.

- d. **Species.** Any permits from permitting agencies regarding the impacts, takings, or protections for any threatened or endangered species.

3. **Pre-Construction Meeting.** After construction plan approval and receipt of the bonds and permits, the applicant will meet with the permitting agencies to coordinate the construction process and inspections.

4. **Site Work.** After the pre-construction meeting, the applicant may proceed with permitting for installation of improvements. Improvements shall include

- a. Tree removal, clearing and grubbing

- b. Installation of streets and utilities

- c. Installation of reclaimed water lines where available

- d. Installation of stormwater management systems. Stormwater management facilities shall be constructed for the entire area of the plan regardless of any phasing plans relative to final plat recording.

- G. **Construction Inspection.** The City shall provide for periodic inspection of required improvements during construction to ensure satisfactory completion of the site improvements.

- a. The Technical Review Committee shall be responsible for conducting the on-site construction inspection.

- b. Inspections may be scheduled as required by the Technical Review Committee at certain stages of improvement installation or upon written request from the developer for construction inspections to be conducted
- c. If it is found that any of the required improvements have not been constructed in accordance with the City's construction standards and specifications, the applicant shall be responsible for modifying and/or completing the improvements so as to comply with such standards and specifications.
- d. Wherever the cost of improvements is covered by a performance bond, the applicant and the bonding company shall be severally and jointly liable for completing the improvements according to specifications.

#### H. Site Certification

- a. Upon completion, inspection, and approval of all site improvements the Planning Official shall issue a certificate of Site completion.
- b. No Certificate(s) of Occupancy may be issued until complete the site certification is complete.
- c. **Maintenance Guarantee.**
  - i. The developer shall guarantee the materials and workmanship of pavement, curb and gutter, sidewalks, water system, wastewater (sewage) system and the drainage system in the subdivision for a period of one (1) year after final acceptance by the Planning Official.
  - ii. A bond shall be required for the maintenance and repair requirements to cover faulty plans, materials or workmanship. The bond shall be effective for one (1) year and in an amount 10 % of costs.

#### Sec. 9.6.3. Building Permits

**A. Purpose.** To ensure the safety of structures built within the City.

**B. Applicability.** Building permits shall be reviewed after site development plan approval and before:

- 1. Performing any work that requires issuance of a permit under Section 105 "Permits" of Chapter 1 of the Florida Building Code, Building Book; or F.S. Chapter 553,
- 2. Performing any electrical wiring or rewiring or altering, changing or attaching to any existing wiring;
- 3. Performing any plumbing work or altering, changing or

- attaching to any existing plumbing;
- 4. Performing any structural work of any character, whether permanent or temporary; and
- 5. Performing any nonstructural work where the cost of materials exceeds \$800.00.

#### C. Application Requirements.

- 1. **Submittal documents** as described in Section 107 "Submittal Documents" of Chapter 1 of the Florida Building Code, Building book including the following unless exempt or waived by the Building Official:
  - i. Floor plan
  - ii. Site plan
  - iii. Foundation plan
  - iv. Framing plan
  - v. Construction plans and elevations
  - vi. Building Plan
  - vii. Electrical Plan
  - viii. Mechanical Plan
  - ix. Gas Plan
  - x. Demolition Plan
  - xi. Occupancy type and load
  - xii. Structural requirements and materials
- 2. **Life Safety Plan.** A copy of building plans, specifications, and drawings drawn to scale with sufficient clarity and detail to indicate the type, nature and character of the work of all fire protection and fire equipment systems.
- 3. Nothing contained herein shall preclude the City from accepting for review and processing building construction plans related to the structural, mechanical, electrical and plumbing systems prior to stamped approval of a site development plan, subject to such conditions as may be established by the City relative to such pre-plan certification processing.

#### D. Review Criteria.

- 2. **Florida Building Code.** The most current edition of the Florida Building Code, as published by the Florida Building Commission under authority of F.S. § 553.73(1)(a), is adopted by reference and shall be enforced as the building code of the City pursuant to Section 14-1 of the City Code of Ordinances.
- 3. **National Electric Code.** The most current edition of the National Electric Code, as published by the National Fire



Protection Association, is hereby adopted and incorporated by reference as the electrical code of the city subject to and including by reference such additions and amendments that may be adopted by the city pursuant to Section 14-2 of the City Code of Ordinances.

4. **International Property Maintenance Code.** The International Property Maintenance Code, 2012 edition, as published by the International Code Council, Inc., is hereby adopted and incorporated by reference as the minimum property maintenance standards of the city subject to and including by reference such additions and amendments that may be adopted by the city by ordinance. Chapter 14-41 of City Code of Ordinances.
5. **National Fire. Code.** The most current edition of the National Fire Codes and Standards, as published by the National Fire Protection Association, is hereby adopted and incorporated by reference as the fire code of the city subject to and including by reference such additions and amendments that may be adopted by the city pursuant to Section 34-1 of the City Code of Ordinances.

#### 6. **Conditions of Approval.**

- i. Upon determining that the request meets the review criteria, The Building Official will issue a building permit.
- ii. No building shall be constructed, reconstructed, altered, or extended unless a building permit has been issued indicating that the proposed use is in compliance with the provisions and regulations of this chapter;
- iii. There shall be no excavation, cut, or fill of earth or debris, no curb shall be cut or access opened onto a public street, no land shall be used for purposes other than agricultural, no signs shall be erected, and no building shall be moved unless all applicable required development permits have been obtained in accordance with this section.
- iv. **Terms of Approval.** Building permits are valid for 180 days, unless extended or the site remains under active construction with an inspection within 60 days.

#### 7. **Inspections.**

- i. The Building Official shall inspect or cause to be inspected all items as required in Section 110 "Inspections" of Chapter 1 of the Florida Building

Code, Building book.

- ii. Construction or work for which a permit is required shall be subject to inspection by the building official and such construction or work shall remain accessible and exposed for inspection purposes until approved.
- iii. A new building shall not be occupied or a change be made in occupancy or the nature or the use of a building or part of a building until after the fire official has conducted a fire code inspection of such building, and the building is found to be in compliance with the fire code and the fire official has signed the required certificate of occupancy in accordance with the city's building code.

#### 8. **Certificate of occupancy.**

- i. Upon completion of work authorized by a development permit or development order, and before the development is occupied, the developer shall apply to the Building Official for a certificate of occupancy. The Building Official shall inspect the work and issue the certificate, if all work is found to be in conformity with the permit or order.
- ii. No land, water, building, or any part thereof shall be used and no existing use of land, water, or building shall be changed unless a certificate of occupancy has been issued for such land, water, building, or part thereof.
- iii. **Temporary Certificate of Occupancy.** The Building Official is authorized to issue a temporary certificate of occupancy before the completion of the entire work covered by the permit, provided that such portion or portions shall be occupied safely. The building official shall set a time period during which the temporary certificate of occupancy is valid. The Temporary Certificate of Occupancy shall be limited to preparing the facility for public access. Activities include, but are not limited to stocking, training, and testing of equipment.
- iv. No Certificate(s) of Occupancy may be issued until complete the site certification is complete.

#### Sec. 9.6.4. **Commercial Use Permit**

- A. **Purpose.** It is the intent of this section to recognize, permit, and condition certain uses and developments that, because of their limited size and duration, are in conformance with the

Comprehensive Plan and the Land Development Code.

**B. Applicability.**

**C. Application Requirements.**

1. A description of the proposed or existing business;
2. Exact legal description and address of the property on which the business will be located; and,
3. Floor area of the building in which the business will operate.

**D. Review Criteria.**

1. Commercial Use Zoning Permits shall not be granted for property without an existing structure at least 300 square feet in size.
2. In cases where the business is a nonconforming use, the applicant must provide documentation that the commercial operation was established legally and meets all the requirements of Section 2.4 (Nonconformities).

**E. Inspections.** The Building Official shall inspect or cause to be inspected all items as required in Section 110 "Inspections" of Chapter 1 of the Florida Building Code, Building book.

**F. Conditions of Approval.**

1. Upon determining that the request meets the review criteria, the Building Official will issue the Commercial Use permit.
2. The Commercial Use Permit may be denied or revoked if it is determined that the applicant provided incorrect information prior to approval.
3. Term of Approval. The permit shall be valid for one year to be renewed annually in September.

**Sec. 9.6.5. Temporary Use / Special Event Permit**

**A. Purpose.** It is the intent of this section to recognize, permit, and condition certain temporary uses, events, and structures that, because of their limited size and duration, are in conformance with the Comprehensive Plan and the Land Development Code.

**B. Applicability.** Applicant initiated request for temporary uses,

events, and structures identified in Table 3.1 Use Table or within the Lake Alfred Code of Ordinances.

**C. Application Requirements.** All applications for temporary use, structure or special event permit must include the following contents, unless otherwise waived by the Planning Official:

**1. A Recent Boundary Survey.**

**2. Site plan, survey, or sketch plan** drawn to scale showing:

- a. The dimensions of the property;
- b. The existing and proposed location of structures on the property including signage, vehicular access ways and circulation areas, off-street parking and loading areas, sidewalks, refuse and service areas, required yards and other open spaces, and landscaping or buffer areas;
- c. The measurements of existing and proposed adjacent rights-of-way, setbacks, distances between buildings, widths of access ways and driveways, and sidewalks.

**3. A tabular summary** describing the proposed use of the property including:

- a. Existing and proposed use of property;
- b. Conditions on the use, such as hours of operation, numbers of residents, etc.;
- c. Area of the property, pervious and impervious areas, and existing and proposed structures.
- d. Number of required and provided off-street parking and loading spaces, existing and proposed density, and number of existing and proposed units.

**1.** The Administrative Official may reduce or waive certain criteria, data, or other submission requirements as appropriate based on the type of request.

**4. Other Information.** Other additional material and information as the Planning Official may reasonably require depending on the specific request.

**D. Review criteria.** Before a request for temporary use permit is granted, the TRC must find the following:

**1. Use table.** The temporary use complies with any specific standard listed in Section 3.8.;

**2. Necessary permits.** No temporary structures or services will be provided without the proper permits:

- a. **Electric permit.** No lighting or electrical service



shall be provided without an electrical permit;

- b. **Building permit.** No structure associated with the temporary use shall be erected without a building permit;
3. **Clearing.** All structures and debris shall be cleared from the site within 5 days after the use is terminated;
4. **Access.** No temporary use structure shall block fire lanes or pedestrian or vehicular access;
5. **Owner authorization.** Written permission of the property owner for the temporary use shall be provided;
6. **Parking.** Adequate parking shall be provided and required parking for other uses shall remain available;
7. **Traffic control.** Evidence that adequate traffic control measures shall be provided;
8. **Trash disposal.** Evidence that adequate provisions for trash disposal and sanitary facilities, if necessary, shall be provided; and
9. **Crowd control.** When appropriate, adequate provisions for crowd control shall be provided.

#### E. **Conditions of Approval**

1. Upon approval by the TRC, the Planning Official shall provide a temporary use permit for the use or event.
2. The Building Official may issue a temporary building permit for a temporary structure.
3. **Term of Approval.** The approval will be determined based on the event, use, and standards within this Code including Section 3.8, the Code of Ordinances, or the Florida Building Code.
4. No temporary use permit may be issued for more than 180 days.

- F. **Revocation of Temporary Use Permit.** If any conditions of a temporary use permit are violated, the temporary use permit may be revoked by the Planning Official.

## Sec. 9.7. Relief

### Sec. 9.7.1. General Provisions

- A. **Purpose.** In order to provide flexibility for the unique circumstances of individual developments, certain modifications from the standards provided in this Code, as provided in this section, may be requested by an applicant as part of the development review process.
- B. **Applicability.** At the time of an application, after approvals, or during construction, an applicant initiated request for adjustment to dimensional requirements such as height, area, size of structure, size of yards, size of open spaces or landscape and buffers.
- C. **Defined.** Such requests include the following:
  1. **Administrative Waivers.**
  2. **Variances.**
  3. **Special Exceptions. TBD**
- D. **Exemptions.** Modification of the development standards listed above of less than 1 ft. shall be deemed to be non-substantial.
- E. **Application Requirements.**
  2. **Site plan, survey, or sketch plan** drawn to scale showing:
    - d. The dimensions of the property;
    - e. The existing and proposed location of structures on the property including signage, vehicular access ways and circulation areas, off-street parking and loading areas, sidewalks, refuse and service areas, required yards and other open spaces, and landscaping or buffer areas;
    - f. The measurements of existing and proposed adjacent rights-of-way, setbacks, distances between buildings, widths of access ways and driveways, and sidewalks.
  3. **A tabular summary** describing the proposed use of the property including:
    - e. Existing and proposed use of property;
    - f. Conditions on the use, such as hours of operation, numbers of residents, etc.;
    - g. Area of the property, pervious and impervious areas, and existing and proposed structures.
    - h. Number of required and provided off-street parking and loading spaces, existing and proposed density, and number of existing and proposed units.

4. The Administrative Official may reduce or waive certain criteria, data, or other submission requirements as appropriate based on the type of request.

F. **Joint Review of Applications.** At the time of an other application process an applicants may request an administrative waiver or variance. Under no circumstances shall any site development plan be approved that is inconsistent with any term contained in this Code unless a variance or waiver has been authorized in accordance with the provisions of this Section.

G. **Review criteria.** The Planning Official may approve a modification if the request meets all of the following criteria:

1. **Consistency.** The request is consistent with the Comprehensive Plan and meets the intent of the zoning district.
2. **Limited modification.** No more than 20% of the numeric value of the standard is modified.
3. **No negative impact.** The request will not have a material negative impact on adjacent uses, and is not injurious to the public health, safety, and welfare.

F. **Conditions of Approval**

1. Approval shall only apply the property included in the application and shall not be transferable to another property.
2. Approval of the application shall not constitute a waiver or an additional variance from any other applicable development regulation unless specifically noted in the development order and are consistent with this Code.

Sec. 9.7.2. **Administrative Waiver**

A. **Level of Review.** The Planning Official, Building Official and Technical Review Committee shall have authority to grant administrative waivers.

B. **Supplemental Application Requirements.** none

C. **Supplemental Review Criteria.**

1. **Setback Adjustments.** Reductions of side and rear setbacks for principal accessory structures (excluding swimming pools) by no more than 10 percent subject to the following conditions:

- i. The setback requirement is established by the land use classification and no other section of this Code;
- ii. The total structural coverage of the lot or building site shall not exceed 25 percent;
- iii. The approval would not result in the encroachment of a structure into an existing utility or drainage easement.

2. **Minor Field Adjustments.** A minor field adjustment is a deviation from a final development order that falls within the following limits and that is necessary in light of technical or engineering considerations first discovered during actual development and not reasonably anticipated during the initial approval process:

- i. Alteration of the location of any road, walkway, landscaping or structure by not more than five (5) feet.
- ii. Reduction of the total amount of open space by not more than five (5) percent, or reduction of the yard area or open space associated with any single structure by not more than five (5) percent; provided that such reduction does not permit the required yard area or open space to be less than that required by this Code.
- iii. If the work is found to have one or more minor field adjustments, the Administrative Official shall request a revised site plan from the applicant showing the deviations and amend the development order to conform to actual development.
- iv. Any modifications shall be show on the as-builts.

D. **Supplemental Conditions of Approval.**

1. The Administrative Official may deny the request and refer the request to the modification or variance process.
2. The Administrative Official may issue a stop work order and/or refuse to allow occupancy of all or part of the development if deemed necessary to protect the public interest. The order shall remain in effect until the Administrative Official determines that work or occupancy may proceed pursuant to the decision of the Planning Board.

3. Refer the matter to code enforcement, if it appears that the developer has committed violations within the jurisdiction of the Code Enforcement Special Magistrate.

### Sec. 9.7.3. Variance

- A. **Purpose.** Where strict compliance with the requirements of the ULDC creates a substantial hardship for any person, firm or corporation owning property in the City of Lake Alfred, a variance request can provide relief. The request must not be contrary to the public interest and the intent of this Code.
- B. **Level of Review.** The Planning and Zoning Board or Development Review Magistrate has authority to grant variances from the terms and requirements of this Code relative to:
  1. **Section 2.1.7 Development Standards Table**
  2. **Section 4.5 Landscape and Buffers**
- C. **Supplemental Application Requirements.** A project description, explanation of how the request meets the review criteria, and how strict enforcement of the regulation in question would create an undue and unnecessary hardship for the applicant.
- D. **Supplemental Review Criteria** A variance shall not be granted unless the appropriate reviewing board/official affirmatively finds that each of the following criteria have been met:
  1. **Special circumstances due to peculiarity.** Special conditions and circumstances exist that are peculiar to the land, structure, or building involved and that are not applicable to other lands, structures, or buildings in the same district.
  2. **Not from action by the applicant.** The special conditions and circumstances do not result from the action of the applicant.
  3. **No special privilege.** Granting the variance requested will not confer on the applicant any special privilege that is denied by this section to other lands, structures, or buildings in the same district.
  4. **Common rights.** Literal enforcement of the provisions of the Land Development Code or building chapters would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of the Land Development Code or building chapters.

5. **Minimum variance required.** The variance requested is the minimum variance required to make possible the reasonable use of the land, building, or structure.
6. **Harmonious intent.** The variance is in harmony with the general intent and purpose of the regulation at issue and the Land Development Code, and such variance will not be injurious to the abutting lands or to the area involved or otherwise detrimental to the public welfare.

### E. Supplemental Conditions of Approval

1. Variance applications shall be the minimum necessary to provide a reasonable use of the property and may be approved subject to time limits or any other conditions deemed appropriate.
2. In granting any variance, appropriate conditions and safeguards may be prescribed in conformity with this Code and the Florida Building Code. These may include, but are not limited to, requiring restrictions on hours of operation and size of buildings, additional landscape and buffer areas, limiting vehicular access points and location of off-street parking, and similar conditions.
3. 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 this Code and punishable according to applicable law.

### F. Terms of Approval.

1. Any variance granted shall expire one year after the date of variance approval, unless a building permit based upon and incorporating the variance is issued within the aforesaid one-year period and construction has begun thereunder.
2. If a variance request is denied, the same variance may not be considered for the property for a period of two years from the date of denial.
3. For each variance granted, a development order shall be issued listing the review criteria and attesting that each has been satisfied.

### G. Prohibited considerations.

The following factors shall not be considered in any variance request:

1. **Overlay Districts.** Variance request within an overlay district cannot be considered unless specifically addressed in the overlay district.
2. **Conditional Uses Table 3.1**
3. **Concurrency Article 8**

4. **Consistency with the Comprehensive Plan**
5. **Prior knowledge.** Whether the property was purchased with the intent to develop or improve the property, whether or not it was known at the time of purchase that such development would be a violation.
6. **Financial loss.** Financial loss or business competition.
7. **Nonconformities.** Establishment or expansion of a use otherwise prohibited shall not be allowed by variance nor shall the variance be granted because of the presence of nonconformities in the zoning district or classification or in the adjoining zoning districts or classifications
8. **Other Considerations** such as health, convenience or economics shall not be considered as justification for a variance.

#### Sec. 9.7.4. **Special Exception.**

- A. **Purpose.** Exception to a rule for a use.
- B. **Applicability.**
- C. **Defined.**
  1. **Special Vehicle Parking**
  2. **Accessory Dwelling Units**
- D. **Supplemental Application Requirements.**
- E. **Supplemental Review Criteria.**
- F. **Supplemental Conditions of Approval.**
  1. If a special exception does not begin to serve the purpose for which it was granted permission within 180 days from the date of approval, it shall expire.
  2. Once initiated, the special exception use may continue indefinitely or until the expiration of any time limit established as a condition of approval. However, if such use is abandoned for 180 days, it shall expire.

## Sec. 9.8. **Reviewing Authorities**

### Sec. 9.8.1. **Administrative Officials**

#### A. **Building Official**

1. **Purpose.** The Building Official shall be responsible for review of building construction plans, issuance of building permits and certificates of occupancy, and the inspection of construction sites and buildings under construction or renovation.
2. **Appointment.** The Building Official shall be designated by Planning Official based on qualifications and responsible to:
  - a. **Advise.** Advise the Planning Official in the implementation, amendment and enforcement of Building Code and applicable provisions of this Code.
  - b. **Process and collect fees.** Accept and process applications for including, but not limited to building permits.
  - c. **Evaluate.** Evaluate each building construction permit application to determine whether it meets applicable requirements of this Code, Chapter 14 of the Lake Alfred Code of Ordinances, the Florida Building Code, National Electrical Code, and any other applicable code.
  - d. **Monitor.** Monitor the progress of building permit applications and ensure that all time limits prescribed by this Code are met.
  - e. **Approve.** Grant such administrative approvals as are allowed under the provisions of this Code.
  - f. **Attend hearings.** Attend public hearings at which building code, electric code, fire code and mechanical code, and other codes having a bearing on buildings are discussed Including the Code Enforcement Special Magistrate when necessary.
3. **Authority.**
  - a. **Final decisions.** The Building Official has final decision authority for Building permits and administrative waivers as described in this Code.
  - b. **Non-final decisions.** As it pertains to this section, all other actions of the Building Official are advisory to the Technical Review Committee, Planning and Zoning

Board or City Commission.

## B. Planning Official

1. **Purpose.** The Planning Official shall be responsible for review of all applications related to the Comprehensive Plan, Unified Land Development Code, and for supervising and administering all staff activities regarding the processing of applications.
2. **Appointment.** The Planning Official shall be designated by City Manager based on qualifications and responsible to:
  - a. **Advise.** Advise the City Manager in the implementation, amendment and enforcement of this Code and the Comprehensive Plan.
  - b. **Chair.** Serve as chair of the Technical Review Committee.
  - c. **Process and collect fees.** Accept and process all applications for amendments to the Comprehensive Plan, Unified Land Development Code including, but not limited to zoning actions, site plan reviews and variances.
  - d. **Evaluate plans and development.** Evaluate each application for consistency with this Code and the Comprehensive Plan, except building permits.
  - e. **Monitor.** Monitor the progress of all development applications through the review process and be available to respond to inquiries from interested persons. Ensure that all time limits prescribed by Florida Statutes and this Code are met.
  - f. **Approve.** Grant such administrative approvals as are allowed under the provisions of this Code.
  - g. **Certify.** Certify the accuracy of the Official Zoning Map and amendments thereto.
  - h. **Attend hearings.** Attend all public hearings at which zoning and comprehensive planning matters are discussed, including meetings of the Planning and Zoning Board, Appeals and City Commission.
  - i. **Public Records.** Ensure all resolutions, ordinances and records involving permitted land uses, development regulations and development approval are public information and maintained in an orderly fashion.
  - j. **Other.** Any other duties assigned by the City Manager.

### 3. Authority.

- a. **Final decisions.** The Planning Official has final decision authority regarding administrative decisions and waivers as described in this Code.
- b. **Non-final decisions.** As it pertains to this section, all other actions of the Planning Official are advisory to the Technical Review Committee, Planning and Zoning Board or City Commission.

## C. Fire Official

1. **Purpose.** The Fire Official shall be responsible for review of all applications related to the Fire Prevention and Protection Code and the inspection of buildings under construction or renovation.
2. **Appointment.** The Fire Official shall be designated by City Manager based on qualifications and responsible to:
  - a. **Advise.** Advise the City Manager, Planning Official, and Building Official in the implementation, amendment and enforcement of National Fire Code and applicable provisions of this Code.
  - b. **Evaluate.** Evaluate each building construction plan, site plan, and site construction application to determine whether it meets applicable requirements of this Code, Chapter 34 of the Lake Alfred Code of Ordinances, the National Fire Code and any other applicable code.
  - c. **Attend hearings.** Attend public hearings at which the fire code is discussed including the Code Enforcement Special Magistrate when necessary.
3. **Authority.**
  - a. **Final decisions.** The Fire Official's approval is required for all Building permits and certificates of occupancy.
  - b. **Non-final decisions.** As it pertains to this section, all other actions of the Fire Official are advisory to the Technical Review Committee.

## Sec. 9.8.2. Development Review Boards & Committees

### A. Technical Review Committee

1. **Purpose.** The Technical Review Committee reviews development applications for conformance with the City's Comprehensive Plan and Land Development Code, and issues

a decision for administrative review cases or a recommendation to the Planning and Zoning Board for board review and commission review cases.

2. **Appointment.** The TRC shall be composed of members appointed from each of the following city departments:

- a. **Community Development.**
- b. **Public Works.**
- c. **Fire/Police**
- d. **City Manager as deemed appropriate.**

3. **Authority.**

- a. **Final decisions.** The TRC has final decision authority regarding administrative decisions and waivers as described in this Code.
- b. **Non-final decisions.** As it pertains to this section, all other actions of the TRC are advisory to the Planning and Zoning Board or City Commission.

## **B. Planning and Zoning Board.**

1. **Purpose.** The Planning and Zoning Board, which shall be designated as the local planning agency in accordance with F.S. 163.3174, reviews development applications and the Technical Review Committee recommendations at a public hearing. The Planning and Zoning Board shall issue a decision for board review cases and recommendations for commission review cases.
2. **Appointment.** The City Commission shall appoint seven (7) regular members, and two (2) alternate members, to the Planning and Zoning Board to serve for three (3) year terms, as provided for in the Rules and Procedures Resolution.
  - a. **Advise.** Advise and make recommendations to the City Commission regarding applications or designations on property within the City.
  - b. **Interpret.** Interpret and determine the intent of provisions of this Code that are unclear or in conflict with other regulations.
  - c. **Consider.** Consider the need for revision or addition of regulations in this Code or the Comprehensive Plan, and recommend changes to the City Commission.

3. **Qualifications.** Each member of the Planning and Zoning Board shall be a resident of the city.

4. **Authority.**

- a. **Final decisions.** The Planning and Zoning Board has final decision authority on applications as listed in Section 9.1.4.
- b. **Non-final decisions.** All other actions of the board are non- final and advisory to the city commission. Advisory actions of the board shall not obligate the city.

5. **Operations**

- a. **Rules of procedure.** The Planning and Zoning Board shall adopt a Rules and Procedures Resolution to carry out its purpose. All rules shall conform to this article, the Code of Ordinances, state law, and shall be reviewed and approved by the City Commission.
- b. **Officers.** The Board shall annually elect a chair and vice chair, as provided for in the Rules and Procedures Resolution. The chair shall preside over the board and shall have the right to vote. In the absence of the chair, the vice-chair shall perform the duties of the chair.
- c. **Compensation of members.** Members shall not be compensated, but may be paid for travel and other expenses incurred on board business under procedures prescribed in advance by the City Commission.
- d. **Absenteeism.** Absenteeism shall be governed by board rules of procedure.
- e. **Legal counsel.** The City Attorney shall provide legal counsel to advise and represent the board as necessary.

6. **Implementation of board's decision.** Any permit, authorization, or other development order issued, based on the board's decision, prior to the end of the period for filing an appeal for any available administrative or judicial remedies is considered conditional. Any action taken during the appeal period is taken at the sole risk of the property owner or representative, who may be required to undo any work done if the decision of the board is overturned either by a rehearing of the board, an appeal for an administrative remedy, or an appeal to a court of competent jurisdiction.

## **C. Development Review Special Magistrate**



1. **Purpose.** The Development Review Magistrate has authority to hear and decide variances and appeals of administrative decisions.
2. **Appointment.** The City Commission, through a competitive selection process, may appoint by contract one or more Magistrates, who will be compensated as determined by the City Commission. In addition, the City may elect to use a Magistrate appointed by the State of Florida or any agency thereof that meets the qualifications provided in this section.
3. **Qualifications.** Magistrates must meet the following minimum qualifications:
  - a. **A licensed attorney who is an active member of the Florida Bar in good standing.**
  - b. **At least three years of professional experience in land use or local government law.**
  - c. **Not an employee of or office holder with the City.**
4. **Authority.** The Development Review Magistrate has all powers necessary to perform the functions prescribed by this section, including:
  - a. The power to interpret and administer this section.
  - b. The power to dispose of procedural requests or similar matters.
  - c. The power to issue notices of hearings and subpoenas requiring attendance.
  - d. The power to administer oaths.
  - e. The power to reverse or affirm, wholly or in part, the order, requirement or policy of the administrative official.
5. **Removal.** During their term of service, a Magistrate appointed by the City Commission may be removed only for cause by the City Commission. Cause for removal of a Magistrate includes, but is not limited to, violations of the standards set forth in the Code of Judicial Conduct adopted by the Florida Supreme Court or the State of Florida Code of Ethics for Public Officers and Employees in F.S. Ch. 112.

#### **D. Code Enforcement Special Magistrate**

1. **Purpose.** The Code Enforcement Special Magistrate has the authority to conduct hearings and impose and authorize the collection of fines and costs against pending or repeat violators

of city codes and ordinances.

2. **Appointment.** The City Commission, through a competitive selection process, may appoint by contract one or more Magistrates, who will be compensated as determined by the City Commission. In addition, the City may elect to use a Magistrate appointed by the State of Florida or any agency thereof that meets the qualifications provided in this section.
3. **Qualifications.** Magistrates must meet the following minimum qualifications:
  - a. **A licensed attorney who is an active member of the Florida Bar in good standing.**
  - b. **At least three years of professional experience in land use or local government law.**
  - c. **Not an employee of or office holder with the City.**
4. **Authority.** The Code Enforcement Special Magistrate has all powers necessary to perform the functions prescribed by this section and Section 2-279 of the City Code of Ordinances, including:
  - a. The power to interpret and administer this section.
  - b. The power to dispose of procedural requests or similar matters.
  - c. The power to issue notices of hearings and subpoenas requiring attendance.
  - d. The power to administer oaths.
5. **Removal.** During their term of service, a Magistrate appointed by the City Commission may be removed only for cause by the City Commission. Cause for removal of a Magistrate includes, but is not limited to, violations of the standards set forth in the Code of Judicial Conduct adopted by the Florida Supreme Court or the State of Florida Code of Ethics for Public Officers and Employees in F.S. Ch. 112.

#### **Sec. 9.8.3. City Commission**

- A. Purpose.** The City Commission may exercise any and all powers prescribed by Florida statutes and local law, including the City Charter, and as described in the Comprehensive Plan, this Unified Land Development Code and the City Code of Ordinances.
- B. Authority.** In areas of development and land use associated with this



Code, the City Commission shall:

1. **Appoint.** Appoint members of the Planning and Zoning Board the Development Review Special Magistrate, Code Enforcement Special Magistrate and additional Boards, committees and subcommittees to investigate and make decisions on various land use and development issues.
2. **Rules.** The City Commission shall approve the rules of procedure and bylaws for all city boards and committees
3. **Adopt and amend.** Adopt and amend the Comprehensive Plan and the Unified Land Development Code.
4. **Establish fees.** Establish, by Resolution, fees for Plan Amendments, zoning actions, Site Plan reviews, Variances, and other activities carried out under the provisions of this Code. All fees shall be set, at a minimum, at levels that cover the City's costs of administration, inspection, and enforcement.
5. **Final decisions.** The City Commission has final decision authority on applications as listed in Section 9.1.4, and other special designations on property within the City as well as on acceptance of public improvements constructed pursuant to the platting of approved subdivisions.

## Sec. 9.9. Violations and Enforcement

### Sec. 9.9.1. General Provisions

- A. **Purpose.**
- B. **Applicability.**
- C. **Appointment.** The City Manager shall designate such person or persons as may be necessary to administer and enforce the provisions of this Code. Pursuant to Sec. 2-282 of the Lake Alfred Code of Ordinances the City Manager may also designate a Code Enforcement Officer.
- D. **Authority.**
  1. **Authority to enter private property.** Those persons designated to administer and enforce the provisions of this Code may, in the performance of such functions and duties, enter upon any land and make such inspections, examinations and surveys as are required for the proper administration and enforcement hereof and may obtain any necessary warrants therefor.
  2. **Citations.** Those persons designated to administer and enforce the provisions of this Code and the Code Enforcement Officer shall follow the provisions of the citation system pursuant to Article VI of Chapter 2 of the Lake Alfred Code of Ordinances and F.S. Chapter 162.
- E. **Violations deemed public nuisance.** The provisions of this Code are deemed to be necessary for the protection of the public health, safety and welfare and for the protection of the peaceful use and enjoyment of any lands by the owners thereof, and any violation of the terms of this Code or Chapter 32 of the City Code of Ordinances is declared by the City Commission to constitute a public nuisance.
- F. **Means of enforcement.** Those persons designated to administer and enforce the provisions of this Code and the Code Enforcement Officer may enforce the terms of this Code by any or all of the following methods:
  1. **Criminal prosecution.** By initiating criminal prosecution of any violation through the Lake Alfred Police Department or office of the state attorney.
  2. **Seeking assistance.** By seeking the assistance of the City Attorney in initiating an action to enjoin a public nuisance or

obtain other civil relief or injunction action in a court of competent jurisdiction.

3. **Revocation.** By seeking assistance of the Building Official to revoke a certificate of occupancy.
4. **Code Enforcement Special Magistrate.** Pursuant to Sec. 32-9 of the Lake Alfred Code of Ordinances any violations of the Unified Land Development Code shall be brought before a Special Magistrate utilizing the procedures found in Chapter 2, Article VI.
5. **Other.** By using any other means specified in any particular article of this Code or otherwise provided by law or ordinance.

**Sec. 9.9.2. Compliance with Code.**

1. It shall be unlawful for any person to make any use of any land, water or building, or part thereof, except in accordance with the requirements of this chapter; to fail to obtain any inspection, approval, permit, certificate or license required by this chapter; or to violate any conditions or requirements lawfully applied to any inspection, approval, permit or license issued hereunder.
2. Should a development order or permit be revoked, development activity shall not proceed on the site until a new development order or permit is granted in accordance with procedures for original approval.