



CHAPTER 27 – ZONING AND LAND DEVELOPMENT

ARTICLE II. - ADMINISTRATION AND GENERAL PROCEDURES

DIVISION 1. - ESTABLISHMENT OF ADMINISTRATIVE OFFICERS, DUTIES, AND PROCEDURES

Sec. 27-60. - Alternative design exception.

- (a) The designated official(s) or designees are zoning administrator is hereby authorized to grant administrative, alternative design exceptions from the strict application of this chapter and any associated land development regulations as set forth in this section, subject to the limitations described in this section. The process is specifically intended to promote high standards of site design, and to provide flexibility in the administration of standards in recognition of site-specific conditions, and to establish conditions to ensure compatibility and consistency in the interpretation and application of applicable standards, where those standards are modified.
- (b) Prior to submitting an application for an alternative design exception, the applicant must schedule a pre-application meeting with the zoning administrator reviewing official or designee, ~~the urban design coordinator,~~ and/or other appropriate city staff as needed, in order to determine the scope of the request and what documentation will be necessary to support the application.
- (c) Types of applications. Applications for alternative design exception are classified as follows:
- (3) Design exception – tree and landscape (natural resources coordinator):
- a. Alternative methods of compliance may be considered through this process. As applicable, the natural resources coordinator or designee shall consult with the zoning administrator, planning and urban design manager, and/or building official, prior to rendering a final decision, dependent on the nature of the alternative requested.
 - b. Tree(s) removed due to construction activity impact for an accessory building/structure. In addition to the review criteria set forth in this section, the following factors shall be considered for a request for alternative design related to this request type:
 1. The hazard evaluation of the tree based on the "tree hazard evaluation form" set forth in the Tree and Landscape Technical Manual;
 2. The proposed accessory building(s)/structure(s) (new construction and/or building additions), with consideration of:
 - i. The standard zoning district setbacks/yards and maximum height allowed for the proposed accessory building/structure and/or additions thereto;
 - ii. The impact of the proposed accessory building/structure building area on the impacted tree(s), as shown by a survey or drawing of the parcel of property (to scale) accurately depicting the location, crown spread, and crown spread area, of the tree(s), including the minimum protective root zone around the tree(s);



iii. Existing development pattern of similar accessory building(s)/structure(s) in a radius of one thousand three hundred twenty (1,320) feet (¼ of a mile) of the subject property. Only properties that are within the same zoning district and same use type(s) may be considered in making this determination.

When considering removal of subject tree(s), the natural resources coordinator shall consult with the zoning administrator, and shall: i. conduct a site visit to view or review current aerial images to identify the actual accessory building/structure development pattern of the block on which the subject property lies, and within a radius of one thousand three hundred twenty (1,320) feet from the subject property.

3. Any unique circumstances affecting the development of the property, including unusual topography, fill requirements, and/or any local, state, or deferral mandates for remediation or other environmental clean-up;
4. Any other provisions of this chapter that may permit the applicant to redesign the proposed accessory building/structure in a manner to retain or preserve the tree(s), such as the alternative design exception-1 or -2 processes.

c. Reduction in landscaped area. In addition to the review criteria set forth in this section, the following factors shall be considered for a request for alternative design related to this request type:

1. (If applicable) The hazard evaluation of the tree based on the "tree hazard evaluation form" set forth in the Tree and Landscape Technical Manual;
2. The proposed building(s)/structure(s) (new construction and/or building additions), with consideration of:
 - i. The standard zoning district setbacks/yards and maximum height allowed for the proposed building(s)/structure(s) and/or additions thereto;
 - ii. The impact of the proposed building(s)/structure(s) building area on the impacted landscaped area, as shown by a survey or drawing of the parcel of property (to scale) accurately depicting the location, area, (includes minimum protective root zone around retained and required tree(s));
3. Any unique circumstances affecting the development of the property, including unusual topography, fill requirements, and/or any local, state, or deferral mandates for remediation or other environmental clean-up;
4. Any other provisions of this chapter that may permit the applicant to redesign the proposed accessory building/structure in a manner to retain or preserve the tree(s), such as the alternative design exception-1 or -2 processes.

(4) Design exception – upland habitat (natural resources coordinator): Applications for Alternative alternative methods of compliance.

(1)a. In an effort to preserve significant upland native resources and conserve water, the following regulations may be utilized as an alternative to strict code compliance:



- a-1. Using the concept of a "Florida Friendly Landscape" or Xeriscape™, a site plan shall be submitted identifying all existing vegetation to be preserved, proposed turf, and other landscape areas. Installed trees and plants shall be grouped together into landscape plant zones according to water, soil, climate, and light requirements. Plant groupings based on water requirements are as follows; natural, drought tolerant, and oasis.
- b-2. Development shall be planned to prevent substantial impact to significant upland native resources. Upland resources shall include plant ecosystems described in the conservation and aquifer recharge element of the comprehensive plan, which shall include, but not be limited to, the following:
1. Pine flatwoods.
 2. Dry prairies.
 3. Sand pine scrub.
 4. Sandhills.
 5. Xeric hammocks.
 6. Mesic hammocks.
- c-3. In order to provide for contiguous preservation of native upland resources in the form of corridors, buffers or other land configurations, the following general development criteria may be applied:
1. Integration of significant upland resource equivalent to the required landscaped area.
 2. Integration of significant wildlife habitat.
 3. Identification and preservation of grand trees.
 4. Identification and preservation of rare and endangered plants and animals. Reference Rare and Endangered Biota of Florida Series.
 5. Upland resource preservation shall be exclusive of wetland setbacks already required in the chapter.
 6. Alternative methods of compliance must provide at least the equivalent of that specifically required in the chapter. This provision is supplemental to any authority to issue variances.
 7. Proposed planting must be comprised of seventy-five (75) percent of the species indigenous to the specific site.
 8. Management plan for designated preserved areas must be submitted and approved by the department.
 9. Minimum dimensions for upland preservation corridors or buffers shall be fifty (50) feet.
 10. Alternative forms of compliance are subject to approval by the department.
- d-4. General design standard incentives are as follows:
1. Reduction in vehicular use buffers.



2. Reduction in interior landscape islands.
3. Full credit towards tree planting requirements where trees have been preserved in a development area in addition to the upland buffer or corridor.
4. Exemption from all permanent irrigation systems.
5. Other alternative forms of compliance will be reviewed by the department.

e.5. Permitted uses within the protected native upland resource are as follows:

1. Passive activities.
2. Boardwalks or pervious pathways.
3. Selective removal of invader species.
4. Selective trimming for visibility.
5. Native plant enhancement.
6. Ancillary stilted structures such as observation towers, wildlife monitoring stations, etc.
7. Other compatible uses as approved by the department.

f.6. If the applicant does not comply with all specific conditions of the alternative form of compliance, the applicant will be required to fully meet the city code in all respects, regardless of any partial compliance previously achieved by the applicant.

(2)b. If, because of the nature of a parcel or proposed development, strict city code compliance can-not be accomplished, the following criteria may be utilized to allow an alternative method of compliance:

a.1. 1.i. That the alternative arises from a condition specific to the land, structures and buildings involved;

2.ii. That the particular physical surroundings, shape or topographical conditions of the specific parcel lend themselves to the alternative as opposed to strict city code compliance; or

3.iii. That the specific condition of the parcel that creates the need for the alternative is a condition created by this chapter and not by the person or entity offering the alternative or the owner; and

b.2. 1.i. That the alternative does not interfere with the rights of others or endanger the public health, safety or general welfare;

2.ii. That the alternative achieves the general intent of this chapter;

3.iii. That the alternative does not waive any section of this chapter in its entirety as applied to the parcel as a whole; and

4.iv. That the alternative is the minimum variance from this chapter for the specific parcel under the circumstances.



The proposed alternative method of compliance shall be submitted to the ~~development review and compliance staff and procedures (DRC), as set forth in Chapter 27, for review. The DRC shall submit its recommendation to the~~ Natural Resources Coordinator, or designee.

The ~~department~~ natural resources coordinator may impose reasonable changes to or restrictions or conditions on the alternative to effect the intent of this section and this chapter as a whole.

~~(3)c.~~ Alternate materials or methods of construction or methods of compliance may be utilized provided the ~~Natural Resources Coordinator,~~ or designee determines that the alternate is at least the equivalent of that prescribed in this chapter based upon industry standards.

(d) General requirements. An applicant shall provide a complete application and applicable fee to the ~~zoning administrator~~ reviewing official for review and determination, which shall include all information contained in this section. All alternative design exception applications shall include documentation sufficient to justify the request. In addition, an application for an alternative design exception shall address the following issues, as applicable:

(1) Description:

- a. Project description (general information, typical section, etc.);
- b. Description of alternative design exception (specific project conditions related to alternative design exception, controlling design element, and proposed cost for project);
- c. The compatibility of the design and operation; and
- d. If the project is in an overlay or historic district, applicable City of Tampa Code of Ordinance provisions or design standards.

(2) Analyses (narrative and visual depiction) related to:

- a. Dimensional standards of underlying zoning classification;
- b. Buffer area and materials proposed;
- c. Parking counts, layout/function, demands for specific use;
- d. Amount and character of traffic using facility; and
- e. Design concept and relationship to intent of applicable overlay requirements.

(3) If applicable, the alternative design exception application shall also contain a recommendation by the professional engineer responsible for the project design elements, unless the ~~zoning administrator~~ reviewing official determines that such a recommendation is not necessary given the scope of the request.

(e) General process. Applications for alternative design exception shall be processed as follows:

(1) The applicant shall file a complete application, including any supplemental documentation, with the zoning administrator or designee.

(2) Public notice required for alternative design exception-2 and –natural resources. Upon receipt of a complete application for an alternative design exception-2 and payment of the appropriate fee, the ~~zoning administrator~~ reviewing official shall direct the applicant to provide public notice. The



procedures for required public notice shall be governed by section 27-149, with supplemental notice provided per sections 27-149(c)(1) (mailed notice) and (c)(3) (affidavit of compliance).

- (3) The ~~zoning administrator~~reviewing official or designee, upon review of the application, may request additional information from the applicant related to the request or applicable criteria.
- (4) The ~~zoning administrator~~reviewing official or designee shall grant or deny the request within fifteen (15) working days of the filing of the complete application, the affidavit of compliance pursuant to (2) above, and all appropriate and necessary documents and supplemental information provided pursuant to (1) and (3) above.
- (5) In reviewing the application, the ~~zoning administrator~~reviewing official shall apply the following criteria:
 - a. That the exception neither interferes with the rights of others as provided in this chapter, nor is injurious to the public health, safety or general welfare; and
 - b. That the exception provides a reasonable allowance of use under the specified circumstances of each application; and
 - c. That the exception achieves the general intent of this chapter and the Tampa Comprehensive Plan; and
 - d. That the exception is the minimum possible exception under specific circumstances; and
 - e. The approval of the exception of standards includes conditions of approval as necessary to ensure that the adjustment granted does not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and within the same zoning district; and
 - f. The exception is consistent with any applicable specific plans in place for the subject property; and
 - g. Adverse impacts. All applications for the removal of a protected or grand tree shall be reviewed to ensure that: (i) the removal of the protected or grand tree is not injurious to the public health, safety and welfare; and (ii) the removal of the protected or grand tree is consistent with the terms of this division and the city's comprehensive plan. In connection therewith, all such applications shall be reviewed to ensure that the removal of a protected or grand tree shall not:
 1. Substantially lower the water table on the parcel of property;
 2. Substantially lessen the ability of natural assimilation of nutrients, pollutants, silt and other noxious substances into the ground or surface water on a parcel of property;
 3. Substantially impact the existing biological or ecological systems on a parcel of property;
 4. Substantially reduce available wildlife habitat on a parcel of property; or
 5. Substantially reduce the fair market value of other parcels of property located in the surrounding neighborhood. If substantial and competent evidence exists that the removal of a protected or grand tree would have any one (1) of the detrimental impacts described above, then the issuance of a tree removal permit shall be conditioned upon the permit applicant taking actions as may be necessary to correct or to mitigate the detrimental impact from the removal of the protected or grand tree.



- h. That a Design Exception-2 request clearly demonstrates that the exception is warranted due to unique circumstances of the property, such as:
- i. Location of existing protected or grand trees;
 - ii. Location of existing buildings or structures;
 - iii. Existing property elevations (grades); or
 - iv. Other unique, existing physical conditions of the property (above or below grade) that are otherwise protected from or limited for alteration, due to other applicable development regulations;

And,

- (6) An exception of standards to the site planning or development standards of this code in compliance with this section is allowed, based on the findings that the exception is necessary to accomplish a reasonable accommodation of the needs of a disabled person, in compliance with the Americans with Disabilities Act.
- (7) The ~~zoning administrator~~ reviewing official may impose reasonable conditions upon any exception to ensure that the public health, safety and general welfare are protected and substantial justice is done. A violation of any imposed conditions shall be a violation of this chapter.
- (8) An approved alternative design exception shall be valid for a period of one (1) year from the approval date, during which the property owner must begin the associated development/construction work. If no development/construction activity occurs on the land related to the approved exception within the one-year period, the approval shall expire.

Sec. 27-61. - Review.

- (a) Applicability and purpose. This section establishes procedures that shall apply to the review of any applicable decision as expressly authorized in this section. The purpose of this section is to provide adequate due process to petitioners seeking review of applicable decisions by setting forth procedures for the review of those decisions.
- (b) Decisions ~~which~~ that may be reviewed; jurisdiction. The following decisions shall be reviewed pursuant to this section:
 - (1) A formal decision of the zoning administrator may be reviewed by city council for a final order after receipt of a recommended order by a hearing officer, as set forth below.
 - (2) A quasi-judicial decision of a board of the City of Tampa, to approve or deny an application, may be reviewed by city council for a final decision. The boards of the City of Tampa whose decisions may be reviewed pursuant to this section are the Variance Review Board (VRB), Architectural Review ~~Committee~~ Commission (ARC), Barrio Latino Commission (BLC), ~~or~~ and the Historic Preservation Commission (HPC) (collectively "boards").
 - (3) A decision by the following designation reviewing officials, ~~zoning administrator~~ to approve or deny the following specific applications (collectively "Administrative Review Permit" or "ZAAR Permit") may be reviewed by city council for a final decision:
 - a. Zoning administrator:



1. A S-1 special use permit (not relating to constitutionally protected First Amendment activity), including the granting of any waiver to the specific criteria for an S-1 special use pursuant to the criteria for a waiver contained in ~~section~~ 27-132;
 2. A minor or major change to an approved S-2 special use permit pursuant to ~~section~~ 27-128;
 3. A non-substantial or substantial change to an approved site plan zoning, pursuant to ~~section~~ 27-138;
 4. An incremental review detailed site plan pursuant to ~~section~~ 27-228;
 5. An alternative design exception pursuant to ~~section~~ 27-60; and
 6. Any other zoning compliance approval, as specifically authorized ~~pursuant to~~ in this chapter.
 - b. Planning and urban design manager: Design district review site plan, including any related alternative design exceptions (any type).
 - c. Natural resources coordinator: Alternative design exception-tree and landscape, -upland habitat.
 - d. —
 - e. —
 - f. —
- (c) Petitioner for review. The petitioner for review must be an aggrieved person, as defined in this chapter, who participated in the decision being reviewed by timely submitting evidence or by otherwise providing sworn testimony during the decision being reviewed.
- (d) Time for filing petition for review. The petitioner shall file a petition for review of a decision, and all applicable, required documents, no later than 5:00 p.m. ten (10) working days after the rendering of the decision sought to be reviewed. If the tenth day falls on a day the city clerk's office is closed, then the filing period shall expire at 5:00 p.m. on the next business day on which the city clerk's office is open.
- (e) Place for filing the petition for review. The petition for review shall be filed with the city clerk, who shall transmit a copy thereof to the zoning administrator and, if the petitioner is seeking review from a decision of the ARC, BLC or HPC, to the historic preservation manager. The city clerk shall not accept any petition for review which is not in writing, for which the review period has expired, or which does not include the required fees and costs. If the petitioner is not the property owner of the parcel which is the subject of the decision sought to be reviewed, the petitioner shall also, by certified mail no later than five (5) days after filing the petition for review, transmit the petition for review to the property owner.
- (f) Costs and fees for review. The city council shall, by resolution, adopt a schedule of fees to be paid in connection with any petition for review. Payment of applicable costs and fees shall be required at the time the application for review is filed.
- (g) Contents of petition for review; submission of certain documents, supporting expert evidence, and/or a DVD of board action, as required.
- (1) A petition for review shall be in a form provided by the city and shall include, at a minimum, the following information: The name and address of the petitioner, and of the authorized representative, if applicable; the written decision for which the petitioner is seeking review or, if not available, a



summary of the decision sought to be reviewed; and a summary of the basis for the petition for review, including specific sections of the applicable City of Tampa Code or ordinance. Petitions for review of an alternative design exception natural resources coordinator's decision regarding the condition of a grand tree shall include an independent report/risk assessment performed by an ISA certified arborist, at time of filing.

- (2) The petitioner who is seeking review of a board or commission decision shall submit a DVD (or other digital video-type media), which must be obtained from the city and that contains a recording of the public hearing and decision of the board or commission. In the event more than one (1) public hearing was held on the application that is the subject of the review petition, a recording (in the form of a DVD or other digital video-type media) shall be provided for each public hearing held on the application. The DVD must be submitted into the record of city council before the close of the public hearing.
- (h) Stay pending application for review.
- (1) No building permit or other development order, or other certification of a city or other governmental agency application, shall be issued until the expiration of the review period.
 - (2) The filing of a timely application for review shall stay all proceedings in furtherance of the decision which is the subject of the application for review until the request has been disposed of by city council. The petitioner 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 of or by the city.
- (i) Notices of review hearing. The procedures for required public notice for the review hearing before city council and the hearing officer shall be governed by ~~sec. 27-149~~ sec. 27-149, with supplemental notice provided per ~~sec. 27-149(c)(1)~~ sec. 27-149(c)(1) (mailed notice) and (c)(2) (posted notice). The applicant shall file the required affidavit of compliance with the city clerk. The notice procedure for city council's consideration of the hearing officer's recommended order is set forth in subsection (j)(1)d.ii.
- (j) Review hearing.
- (3) Review of ZA AR permits.
 - a. Hearing before city council. In reviewing an ZA AR permit, city council shall apply a de novo standard of review, and shall not be limited in its review to that information, documentation, or evidence upon which the ZA AR permit was based. City council shall follow all applicable ordinances in arriving at its decision and may receive new evidence. City council, after reviewing the ZA AR permit and hearing evidence and testimony may either affirm the ZA AR permit or deny the ZAAR permit.
 - b. Final decision. The decision of the city council shall be deemed final and may be appealed to a court of competent jurisdiction in a manner set forth by applicable law.
 - c. Alternative process. In the alternative, a petitioner for review of an ZAAR permit may elect to have the decision reviewed pursuant to subsection (1) above. In that instance, the hearing officer shall provide a recommended order to city council for a final order.