

3. F. ARCHITECTURAL AND DESIGN REVIEW

1. **Rationale.** The Foundation has broad responsibility and authority for approving plans including signage drawings, site plans, landscape plans, floor plans, and all exterior elevations (referred to hereinafter as “plans”) for new residential and commercial structures and property and modifications to existing residential and commercial structures and property within Pelican Bay.
2. **Authority.**
 - 2.1 Article 3 of the Amended and Restated General Declaration and Protective Covenants states: “No Structure shall be commenced, erected, improved or altered, nor shall any grading, excavation or landscaping (including tree removal) be done without the prior written approval of the Foundation.
 - 2.2 The Foundation has approval authority for initial new construction on both undeveloped and developed commercial properties.
3. **Approval Authority: Review Committee.** Foundation review and approval for the modifications and improvements is carried out by the following entities.
 - a. Director of Covenants. In addition to general covenants duties unrelated to design review, the Director of Covenants will administer the approval process according to the Governing Documents. The Director of Covenants may use the resources of the Covenants Department in fulfilling its responsibilities. All applications, fees, and submittals required hereunder must be submitted to the Covenants Department. The Director of Covenants also has the authority to perform all the duties of design review and Project Approval of Minor Projects, described below.
 - b. Design Review Committee (“DRC”). The DRC will normally consist of five (5) members, with a minimum of three (3) but not more than seven (7) individuals who are Foundation members, and who will be appointed, removed, or replaced by the Board. It is preferred that at least two individuals of the DRC come from at least two professional categories relevant to Design Review, such as, but not limited to: architecture, urban planning, landscape architecture, civil engineering, construction, community association/real estate law, or similar professionals. The DRC may also, or alternatively, consult with members of the “DRC Professional Advisors,” described below. Any time a quorum of the DRC gathers to conduct DRC business, the DRC must meet with the same formalities and notice requirements as required for Board meetings, unless otherwise permitted by law. Any Owner wishing to appear before the DRC may do so. These meetings must be open to all Owners.
 - c. Staff Liaisons. The staff liaisons to the DRC will be: (i) the President of the Foundation, (ii) the Director of Covenants, and (iii) Covenants Assistant. The DRC may consult with the staff liaisons in conducting all of the DRC’s duties and functions, but the staff liaisons will not be members of the DRC.
 - d. Role of the DRC. It is the responsibility of the DRC to review, approve, approve with conditions, or deny requests for Project Approval, all in compliance with these Guidelines and procedures. The DRC also has the authority to adopt the application forms for use in the design review process, and to establish and amend from time to time design review fees and

construction deposits, in an effort to continuously evolve its standards and practices and enhance the DRC's competency in design review. Notwithstanding the foregoing, the DRC will advise the Board in advance of any significant decisions the DRC intends to make. The DRC will also have the authority to inspect and ensure that projects are being completed as approved.

- e. DRC Professional Advisors. The DRC will develop relationships with local professionals, that the DRC can use, on a regular basis, to assist the DRC in fulfilling its responsibilities ("DRC Professional Advisors"). DRC Professional Advisors are strictly advisors to the DRC and Staff Liaisons. DRC Professional Advisors will be local professionals with experience and knowledge in fields relevant to design review, including without limitation: (i) Florida real estate and community association law, (ii) local architecture, (iii) civil engineering, (iv) landscape architecture, urban planning, or (v) housing development. DRC Professional Advisors must also have an understanding of the Foundation Governing Documents including these Design Guidelines and be familiar with PUD master planned communities—preferably Pelican Bay—which have both "master/general" and "neighborhood/sub" covenants and restrictions.
- f. Oversight Panel. The responsibility of the Oversight Panel is to act as an appeal board to adjudicate appeals by Owners of decisions made by the DRC or the Director of Covenants. The Board of Directors of the Foundation acts as the Oversight Panel.

4. Board of Directors. The Board of Directors may:

- a. Monitor design review activities and make changes in the review process that may be needed from time to time.
- b. Adopt or revise the Design Guidelines. Amendments will be prospective in application only.
- c. Serve as the Oversight Panel.

5. Category of Projects. There are three categories of projects:

- a. Minor Projects. "Minor Projects" include, but are not limited to
 - Antennas/dishes
 - Painting or repainting color change
 - Driveways
 - Flags and flagpoles
 - Signs
 - Solar collectors
 - Tree removal/replacement
 - Hurricane shutters or decorative shutters
 - Downspouts and gutters
 - Mailboxes
 - Low voltage (twenty-four (24) volts or less) lighting for landscaping
 - Generators
 - Dumpster or port-o-let on site
 - Replacement Roofing

- b. Major Projects. “Major Projects” include but are not limited to:
 - New construction or tear downs, including any and all exterior signage changes
 - Exterior renovations
 - Structural changes
 - Changes in floor elevations
 - Changes in grade elevations and roof elevations
 - Any landscape project not listed above as a Minor Project
 - Any alteration, construction, or project not listed above as a Minor Project
- c. Commercial Projects. All Commercial Projects will be reviewed by the DRC. All Major Commercial Projects, including Major landscaping and exterior painting color changes, will be reviewed by the DRC and presented to the Board for approval. All items listed above for submittal for Major Projects must be provided to the Covenants Department prior to the commencement of the Design Review Process. Design review fees will apply for the Review Process, changes and/or re-reviews and will be the responsibility of the Owner. All fees must be paid prior to any approvals being granted or work started.

6. Review Forms and Applications.

- a. The Design Review Applications are available at the Covenants Department Office or on-line at www.pelicanbay.org or you may request a copy to be sent to you via email or fax. All materials required to be submitted with an application must include at least one electronic / digital copy.
- b. Minor Projects. All minor projects will be reviewed by the Director of Covenants. No work may begin until Project Approval has been granted by the Director of Covenants. No design review fees are required for minor projects. Reviews of Minor Projects will be conducted by the Director of Covenants and the Covenants Department. Reviews will be completed within fourteen (14) working days of receipt by the Covenants Department of the Design Review Application for Minor Projects, and all documents listed in the application or otherwise required by the Covenants Department. Notwithstanding the foregoing, the Director of Covenants may, in its sole discretion, refer a Minor Project to the DRC for review, and/or make a determination that a project constitutes a Major Project.
- c. Major Projects. All Major Projects must be reviewed by the DRC in accordance with Section 7 below.
- d. Commercial Projects. All Commercial Projects will be reviewed by the DRC. All items listed above, for submittal for Major Projects must be provided to the Covenants Department prior to the commencement of the Design Review Process. Design review fees will apply for the Review Process, changes and/or re-reviews and will be the responsibility of the Owner. All fees must be paid prior to any approvals being granted or work started.

- 7. **Review Procedures:** Review of all Major Projects will be conducted by the DRC upon receipt of a completed formal Review Application with all required documents, plans and fees by the Covenants Department. In the event of any circumstances requiring a delay in the formal review, the DRC will promptly notify the Owner.

Step 1. Pre-Application Meeting (REQUIRED) - The Owner, together with the Owner's contractor, architect, or consultant, shall contact the Covenants Department to schedule a consultation to discuss the proposed project and these Design Guidelines, prior to formal submittal for design review. The purpose of this meeting is to:

- a. Ensure that you understand the process involved in doing a major renovation or re-build.
- b. Understand the information that is required to obtain approval for your project.
- c. Learn about the role of the Covenants Department, the DRC and your homeowner's association, and their Regulating Documents and guidelines that govern your project.
- d. Obtain guidance and advice to assist in developing the project

Step 2. Preliminary Concept Plans Review (REQUIRED)

This step is for the Preliminary Concept approval of the proposed project. This meeting should be arranged early in your planning phase, as soon as you have conceptual drawings. The intent is to ensure that you receive the necessary advice and guidance to ensure that the balance of the review process proceeds well.

Two sets of the "preliminary concept" plan described in Section 3.03(c) of the Declaration must be submitted along with the Design Review Application and all required design review fees. All fees must be paid prior to any Project Approval being granted or any work started. Design review fees will apply for the review process, changes and/or re-reviews, and will be the responsibility of the Owner. Each application shall include, at a minimum, the following:

- a. Colored architectural renderings of the front and rear of the proposed project;
- b. Schematic site plans with setbacks and easements identified, building floor plans, and the exterior elevations of the front, rear and sides of the building (rear elevations must clearly show any waterfront areas).
- c. Views of the existing property with the outline of the proposed project superimposed on the existing site; showing the neighboring properties on either side to scale, including elevations, heights, setbacks, etc.
- d. An aerial view with the existing property and the properties on either side.
- e. Preliminary Floor Area Ratio (FAR);
- f. Preliminary Pervious/Impervious calculations;
- g. Preliminary hardscape plans, and an understanding that a full landscape plan will be required in Step 3.
- h. An understanding that a parking plan addressing where construction vehicles will park during construction will be required in Step 3.
- i. An understanding that a site grading plan and civil storm water management / drainage plan will be required based on the pervious/impervious ratio. The plan will be different based on the pervious/impervious calculation specific to that property.
- j. Colors, roofing and landscape plans will be required in step 3 based on the approved palettes for Pelican Bay.
- k. Evidence of neighborhood association conceptual approval.
- l. An estimated project timeline.

The DRC shall review the preliminary concept plans with the Covenants Department, and all materials submitted with the application to identify if the application is complete, or if any components of the request for Preliminary Concept approval require additional information or a site visit. Any forms considered incomplete, or where additional information is required, will be identified, and the Owner submitting the request will be notified so all appropriate information can be submitted for consideration during the next step, Design Proposals, outlined as Step 3 below.

Complete applications must be submitted to the DRC by the 15th of the calendar month in order to be considered at the next regularly scheduled meeting of the DRC. In the event the completed application is submitted to the DRC on or after the 15th of the calendar month, the DRC will not review the application until the next calendar month.

At the next regularly scheduled meeting of the DRC, the DRC will:

- a. Advise that the conceptual plan, based on the information submitted, is an acceptable plan at the conceptual stage and the owner can proceed with developing their plan.
- b. Advise of any obvious issues with applicable General or Neighborhood Regulating Documents and any remedies that must be made to the plan in order to bring it into compliance.
- c. Advise if the conceptual is not compliant, and therefore being rejected.

Step 3. Design Proposals Review (REQUIRED)

The next sequential approval of the proposed project is for Design Proposals.

Two sets of the “design proposals” described in Section 3.03(c) of the Declaration must be submitted. The Design Proposal materials shall include, at a minimum, the following:

- a. More detailed building and site design documents sufficient and definitive in detail so that there can be determined the character, exterior appearance, exterior materials and colors, and the quality and kind of building and landscape materials proposed.
- b. Two sets of plans prepared by a licensed design professional of record (including their signature and seal). Owners should include all applicable full working drawings and plans, including without limitation: (i) construction plans and specifications; (ii) all items listed on the Design Review Application; and (iii) all other plans, drawings, elevations, wall sections, and exterior finishes sufficient and definitive in detail to determine that the project complies with these Guidelines.
- c. If the Major Project consists of new construction, a rebuild, or alterations that change the building footprint in any way, the plans and documents described above must also include: (i) front elevations showing the existing Dwelling Unit and the neighboring Dwelling Units on each side, as the Dwelling Unit exists prior to alteration; (ii) a front elevation of the proposed project showing the neighboring Dwelling Units on each side in scale; (iii) an aerial view of the proposed project showing neighboring Dwelling Units on each side, including the Owner’s existing exterior walls

- superimposed on the plan for the proposed project; and (iv) an aerial view showing the proposed project and the neighboring Dwelling Units on each side.
- d. Any revised site plans from Step 2, with setbacks identified, building floor plans, and the exterior elevations of the front, rear and sides of the building; The Floor Area Ratio (FAR) is required.
 - e. Complete colored renderings of the hardscape plans.
 - f. Complete colored renderings of the landscape plans.
 - g. A parking plan addressing where construction vehicles will park during construction.
 - h. Civil Stormwater Plan (Type 1 or II depending on the impervious calculations) prepared by a licensed Civil Engineer which includes a site grading plan and drainage plan based on the pervious/impervious ratio. (See Section D-6 and D-7 Stormwater Management for details).
 - i. Current Topographic Boundary Survey of the property, prepared by a licensed survey that reflects property lines, setback lines, easement locations, rights-of-way, flood zone, existing contour lines indicating the shape and elevation of the land over the entire parcel, showing high points, low points, grade changes, and at sufficient intervals to represent the general character of the terrain.
 - j. A statement of exterior building materials and colors to be used, including exterior walls, doors, windows (including types of glass), shutters, fencing, pavers, stone, wood, trim and roof based on the approved palettes for Pelican Bay. Exterior color samples must be included.
 - k. Neighborhood HOA approval of the current Design materials.
 - l. An updated project timeline.

The DRC shall review the Design Proposals with the Covenants Department and all plans submitted to identify if they are complete, or if any components of the request for Design Proposal approval require additional information. Any plans considered incomplete, or where additional information is required, will be identified, and the Owner submitting the plans will be notified so all appropriate information can be submitted for consideration prior to this meeting.

The DRC Design Proposal decision will be one of the following:

- a. “Approved”. The entire application as submitted approved.
- b. “Approved With Conditions.” The application is not approved as submitted, but the DRC’s suggestions for curing objectionable features or segments are noted. The Owner must correct the objectionable features or segments. The Owner may be required to resubmit in order to receive Project Approval prior to commencing any work.
- c. “Disapproved.” The application as submitted is rejected. The DRC may provide comments but is not required to do so.

Step 4. Final Construction Plans and Specifications Review (REQUIRED)

The Final Construction Plans and Specifications review shall be a true extension of the plans and proposals presented and approved in Step 2 and Step 3. This step will include two sets of: the demolition plans; reconstruction plans; final civil engineering and landscaping plans; project timeline (including anticipated commencement and completion dates); all logistical accommodations including parking plans; fencing; storage of materials and dumpster; contact names, addresses, numbers, and Collier County license numbers for the architect, engineers, general contractor, and sub-contractors. Any forms, plans, or documents considered incomplete, or where additional information is required, in the sole discretion of the Director of Covenants, will be identified, and the Owner will be notified so all appropriate information can be submitted for consideration. The Owner will be notified of any resubmission or supplemental submission if additional materials are required. The Director of Covenants may defer, in its discretion, review of applications which are not consistent with the DRC's Preliminary Concept and Design Proposal approvals, or which require further information.

The Director of Covenants will make the final determination that the Construction Plans and Specifications are consistent with the DRC's Preliminary Concept and Design Proposal approvals. The final determination will be one of the following:

- a. "Approved". The entire application as submitted approved.
- b. "Approved With Conditions." The application is not approved as submitted, but the suggestions for curing objectionable features or segments are noted. The Owner must correct the objectionable features or segments. The Owner may be required to resubmit in order to receive Project Approval prior to commencing any work.
- c. "Disapproved." The application as submitted is rejected based on inconsistencies with the DRC's Preliminary Concept and Design Proposal approvals.

The Director of Covenants will mark on the Design Review Application as appropriate and will thereafter provide a copy to the requesting Owner.

8. **Time to Complete.** If an application is approved, construction must begin within six months of the later to occur of: (i) final Project Approval, or (ii) obtaining a building permit. If the approved alterations to the site are not physically commenced within six months, the Project Approval will expire, and the Owner must reinitiate the Project Approval process as per the direction and requirement of the DRC. Any proposed variations from a project as approved hereunder must be submitted in writing to the Covenants Department and approved hereunder prior to implementation. If the Project Approval or any other agreement does not specify a maximum period, construction must be completed within eighteen months of its commencement. If not completed within eighteen months of commencement, or within any extended period granted by the DRC, the Owner and the Plot will be deemed in violation of the Governing Documents and these Guidelines. Consistent with Section 8.04 of the Declaration entitled "Completion of Construction–Remedy," once commenced, the project must be prosecuted diligently and completed as indicated in the approved project timeline.
9. **Appeal Process.** If any Owner is denied Project Approval for any of the project types listed above or disagrees with the imposed Construction Guidelines, and if the disagreement cannot be resolved

by discussion and negotiation, the Owner has the right to appeal the decision to the Oversight Panel. To appeal, the Owner must submit a request for consideration in writing to the Board within thirty (30) days of notification of denial. Any additional design review fees or architectural fees associated with the appeal process will be the responsibility of the Owner. The consideration by the Oversight Panel will be final and may not be unreasonably delayed.

10. Construction Guidelines.

It is the responsibility of the Owner to review the Guidelines with their Construction Team to determine those that are applicable to the project. Check with your neighborhood association governing documents for any other construction guidelines that may be specific to your neighborhood association. The Oversight Panel shall adjudicate unresolved disagreements between the Owners and the Covenants Department or DRC about the applicability of the Guidelines.

11. Variances. Variances may be granted by the DRC in some circumstances including, but not limited to, odd shaped plots, topography, natural obstructions, hardship, or environmental considerations. All variance requests must be in writing. The DRC has the authority to grant variances to the Design Guidelines, and only if the variance does not result in a material violation of the Declaration, Neighborhood Regulating Documents, or governmental regulations. No variance will be effective unless approved by the DRC and issued in writing.

12. Enforcement.

A representative of the DRC or the Covenants Department will conduct periodic field reviews to

ensure compliance with approved plans, Design Guidelines including the construction guidelines, and the Governing Documents. Any noncompliance will be considered a violation of the Governing Documents or restrictions affecting the Plot, and the Board or the DRC may exercise all remedies under Florida law and the Governing Documents for violations. Without limiting the generality of the foregoing sentence, the DRC or the Board may immediately require that all Work on the property cease and desist until the violation is cured, may remove or remedy the violation, and/or seek injunctive relief requiring the removal or remedying of the violation. In addition, the DRC or the Board may record a notice of violation in the Public Records of Collier County. The DRC will be entitled to recover all costs incurred in enforcing compliance.

13. Post-Construction Requirements. Once construction of the project has been completed, the Owner and/or the Construction Team should schedule a walk-through of the completed project with a DRC representative. In addition, the Owner and/or Construction Team must submit the following documents to the Covenants Department to close the file:

- Digital copy of the Final recorded drawings;
- Digital copy of the As-Built survey;
- Stormwater Certification Letter signed and sealed by the Engineer of Record; and
- Copy of Certificate of Occupancy.