

VILLAGE OF NORTH PALM BEACH
QUASI-JUDICIAL PROCEDURES

Intent

These procedures are intended to provide an equitable and efficient method for the Village Council and the Planning Commission to hear matters that are considered quasi-judicial in nature. These procedures shall apply to all quasi-judicial matters, except as otherwise set forth herein.

Definitions

For the purpose of these procedures, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

Interested person means any person, natural or corporate, who owns property, owns a business or resides within five hundred (500) feet of the property that is the subject of the application or any person, natural or corporate, who will suffer a negative effect to a protected interest as a result of the quasi-judicial application, where such interest exceeds in degree the general interest of the community or public at large.

Applicant means any person, corporation or other legal entity who files an application with the Community Development Department determined by Village Staff to be quasi-judicial in nature.

Party or *parties* means the Applicant, the Village, and any Interested Person who has complied with the notice provisions set forth below and meets the applicable criteria.

Quasi-judicial body means the Village Council or the Planning Commission acting in its quasi-judicial capacity.

Quasi-judicial in nature means the application of a general rule or policy to specific individuals, interests, or activities by the quasi-judicial body, as more specifically set forth below.

Quasi-judicial matters

(a) Matters that are quasi-judicial in nature involve the actions of public officials who are required to investigate facts, or ascertain the existence of facts, hold hearings, weigh evidence and draw conclusions from such facts, as a basis for their official action, and to exercise discretion of a judicial nature and any other decision involving the implementation, rather than formation, of Village policy. Quasi-judicial matters include, but may not necessarily be limited to, the following:

- (1) Applications for the site-specific rezoning of real property;
- (2) Applications for site plan and appearance approval;
- (3) Applications for special exception uses;
- (4) Applications for Planned Unit Developments;
- (5) Applications for variances;
- (6) Administrative appeals; and
- (7) Applications for plat approval

(b) For all quasi-judicial matters which require more than one reading, the first reading shall constitute the quasi-judicial proceeding. Once a decision is rendered to grant or grant with conditions the relief sought by the applicant, then the second reading shall be procedural in nature with the Village Council ratifying and affirming its prior decision. If new evidence is introduced which, if brought to the attention

of the Village Council at the first reading, would have had a material impact on its decision, the Village Council may reopen the quasi-judicial hearing.

(c) The formal procedures set forth herein may be waived by the Village for applications seeking only appearance review and approval, such as sign face and color changes, or applications that are essentially ministerial nature, such as plat approval.

Notice procedures for Interested Persons

(a) Interested persons are entitled to a fair and impartial hearing, notice of the hearing, and an opportunity to be heard.

(b) Any Interested Person desiring to become a party in a quasi-judicial proceeding shall provide written notice to the Community Development Department which notice shall, at a minimum, set forth the Interested Person's name, address, e-mail address (if applicable) and telephone number, and indicate how the person qualifies as an Interested Person for the proceeding at issue. The filing of notice with the Community Development Department shall serve as notice of the Interested Person's request to appear at the applicable quasi-judicial proceeding to testify, present evidence, bring forth witnesses, and cross-examine witnesses. The required notice must be received by the Community Development Department no later than the close of business (5:00 p.m.) five (5) business days prior to the hearing. The Department, in consultation with the Village Attorney, shall verify that the person seeking designation as an Interested Person satisfies the requirements for such status and shall provide written confirmation. In the event multiple Interested Persons seeking to become a party in a quasi-judicial proceeding share the same protected interest and are members of the same community association, the Village shall recognize the community association as the Interested Person absent a compelling reason for each Interested Person to be recognized as a separate party.

(c) The written confirmation from the Community Development Department in subsection (b) above shall serve as the notice for the Interested Person to appear at the quasi-judicial proceeding, where he/she will be afforded party status. A copy shall also be provided to the Applicant.

Procedures for quasi-judicial proceedings

(a) The following is a guideline for conducting quasi-judicial hearings:

(1) *Introduction.* The presiding officer will introduce the case and, if appropriate, defer to the Village Attorney for the reading of the ordinance or resolution caption.

(2) *Swearing in.* All persons wishing to speak on a quasi-judicial matter shall take an oath to tell the truth. This includes attorneys representing parties, as well as members of the public providing comment.

(3) *Presentation of evidence.* The presiding officer shall have the option of determining the order to expedite the proceedings. However, all parties shall be provided the opportunity to present their case. The general order of the presentation of evidence shall be as follows:

a. *Presentations.* The Applicant, Village staff, and any Interested Person, in that order, shall each have twenty (20) minutes to make an initial presentation.

b. *Rebuttal.* The Applicant, Village staff, and any Interested Person, in that order, shall each have five (5) minutes for rebuttal. During this time, the parties may

present rebuttal testimony, cross-examine opposing witnesses, impeach witnesses, and rebut evidence.

- c. *Public comment.* Any person who did not speak during presentations and rebuttals may speak for not more than three (3) minutes. Prior to being heard, each speaker must state his/her name and address for the record.
- d. *Questions.* The presiding officer and any member of the Village Council or Planning Commission, as applicable, may ask questions of any party, witness, or person providing public comment.
- e. *Closing argument.* Any Interested Person, Village staff, and the Applicant, in that order, shall each have five minutes for closing argument.

(5) *Action by the quasi-judicial body.*

- a. At the conclusion of the presentation of the evidence and testimony, the quasi-judicial body shall close the public hearing. The presiding officer shall entertain any motions, and the quasi-judicial body shall proceed to deliberate and vote on the motion(s).
- b. If after notice of hearing, a party does not appear, the hearing may be conducted and an order entered in the absence of the party.
- c. If during the deliberations a question arises which the quasi-judicial body desires to ask, it shall reopen the public hearing, pose the question and allow each party the opportunity to respond to the question posed prior to closing the public hearing again and resuming deliberations.

(b) *Representation of parties*

(1) *Attorney.* Any natural person or party may represent himself/herself or may be represented by an attorney. If the party chooses to be represented by an attorney, a notice of representation, signed by the attorney, shall be filed with the Community Development Department prior to the hearing.

(2) *Non-attorney.* In the event any party (other than a corporation or the Village) chooses to be represented by a non-attorney, such party shall file a written, notarized power of attorney with the Community Development Department prior to the hearing stating that the person appearing has the full power and authority to act on behalf of the party in the matter.

(3) *Business representative.* A corporation or limited liability company may appear through a representative who is listed with the Florida Department of State as a current officer or manager of an active corporation or limited liability company entity. The representative must identify himself/herself in that business capacity.

(c) *Evidence.*

(1) All relevant evidence shall be admitted. The quasi-judicial body may exclude irrelevant, immaterial, or unduly repetitious evidence.

(2) Except as provided herein, neither the Federal Rules of Evidence nor the Florida Evidence Code shall apply, but fundamental due process shall be observed and shall govern said proceedings at all times.

(d) *Orders.*

(1) If the quasi-judicial body denies relief to the Applicant, the village shall issue a subsequent written order setting forth the reasons therefor.

(2) The quasi-judicial body shall have the authority to issue any and all orders to afford the proper relief, and this authority shall include the authority to grant continuances to a date certain.

(e) *Hearing record.* The Village Clerk shall maintain custody of all recordings of testimony, evidence, and documents submitted into evidence at the hearing. This shall include all back up documentation, as well as any document presented at the hearing or demonstrative exhibit seen by the Village Council or Planning Commission while making its decision. Nothing herein shall be deemed to prohibit any party from providing a court reporter for the proceedings. Any party wishing to appeal the decision of a quasi-judicial body shall have the responsibility to ensure compliance with F.S. §286.0105.

(f) *Continuances.* At the request of the Applicant, Village staff or an Interested Person who is a party to the proceeding or on its own volition, the Village Council or the Planning Commission may continue a quasi-judicial proceeding to a time and date certain. The decision to grant a continuance shall be in the sole discretion of the quasi-judicial body.

(g) *Rehearing/Reconsideration and Appeal.* While there is no specific rule or statutory authority for the rehearing or reconsideration of a quasi-judicial decision, a local government body or board has the inherent power and authority to rehear and reconsider a previously entered order. Notwithstanding this inherent power and authority, the Village determines that neither the Village Council nor the Planning Commission shall entertain any request for rehearing or reconsideration of a previously entered quasi-judicial order. A final determination of the Village Council or Planning Commission acting in its quasi-judicial capacity is subject to judicial review in a court of competent jurisdiction within thirty (30) days of the Council or Commission's rendition of its written determination.