

Development of Regional Impact (DRI) Reviews

A DRI is defined by Section 380.06(1), FS, as any development that, because of its character, magnitude or location, would have a substantial effect on the health, safety or welfare of citizens in more than one county. The state has established thresholds to determine when a development must undergo the DRI review process. These determinations are made by the Florida Department of Community Affairs (DCA) using Chapter 28-24, FAC.

The Regional Planning Council (RPC) plays a primary role in the DRI process, coordinating the multi-agency review activities at the regional level and reviewing the application for consistency with adopted state and regional plans. The RPC will hold a public hearing for the adoption of a regional position on the application, which is then forwarded to the local government of jurisdiction for its consideration. The RPC is an advisory body to the local government and so does not approve or deny applications.

The local planning agency (LPA) plays a lead role in the identification of local issues or concerns relative to the project and will take the recommended conditions of approval from the RPC and combine them with locally oriented conditions of approval in the construction of an overall development order. The local government's governing body will also conduct a public hearing on the project, at which time it will consider the reports of the RPC and LPA. It is the entity which ultimately approves or denies the authorization for the project to develop, through the issuance of a binding Development Order (DO).

As noted and described below, several types of developments may be treated similarly to a DRI, including specially defined DRI types, Florida Quality Developments (FQDs) and those reviewed under the Florida Expedited Permitting program. All DRIs and FQDs are regulated by Chapter 380.06, FS.

Review Requirements for New DRIs

Binding Letter of Determination/DRI Determination

A binding letter summarizes the determination by DCA as to whether a proposed development must undergo a DRI review.

Unless it is clear that a project is or is not subject to DRI review, the applicant should request a formal determination from DCA as to whether the project meets the definition of a DRI. Chapter 28-24, FAC spells out the criteria used by DCA to make this determination. DCA must make a finding of sufficiency, or request additional information within 15 days of receipt of a request for a binding letter of interpretation, and must make a final decision within 35 days of determining that there is sufficient information or receiving word that the applicant will not provide further information.

Where a project is clearly below all DRI thresholds, DCA may also provide the developer with a **Clearance Letter**, which is a less formal statement of opinion on the applicability of DRI review requirements to a development proposal.

In sum, the Florida Department of Community Affairs (DCA) is responsible for the determination of which projects must undergo DRI review, and to assure that regional and site interests are adequately considered in the approval process. The Regional Planning Council (RPC) is obligated to conduct the review and provide a forum for the resolution of greater-than-local issues that are identified. The local government of jurisdiction considers local concerns with the project,

determines the conditions under which development will proceed, and has the primary responsibility for enforcing those conditions.

Preliminary Development Agreement (PDA)

A PDA is a written agreement between DCA, and the applicant. It allows the applicant to proceed with a limited amount of development on the site prior to execution of a formal DO, and while the DRI review is occurring. Development done under a PDA is solely at the applicant's risk since all activity will be subject to the final DO and further agency approvals (See Rule 9J2.018,FAC).

Preapplication Conference Methodology Meetings

Before filing an Application for Development Approval (ADA), the applicant should contact the RPC to arrange a preapplication conference. This conference is conducted to identify issues, coordinate appropriate state and local agency requirements, and promote a proper and efficient review of the proposed development. There is usually a separate Transportation Methodology Meeting to deal exclusively with transportation methodology issues. The applicant will be required to provide standard information about the proposed development in accordance with DCA Form RPM-BSP-PREAPP-NFO-1 at least fourteen days prior to the preapplication conference. The preapplication conference will then be conducted to specify informational requirements, methods of analysis, the required number of DRI-ADAs, the method of their distribution to reviewing agencies, the deletion of questions from the DRI-ADA, and to clarify concerns of the reviewing agencies and applicant. This is an important step in the process for assuring that key issues will be addressed and for efficiently preparing the ADA.

DRI-ADA Application and Sufficiency Review

The applicant completes the DRI-ADA in accordance with the agreements reached at the preapplication conference. The RPC, DCA or Applicant may request that another Preapplication Meeting be conducted if the ADA is not submitted within one year of the initial Preapplication Meeting. The ADA is submitted to the RPC and the affected agencies for review. This is the first opportunity for the reviewer to conduct a thorough review of the applicant's estimate of impacts anticipated by the proposed DRI. The reviewer will be required to provide written comments or objections to the RPC and the applicant within a 30-day time frame. The applicant may or may not chose to provide the requested information. The 30 day review cycle repeats with each additional information submittal until it is determined that sufficient information has been provided, or the applicant declines to respond further. At this time, the RPC notifies the local government that final hearings may be scheduled.

Note on ADA Sufficiency Determinations

Sufficiency is the determination by the RPC that the applicant has supplied all of the necessary information in order to assess the development's regional impacts. When an ADA is filed with a local government, the applicant also sends copies of the application to the appropriate RPC, DCA, and other designated reviewing parties. All review comments and requests for additional information, including those received from the various review agencies, are coordinated by the RPC. Generally, there is no more than two requests for additional information.

The RPCs have the responsibility to coordinate with all affected agencies with regard to both the notification and coordination of review. This coordination requires each reviewer's comments/interests to be weighed against concerns of other agencies that may conflict with the interests of any single agency. In such instances, the RPC may carry forward a position which does not support any one reviewer's concerns or policies.

RPC Assessment Report

The RPC has 50 days after receipt of the local notice of public hearing to prepare and submit a formal Assessment Report detailing recommendations to the local government on the regional impact of the proposed development. This report will be used to develop and subsequently adopt the binding DO between the applicant and the local government. Final review comments will be solicited by the RPC for incorporation into the RPC Assessment Report. At the ECFRPC, this report is presented at public hearings before the Council's Project Review Committee and then the full Council.

Development Order (DO)

The Development Order is the binding order which authorizes and formally approves the DRI. It is executed between the applicant and the local government. The DO spells out most, if not all, of the binding conditions that will be imposed upon the DRI and usually includes any separate agreements made to resolve specific regional issues. At a minimum, conditions of approval would include mitigation requirements, monitoring procedures, DO compliance, commencement and termination dates, requirements for the annual report, and a legal description of the property.

Appeals of the DO

It is important to note that DCA, the land owner and the applicant are the only parties that may administratively appeal the DO. The appeal must be filed within 45 days from when it was officially rendered to these parties. The RPC can only recommend an appeal of the DO since DCA is the only agency with legal standing to appeal a DRI. Appeals are normally accomplished through petitioning for an Administrative Hearing pursuant to Chapter 380.07, F.S. The appeal of a DRI DO is made to the Florida Land and Water Adjudicatory Commission (consisting of the Governor and Cabinet) by filing a notice of appeal with the commission.

DRI Annual Reports

The DRI Annual Report is a yearly summary of information about the progress of development, applicant commitments for the DRI and its current status. Rule 9J-2.025, FAC, clarifies specific information to be included in each Annual Report. In addition, these reports are completed in a standard format specified by DCA on form RPM-BSP-ANNUAL REPORT.

Notification of Proposed Change (NOPC)

An NOPC (form RPM-BSP-PROPCHANGE -1) is required to be submitted by the applicant to the local government, the RPC and DCA when a change is proposed to a previously approved DRI. Section 380.06(19), F.S. provides guidance for determining the significance of the change. If it is determined to be a non-substantial change, the amendment can be considered by the local government, with consideration given to comments from DCA, the RPC, and their review agencies.

Substantial Deviation

A substantial deviation is defined as a proposed change to an approved DRI which creates a reasonable likelihood of additional regional impact or any regional impact not previously reviewed by the RPC. It is also a change that standing alone or cumulatively, can exceed criteria set forth in Section 380.06(19) F.S. The DRI review for a substantial deviation is limited to those areas affected by the proposed change. The review process for a substantial deviation is the same as for a

new ADA, although the length of time and extent of the review is often very much reduced due to the limited number of issues associated with changes.

DRI Variations

Section 380.06(25), F.S. allows more than one developer or landowner to jointly apply for DRI approval by becoming an **Areawide DRI**. By receiving such status, developers receive the recognition of being an approved DRI that is allowed by local codes as well as a public recognition that a development program has been approved for an area and will be recognized as such in public comprehensive and infrastructure planning. Although an Areawide DRI remains subject to the regular amendment review requirements for future changes, the percentages and numerical criteria that would determine whether changes are substantial deviations are doubled.

Section 380.06(22), F.S. provides for the submittal of a DRI application by a downtown development authority for activity on the lands subject to its jurisdiction. Approval of a **Downtown DRI** will authorize development within the area covered up to certain levels. Provided that those levels are not exceeded and other conditions of approval are complied with, development does not need to undergo additional DRI review, even if an individual project is of DRI size by itself. In East Central Florida, Downtown DRIs have been approved for the central business districts of Orlando and Altamonte Springs, where they have been used as a publicly provided attraction for large projects that can advance community redevelopment goals. As with Areawide DRIs, substantial deviation thresholds are doubled for Downtown DRIs.

The **Florida Quality Developments** program is intended to encourage development which has been thoughtfully planned to protect natural amenities, efficiently provide public services and promote a high quality of life for Florida's citizens. Established by Chapter 380.061, this program provides an optional review process for DRI projects which emphasizes identification and resolution of review issues at the beginning of the process in an effort to minimize application related costs and reduce review time. FQDs are issued development orders by DCA rather than the local governments of jurisdiction.

The Florida Jobs Siting Act created, in Chapter 403.973, F.S., an **Expedited Review** process for certain projects that advance state economic development objectives. This provides an opportunity for a developer to obtain his major state and local development authorizations through a concerted effort that is overseen by the Office of Tourism, Trade and Economic Development (OTTED) of the Governor's Office. DRI sized projects that are certified to receive expedited review must comply with the DRI review requirements, although there is no 80-100% band applied to thresholds, i.e. a project below 100% of a threshold does not have to undergo DRI review.

The **Sustainable Communities** program administered by DCA allows designated local governments to conduct their own DRI reviews under locally developed review programs. Only the City of Orlando has been selected for this program in the East Central Florida region and the program is still in its demonstration phase.

All forms related to DRI reviews and additional information on this program are available from the ECFRPC or through its web site: www.ecfrpc.org