

CITY OF ST. AUGUSTINE BEACH
APPEAL OF DECISION APPLICATION

NAME OF APPLICANT: _____

ADDRESS: _____

TELEPHONE NUMBER: _____

The purpose of this application is to appeal a decision made by the:

- Building Department
- Comprehensive Planning and Zoning Board

The decision being appealed took the form of a:

- Variance # _____ Dated _____
- Development Order
- Development Requirement
- Land Use Determination

Please state the interests of the person(s) seeking the appeal in this specific case:

Please state the specific error alleged to be made in the case under appeal:

THE CITY OF ST. AUGUSTINE BEACH
BUILDING AND ZONING DEPARTMENT

DATE: _____

NAME OF APPLICANT: _____

ADDRESS: _____

FOR APPEAL OF DECISION REGARDING: _____

CHARGES

APPEAL FEE: _____ \$300.00 _____ (Acct. # 34120)

ZONING SIGN FEE: _____ \$7.50 _____ (Acct. #50471.515)

DATE PAID: _____ CASH/CHECK#:

RECEIVED BY: _____ RECEIPT #:

Per Section 12.00.03.B of the City of St. Augustine Beach Land Development Regulations, notice of a time and place of any required public hearing before the City Commission with respect to appeals from decisions of the Comprehensive Planning and Zoning Board shall be mailed by the Building and Zoning Department to the applicant or appellant, and to all persons who, according to the most recent tax rolls, own property within three hundred (300) feet of the property which is the subject of the application or appeal. The list of property owners within three hundred (300) feet of the property for which the appeal application is submitted may be obtained from the St. Johns County Real Estate/Survey Department, telephone number 904-209-0760. A copy of this list, along with stamped envelopes with the names and addresses of all property owners within three-hundred (300) feet of the property for which the appeal application is filed, must be submitted along with this application and the appeal application fee of \$307.50, which includes the zoning sign fee.

Per Sections 12.06.02-12.06.03 of the City of St. Augustine Beach Land Development Regulations, "A developer, an adversely affected party, or any person who appeared orally or in writing before the Comprehensive Planning and Zoning Board and asserted a position on the merits in a capacity other than as a disinterested witness, may appeal the decision on a development plan, variance, conditional use permit for a home occupation, or an appeal under Section 12.06.01 reached at the conclusion of an administrative hearing to the City Commission by filing a notice of appeal with the Department within thirty (30) days of the date of the decision." The notice of appeal shall contain a statement of the decision to be reviewed, and the date of the decision; a statement of the interest of the person(s) seeking review; and the specific error alleged as the grounds of the appeal.

ARTICLE XII. ADMINISTRATION AND ENFORCEMENT

Sec. 12.00.00. Generally.

Sec. 12.00.01. Purpose.

This article sets forth the application and review procedures required for obtaining development orders and certain types of permits. Conditional use permits are issued as part of the development review process. This article also specifies the procedures for appealing decisions and seeking legislative action. (Ord. No. 91-7, § 2)

Sec. 12.00.02. Withdrawal of applications.

An application for development review may be withdrawn at any time so long as no notice has been given that the application will be reviewed at a public hearing. (Ord. No. 91-7, § 2)

Sec. 12.00.03. Notice of certain public hearings.

A. Notice of a time and place of any required public hearing before the comprehensive planning and zoning board with respect to amendments to the comprehensive plan, conditional use permits, variances, concept reviews, or appeals from decisions of the building and zoning department, shall be mailed by the department to the applicant or appellant, and to all persons who, according to the most recent tax rolls, own property within three hundred (300) feet of the property which is the subject of the application or appeal. The notice shall be mailed at least fifteen (15) days in advance of the date of the hearing. In addition, notice of the hearing shall be published once in a county newspaper and others as considered necessary not less than fifteen (15) days in advance of the date of the hearing. The expense of this mailing and publication shall be borne by the applicant, or in the case of an appeal, by the appellant.

B. Notice of a time and place of any required public hearing before the city commission with respect to conditional use permits, or appeals from decisions of the comprehensive planning and zoning board, shall be mailed by the department to the applicant or

appellant, and to all persons who, according to the most recent tax rolls, own property within three hundred (300) feet of the property which is the subject of the application or appeal. The notice shall be mailed at least fifteen (15) days in advance of the date of the hearing. In addition, notice of the public hearing shall be published once in a county newspaper and others as deemed necessary not less than fifteen (15) days in advance of the date of the hearing. The expense of this mailing and publication shall be borne by the applicant, or in the case of an appeal, by the appellant.

C. An applicant for any conditional use permit, variance, concept review, or a person who appeals from any decision of the building and zoning department, shall post a sign on the property upon which the request or appeal is made in such form as may be required by the city building official not less than fifteen (15) days prior to the date of the public hearing before the comprehensive planning and zoning board. The sign shall be posted in full view of the public on a street side of the land involved and shall be maintained by the applicant until a final determination has been made by the comprehensive planning and zoning board on the request or appeal.

D. A mailed notice is not required for the concept review of comprehensive plan amendments that affect land use or development standards. (Ord. No. 92-7, § 12; Ord. No. 95-1, § 14; Ord. No. 97-18, § 1, 7-7-97)

Sec. 12.01.00. Authorization by a development permit required prior to undertaking any development activity.

Sec. 12.01.01. Generally.

No development activity may be undertaken unless the activity is authorized by a development permit. (Ord. No. 91-7, § 2)

Sec. 12.01.02. Prerequisites to issuance of development permit.

Except as provided in section 12.01.03 below, a development permit may not be issued unless the proposed development activity:

A. Is authorized by a final development order issued pursuant to this Code; and

B. Conforms to the standards approved by the St. Augustine Beach City Commission.
(Ord. No. 91-7, § 2)

Sec. 12.01.03. Exceptions to requirement of a final development order.

A development permit may be issued for the following development activities in the absence of a final development order issued pursuant to this Code. Unless otherwise specifically provided, the development activity shall conform to this Code and the design standards approved by the St. Augustine Beach City Commission.

A. Development activity necessary to implement a valid site plan/development plan on which the start of construction took place prior to the adoption of this Code and has continued in good faith. Compliance with the development standards in this Code is not required if in conflict with the previously approved plan.

B. The construction or alteration of a one-family or two-family dwelling on a lot in a valid recorded subdivision approved prior to the adoption of this Code. Compliance with the development standards in this Code is not required if in conflict with the previously approved plat.

Sec. 12.05.00. Procedure for amending this Code of the comprehensive plan.

Sec. 12.05.01. State law controlling.

The procedures in this section 12.05.00 shall be followed in amending this Code and the comprehensive plan. This part supplements the mandatory requirements of state law, which must be adhered to in all respects.
(Ord. No. 91-7, § 2)

Sec. 12.05.02. Application.

Any person, board or agency may apply to the department to amend the land development regulations or the comprehensive plan in compliance with procedures prescribed by the department.
(Ord. No. 91-7, § 2; Ord. No. 96-08, § 1)

Sec. 12.05.03. Amending this Code.

The building official shall, upon the receipt of an application for rezoning or an amendment to these land development regulations, submit the same to the comprehensive planning and zoning board for comment at its next regular meeting. Following comment by the comprehensive planning and zoning

board, the application will be submitted to the city commission. In the event the application shall be approved by the passage of an ordinance upon first reading, the building official shall refer the application to amend these land development regulations to the comprehensive planning and zoning board for public hearing and final recommendation. The building official shall set the application for hearing before the comprehensive planning and zoning board at its next regularly scheduled meeting.
(Ord. No. 91-7, § 2; Ord. No. 96-08, § 2; Ord. No. 05-06, § 1, 4-7-05)

Sec. 12.05.04. Amending the comprehensive plan.

Applications to amend the comprehensive plan shall be set for hearing before the comprehensive planning and zoning board.
(Ord. No. 91-7, § 2)

Sec. 12.05.05. Recommendation of comprehensive planning and zoning board.

The comprehensive planning and zoning board shall hold a public hearing on each application to amend this Code or the comprehensive plan, and make a recommendation as required by Chapter 163 of the Florida Statutes.
(Ord. No. 91-7, § 2; Ord. No. 92-7, § 14; Ord. No. 92-20, § 13)

Sec. 12.05.06. Decision by St. Augustine Beach Commission.

The St. Augustine Beach Commission shall, upon receipt of the recommendation and comments of the comprehensive planning and zoning board, hold a public hearing on the proposed amendment and may enact or reject the proposal, or enact a modified proposal that is within the scope of matters considered in the hearing.
(Ord. No. 91-7, § 2; Ord. No. 96-08, § 3)

Sec. 12.05.07. Public hearing.

Each public hearing shall conform to the following requirements:

A. Notice. Notice that complies with the requirements of state law shall be given.

B. Hearing. The public hearing shall as a minimum:

1. Comply with the requirements of state law.

2. Permit any person to submit written recommendations and comments before or during the hearing.

3. Permit a reasonable opportunity for interested persons to make oral statements.
(Ord. No. 91-7, § 2)

Sec. 12.06.00. Procedure for appealing decisions.

Sec. 12.06.01. Appeals from decisions of the building and zoning department.

A developer or any adversely affected person may appeal a final decision of the department on an application for a development permit, development order, or a decision as to whether a development is a minor development or a major development. Appeals are made to the comprehensive planning and zoning board by filing a notice of appeal with the department within thirty (30) working days of the decision.;
(Ord. No. 91-7, § 2)

Sec. 12.06.02. Appeals from decisions of the comprehensive planning and zoning board.

A developer, an adversely affected party, or any person who appeared orally or in writing before the comprehensive planning and zoning board and asserted a position on the merits in a capacity other than as a disinterested witness, may appeal the decision on a development plan, variance, conditional use permit for a home occupation, or an appeal under section 12.06.01 reached at the conclusion of an administrative hearing to the city commission by filing a notice of appeal with the Department within thirty(30) days of the date of the decision.
(Ord. No. 91-7, § 2; Ord. No. 92-7, § 15; Ord. No. 93-14, § 9)

Sec. 12.06.03. Notice of appeal to city commission.
The notice of appeal shall contain:

- A. A statement of the decision to be reviewed, and the date of the decision.
- B. A statement of the interest of the person seeking review.
- C. The specific error alleged as the grounds of the appeal.
(Ord. No. 91-7, § 2)

Sec. 12.06.04. Appellate hearing.

When a decision is appealed to the city commission, the commission shall conduct the hearing in compliance with the following procedures as supplemented where necessary:

A. Scope of review.

1. The city commission's review shall be limited to the record and applicable law.

2. The commission shall have the authority to review questions of law only, including interpretations of this Code, and any constitution, ordinance, statute, law, or other rule or regulation of binding legal force. For this purpose, an allegation that a decision of the decision-maker is not supported by competent substantial evidence in the record as a whole is deemed to be a question of law. The commission may not reweigh the evidence but must decide only whether any reasonable construction of the evidence supports the decision under review.

B. The city commission shall find whether in its opinion error was made, and within the terms of this Code affirm, reverse or modify the decision appealed as it deems just and equitable.

C. Appeals from the decision of the city commission shall be appealed to the circuit court.
(Ord. No. 91-7, § 2; Ord. No. 92-7, § 16)

Sec. 12.07.00. Judicial review.

Sec. 12.07.01. Review of legislative decisions.

A final legislative action of the St. Augustine Beach Commission may be reviewed in a court of proper jurisdiction as prescribed by law.
(Ord. No. 91-7, § 2)

Sec. 12.08.00. Special provisions relating to administrative and appellate decision-makers.

Sec. 12.08.01. Challenges to impartiality.

A party to an administrative or appellate hearing may challenge the impartiality of any member of the hearing body. The challenge shall state by affidavit facts relating to a bias, prejudgment, personal interest, or other facts from which the challenger has concluded that the decision-maker cannot participate in an impartial manner. Except for good cause shown, the challenge shall be delivered by personal service to the building official no less than forty-eight (48) hours preceding the time set for the hearing. The building official shall attempt to notify the person whose qualifications are challenged prior to the hearing. The challenge shall be incorporated into the record of the hearing.
(Ord. No. 91-7, § 2)

