



# Development Services Department

Escambia County, Florida

## APPEALS PROCEDURE - From the Land Development Code of Escambia County

**Section 2.04.00. Appeal of Administrative Decisions.** When it is alleged that there is an error in any order, requirement, decision or determination regarding issuance or denial of a development order, land use certificate or permit made by an administrative official in the administration of this chapter, the issue in dispute shall be taken before the board of adjustment. For cases on Pensacola Beach, the appeal shall first be reviewed by the Santa Rosa Island Authority Board, which shall then forward a recommendation to the BOA. An action sufficient to confer standing on a person aggrieved by an administrative decision, or administration of the Land Development Code would be an official action granting, denying or granting with conditions an application for a development order, permit or land use certificate. This section shall not apply to citations issued by code enforcement officers.

**2.04.01. Procedures for the appeal of administrative decisions.** To initiate the appeals process, the person appealing the administrative decision must make written application for such appeal on a form(s) provided by the department of planning and zoning department within 15 days of the administrative decision. **Said application shall be accompanied by sufficient and adequate information to define and describe the alleged error, the proposed remedies, and any other pertinent information the applicant wishes to have considered during the appeals process.**

- A. The BOA is authorized to hear and to rule upon any appeal made by those persons aggrieved by administration of this Code. An administrative decision, or staff interpretation, shall not be reversed, altered, or modified by the BOA unless it finds that:
1. A written application for the appeal was submitted within 15 days of the administrative decision or action indicating the section of this Code under which said appeal applies together with a statement of the grounds on which the appeal is based; and
  2. That the person filing said appeal has established that the decision or action of the administrative official was arbitrary and capricious; or
  3. An aggrieved party who files an appeal of a decision of the DRC approving or approving with conditions a development plan application, must show, by competent substantial evidence that:
    - (i) The decision of the DRC is not in compliance with the Comprehensive Plan or the Land Development Code;
    - (ii) Their property will suffer an adverse impact as a result of the development approval decision;
    - (iii) The adverse impact must be to a specific interest protected or furthered by the Comprehensive Plan or the Land Development Code; and
    - (iv) It must be greater in degree than any adverse impact shared by the community at large.



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4. In the event the owner, developer, or applicant is aggrieved or adversely affected by a denial of a development plan application or the imposition of conditions, the owner, developer or applicant filing the appeal must show, by competent substantial evidence, that the denial of the development plan or the imposition of conditions is neither required nor supported by the Comprehensive Plan or the Land Development Code or the application of technical design standards and specifications adopted by reference in the Code, or Concurrency Management Procedures and is, therefore, arbitrary and capricious.
- B. *Hearing of appeal; notice required.* The BOA shall schedule the hearing for the appeal to occur within 30 working days after the filing of the notice of appeal, give due notice to the parties in interest, and decide the same within a reasonable time. Any party may appear at the hearing in person or by agent or attorney. The BOA hearing may be continued or postponed by vote of the BOA or by the property owner, or his [or her] agent or attorney, upon his or her written request.
- C. *Decision of the BOA.* In applying the provisions of this Code, said provisions shall be held to be minimum provisions. The BOA may reverse or affirm, wholly or partly, or may modify the order, requirements, decision or determination appealed, but may so modify only to the extent supported by the competent substantial evidence presented, and as necessary to maintain compliance with the requirements of the Code and Comprehensive Plan. To that end only, the BOA shall have the powers of the administrative official(s) to whom the appeal is directed. The BOA shall have no authority to reverse, diminish, or otherwise modify the application of technical design standards and specifications adopted by reference in the Code, or concurrency management procedures herein, or to exempt development from required review and approval. The concurring vote of a majority of the members of the BOA present and voting shall be necessary to reverse any order, requirement, decision, or determination of any such administrative official, or to decide in favor of the applicant on any matter upon which it is required to vote. Any party aggrieved by the decision of the BOA on an administrative appeal shall have 30 days to petition the circuit court for judicial review of such order.



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## APPLICATION INSTRUCTIONS

### Prior to Application Submittal

Please contact the Development Services Department located at 3363 West Park Place (595-3475) to make an appointment for a pre-application meeting with a Planner to personally discuss your site and prospective plans for it, to review the application forms and criteria with you, to answer any questions you may have, and/or any possible alternatives.

### Application Submittal

It is important for the application packet to be complete and on time in order to process and schedule your request for the required public hearing(s). In order for the application request to proceed in a timely manner, all items on the application forms and checklist (attached herein) must be completed and submitted prior to the deadline, scheduling a pre-application meeting with a Planner is recommended. Any incomplete application or application submitted after the deadline will not be accepted by staff.

The owner and/or agent acting in his/her behalf, must sign the certification(s) where indicated on the application. If an agent is handling the request, the owner must submit an Affidavit of Ownership & Limited Power of Attorney (attached herein) authorizing said agent to act in his/her behalf. Signatures must be properly notarized and dated no more than sixty (60) days prior to application submittal.

No guarantee is made for the approval of any petition. Fees are non-refundable regardless of the decision.

### Public Hearing(s)

It is the Applicant's burden to show consistency with all applicable criteria. **NOTE:** The applicant, or his/her agent, must be present at the Board of Adjustment or Planning Board meeting. For rezoning requests, it is also highly recommended that he or she be present at the subsequent Board of County Commissioners meeting.

### Public Notice

Per the Land Development Code Article 2: A legal notice/advertisement will be published in the Pensacola News Journal and a sign(s) will be posted on the property by Development Services Department (DSD) prior to the hearing. Current property owners near the subject property will be notified of the proposed request via postcard by DSD at least fifteen (15) days prior to the hearing (see table below). Staff will obtain the list of mailing addresses from the Escambia County Property Appraiser's Office website (escpa.org).

Application Type:	Who will receive a postcard? Property owners:
Rezoning	within 500 foot radius of the subject property
Conditional Use	
Administrative Appeal	
Conditional Use – Sale of Alcohol	within 500 foot radius of the subject property and any places of worship and/or day care facility within 1,000 feet
Variance	directly abutting the subject property (excluding properties across the street)

### Fees

Payment must be submitted prior to 3pm of the closing date for acceptance of application. Please make checks payable to Escambia County. Development Services Department accepts MasterCard and Visa.

Board of Adjustment (BOA)	Planning Board – Rezoning
\$1,050 - Conditional Use	\$1,050 for a rezoning request of one parcel
\$350 - Variance	\$1,750 for a rezoning request of two contiguous parcels
\$560 - Administrative Appeal	\$1,750 plus \$70 for each additional parcel for more than two contiguous parcels
\$175- Development Order Extension	

Lots separated by a street or roadway or by other lots/parcels are not considered contiguous. All lots must be owned by the same applicant in order to receive the discounted fee.

## APPLICATION

**Please check application type:**

- |  |   |
|--|---|
| <input type="checkbox"/> Administrative Appeal       | <input type="checkbox"/> Conditional Use Request for: _____     |
| <input type="checkbox"/> Development Order Extension | <input type="checkbox"/> Variance Request for: _____            |
|  | <input type="checkbox"/> Rezoning Request from: _____ to: _____ |

**Name & address of current owner(s) as shown on public records of Escambia County, FL**

Owner(s) Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Address: \_\_\_\_\_ Email: \_\_\_\_\_

Check here if the property owner(s) is authorizing an agent as the applicant and complete the Affidavit of Owner and Limited Power of Attorney form attached herein.

Property Address: \_\_\_\_\_

Property Reference Number(s)/Legal Description: \_\_\_\_\_

**By my signature, I hereby certify that:**

- 1) I am duly qualified as owner(s) or authorized agent to make such application, this application is of my own choosing, and staff has explained all procedures relating to this request; and
- 2) All information given is accurate to the best of my knowledge and belief, and I understand that deliberate misrepresentation of such information will be grounds for denial or reversal of this application and/or revocation of any approval based upon this application; and
- 3) I understand that there are no guarantees as to the outcome of this request, and that the application fee is non-refundable; and
- 4) I authorize County staff to enter upon the property referenced herein at any reasonable time for purposes of site inspection and authorize placement of a public notice sign(s) on the property referenced herein at a location(s) to be determined by County staff; and
- 5) I am aware that Public Hearing notices (legal ad and/or postcards) for the request shall be provided by the Development Services Bureau.

\_\_\_\_\_  
Signature of Owner/Agent

\_\_\_\_\_  
Printed Name Owner/Agent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Owner

\_\_\_\_\_  
Printed Name of Owner

\_\_\_\_\_  
Date

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_,  
by \_\_\_\_\_.

Personally Known  OR Produced Identification . Type of Identification Produced: \_\_\_\_\_

\_\_\_\_\_  
Signature of Notary  
(notary seal must be affixed)

\_\_\_\_\_  
Printed Name of Notary

**FOR OFFICE USE ONLY**

**CASE NUMBER:** \_\_\_\_\_

Meeting Date(s): \_\_\_\_\_ Accepted/Verified by: \_\_\_\_\_ Date: \_\_\_\_\_

Fees Paid: \$ \_\_\_\_\_ Receipt #: \_\_\_\_\_ Permit #: \_\_\_\_\_

## CONCURRENCY DETERMINATION ACKNOWLEDGMENT

### For Rezoning Requests Only

Property Reference Number(s): \_\_\_\_\_

Property Address: \_\_\_\_\_

I/We acknowledge and agree that no future development for which concurrency of required facilities and services must be certified shall be approved for the subject parcel(s) without the issuance of a certificate of concurrency for the development based on the actual densities and intensities proposed in the future development's permit application.

I/We also acknowledge and agree that approval of a zoning district amendment (rezoning) or Future Land Use Map amendment does not certify, vest, or otherwise guarantee that concurrency of required facilities and services is, or will be, available for any future development of the subject parcels.

I/We further acknowledge and agree that no development for which concurrency must be certified shall be approved unless at least one of the following minimum conditions of the Comprehensive Plan will be met for each facility and service of the County's concurrency management system prior to development approval:

- a. The necessary facilities or services are in place at the time a development permit is issued.
- b. A development permit is issued subject to the condition that the necessary facilities and services will be in place and available to serve the new development at the time of the issuance of a certificate of occupancy.
- c. For parks and recreation facilities and roads, the necessary facilities are under construction at the time the development permit is issued.
- d. For parks and recreation facilities, the necessary facilities are the subject of a binding executed contract for the construction of the facilities at the time the development permit is issued and the agreement requires that facility construction must commence within one year of the issuance of the development permit.
- e. The necessary facilities and services are guaranteed in an enforceable development agreement. An enforceable development agreement may include, but is not limited to, development agreements pursuant to Section 163.3220, F.S., or as amended, or an agreement or development order issued pursuant to Chapter 380, F.S., or as amended. For transportation facilities, all in-kind improvements detailed in a proportionate fair share agreement must be completed in compliance with the requirements of Section 5.13.00 of the LDC. For wastewater, solid waste, potable water, and stormwater facilities, any such agreement will guarantee the necessary facilities and services to be in place and available to serve the new development at the time of the issuance of a certificate of occupancy.
- f. For roads, the necessary facilities needed to serve the development are included in the first three years of the applicable Five-Year Florida Department of Transportation (FDOT) Work Program or are in place or under actual construction no more than three years after the issuance of a County development order or permit.

I HEREBY ACKNOWLEDGE THAT I HAVE READ, UNDERSTAND AND AGREE WITH THE ABOVE STATEMENT ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, YEAR OF \_\_\_\_\_.

\_\_\_\_\_  
Signature of Property Owner

\_\_\_\_\_  
Printed Name of Property Owner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Property Owner

\_\_\_\_\_  
Printed Name of Property Owner

\_\_\_\_\_  
Date

## AFFIDAVIT OF OWNER AND LIMITED POWER OF ATTORNEY

As owner of the property located at \_\_\_\_\_,  
Florida, property reference number(s) \_\_\_\_\_

I hereby designate \_\_\_\_\_ for the sole purpose  
of completing this application and making a presentation to the:

- Planning Board and the Board of County Commissioners to request a rezoning on the above  
referenced property.
- Board of Adjustment to request a(n) \_\_\_\_\_ on the above referenced property.

This Limited Power of Attorney is granted on this \_\_\_\_\_ day of \_\_\_\_\_ the year of,  
\_\_\_\_\_, and is effective until the Board of County Commissioners or the Board of Adjustment has  
rendered a decision on this request and any appeal period has expired. The owner reserves the right to  
rescind this Limited Power of Attorney at any time with a written, notarized notice to the Development  
Services Bureau.

Agent Name: \_\_\_\_\_ Email: \_\_\_\_\_

Address: \_\_\_\_\_ Phone: \_\_\_\_\_

\_\_\_\_\_  
Signature of Property Owner

\_\_\_\_\_  
Printed Name of Property Owner

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Property Owner

\_\_\_\_\_  
Printed Name of Property Owner

\_\_\_\_\_  
Date

STATE OF \_\_\_\_\_ COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_,  
by \_\_\_\_\_.

Personally Known  OR Produced Identification . Type of Identification Produced: \_\_\_\_\_

\_\_\_\_\_  
Signature of Notary

\_\_\_\_\_  
Printed Name of Notary

(Notary Seal)

## APPLICATION ATTACHMENTS CHECKLIST

- \_\_\_\_\_ 1. For BOA, original letter of request, typed or written in blue ink & **must** include the reason for the request and address all criteria for the request as outlined in LDC Article 2.05 (dated, signed & notarized – notarization is only necessary if an agent will be used).
- \_\_\_\_\_ 2. Application/Owner Certification Form - Notarized Original (page 1) (signatures of ALL legal owners or authorized agent are required)
- \_\_\_\_\_ 3. Concurrency Determination Acknowledgment form - Original (if applicable) (page 2)
- \_\_\_\_\_ 4. Affidavit of Owner & Limited Power of Attorney form - Notarized Original (if applicable) (page 3) (signatures of ALL legal owners are required)
- \_\_\_\_\_ 5. Legal Proof of Ownership (e.g. copy of Tax Notice or Warranty Deed). Include Corporation/LLC documentation or a copy of Contract for Sale if applicable.
- \_\_\_\_\_ 6. Legal Description of Property Street Address / Property Reference Number
- \_\_\_\_\_ 7.
  - a. Rezoning: Boundary Survey of subject property to include total acreage, all easements, and signed & sealed by a surveyor registered in the state of Florida.
  - b. BOA: Site Plan drawn to scale.
- \_\_\_\_\_ 8. For Rezoning requests: If the subject parcel does not meet the roadway requirements of Locational Criteria (Comprehensive Plan 7.A.4.13 & LDC 7.20.00.), a compatibility analysis to request a waiver or an exemption to the roadway requirements will need to be submitted as part of the application.
- \_\_\_\_\_ 9. Pre-Application Summary Form, Referral Form, Zoning Verification Request Form and/or copy of citation from Code Enforcement Department if applicable.
- \_\_\_\_\_ 10. Application fees. (See Instructions page for amounts) Payment cannot be accepted after **3:00pm**.

*Please note: Forms with signatures dated more than sixty (60) days prior to application submittal will not be accepted as complete.*

Please make the following three appointments with the Coordinator.

Appointment for pre-application meeting: \_\_\_\_\_

Appointment to turn in application: \_\_\_\_\_

Appointment to receive findings-of-fact: \_\_\_\_\_