



LAND USE APPEAL APPLICATION

NOTICE TO APPLICANT: On original application form, please print legibly using black/dark blue ink or type. Applicants are advised to review the list of submittal requirements and recommendations indicated on each land use application form and in the applicable code section prior to submitting an application.

TRACKING INFORMATION (For Office Use Only)

Processing Procedure: Type III PC Type III CC

File # _____ Planner _____ Hearing Date _____

APPEAL OF CASE FILE NO(S).

(Please identify the case file(s) to be appealed, the date of decision, and review body)

Case File No.(i.e.: PUD 001-15) _____

Date of Decision _____ Decision-making Body _____

APPEAL HEARING REQUESTED

(Please check one of the following):

- On the Record (No new testimony admissible.)
- De Novo (New testimony admissible on all issues.)
- Limited De Novo (New testimony limited to specified issues.)

APPELLANT(S)

(If more than one appellant, attach names with signatures and addresses on a separate sheet of paper.)

Appellant(s) Name/Contact _____

Business Name _____ Phone Number _____

Mailing Address _____ City _____ State _____ Zip _____

Appellant's Signature _____ Date _____

APPELLANT'S REPRESENTATIVE

(if applicable)

Representative's Name/Contact _____

Business Name _____ Phone Number _____

Mailing Address _____ City _____ State _____ Zip _____

Representative's Signature _____ Date _____

SITE DESCRIPTION

Tax Map #(s) _____ Tax Lot #(s) _____

Frontage Street or Address _____

LAND USE APPEAL APPLICATION

(CONTINUED)

REASON FOR REQUEST

Please attach a detailed statement on the basis of the appeal, including which process, approval criteria, development standards, or conditions of approval were allegedly improperly evaluated or applied to the decision (NOTE: *See statement examples below and refer to the Submittal Requirements for additional information*):

The reason I wish to appeal is...

The decision is in error because...

The following provisions of the Community Development Code were/were not considered or were in error...

APPROVAL CRITERIA AND REVIEW STANDARDS

(LAND USE APPEAL)

The approval criteria and requirements for a **Land Use Appeal** application are listed in Section 12.70.180 of the Community Development Code (CDC) as follows:

12.70.180 Appeals.

- A. In General. Table 12.70.020-1 identifies the decision authority and appeal authority for each application type. A decision on a Type I permit may be appealed only by the applicant. A decision on a Type II or Type III application may be appealed by an affected party by filing a Notice of Appeal with the Director within 15 days of the mailing date of the written Notice of Decision. There is no local appeal of a Type IV decision.
- B. Notice of Appeal. Notices of Appeal shall be filed with the Planning Director. At a minimum, the Notice shall include the following items:
 1. Identification of the decision being appealed, including the case file number, the Review Authority which made the decision, and the date of the Decision;
 2. Documentation that the appellant was a party to the initial proceedings;
 3. A detailed statement on the basis of the appeal, including which approval criteria, development standards, or conditions of approval were allegedly improperly evaluated or applied to the decision; and
 4. Payment of the appropriate fee, as established by City Council resolution.
- C. Failure to File Notice of Appeal. Failure to file a notice of appeal that fully complies with Subsection B above, by 5:00 p.m. on the due date, with the fee specified in the Notice of Decision, shall be a jurisdictional defect.
- D. Request for Transcript. Pursuant to Subsection 12.70.170.N.2, the appellant or any interested party may request a verbatim transcript of the recorded proceedings before the Planning Commission or the Planning and Zoning Hearings Board on the matter.
- E. General Procedures Applicable to All Appeals.
 1. Public Hearing Required for Appeals. Appeal hearings before the appropriate review body as specified in Table 12.70.020-1 shall be conducted in accordance with the public hearing provisions in applicable state law and in Section 12.70.170 of this Code.
 2. Notice of Public Hearing on Appeal. Notices of appeal hearings shall be sent in accordance with the notification requirements for the procedure type of the application under appeal, in Subsection 12.70.040.F for Type II applications and Subsection 12.70.050.F for Type III applications.
 3. Staff Report. At least 7 days before the date of the appeal hearing, the Director shall prepare and make available to the public a copy of the staff report regarding the appeal. A copy of the staff report and recommendation shall be provided to the appeal body, the applicant and to the appellant. Copies of the staff report shall also be provided at reasonable cost to the public upon request to the Planning Division.
 4. Action of Appeal Body. At the conclusion of the hearing on the appeal, the appeal body shall take 1 of the following actions:
 - a. Reverse or affirm the decision under appeal at the conclusion of the initial appeal hearing, with or without conditions or changes; or
 - b. Continue the appeal hearing to a date, time, and location certain, which shall be announced by the presiding officer. Notice of the date, time, and location certain of the continued hearing is not required to be mailed or published;

APPROVAL CRITERIA AND REVIEW STANDARDS

(CONTINUED)

- c. Continue the appeal hearing without announcing a date, time and location certain, in which case notice of the continued hearing shall be provided as was the notice for the initial hearing;
 - d. Provisions for continuing an appeal hearing or holding the record open as set forth in Subsection 12.70.170 J shall apply under this Code in a manner consistent with state law.
5. Written Decision of Appeal Body. After the public record on the appeal closes, a written decision regarding the appeal shall be prepared. The written decision shall contain the following:
- a. A statement of the facts relied upon by the appeal body, which demonstrate the reasons why the decision under appeal is reversed or affirmed based on the applicable criteria and/or standards;
 - b. A statement of conclusions based on the findings; and
 - c. An explanation of the basis for any changes in the earlier decision:
 - i. Denial reversed to approval; with or without conditions;
 - ii. Approval changed to denial; or
 - iii. Additions, deletions or revisions to conditions of approval.
6. Mailing Notice of Decision. Following the adoption of a decision by the appeal authority, the Planning Division shall mail the signed and dated decision to the appellant, the applicant, and any other persons who appeared orally or in writing in the record of the appeal.
- F. Specific Provisions for Appeal of a Type I Decision.
1. A Type I decision may be appealed only by the applicant.
 2. The Director shall mail written notice of the appeal hearing to the applicant/appellant not less than 20 days prior to the appeal hearing.
 3. The appeal hearing shall be “de novo”, meaning new evidence and argument can be introduced in writing and/or orally.
 4. The scope of the appeal hearing shall be limited to the approval criteria and/or the conditions of approval, and reasons why a finding and/or condition of approval are or are not in error as a matter of fact and/or law.
 5. The decision of the designated appeal body for appeal of a Type I decision is the final City decision.
- G. Specific Provisions for Appeal of a Type II Decision.
1. A Type II decision may be appealed by the applicant or any person who submitted written comments prior to the decision by the Director, pursuant to Table 12.70.020-1 and Subsection 12.70.040 F.
 2. The Director shall mail written notice of the appeal hearing to the parties listed in Subsection 12.70.040.F at least 20 days before the appeal hearing.
 3. The appeal hearing shall be “de novo”, meaning new evidence and argument can be introduced in writing and/or orally.
 4. The decision of the designated appeal body for the appeal of a Type II decision is the final City decision.

APPROVAL CRITERIA AND REVIEW STANDARDS

(CONTINUED)

H. Specific Provisions for Appeal of a Type III Decision.

1. A Type III decision may be appealed by the applicant or any person who participated by providing either oral or written evidence on the record leading to the decision by the Review Authority. Appeals of Type III decisions may be heard by either the City Council or by the Land Use Board of Appeals: see Table 12.70.020-1.
2. Unless a de novo hearing is requested and accepted under paragraphs 3 and 4 below, the appeal hearing of a Type III decision shall be “on the record,” meaning a review of the record with the right of argument, but without submittal of new evidence. The record shall include the following information:
 - a. A factual report prepared by the Planning Division;
 - b. All exhibits, materials, pleadings, memoranda, stipulations, and motions submitted by any party and reviewed or considered in reaching the decision under review; and
 - c. The minutes and/or transcript (if any) of the hearing below and a detailed summary of the evidence; and
 - d. A recommendation by the Planning Director.
3. A party to the appeal, or the Planning Director, may request that the City Council conduct a de novo hearing on the appeal. If made by the appellant, the request must be included in the Notice of Appeal pursuant to Subsection 12.70.190.B. If made by any other party including the Planning Director, the request must be made no more than seven days after the deadline for filing the notice of appeal has expired. Any request for a de novo hearing on appeal must indicate the reasons for the request without addressing the merits of the land use action. When practicable, the party requesting the de novo hearing shall advise the other parties to the appeal and attempt to gain their consent to the de novo hearing.
4. A request for a de novo appeal hearing shall be decided by the City Council as a non-public hearing item. The City Council may grant the request upon findings that:
 - a. A de novo hearing is necessary to fully and properly evaluate a significant issue relevant to the proposed development action;
 - b. The substantial rights of the parties will not be significantly prejudiced; and
 - c. The request is not necessitated by improper or unreasonable conduct of the requesting party or by a failure to present evidence that was available at the time of the initial Type III public hearing.
5. The Director shall mail written notice of the appeal hearing to the parties listed in Subsection 12.70.050.F at least 20 days prior to the appeal hearing. The written notice shall include the date, time and place of the public hearing, and shall specify whether the hearing on appeal will be on the record or de novo.
6. The decision of the City Council on the appeal of a Type III decision shall be the final City decision.

I. Withdrawal of an Appeal.

1. At any time before the close of an appeal hearing held by any Review Authority, any appellant may withdraw his/her appeal. Withdrawal of the appeal is subject to the following:
 - a. If requested before the hearing, the withdrawal must be submitted in writing;

APPROVAL CRITERIA AND REVIEW STANDARDS

(CONTINUED)

- b. Any unexpended portion of the appeal fee will be refunded only if the withdrawal is received before the public notice of the hearing has been sent; and
 - c. Where multiple people or parties sign and file a single Notice of Appeal, all the parties must consent to the withdrawal of the appeal.
2. A withdrawn appeal cannot be re-filed by any party.
 3. If all appeals in a matter are withdrawn, no decision by the Review Authority is necessary.
 4. If all appeals are withdrawn, the Planning Division shall issue a Notice of Appeal Withdrawal to the applicant, the appellant, and the parties listed in Subsection 12.70.050.F. The Notice of Appeal Withdrawal shall specify the new effective date of the original decision to be the date of the withdrawal of the appeal(s).

SUBMITTAL REQUIREMENTS CHECK LIST

(LAND USE APPEAL)

Application submittal requirements are set forth in Section 12.70.110 of the Community Development Code (CDC). The following is a check list based on the specific requirements for Land Use Appeal set forth in Section 12.70.180 and Sections 12.70.040 and 12.70.050 Type II and Type III Procedures:

- Completed, Signed Application Form:** Two (2) copies plus the original completed, signed application form (for a total of 3 sets). This information must be reproduced so please write clearly using black/dark blue ink or type.
- Narrative:** Two (2) copies plus original written narrative clearly describing the reason for the appeal, including:
 - A detailed statement on the basis of the appeal, including which process, approval criteria, development standards, or conditions of approval were allegedly improperly evaluated or applied to the decision; and
 - Identification of the decision being appealed, including the case file number, the Review Authority which made the decision, and the date of the Decision;
 - Documentation that the appellant was a party to the initial proceedings;
- Fee:** The appropriate filing fee **PAYABLE TO CITY OF HILLSBORO**. Please consult the fee schedule for current fees.
- Electronic Files:** A full electronic version of all submitted materials must also be provided in PDF format on a DVD/CD or thumb-drive. Contact the assigned Planner or Planning Technician for additional information or assistance.

ELECTRONIC FILE NAMING STANDARDS

All files should be named according to their order listed on your provided Title Sheet, Cover Sheet or Table of Contents. ProjectDox displays the files in numeric - alphabetical order, so it is important to name the Drawings with a three digit numeric value followed by the document name before uploading. The numeric value at the beginning of the file name ensures the order in which they are displayed after upload. This only applies to the files in the Drawings folder. Examples of acceptable file names are provided below. Some items shown below may not be applicable to your specific application.

<u>Document Type:</u>	<u>Standard Document File Names:</u>
Application Form (Completed, signed)	Application
Residential Density Calculation Worksheet	Res Density Calcs
Application Narrative	Narrative
Clean Water Services Service Provider Letter	CWS SPL
Neighborhood Meeting Documentation	Neighborhood Mtg
Transportation Study or Traffic Impact Analysis	Traffic Report
Stormwater Analysis	Stormwater Report
GeoTechnical Report	Geotech Report

ProjectDox Tip:

Please limit the number of characters in the file name to **35 characters or less** – abbreviations are acceptable. Do not include “-”(dashes) or special characters (&, %, #, etc.) in the file name. Below are examples of acceptable file names. Reminder, file names for Drawings, should start with the appropriate number given the order and content specific to your application and submittal requirements.

The following components make up the file name for Drawings:

Sequential Display Order No.	Sheet Number	Sheet Title/Name	File Name
001	G001	Cover Sheet	001 G001 Cover Sheet
002	1.0	Site Plan	002 1.0 Prelim Site Plan

The following examples highlight acceptable naming standards for drawing sheets uploaded to the Drawings folder:

List of sheets provided on Drawing Cover Sheet:

DRAWING INDEX	
SHEET NO.	DRAWING TITLE
	COVER SHEET
0.1	PRELIMINARY EROSION & SEDIMENT CONTROL PLAN
1.0	PRELIMINARY SITE PLAN
1.1	EVERGREEN ACCESS PLAN
1.2	PRELIMINARY PHASING PLAN
1.3	PRELIMINARY CIRCULATION PLAN
2.0	PRELIMINARY GRADING AND DRAINAGE PLAN
3.0	PRELIMINARY UTILITY PLAN
3.1	PRELIMINARY LIGHTING PLAN
1.0	LANDSCAPE PLAN
EXISTING CONDITIONS PLAN (ALTA SURVEY)	
1 OF 1	TOPOGRAPHIC SURVEY

Standard Drawing File Names:

- 001 Cover Sheet
- 002 0.1 Erosion Control
- 003 1.0 Prelim Site Plan
- 004 1.1 Evergreen Access
- 005 1.2 Phasing
- 006 1.3 Circulation
- 007 2.0 Grading and Drainage
- 008 3.0 Utility
- 009 3.1 Lighting
- 010 1.0 Landscape
- 011 Topographic Survey

The number value in front of the file name ensures the display order.