

## ARTICLE 16 – APPLICATION REVIEW AND APPROVAL REQUIREMENTS

### **Section 16.2. Application for Appeal of Administrative Decision**

Any person or persons claiming to be aggrieved on account of any ruling by an official charged with enforcing the land development regulations may appeal to the official involved and to the Board of Zoning Appeals (BZA), other than appeals of decisions on Certificates of Appropriateness which must follow the procedures in Section 16.3, and other than appeals of minor variation decisions and architectural review decisions in the Traditional Punta Gorda, TPG zoning district, as provided in Section 3.2(j). ~~Any such appeal~~ Appeals of administrative decisions must be filed in writing within 30 days after the act or decision upon which any appeal is made and must specify the grounds thereof.

- (a) **Application Filing.** The filing of a complete application for appeal from ~~the Zoning an~~ official's ruling shall stay all proceedings and all work on the premises involved unless such stay shall be deemed to imperil life or property. In such cases, proceedings or work shall not be stayed except by an order granted by the City Council or by the Circuit Court if the same shall have been refused by the City Council.
- (b) **Record of Administrative Decision.** Upon acceptance of a complete application of the appeal of administrative ruling, the Zoning Official shall transmit to the BZA all papers or other records upon which the action or decision of appeal was taken.
- (c) **Public Hearing by the BZA.** The BZA shall hold a public hearing and thereafter determine whether the relief should or should not be granted ~~and an appropriate recommendation shall be made to the City Council.~~ The public hearing requires newspaper notice as set out in Section 16.1(g). Any party in interest may appear in person or by agent or attorney. Unless an appeal is filed in writing within 30 days of the written decision, the BZA's decision shall be final. An appeal may be filed by the applicant or by any person who provided input on the appeal or who owns property within 200 feet of any boundary line of the property for which the appeal is being requested.
- (d) **Public Hearing by City Council.** If a valid appeal is filed in writing within 30 days, ~~Within 90 days of receipt of the recommendation from the BZA,~~ the City Council shall hold a public hearing. The public hearing requires newspaper notice as set out in Section 16.1(g). The City Council may reverse or affirm, wholly or partly, or may modify the order, requirement or decision or determination made by the City in the enforcement of any adopted zoning regulation or may make such decision or take such activities as the Zoning Official should have made or taken.
- (e) **Approval Criteria.** An appeal shall be sustained only if the BZA or City Council finds that the administrative official erred. The decision ~~of the City Council~~ shall be accompanied by written findings of fact and conclusions stating the reason for the decision. The Zoning Official shall serve a copy of the decision on the applicant and upon each other person who was a party of record at the hearing.

(1) **Consideration for appeals.**

In reaching a decision, the following criteria shall be considered as well as any other issues which are pertinent and reasonable:

- a. Whether or not the appeal is of a nature properly brought to them for decision, or whether or not there is an established procedure for handling the request other than through the appeal process (i.e. variance, special exception, etc.)
- b. The intent of the regulation in question.
- c. The effect the ruling will have when applied generally to the zoning regulations.

- d. Staff recommendation, the testimony of the appellant and the testimony of substantially interested parties shall also be considered.
- (f) **Appeal.** Any person aggrieved by a decision of the City Council may appeal said decision to the Circuit Court within 30 days from the date of the decision.
- (g) **Withdrawal of Appeal.** An appeal may be withdrawn by the applicant at any time prior to the deadline of cancellation of the newspaper advertisement for the public hearing on the application; after this deadline an appeal may be withdrawn only with the permission of the BZA or City Council.

**Section 16.3. Application for Certificate of Appropriateness**

No structure, building, or sign shall be erected, reconstructed, altered, or restored on designated property until a Certificate of Appropriateness has been approved by the City in accordance with the procedures of this Section. A structure shall include anything man-made, including but not limited to outbuildings, fences, walls, lamp posts, light fixtures, signs, sign posts, driveways, walkways, and paving. The provisions of this Section shall not apply to the regular maintenance of structures, buildings, or signs.

For the purposes of this Section, the term “designated property” shall be defined as any lot with a structure listed on the Local Register of Historic Places.. See Section 8.1. property within the National Register Historic Overlay District, property individually listed on the National Register or property listed on the Florida Master Site File by the State of Florida Department of State, Bureau of Historic Preservation of the Division of Historic Resources.

All Applications for a Certificate of Appropriateness ~~may~~ shall be approved by the Zoning Official. Certain applications as specified below shall only be reviewed by the Zoning Official ~~and while certain other~~ applications shall first be submitted to the Historic Preservation Advisory Board (HPAB) for review and recommendation to the Zoning Official. All decisions on an application for a Certificate of Appropriateness shall be based upon the fullest possible compliance with the relevant architectural provisions in Section 3.2(f), while considering the scale, massing, and detailing of nearby designated properties and the extent of changes resulting from a proposed rehabilitation. provisions of the “Historic District Design Guidelines, June 2003”, incorporated herein by reference. A copy of said document is available from the City of Punta Gorda Urban Design Division, City Hall Annex, 3rd Floor, 326 W. Marion Avenue. These architectural standards will be evaluated in a manner that takes into account site constraints and technical feasibility and that avoids creating unreasonable economic hardships.

- (a) **Zoning Official Approval without HPAB Review.** For the purposes of this Section, applications for Certificates of Appropriateness for the following activities on designated property may be approved or denied by the Zoning Official without HPAB review and recommendation:
  - (1) Minor changes in the exterior, appearance, or material of existing buildings or structures that do not constitute major rehabilitation (see subsection (b) below). [color is not to be regulated]. (Changing the color of paint on painted surfaces is not regulated.)
  - (2) New construction of outbuildings or of additions to existing buildings that are not readily visible from the street.
  - (3) Reconstruction of existing walls and fences, or construction of new walls and fences in side and back yards.
  - ~~(4) Change in the exterior of commercial structures.~~
  - (4) (5) Outbuildings, Lamp posts, light fixtures, sign posts, mailboxes, rooftop solar panels, driveways, walkways, paving, and similar minor accessory structures.

(b) **HPAB Review Recommendation.** For the purposes of this Section, applications for Certificates of Appropriateness for the following activities on designated property shall first be reviewed by the HPAB for recommendation purposes:

- (1) Moving any building or structure (see Section 8.1).
- (2) Demolition of any building or structure, in whole or in part (see Sections 8.1 and 16.5).
- (3) Signs.
- (4) Variances (see Section 8.1).
- (5) Special Exceptions (see Section 8.1).
- (6) Major rehabilitation that affects the exterior appearance of a building, structure, or other physical feature.
  - a. Rehabilitation means updating a structure through repair, remodeling, or alteration to allow efficient contemporary use while preserving those portions or features which are significant to its historic, architectural, or cultural value. Major rehabilitation specifically includes the following:
    - i. Visible additions that physically expand a building either outward or upward.
    - ii. Replacement of windows or doors that are visible from the street.
    - iii. Replacement of roofing, siding, and/or exterior trim other than restoration or replacement of original materials.
    - iv. Changes to porches and decks that are readily visible from the street.
    - v. Changes to fences in front yards or readily visible from the street.
    - vi. New, expanded, or modified accessory structures such as garages, carports, stairways, ramps, or pools that are readily visible from the street.
    - vii. Removal or severe pruning of heritage or specimen trees.
    - viii. Changes to significant landscape elements such as patios or walkways that are readily visible from the street.
  - b. Major rehabilitation specifically excludes the following:
    - i. Minor exterior changes that do not involve substantial alterations, additions, or demolition that could impair the integrity of a structure.
    - ii. Ordinary maintenance and repair that does not change the design, material, or appearance of exterior elements.
    - iii. Changing the color of paint on painted surfaces.
- (7) New construction of a principal building that would replace a contributing building that has been demolished or relocated in accordance with the provisions of Section 8.1(g).

(c) **Required Contents of Applications.** Applicants for a Certificate of Appropriateness shall have the burden of demonstrating that the proposed activity complies with all provisions of this code. ~~the provisions of the "Historic District Design Guidelines, June 2003"~~. At a minimum, applications for Certificate of Appropriateness shall submit the following information:

- (1) Architectural elevations drawn to scale.
- (2) Site plans.
- (3) Complete Exterior materials list.
- (4) Photographs or drawings relating the proposed project to the surrounding streetscape.
- (5) Lighting, if being altered.

- (6) Landscaping, if being altered.
  - (7) A scale drawing of any proposed sign, including proposed materials, lighting method, style and size of lettering, and a sketch or photograph showing the proposed location of the sign on the building or site.
  - (8) Structural engineer's analysis of structure, if required by the Zoning Official.
- (d) **Required Procedures.** An application for a Certificate of Appropriateness shall be obtained from and, when completed, filed with the Urban Design Division.
- (e) **Decisions on Certificate of Appropriateness Applications.** The HPAB shall review all Certificate of Appropriateness applications required to come before them at their next regularly scheduled meeting, but no later than 45 days after a complete application has been filed. The HPAB shall make a recommendation on the matter presented at the public meeting or continue until the next regularly scheduled meeting. If the HPAB determines that the proposed improvement complies with all relevant provisions of Sections 8.1 and 16.3, the provisions of the "Historic District Design Guidelines, June 2003", it shall recommend approval and issuance of the Certificate of Appropriateness to the Zoning Official. If the HPAB determines the proposed improvement does not comply with these provisions of the "Historic District Design Guidelines, June 2003", the HPAB shall present its reasons for noncompliance on the record and shall make a recommendation to the Zoning Official that a Certificate of Appropriateness should not be issued, or should be issued only if specified changes are made. The Zoning Official shall review the application and the minutes of the HPAB meeting, which includes the HPAB's recommendation, and shall thereafter determine whether the applicant demonstrated compliance with this code, the provisions of the "Historic District Design Guidelines, June 2003". The Zoning Official shall then issue or deny the Certificate of Appropriateness and notify the applicant of such determination, furnishing the applicant a copy of reasons and recommendations, if any, as they appear in the records of the HPAB and in the Zoning Official's findings. In all matters coming before the HPAB, the applicant shall have the burden of providing clear, competent and substantial evidence in support of the application.
- (f) **Appeals.** An appeal may be taken to the City Council from the Zoning Official's action in granting or denying any Certificate, by the applicant by submitting a letter of appeal to the Urban Design Division requesting the appeal be scheduled to be heard at the next regularly scheduled City Council meeting for which the agenda has not yet been set.
- (g) **Preservation of Features in Public Right-of-Way.** In order to prevent destroying or seriously damaging the historic, architectural, or aesthetic values of the physical features lying within public rights-of-way, all public utility companies and transportation departments shall be required to obtain a Certificate of Appropriateness prior to initiating any changes to the character of streetscapes, pavings, and sidewalks.
- (h) **Interior Arrangements Not Considered.** The HPAB shall not consider interior arrangement nor take any action to restrict interior changes except for the purpose of preventing the construction, reconstruction, alteration, restoration, moving or demolition of buildings, structures, appurtenant features, or outdoor advertising signs ~~in the HO districts~~ which would be incongruous with the historic aspects.
- (i) **Reasons for HPAB Actions to Appear in Minutes.** The HPAB shall cause to be entered into the minutes of its meeting the basis for its recommendations, whether it be approval, approval with modifications, or denial.
- (j) **Submission of New Application.** If the staff determines that a Certificate of Appropriateness should not be issued, a new application affecting the same property may be submitted only if substantial change is made in plans for the proposed construction, reconstruction, alteration, restoration, or moving.

- (k) **Valid for 6 months.** A Certificate of Appropriateness shall be valid for a period of 18 ~~six~~ months from the date of issuance. Failure to secure a building permit within a ~~6-18~~ month period shall be considered as a failure to comply with the Certificate of Appropriateness and the Certificate shall become null and void. If a building permit is not required, failure to complete the approved work within ~~6~~ 18 months shall also cause the Certificate to expire. The Certificate may be renewed by the staff upon written request of the applicant if the request is received not more than ~~4-year~~ 2 years from the date of original issuance.

#### **Section 16.4. Application for Concurrency**

Prior to development plan application approval the Zoning Official shall make a finding and certify in writing that public facilities and services needed to support the development will be available concurrent with the impacts of the development upon such facilities and services.

- (a) **Concurrency Verification.** Concurrency review shall be limited to the availability of roadway facilities, potable water service, sanitary sewerage service, stormwater drainage facilities, solid waste removal service, public schools and park facilities. Concurrency verification shall be based upon maintaining the level of service for these public facilities and services as adopted and as may be amended in the City's Comprehensive Plan. A development plan shall be approved only if one of the following conditions is met:
- (1) The necessary facilities are in place or will be in place when the impacts of development occur.
  - (2) The necessary facilities are under construction when a permit is issued.
  - (3) The necessary facilities are subject to a binding contract/development agreement for their construction.
  - (4) The necessary facilities have been included in the local government's capital budget.
- (b) **Concurrency Review.** The Zoning Official through review and approval by the responsible department shall initiate the review to certify that public facilities and services will be available concurrent with the impacts generated by the proposed development. Specifically, the Zoning Official shall proceed as follows with the review:
- (1) The current available capacity of roadway facilities, water service, sewerage facilities, stormwater drainage, solid waste removal service, public schools and parklands shall be established [i.e., sewer plant capacity equals 800,000 gallons per day unreserved].
  - (2) The projected impact on each of the seven public services and facilities listed above will be calculated for the proposed development using the required levels of service contained in the City's Comprehensive Plan, and in this section, as may be amended from time to time [i.e., single-family home will use 190 gallons per day of the unreserved sewer plant capacity].
  - (3) The projected impacts on the seven public services and facilities shall be subtracted from the current available capacity presented in A. above [i.e., 800,000 gallons per day in sewer plant minus 190 gallons per day equals 799,810 gallons per day new capacity].
  - (4) Certify that the new capacity of the seven public facilities and services is not below zero. At such time the available capacity for any of the seven public facilities is less than 25 percent of the total capacity of the facility, then the Development Review Committee (DRC) shall be alerted to this fact [i.e., sewer plant total capacity equals 4,000,000 gallons per day, and the current available capacity equals 0.25 times 4,000,000, or 1,000,000 gallons per day]. If the available capacity of any of the seven public services falls below this 25 percent level then all concurrency shall be granted at the time a building permit is issued for the development. There shall be no reservation of capacity at the time of final development plan approval.

- (5) A written statement certifying the availability, or lack of availability, of capacity in each of the seven public facilities and services shall be forwarded to the DRC prior to the issuance of a development permit, and to the Building Department prior to the issuance of a building permit for all one- and two-family dwellings.
- (6) Upon issuance of a development plan or a building permit, the capacity of the seven public services and facilities needed to meet the demands of the development being approved shall be reserved for a period of one year. The Zoning Official, upon a recommendation from the DRC, may reserve the public service capacities for a period no longer than one year, unless a valid and binding development agreement between the City and a developer is executed extending the time period.
- (7) As an alternative to analyzing capacity for each proposed development as described in subsections (1) through (5), the Zoning Official may conduct a quarterly or annual concurrency review that compares the remaining capacity of each of the seven public facilities and services to development that is anticipated during the same period. If adequate capacity is available to meet the anticipated development, the Zoning Official shall submit that a written statement to that effect to the DRC and to the Building Department, including a conclusion as to whether any public facility or service would have less than 25 percent capacity remaining. The DRC and Building Department may rely on this written statement of the Zoning Official in issuing development permits and building permits, unless development being approved during that period would exceed the level anticipated by the Zoning Official in the quarterly or annual concurrency review.

(c) **Concurrency Review Standards.** When a development plan application or a building permit request is submitted to the Zoning Official, the following criteria shall be applied to determine whether or not sufficient public services and facilities capacity exists. A finding that services and facilities will be available must be based upon a capital improvements project currently funded by the City and/or County that demonstrates there is a plan to construct or expand the required services and facilities with sufficient capacity to provide for the needs of the development proposed by the applicant, and for other developments in the service area which are occupied, available for occupancy, for which building permits are in effect, or for which capacity has been reserved. The proposed development shall be designed and constructed to provide adequate area and rights-of-way which may be necessary for the installation and maintenance of the roadway system, which meet all applicable federal, state and local regulations.

- (1) **Roadway Facilities.** Roadway facilities must be available prior to occupancy to provide for the needs of the proposed development. A finding must be made that the level of service standard for average peak hour and peak season traffic flows shall be maintained on the various types of roadways for the time period listed in Table 16.1. In considering whether the roadway has such capacity to maintain level of services, only the portion of the roadway within one mile of the applicant’s property shall be considered. Street capacities shall be determined by standards established by or approved by the Florida Department of Transportation as they may be amended from time to time.

**Table 16.1.**

<b>Time Period: Through 2010</b>			
<b>Type of Roadway</b>	<b>Classification</b>	<b>Level of Service Standard</b>	
		<b>Urbanized Area</b>	<b>Rural Area</b>
<b>State / County</b>	Limited access	D	C
	Principal arterial	D	C
	Major arterial	D	C
	Minor arterial	D	C
	Major collector	D	C

	Minor collector	D	C
<b>City</b>	Limited access	D	C
	Principal arterial	D	C
	Major arterial	D	C
	Minor arterial	D	C
	Major collector	D	C
	Minor collector	D	C

- (2) **Potable Water Facilities.** *[no changes to this subsection]*
- (3) **Sanitary Sewers Facilities Concurrency Findings.** *[no changes to this subsection]*
- (4) **Stormwater and Drainage Facilities.** *[no changes to this subsection]*
- (5) **Solid Waste Removal.** *[no changes to this subsection]*
- (6) **Parks and Recreation.** *[no changes to this subsection]*
- (7) **Public Schools.** *[no changes to this subsection]*
- (d) **Development Agreement Required.** *[no changes to this subsection]*
- (e) **Capital Improvements Program Review.** *[no changes to this subsection]*

**Section 16.5. Application for Demolition Permit**

Unless otherwise expressly exempted, a person shall not demolish, remove or begin demolition of a structure or part of a structure without review and approval of a demolition permit from the City.

- (a) **Exemptions.** A demolition permit is not required for demolition of a fence, demolition work performed is in conjunction with remodeling, alteration, or repair of a structure for which a permit is obtained; or demolition of a structure with a total gross floor area of less than 150 square feet, unless specifically required in other sections of this code.
- (b) **Application Submittal.** Every application for a demolition permit shall be submitted to the City and be accompanied by plans in duplicate, drawn to scale, showing actual shape and dimensions of the lot upon which the demolition is to take place; the exact location, size, elevation and height of any building or structure to be removed or demolished; the existing and intended use of each building or structure or part thereof; the number of families or housekeeping units the building is designed to accommodate; and, such other information required by the Zoning Official with regard to the lot and neighboring lots as may be necessary for the enforcement of this Ordinance.
- (c) **Demolition Requirements.**
  - (1) If the primary structure and use is being demolished, all other accessory structures, such as but not limited to driveways and driveway aprons, sidewalks, swimming pools, sheds or detached garages must also be demolished and removed from the property.
  - (2) If a permit for a new primary structure is submitted in conjunction with the demolition permit and construction of the new primary structure commences within six (6) months of the demolition, conforming accessory structures will not be required to be removed. Any non-conforming accessory structures will be required to be removed in any case.
  - (3) **Extensions.** The Urban Design Manager or his/her designee may grant an extension of the time limits proposed by this subsection for an additional period of time where it is found that such additional period of time is necessary in order to avoid unnecessary hardship not caused

by the petitioner and such extension is not contrary to the public interest. As a condition of any extension of time, the property owner shall be responsible for continued property maintenance to prevent any detrimental effect on the neighborhood.

- (4) Any person aggrieved by the requirement to demolish all accessory structures may appeal said decision pursuant to the provisions of Section 16.2 of this Chapter.
- (5) Failure to complete required demolitions within six (6) months of issuance of demolition of the primary structure shall be deemed guilty of a noncriminal infraction and the City of Punta Gorda Code Enforcement Board shall have jurisdiction to hear and decide cases when a violation is alleged.

(d) **Additional Requirements.** An application for demolition or relocation of a historic building or structure shall be referred to the Historic Preservation Advisory Board for review and recommendation. See Section 8.1 of this code for additional requirements for demolition permits for historic buildings and structures.

(e) ~~(d)~~ **Display of Permit.** Upon receipt, a demolition permit shall be posted in a prominent place on the premises during the period of demolition or removal.

Before a demolition permit is issued the plans and intended use shall indicate conformity in all respects to the provisions of this Code.

(f) ~~(e)~~ **Lapse of Permit.** Every demolition permit shall expire and become void unless the activity authorized therein commences within 60 days of the date of issue.

(g) ~~(f)~~ Upon completion of any demolition of a single-family residence, or other single family structure such as but not limited to detached garages, swimming pools or sheds, all rights-of-way and drainage areas along sideyards and property within six feet of the seawall shall be sodded completely. The remainder of the lot or property may be stabilized by the combined use of strip sodding and seeding provided each row of sod is separated by no more than 12 inches. In all cases, a minimum 32 inch wide strip of existing grass or newly placed sod shall form the perimeter of all disturbed areas.

(h) ~~(g)~~ For demolition of any multi-family or commercial structure, all vacant land areas are required to be completely sodded.

- (1) The use of hydro-seeding to prevent soil erosion and promote grass growth may be permitted on parcels that are 100 feet or more in distance to an improved lot, provided the property is cleared of all debris, concrete, rocks and the grade has been leveled and is without ruts prior to seeding. All areas of the lot within 100 feet of an improved lot must be sodded.
- (2) The hydro-seed slurry must be sprayed over the prepared ground in a thick uniform layer that is easily visible.
- (3) Repeat applications will be required if the grass does not begin growing within two weeks of the hydro-seeding, or if a healthy stand of grass, free of bare spots is not established.



## **Section 16.6. Application for Development Plan**

Where a zoning district requires a Development Plan to initiate a specific use of land or construct a specific building, there shall be no development activity until a Development Plan approval letter is issued by the Zoning Official verifying concurrence with the requirements of this Ordinance. ~~Development Plan approval shall also be required for all land use requests and other action which would in effect grant permission for the use of land.~~ If it is determined by the Zoning Official and/or the Development Review Committee (DRC) that physical or environmental problems may exist, they may, at their discretion, ask for additional reports from the developer before or during the review of a Development Plan. ~~However,~~ Any member of the DRC may require additional information not specified herein, when it serves the health, safety or welfare of the community or is deemed pertinent to the approval.

- (a) **Procedure.** Where approval of a Development Plan is required prior to the issuance of a building permit, such Development Plan shall be submitted to the Zoning Official. The Zoning Official shall circulate the Development Plan to the DRC, for review and comments. The recommendations of the DRC along with all pertinent comment and criticism shall be submitted to the Zoning Official. Prior to issuance of the final approval letter, final complete CAD Deliverables reflecting the final approved plans, including all boundary and property lines, all utilities (lines, hydrants, etc.) and the topographic survey shall be delivered to the Zoning Official as individual layers. CAD Deliverables shall include 2 points tied to the Stateplane Florida West-Zone 3626, Datum: NAD83, Units: meters. The points, datum and units may be amended as needed by the Urban Design Division. Development Plan approval shall be valid for a period of one year, and shall in effect reserve any existing water, sewer, solid waste removal, drainage, park, and roadway capacities needed to meet the needs of the approved project for the same one-year period.
- (b) **Plan Submission and Review.** Any Development Plan required to be submitted under the provisions of this Ordinance shall include the following elements, unless the Zoning Official determines that one or more of said elements does not apply to the particular development:
  - (1) Statement of ownership and control of the proposed development.
  - (2) Statement describing in detail the character and intended use of the development.
  - (3) General location maps showing relation of the site for which development plan approval is sought to major streets, schools, existing utilities, shopping areas, important physical features in and adjoining the projects site, and the like.
  - (4) If common facilities, such as recreation areas or structures, private streets, common open space, etc., are to be provided, statements as to how such facilities are to be permanently maintained. Such statements may take the form of proposed deed restrictions, deeds of trust, homeowners association, surety arrangements, or other legal instruments providing adequate guarantees to the City that such common facilities will not become a future liability of the City.
  - (5) Storm drainage and sanitary sewage plans.
  - (6) Architectural definitions for buildings in the development; exact number of dwelling units, sizes and types.
  - (7) Plans for signs, if any.
  - (8) Landscaping plan, including types, sizes and locations of vegetation and decorative shrubbery, and showing provisions for irrigation and maintenance.
  - (9) Plans for recreation facilities, marinas, docking facilities, both accessory and principally permitted uses, and any buildings and/or structures related to such uses.
  - (10) The location and proposed use of any historic structures or artifacts as defined by the City historic preservation ordinance.

- (11) A written natural resources impact statement disclosing any land use activities proposed for the site which might degrade local air or water quality, alter any existing wetlands or designated environmentally sensitive areas, involve any mining or excavation, disturb or destroy existing wildlife habitats, and affect in any way a threatened or endangered plant or animal.
- (12) Additional data, maps, plans, surveys or statements as may be required for the particular use or activity involved.
- (13) Any additional data the applicant may believe is pertinent to the Development Plan.
- (14) A Development Plan containing the title of the project and the names of the project planner and developer, date, and north arrow, and based on an exact survey of the property drawn to a scale of sufficient size to show:
  - a. Boundaries of the project, any existing streets, buildings, watercourses, natural features, vegetation and topography, easements, and section lines;
  - b. Exact location of all buildings and structures;
  - c. Access and traffic flow and how vehicular traffic will be separated from pedestrian and other types of traffic;
  - d. On-site parking and loading areas;
  - e. Recreation facilities locations;
  - f. Refuse collection areas; and
  - g. Access to utilities and points of utilities hookups.
  - h. Tabulations of total gross acreage in the project, and the percentage devoted to each proposed use, the ground coverage of each structure, and the total impervious surface area on the site.
  - i. Tabulations indicating the derivation of numbers of on-site parking and loading spaces
  - j. Total project density in dwelling units per acre.

(c) **Urban Design Findings.** Before any Development Plan shall be approved, approved with changes, or denied, the Urban Design Manager or designee shall make a written finding that the specific land use and development requirements governing the individual use or building type have or have not been met and, further, that the development plan has or has not met the following standards:

- (1) Streets and roads shall conform to criteria and design characteristics established in the comprehensive plan and this code.
- (2) Rights-of-way and streets which are located on the traffic circulation plan maps of the City shall be conveyed to the City by deed, grant of easement or reserved to be acquired by the City at a later date. The minimum right- of-way for the various roadway types shall be:

Roadway Type	Rural	Urban
Local	60 feet	50 feet
Collector	80 feet	70 feet
Minor arterial	100 feet	80 feet
Major arterial	140 feet	100 feet

*NOTE: Urban roadways are those which are constructed with curb and gutters and rural roadways are those constructed using swale drainage. In order to expand intersections of 2 major or minor arterials or collectors, additional right- of-way*

*may be required. This requirement shall be consistent with standards on file with the City.*

- a. A maximum of two driveways may be permitted for ingress and egress purposes to and from a single property or development on each road abutting the property, to include phased developments.
  - b. Two driveways may be allowed to enter a single street from a single property, to include phased developments if the minimum distance between the 2 driveways measured at the property line is equal to or exceeds 20 feet in residential districts and 50 feet for other districts.
  - c. In tract development where the minimum distance between adjacent driveways on a single street exceeds 100 feet or the development exceeds 2 acres of land area, the number of driveways may be increased upon the recommendation by Urban Design.
  - d. The minimum distance from the property line on any ingress or egress driveway to the outer edge of any interior drive or parking space shall be 10 feet.
- (3) Building setbacks shall comply with the requirements of this Ordinance.
  - (4) Landscaping and tree preservation shall comply with the standards of this Ordinance.
  - (5) Bikeways and walkways shall be required as part of any development plan when in the judgment of the Urban Design Manager they will enhance the use and connection of adjoining areas.
  - (6) No parking stall shall directly abut a driveway. All on-site parking areas shall be arranged and marked to provide orderly, safe loading and unloading and parking of vehicles. Individual parking stalls shall be clearly marked; directional arrows and traffic signs shall be provided as necessary. All parking aisles shall be connected to a driveway and shall not directly empty onto a public street. Requirements of the number, design, and location of on-site parking and loading facilities shall be as provided for in this Code.
  - (7) Conservation of natural resources shall be ensured by the submission of a natural resources impact statement. The Zoning Official shall, at his discretion, call upon the county agricultural agent, urban forester, or other state officials to provide recommendations on the potential impacts of proposed developments upon the natural environment prior to plan approval, and shall consider the following standards for review:
    - a. The performance standards contained in this Ordinance shall be applied to all development projects.
    - b. Development Plans submitted for review should seek to leave natural drainage features, such as sloughs, wetlands, lakes, rivers, etc., unaltered.
    - c. Any alteration of natural drainage features, in particular wetlands and any parts of the estuarine system, must be mitigated to offset the wetland values lost.
    - d. Alterations of isolated wetlands greater than one-half acre in size are subject to Southwest Florida Water Management District regulations.
    - e. Naturally vegetated upland buffers of a minimum width of 15 feet will be required around natural drainage features, particularly wetlands, except for those uses requiring access to the water such as docks and boat ramps. Bridges, utility crossings, removal of prohibited trees, etc., shall be some of the permitted activities in an upland buffer.
    - f. All mining or excavation activities shall be conducted in a manner which minimizes their detrimental effects on groundwater, surface water, wildlife and wildlife habitats, and shall be consistent with all applicable policies contained in the City Comprehensive Plan and State permitting requirements.
    - g. When endangered or threatened species of plants or animals are known to live on a development site the applicant must identify them, and provide a plan acceptable to

the City and State agencies for their protection. This shall include plans for the protection of the natural habitat of any endangered or threatened animals, and/or their relocation. Endangered and threatened species are those listed by the most current publications of the United States Fish and Wildlife Service and the Florida Fish and Wildlife Conservation Commission, to include those designated as “species of concern.”

- (8) Preservation of any historic structures, artifacts, or archeological sites shall be reviewed by the Urban Design Division for compliance with provisions of this Code.
  - (9) Signage shall be based upon the standards contained in this Code.
  - (10) The Urban Design Manager or designee has issued street numbers for all buildings and unit numbers within buildings where required.
- (d) **Public Works Findings.** *[no changes to this subsection]*
  - (e) **Utilities Department Findings.** *[no changes to this subsection]*
  - (f) **Building Department Findings.** *[no changes to this subsection]*
  - (g) **Fire and Police Department Findings.** *[no changes to this subsection]*

## **Section 16.8. Application for Special Exception**

The special exception process provides the City of Punta Gorda Council with the opportunity to exercise discretionary powers in considering the establishment of certain uses that, due to their nature, design or location, may have the potential for adverse impacts on adjacent land uses and/or the health, safety or welfare of the community. This Ordinance designates such uses “special exceptions.” When considering such uses, the City Council shall have the authority to impose conditions that are designed to remove or mitigate potentially adverse impacts upon the community or other properties in the vicinity of the proposed use. Special exception uses shall only be allowed if reviewed and approved in accordance with the procedures of this section.

- (a) **Initiation of Application.** *[no changes to this subsection]*
- (b) **Pre-application Meeting.** *[no changes to this subsection]*
- (c) **Application Filing.** *[no changes to this subsection]*
- (d) **Concurrent Review.** *[no changes to this subsection]*
- (e) **Submittal Requirements.** *[no changes to this subsection];*
- (f) **Waivers/Modifications of Submittal Requirements.** *[no changes to this subsection]*
- (g) **Public Hearing Notice.** ~~The Planning Commission shall each hold a~~ A public hearing shall be held on proposed Special Exception applications. Each public hearing requires notice as set out in Section 16.1(g).
- (h) **Planning Commission Review and Decision, Recommendation.** ~~Upon acceptance of a completed application, the Zoning Official shall set a time and a place for a public hearing by the Planning Commission. Following the public hearing, the Planning Commission shall issue its decision in writing with forward the proposed special exception to the City Council, together with its recommendation and a statement setting forth its reasons for such decision recommendation. The Planning Commission shall forward its recommendation within a reasonable time. Unless an appeal is filed in writing within 30 days of the written decision, the Planning Commission’s decision shall be final. An appeal may be filed by the applicant or by any person who provided input on the requested Special Exception or who owns property within 200 feet of any boundary line of the property for which the Special Exception is being requested. unless the City Council sets a specific time period or unless the application has been withdrawn by the applicant.~~ Upon acceptance of a completed application, the Zoning Official shall set a time and a place for a public hearing by the Planning Commission. Following the public hearing, the Planning Commission shall issue its decision in writing with forward the proposed special exception to the City Council, together with its recommendation and a statement setting forth its reasons for such decision recommendation. The Planning Commission shall forward its recommendation within a reasonable time. Unless an appeal is filed in writing within 30 days of the written decision, the Planning Commission’s decision shall be final. An appeal may be filed by the applicant or by any person who provided input on the requested Special Exception or who owns property within 200 feet of any boundary line of the property for which the Special Exception is being requested. unless the City Council sets a specific time period or unless the application has been withdrawn by the applicant.
- (i) **City Council Review and Decision.** ~~If a valid appeal is filed in writing within 30 days, Once the Planning Commission has forwarded a recommendation to the City Council,~~ Once the Planning Commission has forwarded a recommendation to the City Council, the Zoning Official shall set a time and place for a public hearing by the City Council. The City Council shall take action to approve, approve with conditions or deny the application for a Special Exception with a statement setting forth its reasons for such decision within a reasonable time of the public hearing.
- (j) **Withdrawal of Applications.** *[no changes to this subsection]*
- (k) **Approval Criteria for Requests Other Than ~~Home Occupations or an Additional Driveway.~~**

The Planning Commission and City Council shall use the following criteria, in addition to other reasonable considerations, in making their decision regarding approval or disapproval of a special exception application:

- (1) The proposed use will not adversely affect the use of neighboring properties.
- (2) The use shall comply with applicable district regulations and applicable provisions of the adopted Comprehensive Plan and downtown plans.
- (3) The location, size and height of buildings structures, walls and fences, and the nature and extent of screening, buffering and landscaping shall be such that the use will not hinder or

discourage the appropriate development and use of adjacent or nearby land and/or buildings.

- (4) The proposed use will be such that pedestrian and vehicular traffic generated will not be hazardous or conflict with the existing and anticipated traffic in the neighborhood and on the streets serving the site.

- (l) ~~**Reserved.** Approval Criteria for Special Exception Requests for Home Occupations Located in Residential Dwelling Units. A Home Occupation is defined as a business operating out of a residential dwelling unit that does not qualify as a Limited Home Occupation, but satisfies the following criteria and is approved by a Special Exception. Additional conditions and safeguards may be added as part of the Special Exception approval if deemed necessary.~~

~~The Planning Commission and City Council shall use the following criteria, in addition to other reasonable considerations, in making their decision regarding approval or disapproval of a special exception application. No Special Exception for a home occupation shall be approved unless the request meets all of the following criteria:~~

- ~~(1) There shall be no more than two clients or customers or vehicle trips per day generated by the home occupation, and all parking associated with the home occupation shall be off-street and located in the paved driveway of the residence.~~
- ~~(2) The occupation is conducted by the resident owner only and there are no employees.~~
- ~~(3) There is no signage allowed.~~
- ~~(4) There shall be no change in the residential character.~~
- ~~(5) No advertising using the home address of the home occupation.~~
- ~~(6) No on-site storage of goods and merchandise related to the occupation is permitted other than materials incidental to the operation of the business.~~
- ~~(7) At the time of application, consideration shall be given to concerns and objections raised by the neighbors as the request may affect the value of their property or may have a detrimental impact on the neighborhood due to noise, smells or other visual or audible concerns.~~
- ~~(8) All approved requests for a home occupation shall obtain a Local Business Tax Receipt.~~

- (m) **Approval Criteria for Special Exception Requests for three driveway ingress/egress access for a single family property.** *[no changes to this subsection]*
- (n) **Compliance with Use Standards.** As part of its special exception approval action, the Planning Commission and City Council shall have the authority to waive or modify applicable use standards for particular uses set forth in Article 3 when determined necessary to accommodate reasonable use of the subject property. The Planning Commission and City Council shall have no authority to waive or disregard any of the Approval Criteria noted above.
- (o) **Conditions and Safeguards.** The Planning Commission and City Council may impose such additional conditions and safeguards as deemed necessary for the protection of the general welfare and individual property rights, and to ensure compliance with the intent and objectives of this Ordinance. Additional conditions may include, but need not be limited to, the following: *[no changes to these conditions]*
- (p) **Amendments to Approved Special Exceptions.** *[no changes to this subsection]*
- (q) **Termination of Use.** A special exception use shall be deemed terminated upon the occurrence of any of the following conditions:
  - (1) Two (2) years after the date of the approval of a Special Exception, by the City Council unless a permit or occupancy permit has been issued for the use, if required. The Planning Commission or City Council, whichever issued final approval of the Special Exception, shall

have in its sole discretion the authority to grant additional time, not to exceed a total of five (5) years from the initial Special Exception approval date, if no less than ninety (90) days prior to the date of expiration of the Special Exception, the property owner makes application for an extension of the approved Special Exception. As part of the application, the property owner shall demonstrate that since the date of Special Exception approval it has been pursuing in good faith all required governmental authorizations for its proposed use and additional time is necessary to secure all such approvals.

- (2) If the use is discontinued, vacant or inactive for any reason for a continuous period of two years or more. The use shall be re-established only if a new Special Exception approval is obtained.

(r) **Revocation.** *[no changes to this subsection]*

- (s) **Successive Applications.** No application for a special exception use, which has been denied wholly or in part by the City Council, shall be resubmitted until the expiration of 12 months or more from the date of such denial, except on grounds of newly discovered evidence or proof of changed conditions found to be sufficient by City Council to justify consideration by the City Council.

## **Section 16.10. Application for Variance**

Owners of lands or structures or their designated agents may appeal in writing to the Board of Zoning Appeals (BZA) for variance from the requirements or restrictions of the land development regulations; except that no appeal for use or density issues may be considered. Appeals should be submitted through the Zoning Official, stating specific variances requested.

- (a) **Application.** An application for a variance shall be filed with the Zoning Official on forms within the Urban Design Division. Required application forms, completed and signed by the applicant and property owner, shall accompany each application. Upon receipt of an application, the Zoning Official shall acknowledge acceptance or rejection of the application within ten business days from the date of submission. Upon acceptance, the Zoning Official shall transmit a copy of the completed application to the BZA.

An application for a variance shall include a written statement with supporting evidence regarding compliance with the following approval criteria: *[no changes to these criteria]*

- (b) **Approval Criteria.** No variance shall be approved unless all of the following statements are true with respect to the subject property: *[no changes to these statements]*
- (c) **Burden of Persuasion.** The burden of showing that a variance should be granted to alleviate undue hardship shall be on the applicant. The applicant shall be required to demonstrate that the granting of a variance will alleviate a clearly demonstrable hardship approaching confiscation as distinguished from a special privilege or convenience sought by the applicant or that strict application of the ordinance would effectively prohibit or unreasonably restrict reasonable use of the property by reason of any one of the following: *[no changes to these criteria]*
- (d) **Public Hearing.** ~~The BZA and City Council shall each hold a~~ A public hearing shall be held on proposed variance applications. In the event the variance request is for a structure or modification of the lands located within six feet of the seawall for structures other than the required six feet of sod, a public hearing shall also be held before the appropriate canal advisory board to provide a ~~for~~ recommendation to the BZA ~~and City Council~~. In addition to the variance criteria contained in Subsection (b) of this Section, applicants for variances to allow structures within six feet of a seawall must present evidence demonstrating that the proposed structures will not be detrimental to the integrity of the seawall, tie rods or deadmen. Absent a finding that the proposed structure will not be detrimental to the integrity of the seawall, tie rods or deadmen, the variance must be denied. Each public hearing requires newspaper and mail notification as set out in Section 16.1(g) of this Article.
- (e) **BZA Review and Decision, Recommendation.** ~~Upon acceptance of a completed application, the Zoning Official shall set a time and a place for a public hearing by the BZA. The Zoning Official shall investigate the conditions pertaining to the particular variance requested and shall submit a written report at the hearing giving the facts involved. The parties in interest may appear. Following the public hearing, the BZA shall issue its decision in writing with forward the proposed variance to the City Council together with its recommendation and a statement setting forth its reasons for such decision recommendation. The BZA shall forward its recommendation within a reasonable time. Unless an appeal is filed in writing within 30 days of the written decision, the BZA's decision shall be final. An appeal may be filed by the applicant or by any person who provided input on the requested Variance or who owns property within 200 feet of any boundary line of the property for which the Variance is being requested. unless the City Council sets a specific time period or unless the application has been withdrawn by the applicant.~~ Upon acceptance of a completed application, the Zoning Official shall set a time and a place for a public hearing by the BZA. The Zoning Official shall investigate the conditions pertaining to the particular variance requested and shall submit a written report at the hearing giving the facts involved. The parties in interest may appear. Following the public hearing, the BZA shall issue its decision in writing with ~~forward the proposed variance to the City Council together with its recommendation and~~ a statement setting forth its reasons for such decision recommendation. ~~The BZA shall forward its recommendation within a reasonable time. Unless an appeal is filed in writing within 30 days of the written decision, the BZA's decision shall be final. An appeal may be filed by the applicant or by any person who provided input on the requested Variance or who owns property within 200 feet of any boundary line of the property for which the Variance is being requested. unless the City Council sets a specific time period or unless the application has been withdrawn by the applicant.~~
- (f) **City Council Review and Decision.** ~~If a valid appeal is filed in writing within 30 days, Once the BZA has forwarded a recommendation to the City Council,~~ the Zoning Official shall set a time and place for a public hearing by the City Council. The City Council shall take action to approve, approve with conditions or deny the application for a Variance with a statement setting forth its



~~reasons for such decision deny the appeal or grant such variance from the terms of the regulations as appropriate within a reasonable time of the public hearing.~~

- (g) **Approval.** A variance shall be sustained only if the BZA or City Council finds through written findings of fact and conclusions that all of the conditions required by subsections (a), (b), and (c) above exist. The BZA or City Council shall file with the Zoning Official its findings and shall provide a copy of the decision to the applicant and upon each other person who was a party of record at the hearing.
- (h) **Conditions.** In granting the variance, the BZA or City Council may prescribe appropriate conditions and safeguards in conformity with the zoning regulations, including but not limited to reasonable time limits within which the action for which variance is required shall be begun or completed, or both. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of zoning regulations.
- (i) **Withdrawal of Application.** A variance may be withdrawn by the applicant at any time prior to the deadline for cancellation of the newspaper advertisement for the public hearing on the application. After that deadline, an application may be withdrawn only with the permission of the BZA or City Council.
- (j) **Re-Application.** If a variance is denied by the City Council on its merits, no application requesting the same relief with respect to all or part of the same property shall be considered by the City within 12 months after the date of such denial.
- (k) **Appeal.** Any person aggrieved by the approval or denial of a variance by the City Council may appeal said decision to the Circuit Court within 30 days from the date of the decision.
- (l) **Variance of 3 foot or less.** If a variance is requested for relaxation of the minimum yard requirements of these regulations by three foot or less for existing buildings, the Zoning Official shall, upon proper investigation, make a determination whether all of the conditions required by subsection (a), (b), and (c) above exist. If found that the conditions do exist and that the variance requested is for relaxation of the minimum yard requirements by three foot or less, the request may be granted in accordance with the following procedure. Notice of intention to grant the required variance, stating the description of the property affected, including a description by street address if possible, the nature of the variance requested, and the existence of the right of appeal, shall be published one time in a newspaper of general circulation published in the county, and mailed to the owners as revealed by the current tax roll of each contiguous parcel. Within 15 calendar days of the publication of notice, but not thereafter, any interested person may apply in writing stating his name, the nature of his interest, and the nature of his objection, for a hearing of the matter before the ~~BZA and the City Council~~ which shall conduct a public hearing on the matter in accordance with the procedures of subsections (d) through (k) above. Existing buildings, as it applies to variances, means a building that has had the Certificate of Occupancy issued and has received approval for all location surveys as required during construction or has had the Certificate of Occupancy issued for a minimum period of three years prior to the discovery of a setback encroachment.