

DEVELOPMENT CODE APPEALS Council Procedures

1. As soon as reasonably available following a hearing before Planning and Zoning Commission (P&Z) or the Board of Adjustment (BoA), the Community Development Department will provide, upon request, to any person who participated in the hearing before P&Z or BoA a copy of the audio recording of the hearing and copies of any exhibits or other documents submitted as evidence during the hearing or as part of the case record
2. An appeal from a decision of the Planning and Zoning Commission or Board of Adjustment may be taken by filing with the Community Development Department written notice of appeal within fifteen (15) days from the date of the decision by P&Z or BoA, in accordance with Section 16-492 of the Development Code.
3. After the filing of a timely appeal CDD will make, or have made, a transcript of the audio recording of the hearing and such transcript will be available to the appellant and other parties to the appeal.
4. After filing of a timely appeal, and in reasonable time before the Council hearing on the appeal, CDD will prepare a complete record of the case on appeal. Such record will include the decision of the P&Z or BoA, the hearing transcript, all exhibits, notices, appeal filing and any other pertinent documents related to the appeal either required under the Code or these procedures. The case record will be made available to all parties to the appeal and the record will be timely supplemented by CDD in accordance with documents filed under these procedures.
5. If any party finds the record prepared by the CDD to be incomplete or inaccurate, that party may file with CDD, within five (5) business days after the record is made available by the CDD, a statement specifying how the record is incomplete or inaccurate and providing copies of any materials the party believes should be, but are not, included in the record.
6. CDD will make any corrections to the record requested by the parties, if appropriate. If CDD does not make the requested corrections to the record, then CDD will provide, within five (5) business days after receipt of the request, a statement explaining why the proposed corrections were not accepted. In that event, both the request to correct the record and CDD's response will be provided with the record to Council. However, Council will not consider any evidence not included in the record in its deliberations on the appeal.
7. Any party and CDD as staff, may file with CDD a signed brief or statement of argument of the legal issues and the application of the law to the facts contained in the record, including, as appropriate, the basis for any requested remand.. The statement or brief must be filed no later than ten (10) business days after the record is first made available by CDD and must be provided at the same time to the other parties on appeal. The brief or statement of argument will not exceed five (5) typed, double-spaced, letter-size pages in length. The font must be no smaller than 12 point and the page margins will be no smaller than 1 inch.

8. CDD and any other party (other than the party filing the brief or statement of argument pursuant to paragraph 7 above) may file a response to the brief or statement of argument, within five (5) business days after filing of the brief or statement pursuant to paragraph 7. The response will be filed with CDD and must be provided at the same time to the other parties on appeal. The statement will not exceed five (5) typed, double-spaced, letter-size pages in length. The font must be no smaller than 12 point and the page margins will be no smaller than 1 inch.
9. CDD will provide a complete copy of the record, as may have been corrected, any timely filed brief or statement of argument and any timely filed response, to the Council and the parties not later than two (2) weeks before the appeal hearing.
10. The date of the appeal hearing will be set by Council following the same process as other matters are set for Council meetings. CDD will provide notice of the appeal hearing in accordance with Article V of the Development Code.
11. At the appeal hearing, each party will be allowed an oral presentation of no less than three minutes. Oral presentations will be limited to matters relevant to the appeal and in no instance will any new evidence be introduced in the oral presentation.
12. At the appeal hearing, Council may question any party and the staff of CDD. Questions and answers will be limited to matters relevant to the appeal and, while questions and answers may reference evidence in the record, no new evidence may be introduced.
13. The introduction of new facts or further development of the facts found in the record is not permissible on appeal. Council will not accept or consider evidence outside of the record in accordance with Section 16-493(c)(2) and any new facts or further development of the facts provided by any party in the statement of legal issues, in any response, or in the oral presentation will be disregarded by the Council.
14. Pursuant to Section 16-493(c)(1), Council will affirm the decision appealed unless it finds that the decision was not in accordance with adopted county plans, policies, and ordinances, the facts on which the decision was based are not supported by the record, or the decision was arbitrary, capricious, or a manifest abuse of discretion.
15. For good cause shown or with the agreement in writing of CDD and all of the parties to the appeal, the Council Chair may reset the date of the appeal hearing or modify the times set in these procedures for providing the brief or statement of argument, or a response.
16. The County Attorney's office represents the County's interests in Development Code appeals.

ADOPTED this 15th day April, 2008.



James W. Hall
Council Chair