



# APPLICATION FOR SPECIAL EXCEPTION

FLAGLER COUNTY, FLORIDA  
 1769 E. Moody Boulevard, Suite 105  
 Bunnell, FL 32110  
 Telephone: (386) 313-4009 Fax: (386) 313-4109

Application/Project #: \_\_\_\_\_

<b>PROPERTY OWNER(S)</b>	Name(s):		
	Mailing Address:		
	City:	State:	Zip:
	Telephone Number		Email
	Fax Number:		Address:

<b>APPLICANT/AGENT</b>	Name(s):		
	Mailing Address:		
	City:	State:	Zip:
	Telephone Number		Fax Number
	Email Address		

<b>SUBJECT PROPERTY</b>	SITE LOCATION ( <i>street address</i> ):		
	LEGAL DESCRIPTION: <i>(briefly describe, do not use "see attached")</i>		
	Parcel # ( <i>tax ID #</i> ):		
	Parcel Size:		
	Current Zoning Classification:		
	Current Future Land Use Designation		
	Subject to A1A Scenic Corridor IDO?		YES

**Requested Use:** \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Signature of Owner(s) or Applicant/Agent \_\_\_\_\_ Date \_\_\_\_\_  
 if Owner Authorization form attached

**\*\*OFFICIAL USE ONLY\*\***

PLANNING BOARD RECOMMENDATION/ACTION: APPROVED [ ]  
APPROVED WITH CONDITIONS [ ]  
DENIED [ ]

Signature of Chairman: \_\_\_\_\_ Date: \_\_\_\_\_

NOTE: The applicant or a representative, must be present at the Public Hearing since the Board, at its discretion, may defer action, table, or take decisive action on any application. Rev. 08/14



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## **Required Attachments for Special Exception Application:**

- 1.) Copy of Owner(s) recorded Warranty Deed;
- 2.) Application fee \$300.00. Payable to BOCC. Fee amount per Resolution 2008-31.  
*Fee is subject to cost of newspaper ad(s) and postage at prevailing rates, and \$50 for each notification of public hearings (posting of signs).*
- 3.) Set of complete site plan meeting all requirements of Flagler County Land Development Code at submittal of application.

**NOTE:** Pursuant to Section 286.0105 of Florida Statutes, the Flagler County Planning Board hereby notifies all interested persons that if a person decides to appeal any decision made by the Planning Board with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made which record includes the testimony and evidence upon which the appeal is to be based.

### 3.07.03. Procedure for variances and special exceptions.

- A. *Request application.* A request for a hearing before the planning board for a variance or special exception shall be made as follows:
  1. A completed application form shall be filed with the planning and zoning director. Such application shall state the pertinent facts on which the request is based. The planning and zoning director may assist the applicant in preparing the application.
  2. An application shall be accompanied by an acceptable site plan with such reasonable information shown thereon as may be required by the planning and zoning director. Such site plan shall include, as a minimum, the following:
    - (a) Lot dimensions with property line monuments located thereon.
    - (b) Location and size of existing and proposed structures.
    - (c) Easements (public and private), water courses, and if existing and proposed, fences, street names, and street right-of-way lines and such information regarding abutting property, as directly affects the application.
- B. *Planning board hearing.*
  1. The planning and zoning director shall schedule a hearing before the planning board to consider the application. Scheduling of this hearing shall provide ample time for the planning and zoning director to provide notice to surrounding property owners as set forth in subsection 3.07.03. In no event shall such hearing be scheduled more than forty-five (45) days from the date of application.
  2. The hearing provided for under this section shall be for the purpose of reviewing relevant information from the applicant regarding the requested variance and/or special exception. The planning board shall also review written and/or oral comments from the public in accordance with its established procedures.



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3. The planning board shall determine whether sufficient factual data was presented in order to render a decision. If the planning board determines that sufficient factual data was presented, then it shall render a decision to either:
  - a. Approve the request as submitted;
  - b. Approve the request with conditions;
  - c. Disapprove the request.

If the planning board determines that sufficient factual data was not presented, the planning board may continue the hearing until the next scheduled meeting to allow for the preparation of such factual data. Only one (1) such continuation shall be allowed for each requested variance and/or special exception.

C. *Appeal of planning board decision.*

1. Within thirty (30) days of the rendering of a decision by the planning board regarding a requested variance and/or special exception, an appeal may be filed with the board of county commissioners. Such appeal may be filed by the original applicant, the planning and zoning director, other county staff as authorized, and a surrounding property owner, as defined in subsection 3.07.03.
2. The application for appeal shall be filed with the planning and zoning director who shall schedule a hearing on the appeal with the board of county commissioners. Scheduling of this hearing shall provide ample time for the applicant to provide notice to surrounding property owners, as set forth in subsection 3.07.03.
3. The appeal hearing provided for under this section shall be for the purpose of reviewing all pertinent information regarding the appeal. The applicant shall provide all relevant factual data, materials and/or oral testimony to support the appeal. The board of county commissioners shall also review written and/or oral comments from the public in accordance with its established procedures.
4. At the conclusion of the appeals hearing provided for under this section, the board of county commissioners shall render a decision on the appeal. Any decision rendered by the board of county commissioners under this section shall be deemed final.

D. Reserved

E. *Variance guidelines.* A variance may be granted, upon application, from the terms and provisions of this article as will not be contrary to the public health, safety, welfare and morals where, owing to special conditions, a literal enforcement of the provisions of this article will, in an individual case, result in unnecessary hardship. Such variances may be granted by the planning board in such individual case of unnecessary hardship upon a written finding that:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography; and
2. The application of the provisions of this article to the particular piece of property would create an unnecessary hardship; and
3. Such conditions are peculiar to the particular piece of property involved and not created by actions of the applicant; and
4. Relief or variance, if granted, would not cause substantial detriment to the public health, welfare, safety and morals or impair the purpose and intent of this article; and
5. Provided, however, that no variance may be granted for a use of land or building that is not permitted by this article.

F. *Special exception guidelines.* The planning board shall hear and decide upon requests for special exceptions as authorized by land classifications. The board may approve, with conditions, requests which are in harmony with the intent and purpose of the regulations. In making its determination, the board shall be guided by the following:

1. Ingress to and egress from the property shall provide for automotive and pedestrian



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safety and convenience, shall not unduly interfere with traffic flow and control, and shall provide access in case of fire or catastrophe.

2. Offstreet parking and loading areas shall be provided as required, shall take into account relevant factors in subsection 1. preceding, and shall be located to minimize economic, noise, glare or odor effects on adjacent and nearby properties.
3. Refuse and service areas shall be located with consideration for relevant factors in subsections 1. and 2. preceding.
4. The proposed use shall be compatible with the availability and location of utility services, whether public or private.
5. Screening and buffering shall be provided which preserves or improves compatibility and harmony of use and structure between the proposed use and adjacent and nearby properties, according to the type, dimensions and character of the proposed use.
6. Signs and exterior lighting, if any, shall maintain traffic safety and minimize glare and economic effects on adjacent and nearby properties.
7. Required yards and open spaces shall be provided.
8. The height of structures shall be in harmony with that of adjacent and nearby uses and structures.
9. The economic effect of the proposed use on adjacent and nearby properties shall be positive.

In granting any special exception, the board may prescribe appropriate conditions and safeguards in conformity with these development regulations. Violation of such conditions and safeguards, when made a part of the terms under which the special exception is recommended, shall be deemed a violation of these development regulations. In granting a special exception, the board shall prescribe a time limit within which the uses for which the special exception, if granted, shall be begun or completed, or both. Failure to begin or complete, or both, such use within the time limit shall void the special exception.

## G. *Special exception regulations for home occupations.*

1. The applicant must demonstrate to the planning board clear evidence that the proposed home occupation will not:
  - (a) Disturb the peace, quiet and domestic tranquility of the residential neighborhood;
  - (b) Create excessive odor, noise, parking or traffic above that of the residential neighborhood;
  - (c) Create a fire hazard or nuisance;
  - (d) Use or generate toxic or hazardous materials or waste.
2. Special exceptions and permitted uses for home occupations are subject to the following regulations:
  - (a) No more than one home occupation shall be permitted within any single dwelling unit (excluding cases where a person requires multiple professional or vocational licenses and the actual performance or work occurs somewhere other than the applicant's dwelling unit).
  - (b) Permitted home occupations shall not include the employment of any persons not residing on the premises in the performance of the occupation.
  - (c) No one other than residents of the dwelling shall be employed in the conduct of a home occupation (excluding those cases where actual performance of work occurs somewhere other than the applicant's dwelling unit).
  - (d) No stock-in-trade shall be displayed or maintained on the premises, and no retail sales on the premises shall occur.
  - (e) A home occupation shall produce no noise or obnoxious odors, vibrations, glare, fumes or electrical interference detectable to normal sensory perception.
  - (f) No traffic or parking shall be generated by such home occupation in greater



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volumes than would normally be expected in a residential

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- (g) There shall be no exterior indication of the home occupation; no exterior signs shall be used; no other onsite advertising visible from the exterior shall be used that informs the public of the address of the home occupation.
- (h) No mechanical equipment shall be used or stored on the premises in connection with the home occupation except that which is normally used for purely domestic or household purposes or as specifically provided for in a special exception permit.

3. All special exceptions for home occupation land uses are subject to review and a rehearing of the approved special exception by the planning board upon written and justifiable complaints from surrounding property owners. Such rehearing may result in the revoking of the special exception or additional conditions for continued operation of a home occupation.

4. Home occupation uses shall be subject to all applicable county occupational licenses and other business taxes.

5. In the event that the applicant has not had an occupational license in effect for the duration of time that the applicant has been operating the business out of the home, as a condition of any special exception the applicant shall be required to pay all occupational license fees that would have been due plus the maximum statutory penalties and fees as prescribed by state and local law.  
(Ord. No. 97-01, § 1, 1-6-97; Ord. No. 04-22, § 3, 12-20-04)