

CHAPTER 13. SPECIAL USE PERMITS

SECTION 13.1. PURPOSE AND INTENT

There are some land uses which are basically in keeping with the intent and purpose of the district but which may have an impact on the area around them. These uses may be established, under certain conditions and with proper controls, in such a manner as to minimize any adverse effects.

SECTION 13.2. APPLICABILITY

The uses for which conditional use permits are required are listed in the Table of Uses (see Chapter 6).

SECTION 13.3. APPLICATION FILING

- A.** Special use permit applications may only be initiated by all the listed landowner(s) of the land subject to the application, or their authorized agents.
- B.** Special use permit applications shall include a site plan (see Chapter 4) depicting the proposed development configuration that shall be reviewed by County staff prior to consideration by the Board of County Commissioners.
- C.** Special use permit applications shall also specify the approximate completion time for the project.

SECTION 13.4. APPLICATION PROCESS

A. SUBMITTAL

- 1. Following completion of a required pre-application conference with the Administrator and a Project Review Team meeting with all departments, as determined necessary by the Administrator, the completed application shall be submitted at least 45 days prior to the Board of Commissioners meeting at which it is to be heard.
- 2. The Planning Department shall have 7 days from the date of submittal to notify the applicant if the application is complete in accordance with Section 10.5.F, Determination of Application Completeness.
- 3. Complete applications shall undergo technical review, the Administrator shall prepare and forward the staff report and related application materials to the Board of Commissioners.

B. DECISION BY BOARD OF COMMISSIONERS

The Board of Commissioners shall conduct a quasi-judicial public hearing and shall make a decision in accordance with Section 13.4.C, Review Criteria.

C. REVIEW CRITERIA

The Board of Commissioners shall not approve a special use permit application unless it first makes each of the following findings, based on competent, substantial, and material evidence presented at the hearing.

- 1. The use will not materially endanger the public health or safety; and
- 2. The use meets all required conditions and specifications; and
- 3. The use will not substantially injure the value of adjoining property unless the use is a public necessity; and
- 4. The use will be in harmony with the surrounding area and compatible with the surrounding neighborhood; and
- 5. The use will be in general conformity with the approved Moore County Land Use Plan; and
- 6. The use is subject to a site plan that accurately depicts the proposed use's configuration.

D. CONDITIONS

- 1. The Board of Commissioners may apply conditions of approval that are reasonable and appropriate in accordance with Section NCGS 160D-705(c), and Section 10.10, Conditions of Approval.
- 2. Conditions may be proposed to:
 - i. Assure that the use will be harmonious with the area where proposed;

- ii. Ensure the use is consistent with the purpose and intent of this Ordinance;
 - iii. Ensure the use is consistent with the applicable Adopted Comprehensive Land Use Plan;
 - iv. Limit the special use permit to a specified duration;
 - v. Place limits on the availability of proposed residential dwelling units to coincide with the provision or maintenance of adequate public facilities; or
 - vi. Address other considerations necessary, in the sole discretion of the Board of Commissioners.
3. All conditions shall be identified in the approval, the notice of decision, and on the associated concept plan.
4. All conditions of approval shall be consented to, in writing, by all owners of land subject to the conditions.

E. NOTIFICATION OF DECISION

The Administrator shall mail the formal written copy of the decision to the applicant and/or the property owners of the petitioned property in accordance with Section 10.11, Written Notice of Decision.

F. EFFECT

1. A special use approval is perpetually binding and run with the land, unless amended or limited in duration by the Board of Commissioners.
2. The Board of Commissioners may require, as a condition of approval, that development subject to an approved special use permit shall also undergo site plan review (see Chapter 4).
3. An action invalidating a special use condition of approval (such as an intensity or hours of operation limitation) shall render the special use permit and associated site plan null and void.
4. Special uses shall meet all applicable State and federal requirements for location and operation. Failure to maintain compliance with those requirements may result in the revocation of the special use permit and associated site plan.

G. AMENDMENT

Proposed amendments to a special use permit application approval shall be considered as minor modifications or major modifications, in accordance with the following.

1. MINOR MODIFICATIONS

- i. Subsequent plans and permits for development subject to a special use permit may include minor modifications to the approval, provided the development continues to meet the minimum requirements of this Ordinance. Minor modifications are limited to changes that have no material effect on the character of the development or changes that address technical considerations that could not reasonably be anticipated at the time of the development approval.
- ii. The following minor modifications may be approved by the Administrator, in consultation with other appropriate County staff:
 01. Changes to the location of entrances or driveways, the rearrangement of internal streets, turn lanes, drives, or access restrictions;
 02. Changes to the configuration of parking areas, but not the number of parking spaces;
 03. Changes to the configuration or location of open space or placement of required amenities, provided the amount of open space is unchanged;
 04. Changes to the configuration of non-residential screening, including types of materials, provided minimum width and planting requirements are met;
 05. Changes to the proposed building elevation, including materials, provided that the change retains the same general architectural character and remains consistent with the design parameters established in the approval; and
 06. Changes to the arrangement or location of buildings provided there is no increase in the number of buildings, size, or amount of impervious surface.
- iii. In no instance shall a minor modification include any changes to the range of permitted uses or the overall density of the development.

2. MAJOR MODIFICATIONS

- i. Changes that materially affect the basic configuration of the development, basic parameters of conditions of approval, or that exceed the scope of a minor modification are considered major modifications.
- ii. Major modifications include, but are not limited to:
 01. Increases in building height;
 02. Changes in use designations;
 03. Changes in density or intensity;
 04. Decreases in open space;
 05. Substantial changes in the location of streets (particularly if streets are to be deleted or access points to the development moved so traffic flows both inside and outside the development are affected); and
 06. Change in the location of any public easement.
- iii. Major modifications shall be treated as an amendment that must be reviewed and considered in accordance with the procedures and standards established for the original approval of a special use permit application.

3. REPLACEMENT

If a special use is replaced by a use otherwise permitted by right in the zoning district, the special use permit approval is deemed abandoned and the special use permit approval is null and void.

4. EXPIRATION

Unless otherwise stated in the special use permit approval, a special use permit shall expire and become null and void two years after the date of issuance if:

- i. Substantial commencement of construction has not yet taken place; or
- ii. The authorized use has not commenced.

H. REVOCATION

1. . In the event of failure to comply with the plans or any other conditions imposed upon the special use permit approval, the Administrator shall give the permit holder 10 days written notice of intent to revoke the permit and request the permit holder to contact staff to set a reasonable time for the violation to be corrected.
2. If the permit is revoked and the special use has not ceased, the use is considered a violation of this Ordinance and subject to enforcement and penalties in Chapter 18.
3. A special use permit may only be revoked in accordance with the procedure used to grant its approval.

I. APPEAL

Appeal of a quasi-judicial decision made by the Board of Commissioners with respect to a special use permit application shall be made to the Superior Court for Moore County in accordance with Section 14.2, Appeal of Quasi-Judicial Decision.