

1.1. PURPOSE

The purpose of this procedure is to establish a consistent process for reviewing and approving a request for approval of a special use.

1.2. BACKGROUND

The LDC establishes uniform standards for the development and use of land. These standards were established to preserve and improve the public health, safety and general welfare of the citizens and businesses of El Paso County including promoting predictability, consistency and efficiency in the land development process for residents, neighborhoods, businesses, agricultural and development interests, and being fair to all by ensuring due consideration is given to protecting private property rights, the rights of individuals and the rights of the community as a whole.

The special use provision is designed to allow certain uses, that with reasonable mitigation of potential impacts, would be appropriate within a zoning district. The special use process considers the location, design, configuration, intensity, density, natural hazards and other relevant factors pertaining to the proposed use.

Special uses may be approved administratively except for a special use that is subject to a Certificate of Designation or a special use application that includes mineral extraction with processing. In all other cases, the PCD Director may, at his or her sole discretion, elevate a special use application for review by the Planning Commission and BoCC.

1.3. APPLICABLE STATUTES AND REGULATIONS

C.R.S. §§30-28-111, 113, and 114 authorize Boards of County Commissioners to adopt and amend zoning regulations for the regulation by districts or zones of the location, height, bulk, and size of buildings and other structures, percentage of lot which may be occupied, the size of lots, courts, and other open spaces, the density and distribution of population, the location and use of buildings and structures for trade, industry, residence, recreation, public activities, or other purposes, access to sunlight for solar energy devices, and the uses of land for trade, industry, recreation, or other purposes including methods for the administration of such regulations.

Section 2.1.2 of the LDC provides the authority for the PCD Director to establish standards for processing development applications.

Section 2.2.4 of the LDC establishes the authorities of the PCD Director.

Section 5.1 of the LDC identifies the special uses that may be considered and approved within each zone district.

Section 5.1.4 of the LDC limits the consideration of special uses as accessory uses.

Section 5.3.2 of the LDC establishes the allowance for special uses, the criteria for consideration and approval, and the various standards a special use shall adhere to when located within El Paso County.

1.4. RESOURCES

1.4.1. Associated with Most Development Applications

Not applicable

1.5. GENERAL SUBMITTAL LIST

The applicant shall submit the following:

- Site Plan Map or Site Development Plan Map, depending on the nature and complexity of the special use and as specified in Table 5-1 of the LDC.
- Compliance Certification with Article 65.5 of Title 24, Colorado Revised Statutes, copy of notice, and list of mineral owners and addresses conforming to the requirements of the public notice-mineral owner notification, if applicable.
- Evidence of authority to represent the property owner, if the applicant is not the property owner.
- Development agreement, if applicable.
- Letter of intent.
- Proof of adjacent property owner notice.
- Any other additional items as required by the PCD Director deemed necessary to ensure compliance with the requirements of the LDC.

1.6. STEP BY STEP REVIEW PROCEDURE

1.6.1. Summary of Steps

(A) Step 1 Early Assistance Meeting (if applicable)

(B) Step 2 Neighborhood Meeting (optional)

Based on the input of neighbors, the applicant may choose to reassess the type of application to file. In all other cases, the PCD Director may elevate a special use application for review by the BoCC and/or the Planning Commission at his sole discretion. Significant concerns expressed by the neighbors about the proposed special use may result in the PCD Director elevating the special use application to public hearings for review by the BoCC and/or the Planning Commission.

(C) Step 3 Application Submitted

A complete Type C or Type D Development Application is required, as determined by the PCD Director. The required supporting materials should be submitted by the applicant to the PCD via EDARP. The materials submitted shall include all items listed in Section 1.5 of this procedure and the customized submittal matrix sent to the applicant via EDARP by the PCD Planner. Additional materials should be provided by the applicant as determined necessary by the PCD Director to respond to the criteria for approval for a special use.

(D) Step 4 Determination of Completeness

(E) Step 5 Resubmission of Application (if required)

(F) Step 6 Application Referral

At the time of referral, the PCD planner sends notice to adjacent property owners in accordance with the public notice and public notice-mailed procedures.

(G) Step 7 Comments and Request to Applicant

The PCD planner reviews any review comments and provides them to the applicant via EDARP. If the application is elevated by the PCD Director, the applicant is informed of the item being elevated to a public hearing and the EDARP file is updated with the PCD Director determination regarding the elevation.

(H) Step 8 Applicant Submits Information Requested

(I) Step 9 Staff Recommended Action

The PCD planner makes a final determination of conformance of the administrative relief request with the criteria for approval and prepares a letter for review by the PCD Director recommending either approval or denial, with or without conditions, and Step 13 is initiated.

(J) Step 9 Staff Report and Recommended Action (if elevated)

(K) Step 10 Hearing Scheduled (if elevated)

(L) Step 11 Notice of Hearing (if elevated)

(M) Step 12 Hearing Held (if elevated)

(N) Step 13 Decision Concerning Development Permit

(O) Step 14 Development Permit Closeout

A copy of the decision is provided to the applicant by the PCD planner. The PCD planner requests the required documentation from the applicant to determine conformance of the special use with any conditions of approval at the appropriate time. The PCD records any development agreements of other documents associated with the approval. A copy of the decision by either the PCD Director, or the BoCC action and/or the Planning Commission recommendation is/are uploaded to EDARP.

1.6.2. Criteria for Consideration

The PCD Director, Planning Commission, and BoCC may only consider an application for special use permit where land is located within a zoning district which allows the special use unless specifically authorized elsewhere in the LDC.

1.6.3. Criteria for Approval

To grant a special use, the criteria in Section 5.3.2 of the LDC shall be met, in addition to the compliance with the other applicable development standards and use specific standards, unless an alternative or variation is approved by a separate action.

1.7. REVIEW PERIOD

A special use permit is classified as a Type C or Type D Development Application, as determined by the PCD Director. The timeline for reviewing a Type C or Type D Development Application is dependent upon several factors, including, but not limited to, staffing, workload, project size and/or complexity, and quality and completeness of submittal materials.

1.8. NOTICE

Notice shall meet the notice requirements of public notice- mailed and shall be completed a minimum of 14 days in advance of the decision.

1.9. FORM OF ACTION

A special use shall be considered approved as of the date of approval of the special use by either the PCD Director with the execution of an approval letter or the BoCC with the execution of the resolution approving the special use by the Chair of the BoCC.

1.10. EXPIRATION (IF APPLICABLE)

If the use is not established on the subject property or a building permit is not obtained and construction substantially started within two (2) years of approval of the special use or is discontinued for a period of two (2) consecutive years, the special use shall expire and a new development application and fees shall be required. A mineral extraction special use shall be deemed abandoned, and the special use permit shall have no further force and effect, if the mineral extraction activity has been discontinued for a period of three (3) consecutive years. A special use shall be deemed discontinued if the primary intended use has not been actively and regularly conducted on the property that was approved for the special use and in the area(s) of the property as depicted on the special use site plan.

A rural home occupation which receives administrative special use approval shall expire five (5) years from the date of approval.

1.11. SIMILAR PROCEDURES

Not applicable

1.12. TECHNICAL GUIDANCE

1.12.1. Site Development Plan or Site Plan Review Required

Site Development Plan review or Site Plan review is required before an application for a building permit can be authorized by the PCD. Site Development Plan or site plan review may be concurrent with the special use permit process and can help illustrate that impacts can be mitigated and conditions at approval can be met; however, the final site development plan or site plan shall be modified by the applicant to reflect the conditions of approval.