

Special Exceptions

Mancos Development Services: From Concept to Construction

Getting Started

Special exceptions are deviations from otherwise applicable standards where development is proposed that would be:

- (1) Compatible with the surrounding land uses;
- (2) In keeping with the public interest; and
- (3) Consistent with the purposes of this Land Use Code

Special Exception Guidelines

- ✓ The Planning Commission, in accordance with the procedures, standards and limitations of this Division, shall approve, approve with conditions or deny an application for a special exception permit after receiving a recommendation and staff report from the Zoning Administrator and after considering the input taken from the public hearing.
- ✓ Special exceptions to otherwise applicable standards may be granted only with respect to:
 - (1) Setback standards.
 - (2) Minimum lot area standards (for preexisting lots of record that meet current standards – seven thousand five hundred [7,500] square feet).
 - (3) Minimum lot width standards (for preexisting lots that do not meet current standards).
 - (4) Sign illumination standards.
 - (5) Fence and wall standards.
 - (6) Compatibility standards.
 - (7) Operational performance standards.
- ✓ Issuance of a special exception permit shall authorize only the particular variation which is approved in the special exception permit. A special exception permit shall run with the land.
- ✓ Unless otherwise specified in the special exception permit, an application to commence construction of the improvements that were the subject of the special exception permit request must be applied for and approved within twelve (12) months of the date of the approval of the special exception permit; otherwise, the special exception permit shall automatically become null and void. Permitted time frames do not change with successive owners. Upon written request, only one (1) extension of the twelve-month time frame may be granted by the Planning Commission or Board of Trustees for a period not to exceed twelve (12) months for good cause shown. This provision shall not apply to special exceptions approved for minimum lot area and/or minimum lot width with respect to previously approved substandard lots.
- ✓ The Zoning Administrator, the Planning Commission and the Board of Trustees may impose such conditions on a special exception permit as are necessary to accomplish the purposes of the Mancos Land Use Code, to prevent or minimize adverse impacts upon the public and neighborhoods and to ensure compatibility. These conditions may include, but are not limited to, limitations on size, bulk and location; standards for landscaping, buffering and screening, lighting and adequate ingress and egress; cash deposits, bonds and other guarantees of deposit; other on-site improvements; and limitations on the duration of the permit or hours of operation.

Special Exception Submittal Requirements

The applicant shall file three (3) copies of an application requesting a special exception. The application shall be accompanied by or show the following:

- ✓ A filing fee to cover the cost of review, in accordance with the fee schedule adopted by resolution of the Board of Trustees;
- ✓ The street address and legal description of the property affected;

Public Hearing and Notice

- ✓ The Town shall publish notice of the public hearing to be given by one (1) publication in a newspaper of general circulation in the Town without the necessity of notifying property owners by mail. Such notice shall state the time and place of such hearing and the nature of the subject to be considered, which time shall not be earlier than fifteen (15) days from the date of publication.
- ✓ The applicant shall post a sign provided by the Town Clerk in a prominent location on the subject property, providing notice of the public hearing at least fifteen (15) days prior to the hearing. Such notice shall state the time and place of such hearing; the nature of the subject to be considered; the name, address and phone number of the applicant; and a map showing the land area affected.

Review and Decision

- ✓ The Planning Commission shall hold a public hearing on an application for a special exception permit. At the public hearing, the Planning Commission shall consider the application, the staff report, the relevant support materials and the public testimony given at the public hearing. After the close of the public hearing, the Planning Commission shall vote to approve, approve with conditions or deny the application for a special exception, in accordance with the required findings of Section 16-19-250 of the Mancos Municipal Code below.
- ✓ In exercising its power to grant a special exception in accordance with this Land Use Code, the Planning Commission or the Board of Trustees shall make a finding and show in its minutes that all of the following conditions are met:
 - (1) Granting the special exception will ensure the same general level of land use compatibility as the otherwise applicable standards.
 - (2) Granting the special exception for a specific property will not adversely affect adjacent land uses and the physical character of uses in the immediate vicinity of the proposed development because of inadequate buffering, screening, setbacks and other land use considerations.
 - (3) A firewall shall be installed on all structures constructed within five (5) feet of a property line, where special exceptions are sought for setbacks.
 - (4) Where special exceptions for setbacks are sought in the case of a nonconforming structure, the setback exception must be necessary to permit the logical extension of such nonconforming structure and shall not increase the level of nonconformance.
 - (5) There are unusual physical circumstances or conditions, such as exceptional topographical or other conditions peculiar to the affected property, not caused by the applicant or any prior owner.
 - (6) The unusual physical circumstances or conditions do not exist throughout the neighborhood or district in which the property is located.
 - (7) Because of such unusual physical circumstances or conditions, the property cannot reasonably be developed in conformity with the provisions of this Land Use Code.
 - (8) Such unnecessary hardship, unusual physical circumstances or conditions have not been created by the applicant or any prior owner.
 - (9) The special exception is the minimum special exception that will afford relief and is the least modification possible of the provisions of this Land Use Code which are in question.
 - (10) The exception, if granted, will not alter the essential character of the neighborhood or district in which the property is located, or substantially or permanently impair the use or development of adjacent property.
 - (11) Granting the special exception will be generally consistent with the purposes of this Land Use Code that are listed in Section 16-1-40.
 - (12) The proposed use is a permitted use in the underlying zone district.

- (13) Special exceptions for minimum lot area and minimum lot width standards shall be granted only for existing nonconforming lots and where all of the conditions identified in this Section are met, plus:
- (1) The minimum lot area or width is not less than the area of other previously approved lots on the same street and in the neighborhood or immediate area; and
 - (2) The minimum lot area or width is at least eighty percent (80%) of that otherwise required by the underlying zone district.
- ✓ The Zoning Administrator shall provide a copy of the decision to the applicant by mail within ten (10) days of the Planning Commission's decision. A copy of the notice of decision shall be included with the staff report in a packet forwarded to the Board of Trustees for its information.
- ✓ Planning Commission decisions on special exceptions are subject to a potential "call up" hearing before the Board of Trustees. Within twenty (20) calendar days following Planning Commission action, the applicant, an eligible citizen owning property within five hundred (500) feet of the subject property or the Town may submit a written request to the Town Administrator for a "call up" hearing for the project. If called up, the Planning Commission action is reviewed *de novo* at the next properly noticed Board of Trustees meeting. The Board of Trustees may approve, approve with conditions or deny the special exception permit request based on the required findings set forth in Section 16-19-250 below or remand the request to the Planning Commission for further consideration. In the event there is no functioning Planning Commission, the Zoning Administrator shall submit the special exception permit request, along with any recommended findings and/or conditions, to the Board of Trustees for its consideration and decision.