

LDC CODE UPDATE

DATE:	January 27, 2025
LDC SECTION:	Section 2.8.1 Special Use Permit
COMP PLAN REFERENCE:	N/A

DISCUSSION:

**Background**

Section 2.8.1 of the Land Development Code outlines the Special Use Permit (SUP) requirements and review process. The primary intent of the recommended text changes is to clarify that a requested SUP must be consistent with the Comprehensive Plan, including the underlying Future Land Use designation.

**Changes to the LDC Section**

Changes to the text of Section 2.8.1 Special Use Permits address the following issues.

1. Add the following statement to the applicability standards in Section 2.8.1, “Any use requested under a SUP shall be compatible with the Comprehensive Plan, including the underlying Future Land Use designation.”
2. Revise the submittal requirement under Section 2.8.2.D(5) to remove text that implies that screening and buffering is not always necessary between dissimilar uses. Buffers and screening are always required.
3. Add clarification to the review and approval procedures provided in Section 2.8.3.B that the Growth Services Department shall review the application based not only on the application’s consistency with the Comprehensive Plan, including the Future Land Use designation.

Attachments: Redline LDC Changes to Section 2.8.1 Special Use Permit

## ***DIVISION 8. SPECIAL USE PERMIT***

### **Sec. 2.8.1. Applicability.**

Uses not specifically listed by this Code in a zoning classification may be deemed by the Growth Services Director to be permissible in such zoning classification, based on their similarity with listed uses; any other non-listed use may be considered for approval by a Special Use Permit (SUP). The listing of permitted uses in a zoning classification is not meant to be all inclusive. Any use requested under a SUP shall be compatible with the Comprehensive Plan, including the Future Land Use designation.

An application for a special use permit shall not be construed to be, or be processed as, an application for a rezoning or vice versa. However, an applicant may submit applications in the alternative, one being an application for a rezoning, and the other being an application for a special use permit, upon payment of the applicable fee for each type of application. The Board of County Commissioners may consider such alternative applications with respect to the same parcel at the same public hearing. In such case, each alternative application shall be noticed and advertised so that the public will be on notice that the two alternatives will be considered during the same public hearing. Each alternative will receive the appropriate staff analysis and recommendation in a written report, but such analysis and recommendation may be included in a single staff report as long as the two alternatives are clearly distinguished for the reader.

(Ord. No. 13-20, § 2, 7-11-2013; Ord. No. 15-25, 12-16-2015; Ord. No. 23-12, § 2, 5-2-2023)

### **Sec. 2.8.2. Submittal requirements.**

- A. A formal written application for a SUP on a form provided by the Growth Services Department is submitted to the Planning/Zoning Manager indicating the section of this Code under which the SUP is sought and stating the grounds on which it is requested.
- B. A fee in the amount established by resolution of the Board shall accompany the application. The fee schedule is available at the Growth Services Department.
- C. A Conceptual Plan prepared in accordance with the provisions of Article 6 and at an appropriate scale showing proposed placement of structures on the property, provisions for ingress and egress, off-street parking and off-street loading areas, refuse and service areas, and required yards and other open spaces.
  - (1) Plans for screening and buffering with reference as to type, dimensions and character. Where additional requirements on the preparation of conceptual plan is required to demonstrate the General Findings below, those requirements shall be met.
  - (2) Proposed locations for utilities including water and sewer.
- D. The application shall include a description of the following findings. The P&Z may make further written findings that the specific requirements, if any, governing the individual SUP, excluding towers, have been made concerning the following matters, where applicable:
  - (1) Provision for ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control and access in case of fire or catastrophe.

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- (2) Provision for off-street parking and loading areas, where required, with particular attention to the items in (1) above and the economic, noise, glare, or odor effects of the SUP on adjoining properties and properties generally in the surrounding area.
  - (3) Provisions for refuse and service area, with particular reference to the items in (1) and (2) above.
  - (4) Provision for utilities, with reference to locations, availability and compatibility.
  - (5) Provision for screening and buffering of dissimilar uses and of adjacent properties.
  - (6) Provision for signs, if any, and exterior lighting with consideration given to glare, traffic safety, economic effects and compatibility and harmony with properties in the surrounding area.
  - (7) Provision for required yards and other green space.
  - (8) Provision for general compatibility with adjacent properties and other property in the surrounding area.
  - (9) Provision for meeting any special requirements required by the site analysis for the particular use involved.
- E. Applications for Telecommunication Towers shall include a description of the following findings. The P&Z may make further written findings that the specific requirements contained in Section 4.3.25 governing a SUP for telecommunication towers has been made concerning the following matters, where applicable:
- (1) Setbacks from Parent Property Lines
  - (2) Certified fall radius
  - (3) Locational Requirements Relative to Offsite Uses and Zoning
  - (4) Provisions for Collocation
  - (5) Tower Clustering
  - (6) Landscaping, Screening and Buffers
  - (7) Lighting of Tower
  - (8) Color of Tower
  - (9) Building design and blending of tower facilities to the natural setting and built environment
  - (10) Antenna Compatibility
  - (11) Signage
  - (12) Security Fencing
  - (13) Inventory of Existing Sites
  - (14) Compliance with current standards and regulations of the FAA, the FCC and any other Federal governmental agency with the authority to regulate towers and antennas
  - (15) Building Codes and Standards
  - (16) Provision of parking spaces and provisions for removal of refuse
  - (17) Provision for utilities
  - (18) Provisions for general compatibility with adjacent properties and other property in the surrounding area
- F. Findings and submittal requirements for Mining applications as specified in Article 4.

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These findings and recommendations shall be forwarded to the Board for review and approval.

(Ord. No. 13-20, § 2, 7-11-2013)

**Sec. 2.8.3. Review and approval procedures.**

- A. Public hearings related to this application request are set for the calendar year and the schedule is available from the Growth Services Department. A normal SUP application cycle will take 90± days to complete.
- B. The Growth Services Department shall review the application for a SUP and shall make recommendations to the P&Z respecting the applications' consistency with the Comprehensive Plan, including the Future Land Use Designation.
- C. If the Growth Services Department fails to make a written recommendation to the P&Z by the date the P&Z has set to officially act on the request, the Growth Services Department shall be deemed to have recommended approval of the application and consistency with the Comprehensive Plan.
- D. Public hearings. The P&Z shall hold public hearings to consider applications for SUPs in the manner set forth in Division 1.4.
- E. P&Z Hearing.
  - (1) Conditions and safeguards. In recommending any SUP, the P&Z may prescribe appropriate conditions and safeguards in conformity with this Code.
  - (2) Time limit. The P&Z may recommend a reasonable time limit within which the use for which the SUP is required to be started or completed.
  - (3) Denial. If the P&Z recommends denial of a SUP, it shall state fully in writing its reasons for denial. Reasons may include the lack of provisions stated in Section 2.6.2.D above.

(Ord. No. 13-20, § 2, 7-11-2013)

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#### **Sec. 2.8.4. Completion and close out.**

- A. The Board shall hold a public hearing after each P&Z public hearing with due public notice as defined in Division 1.2 herein to consider recommendations from the P&Z for approval or denial of SUPs. The decision of the Board shall be final.
- B. Applicant's request for withdrawal. At the request of the applicant, the P&Z or the Board shall permit withdrawal of an application. The fee paid shall not be refunded. If an applicant withdraws one type of application and files a different type of application, the new application shall satisfy all requirements of the Land Development Code including all advertising, notice and fee requirements shall be enforced with respect to the new application.
- C. Applicant's request for continuance. At the request of an applicant and for good cause shown, the P&Z or the Board may continue the public hearing on an application for a SUP. The applicant shall be required to pay an additional application fee to cover the cost of re-advertising and re-notifying the adjacent property owners. The P&Z or the Board shall not grant an applicant's request for continuance when the application is the result of a notice of zoning code violation and the SUP is necessary to cure such violation. The applicant will not be required to pay an additional application fee if the continuance is granted by the P&Z or the Board, on their own initiative, when deemed necessary or desirable.
- D. Limitation on SUPs. When the Board has denied an application for a SUP, no applicant shall submit an application for a SUP for any part or all of the same property for the same use for a period of 12 months from the date of denial unless the property is incorporated, annexed or there is a Comprehensive Plan Amendment which would affect the area.
- E. Board decisions, appeals. All applications requesting a SUP shall be approved or denied by a majority vote of the Board members present and voting at the public hearing of the Board to consider the application. If the vote of the Board results in a tie vote, the tie vote may operate as a deferral to the next zoning public hearing or date otherwise designated by the Board and the Board may defer the application until a full Board is present. Appeal of any decision of the Board granting or denying a SUP application shall be by filing a Petition for Writ of Certiorari with the Circuit Court in Marion County within 30 days of rendition of the decision to be reviewed.

(Ord. No. 13-20, § 2, 7-11-2013; Ord. No. 23-12, § 5, 5-2-2023)