

4.6 SPECIAL USE PERMIT SUBMITTAL PROCEDURES, FINDINGS

The Zoning Commission shall make recommendations on Special Use Permits to the Marion County Board of County Commissioners. The Commission may recommend granting a Special Use Permit with appropriate conditions and safeguards. The Commission may recommend a denial of Special Use Permits when the use requested is not compatible with existing uses in the surrounding area, or will adversely affect the public interest, or the proposed use is not consistent with the Comprehensive Plan. *(Rev. 12/21/93)*

The Marion County Board of County commissioners is under no obligation to approve a Special Use Permit unless and until the applicant meets their burden of demonstrating that the proposed use will not adversely affect the public interest, the proposed use is consistent with the Comprehensive Plan, and the proposed use is compatible with land uses in the surrounding area. *(Rev. 12/21/93)*

A Special Use Permit shall not be considered by the Zoning Commission unless the following procedures are followed:

1. **WRITTEN APPLICATION** – A formal application for a Special Use Permit is submitted to the Zoning Director indicating the section of this Code under which the Special Use Permit is sought and stating the grounds on which it is requested, with particular reference to the types of findings which the Zoning Commission must make to comply with the general intent and purpose of this Code. Application material may include, but is not limited to, the following where applicable:
 - a. A Pre-application Concept Plan prepared in accordance with the provisions of Articles Eight and Nine 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.

- b. Proposed locations for utilities.
 - c. Plans for screening and buffering with reference as to type, dimensions and character. Where Articles Eight and Nine place additional requirements on the preparation of concept plans, those requirements shall be met.
2. **PUBLIC HEARINGS** – The Zoning Commission shall hold public hearings to consider applications for Special Use Permits in the manner set forth in Subsection 3.1.2.b.
3. **REFERRAL TO PLANNING DEPARTMENT** – Upon receipt of a completed application for a Special Use Permit, the Zoning Director shall promptly forward a copy thereof to the Planning Director for review and recommendations by the Planning Department. The Planning Department shall review the application for a Special Use Permit and shall make recommendations to the Zoning Commission respecting the applications consistency with the Comprehensive Plan.
- a. If the Planning Department fails to make a written recommendation to the Zoning Commission by the date the Zoning Commission has set to officially act on the request, the Planning Department shall be deemed to have recommended approval of the application and consistency with the Comprehensive Plan. The Planning Commission shall not be required to make a recommendation to the Zoning Commission on any such application.
4. **FINDINGS** – (Revised 7/10/01)
- a. The Zoning Commission may make further written findings that the specific requirements, if any, governing the individual Special Use Permit, excluding towers, have been made concerning the following matters, where applicable:

- (1) Provisions 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.
- (2) Provision for off-street parking and loading areas, where required, with particular attention to the items in 1.a. above and the economic, noise, glare, or odor effects of the Special Use Permit on adjoining properties and properties generally in the surrounding area.
- (3) Provision for refuse and service areas, with particular reference to the items in 1.a. and 1.b. 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 where necessary.
- (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.

These findings and recommendations shall be forwarded to the Marion County Board of County Commissioners for

review and approval.

- b. The Zoning Commission may make further written findings that the specific requirements contained in Sections 5.9.5, 5.9.6 and 5.9.7 governing a Special Use Permit 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 Off-Site 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 government 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.
5. **CONDITIONS AND SAFEGUARDS** – In recommending any Special Use Permit, the Zoning Commission may prescribe appropriate conditions and safeguards in conformity with this Code.

6. **TIME LIMIT** – The Zoning Commission may recommend a reasonable time limit within which the use for which the Special Use Permit is required shall be started or completed.
7. **DENIAL** – If the Zoning Commission recommends denial of a Special Use Permit, it shall state fully in writing its reasons for denial. Reasons may include the lack of provisions stated in Subsection 4.6.4 above, or such of them as may be applicable to the action of denial and the particular regulations relating to the specific Special Use Permit requested, if any.
8. **PUBLIC HEARING – MARION COUNTY BOARD OF COUNTY COMMISSIONERS** – The Marion County Board of County Commissioners shall hold a public hearing after each Zoning Commission public hearing with due public notice as defined in Section 2.2 herein to consider recommendations from the Zoning commission for approval or denial of Special Use Permits. The decision of the Board of County Commissioners shall be final.
9. **LIMITATION ON SPECIAL USE PERMITS** – When the Marion County Board of County Commissioners has denied an application for a Special Use Permit, no applicant shall submit an application for a Special Use Permit for any part or all of the same property for the same use for a period of twelve (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. *(Rev. 4/17/96)*
10. **BOARD DECISIONS, APPEALS** – All applications requesting a Special Use Permit 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 shall operate as a deferral to the next zoning public hearing or date otherwise designated by the Board. Appeal of a Board vote to approve or deny an

application shall be in accordance with the provisions of Section 4.11. *(Rev. 12/21/93)*

11. **APPLICANT'S REQUEST FOR WITHDRAWAL** – At the request of the applicant, the Zoning commission or the Marion County Board of County Commissioners shall permit withdrawal of an application. The fee shall not be refunded. *(Rev. 4/27/95)*

12. **APPLICANT'S REQUEST FOR CONTINUANCE** – At the request of an applicant and for good cause shown, the Zoning Commission or the Marion County Board of County Commissioners may continue the public hearing on an application for a Special Use Permit. 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 Zoning Commission or the Marion County Board of County commissioners shall not grant an applicant's request for continuance when the application is the result of a notice of zoning code violation and the Special Use Permit 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 zoning commission or the Marion County Board of County commissioners, on their own initiative, when deemed necessary or desirable. *(Rev. 4/27/95)*

Retyped May 2006