



7.5.527: USE VARIANCE

Review Criteria

A. Purpose: The purpose of this Section is to provide for City Council review of applications for variations from the permitted uses of any zoning district as outlined in this UDC. The granting of a Use Variance from the requirements of this UDC may be authorized when an unnecessary hardship would result from the strict enforcement of established regulations.

B. Applicability:

1. This Section applies to all requests for approval of a use of land or a structure that is not listed in Part 7.3.2 (Allowed Use Tables) as a Permitted or Conditional Use in the base and any applicable overlay zone district(s) where the property is located.

2. A Use Variance is not available for:

a. Properties that have been subject to a rezoning request at any time in the past eighteen (18) months.

b. New construction or development on unimproved property.

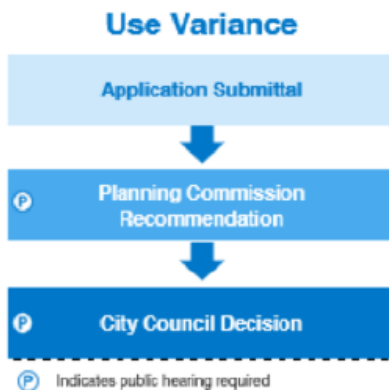
c. A use of a higher intensity and less restriction than what is permitted in the established zone district of the subject property.

C. General:

1. All requested amendments to the originally approved Use Variance shall be processed in the same manner as the original Use Variance request.

2. A Use Variance shall apply only to the specific site for which it is requested and shall not establish a precedent for approval of other requests.

D. Use Variance Process:





COLORADO SPRINGS PLANNING

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1. **Planning Commission Recommendation:** The Planning Commission shall review the application at a public hearing and shall forward its recommendation to City Council based on the approval criteria in Subsection E below. The Planning Commission may recommend approval, approval with conditions, denial, or may decide not to make a recommendation on the proposed amendment.

2. **City Council Decision:** The City Council shall review the application and the recommendation from the Planning Commission at a public hearing and make a decision based on the approval criteria in Subsection E below.

E. Criteria for Approval: The City Council may approve the application or approve it with conditions if Council finds that the following criteria have been met;

1. That there are exceptional or extraordinary circumstances or conditions applicable to the property involved or to the intended use of the property that do not apply generally to the property or class of uses in the same zone so that a denial of the Use Variance would result in undue property loss and not solely a mere inconvenience or financial disadvantage;

2. That the Use Variance is necessary for the preservation and enjoyment of a property right of the and if not approved, the property or structure cannot yield any beneficial use;

3. That the Use Variance will not be detrimental to the public welfare or convenience nor injurious to the property or improvements of other owners of property;

4. That the hardship is not the result of the applicant's own actions;

5. That because of these conditions, the application of the UDC prohibition on the requested use on the subject property would effectively prohibit or unreasonably restrict the use of the property; and

6. That the Use Variance is not being requested primarily to avoid the time or expense of complying with UDC standards generally applicable to similar properties and development.

F. Post-Approval Actions and Limitations:

1. Each approved Use Variance and any conditions on the approval shall be indicated on the final associated application.

2. Any change to the approved Use Variance shall be processed as a Major Amendment and will be decided upon by the City Council. (Ord. 23-03)