CHAPTER 28

SPECIAL EXCEPTIONS

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16.28.101: PURPOSE:

The purpose of this chapter is to allow for activities, clearly associated with a Class II, Class III, Class IV or Class V use, provided such associated activity can be properly integrated into the planning, site design, site layout, building design and building layout, and can be conducted in a manner that creates no adverse impacts to adjoining uses, properties or the City as a whole. (Ord. 2005-13, 2005)

16.28.102: APPROVAL AUTHORITY:

The City Council, following the receipt of a commission recommendation, is authorized to review all special exception applications. (Ord. 2005-13, 2005)

16.28.103: ALLOWED SPECIAL EXCEPTIONS:

The following special exceptions may be authorized under the provisions of this chapter:

(1) A height greater than twenty five feet (25') for a primary residential building, as required by subsection 16.11.126(1) of this title.

(2) A height greater than thirty five feet (35') for a primary commercial and industrial building, as required by subsection 16.11.126(3) of this title. (Ord. 2012-02, 2012)

(3) A gross building area greater than those allowed in chapter 33 of this title (section 16.33.102, "Table 33-2, Table Of Uses, Nonresidential Zoning Districts", of this title), for all listed uses in Neighborhood Commercial (CN), Community Commercial (C-1), Resort Commercial (RC), Resort Mixed Use (RMU), Commercial Professional and Research (CPR) and Commercial With Light Manufacturing (CLM). (Ord. 2014-05, 2014)

(4) A height greater than one (1) story, with a maximum height of fifteen feet (15') for pitched roofs, or thirteen feet (13') for flat roofs for guesthouse or casita, as provided by subsection 16.12.107(10) of this title.

(5) A commercial sign that overhangs a public right-of-way, including sidewalk but not extending into the street, provided each of the following conditions are met:

(a) The commercial business currently has a legal nonconforming sign located within the public right-of-way;

(b) The pole, or other device to which the overhanging sign will be attached, is located on applicant's property outside the public right-of-way;

(c) No part of the sign, pole or other device to which the sign is attached can be higher than twenty feet (20').

(d) If the sign overhangs a sidewalk, the bottom of the sign must be at least eight feet (8') above the sidewalk.

(e) The maximum size of the sign can be no larger than seventy two (72) square feet. (Ord. 2012-02, 2012)

16.28.104: APPLICATION INITIATION AND COMPLETENESS:

(1) A request for a special exception shall be made on the application.

(2) A property owner may present a special exception application for review and decision. An agent of the property owner, or a lessee of the property, may present a special exception application for review and decision, provided such application is accompanied by a property owner affidavit of authorization.

(3) A special exception application shall be determined complete by the zoning administrator, as provided by chapter 13 of this title. Special exception applications determined to be incomplete, the zoning administrator shall comply with the requirements of chapter 13 of this title. (Ord. 2005-13, 2005)

16.28.105: SPECIAL EXCEPTION APPLICATION REQUIREMENTS:

Applications for a special exception shall provide the following information and materials:

(1) A complete special exception application.

(2) Fourteen (14) copies of a site plan, drawn at a scale of one inch equals forty feet (1" = 40'), or as required by the zoning administrator, prepared by a licensed engineer or architect, plus twenty (20) copies of an eleven inch by seventeen inch (11" x 17") reduced copy of the site plan set identifying the following:

(a) The location and dimensions of the property and all proposed uses and buildings, and existing buildings or other structures located on the property, and existing buildings and structures located within one hundred feet (100') of the property. Existing property lines and existing fence lines shall be shown.

(b) The proposed setbacks and exterior dimensions of all proposed buildings and structures.

(c) The location of roads and streets serving the site, or proposed to serve the site.

(d) The location and dimension of all proposed ingress and egress points, off street parking and loading areas, including the total number of parking and loading spaces.

(e) The location and dimensions of all pedestrian and biking facilities, including sidewalks and trails, if any.

(f) All public and private rights of way and easements located on or adjacent to the property, proposed to be continued, created, relocated or abandoned shall be shown.

(g) For special exceptions requesting additional primary building height, the application shall include the proposed building elevation plans, identifying the maximum height of all proposed buildings and structures, and shall include a view shed analysis clearly identifying all impacts on views to Red Mountain and Snow Canyon, and impacts to views to the building site. (Additional viewpoints and view shed analysis requirements may be determined necessary by the city council and commission.)

(h) Such other information as the zoning administrator, commission or city council determines necessary to adequately review and decide the application. (Ord. 2005-13, 2005)

16.28.106: SPECIAL EXCEPTION APPLICATION REVIEW PROCEDURES AND APPROVAL STANDARDS:

(1) The procedures for the review of an application for a special exception are identified by figure 28-1 in this chapter.

(2) The city council in deciding, and the commission in formulating a recommendation for a special exception, shall review the application and determine from the application:

(a) The special exception is an allowed special exception, as identified in this chapter.

(b) The special exception complies with the requirements applicable to the zoning district, including minimum area, yard setbacks, height, and all other requirements, unless modified by the approval of a special exception application.

(c) The proposed special exception will be conducted in compliance with the requirements of this title, and all other land use ordinances.

(d) The special exception will not have a materially adverse effect upon the character of the area or the public health, safety and welfare.

(e) The special exception will not result in the destruction, loss or damage of natural, scenic or historic features of significance.

(f) The special exception will not cause air, water, soil or noise pollution or other types of pollution.

(g) Requirements are proposed, or can be proposed, necessary to secure the purposes of this title, and prevent or minimize any adverse effects upon properties in the vicinity, upon the city as a whole, or upon public facilities and services.

(3) The city council shall not approve, and the commission shall not recommend, a special exception unless the evidence presented establishes the proposed special exception:

(a) Will not be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity;

(b) Will not create any nuisance;

(c) Is located on a lot or parcel of sufficient size to accommodate the special exception; and

(d) Will not have a negative impact on adjacent properties, the character of the area, or the public health, safety and welfare. (Ord. 2005-13, 2005)

16.28.107: PLANNING COMMISSION RECOMMENDATION REQUIRED:

Prior to the city council deciding a special exception application, a recommendation on the proposed special exception shall be received from the commission. (Ord. 2005-13, 2005)

16.28.108: TERMS AND CONDITIONS FOR SPECIAL EXCEPTIONS:

(1) All approvals by the city council approving a special exception shall comply with all requirements of this title, all other land use ordinances, and the requirements for a building permit, as

applicable.

(2) The city council may impose such reasonable requirements with respect to location, construction, maintenance, operation, site planning, and other items for the special exception deemed necessary for the protection of adjacent properties and the public interest. These requirements may include, but are not limited to, requirements on use, site plan layout and configuration, building size, design, features and location, construction, operation, character, location, landscaping, lighting, fencing, screening and buffering, measures directed at minimizing possible nuisances, measures to protect natural features, and other requirements determined necessary and appropriate. Any approval requirements imposed on a special exception shall be clearly identified and included in the city council's decision. (Ord. 2005-13, 2005)

16.28.109: EFFECT OF GRANTING SPECIAL EXCEPTION:

(1) Following a decision of a special exception application by the city council, the city recorder shall provide the applicant with a written notice of the decision. The written record of all special exception applications shall be maintained on file by the city recorder.

(2) The granting of a special exception shall not authorize the establishment or extension of any use, or the development, construction, reconstruction, alteration or moving of any building or structure, but is a prerequisite to the filing of an application for an approval, permit or license required by this title, all other land use ordinances, and the building code. (Ord. 2005-13, 2005)

16.28.110: CONTINUING VALIDITY AND EXPIRATION:

See section 16.03.115 of this title. (Ord. 2005-13, 2005)

16.28.111: SPECIAL EXCEPTION APPROVAL AMENDMENT:

The procedure for amending any special exception approval shall be the same procedure to approve the special exception application in the first instance. (Ord. 2005-13, 2005)

16.28.112: APPEAL:

Any person aggrieved by a decision of the city council regarding a special exception may appeal the decision to district court, as provided by chapter 30 of this title.

FIGURE 28-1

SPECIAL EXCEPTION APPLICATION PROCEDURES

Application filed with zoning administrator

Application filed with zoning administrator

Zoning administrator determines application completeness (see chapter 13)

Application determined complete (see chapter 13)

Application determined incomplete (see chapter 13)

Commission considers special exception application. Commission formulates and transmits a recommendation to the council

Council considers the application, recommendation of commission, and all other information received

Application found to comply with requirements of all land use ordinances, including this title, building code, and all other applicable codes. Application approved by council, with or without requirements

Application found to not comply with requirements of all land use ordinances, including this title, building code, and all other applicable codes. Application denied by council

(Ord. 2005-13, 2005)