

CITY OF CODY  
PLANNING, ZONING AND ADJUSTMENT BOARD  
TUESDAY, JULY 26, 2016  
CITY HALL COUNCIL CHAMBERS @ 12:00 NOON

**AGENDA**

1. Call to Order by Chairman Justin Ness
2. Roll Call, excused members
3. Pledge of Allegiance
4. Approval of Agenda
5. Approval of Minutes of the July 12, 2016 regular meeting
6. NEW BUSINESS:
  - A. Site Plan Review: Storage Buildings at 2502 Cougar Avenue.
  - B. Public Hearing: Special Exemptions to side yard and street frontage requirements, 1307 32<sup>nd</sup> Street.
  - C. Review Special Exemption, 1307 32<sup>nd</sup> Street.
7. Review draft Zoning Ordinance Amendments (Conditional Uses, Special Exemptions, and Airport Overlay Special Use Permits.)
8. P&Z Board Matters (announcements, comments, etc.).
9. Council Update: Steve Miller
10. Staff Items:
11. Adjourn

The public is invited to attend all Planning, Zoning and Adjustment Board meetings. If you need special accommodations to participate in the meeting, please call the City office at (307) 527-7511 at least 24 hours in advance of the meeting.

**City of Cody**  
**Planning, Zoning and Adjustment Board**  
**Tuesday, July 12, 2016**

A regular meeting of the Cody Planning, Zoning and Adjustment Board was held in the Council Chambers of City Hall in Cody, Wyoming on Tuesday, July 12, 2016 at 12:00 PM

Present: Justin Ness - Chairman; Buzzy Hassrick; Heidi Rasmussen; Richard Jones; Reese Graham; Curt Dansie; Sandra Kitchen, Deputy City Attorney; Steve Miller, Council Liaison; Todd Stowell, City Planner; Bernie Butler, Accounting Clerk.

Absent: Brad Payne

Chairman Justin Ness called the meeting to order at 12:06 PM, followed by the pledge of allegiance.

Buzzy Hassrick made a motion, seconded by Curt Dansie, to approve the agenda. Vote on the motion was unanimous, motion carried.

Buzzy Hassrick made a motion, seconded by Heidi Rasmussen, to approve the minutes for the June 28, 2016 meeting. Vote on the motion was unanimous, motion carried.

**TABLED ITEM:**

Site plan Review for Mountain Equipment, located at 3202 Big Horn Ave.

Richard Jones made a motion to remove this item from the table, seconded by Buzzy Hassrick. Vote on the motion was unanimous, motion carried.

Todd Stowell presented a site plan review for Mountain Equipment, located at 3202 Big Horn Avenue. Updated architectural plans (elevations) and a landscaping plan were presented.

Heidi Rasmussen made a motion, seconded by Curt Dansie, to approve the Mountain Equipment building located at 3202 Big Horn Ave, with the following recommended conditions from the staff report (1 through 11, 13, and 14, and striking 12):

1. Prior to issuance of a building permit, provide a utility plan that contains details on the utility pipe sizes and material specifications (e.g. DR18).
2. Modify the ADA parking space to be 11 feet wide, plus a minimum 5-foot wide loading aisle.
3. Pay applicable utility fees in conjunction with the building permit. The city fee for the electrical equipment is actual cost. The electrical estimate is paid up front, which is \$2,321.
4. Prior to issuance of a building permit, provide a revised drainage plan, which has the 100-year overflow directed to the ditch along the front of the property.
5. Prior to issuance of a certificate of occupancy, the drainage facilities must be inspected and certified by the applicant's engineer that they were completed according to modified approved plans. This includes verification of the assumed infiltration rate, due to the fill material to be placed in the borrow pit.
6. The borrow pit must be filled or graded to provide a maximum 3:1 side slope prior to occupancy of the building.
7. The evergreen trees must be a Colorado blue spruce (or species with a similar growth rate, growth pattern, and cold heartiness, as approved by the Board). The trees must be a minimum of four feet tall, spaced no more

than 30 feet apart, provided with a method of irrigation, planted in good soil and at a level so that their base is no more than 18 inches below the level of the immediately adjacent neighboring property. Timing of installation shall be per the entry corridor ordinance. (Prior to occupancy, unless financial security is provided.)

8. The tree lines must be planted with a native grass seed mix, or otherwise landscaped/rocked to prevent weeds.
9. The river rock and crushed rock areas shall be provided with a quality weed barrier.
10. Obtain a sign permit for any exterior signage. The roof sign is not permitted.
11. Prior to occupancy, provide an easement for the electrical facilities, as needed.
12. ~~Provide the following additional architectural features on the building (as discussed with Board — potential items include masonry or rock veneer wainscot, masonry or rock veneer post bases, open timber gable in canopy).~~ (Note: Architectural features have been added to the proposal.)
13. The project must otherwise comply with the site plan and applicable building, fire, and electrical codes; (provided, the landscaping may be reduced as agreed by the Board on the condition that landscaping is enhanced upon further development of the property.)
14. Prior to occupancy, provide an as-constructed site plan, drawn to scale, that accurately reflects the placement of the utilities, building, and landscaping.

Vote on the motion was unanimous, motion carried.

#### NEW BUSINESS:

Todd Stowell discussed the following draft residential zoning amendments:

- A. Chapter 1 General Provisions
- B. Residential Land Use Table V7.8
- C. Supplemental Development Standards for Residential Zoning Districts

The board will review the above draft residential zoning amendments and comment to Todd Stowell by August 1, 2016.

P & Z Board Matters – none

Council Updates – Steve Miller - none

Staff Items – Todd Stowell - none

Buzzy Hassrick made a motion, seconded by Reese Graham, to adjourn the meeting. Vote on the motion was unanimous, motion carried.

There being no further business to come before the board, Chairman Ness adjourned the meeting at 1:00 PM.

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Bernie Butler, Accounting Clerk

**CITY OF CODY  
PLANNING, ZONING AND ADJUSTMENT BOARD  
STAFF REPORT**

<b>MEETING DATE:</b>	JULY 26, 2016	<b>TYPE OF ACTION NEEDED</b>	
<b>AGENDA ITEM:</b>		P&Z BOARD APPROVAL:	X
<b>SUBJECT:</b>	SITE PLAN REVIEW: STORAGE BUILDINGS AT 2502 COUGAR AVENUE. SPR 2016-23	RECOMMENDATION TO COUNCIL:	
<b>PREPARED BY:</b>	TODD STOWELL, CITY PLANNER	DISCUSSION ONLY:	

**PROJECT DESCRIPTION:**

Dan Hunter of Silver Gate Enterprises, LLC, has submitted an application for development of a storage complex consisting of two 75-foot by 40-foot buildings and one 165-foot by 40-foot building. The location is on the south side of Cougar Avenue, just east of Blackburn Avenue (2502 Cougar Avenue). The two smaller buildings would each have five, 15' by 40' units and the larger building eleven, 15' by 40' units. The proposed site plan and landscaping plan are attached.

**Existing Conditions:**

From NE corner of site:



**REVIEW CRITERIA:**

The property is located within the Open Business/Light Industrial (D-3) zoning district, which permits storage warehouse buildings.

Section 10-10C-5 of the zoning regulations states:

*All structures within the district shall be architecturally compatible. Architectural and landscaping plans shall be submitted to the planning and zoning commission for approval. Architectural and landscaping details shall be maintained as shown by the approved plans.*

Section 9-2-3 is as follows:

*Before the issuance of any permit under the international building code for commercial buildings situated within the city, the applicant, property owner and occupant shall meet with the planning, zoning and adjustment board to review the application and plans insofar as they pertain to the exterior of a commercial building and site plan conditions. The issuance of a permit shall be conditioned upon the applicant receiving an affirmative vote of a majority of the planning, zoning and adjustment board members in attendance at said meeting.*

**STAFF COMMENTS:**

The surrounding area is as follows:

<i>DIRECTION</i>	<i>EXISTING USE</i>	<i>ZONE</i>
North	Woodward Tractor, Preschool	D-3
East	Residential across West Avenue.	D-3
South	Sierra Trading Post call center.	D-3
West	Mentock Park (cross-fit gym on west portion of property.	D-3



**Architecture:**

The building elevation drawings are not available at this time. It is anticipated they will be provided before or at the meeting. The buildings are described as all-metal sided, with a single-sloped roof (1/2:12 pitch), a wall height of 16' 8" on the back sides of the buildings and 15' on the front sides. No eaves are proposed.

The color scheme is described as gray walls, charcoal trim and gutters, white overhead doors, and a galvalume (gray) roof. Apparently no architectural enhancements are proposed.

The P&Z Board will need to determine if the proposed materials, colors, and architecture are compatible with the area. The architecture as proposed is very industrial and utilitarian in design. Also, the buildings would present two 17-foot tall and 75-foot long blank building walls along Cougar Avenue.

With the exception of the Woodward Tractor site, which was established prior to annexation, the buildings in this area are of quality materials and contain architectural enhancements. Examples include the brick buildings to the south (Sierra Trading, State offices), brick buildings to the northwest (Emeritus Assisted Living and residential

condos), log-sided building to the northeast (Children's Resource Center Preschool) and traditional residences to the east. The cross-fit gym that was previously authorized on the west portion of this property, is planned to contain timber and rock accent features.

Possible options for enhancing the architecture include variations of color, rooflines, materials, and setbacks.

Staff believes the Board should discuss with the applicant the potential for adding architectural enhancements to the north sides of the two buildings nearest Cougar Avenue, and perhaps something on the south wall of the south building. The south wall of the south building is not of as much of a concern because the neighbor (Sierra Trading) has several trees along that property line that visually breaks up and hides the wall. The situation could be improved with tall vegetation (trees) along Cougar Avenue, but the applicant is not planning to have any water service, which would be needed for irrigating the vegetation.

Here are a few examples of variations of materials, colors, and vegetation that have been used to enhance the architecture for other projects.



#### Landscaping:

The applicant is proposing to landscape the 5-foot strip between the north buildings and the north property line with decorative rock and boulders spaced about 15 feet on center. There is about another 15-feet between the property line and the sidewalk that will be landscaped with washed rock. These are the same materials and configuration approved for the cross-fit gym project.

There will be disturbed area to the south and east of the buildings, which areas should be landscaped or seeded with native grasses to control dust and weeds.

#### Storm Water Plan:

An engineered storm water plan has been prepared to address runoff. While it meets the technical requirements of the storm water manual, best practices would recommend wrapping not just the top, but also sides of the percolation trenches with separation fabric. Without the fabric, silt and fine materials will infiltrate the trench cobble, thereby reducing the capacity of the percolation trenches and causing settlement along the edges of the trenches.

### Parking:

Mini-storage facilities do not require formal parking spaces. The drive aisle functions to meet that need.

### Access:

The lot will be accessed through a new curb cut on Cougar Avenue. The plans appropriately show the unused curb cut being removed and replaced with full-height curb and gutter. An encroachment permit is required for the work within the Cougar Avenue right-of-way, which will ensure all work is done according to City specifications.

### Fire Hydrant/Emergency Access:

Existing fire hydrants in the area are sufficient to serve this project. Emergency access through the gate must be available. Coordinate with the fire marshal as to the method (knox box or lock).

### Lighting

Proposed lighting consists of eight full-cutoff LED wall pack fixtures. While the style is provided, the number of LEDs and illumination levels are not. The fixture comes in a range of 20 LEDs to 120, so potential lighting levels vary greatly. If the fixtures are 20-LED units, then lighting levels are relatively low. If they are 120 LED units, lighting would be excessive if eight fixtures were used—four fixtures would likely be sufficient. The applicant should provide additional detail of the lighting design.

### Setbacks and Buffers

No specific zoning buffers or height requirements are applicable to this project. It is noted that the south building is shown as three feet from the property line. This location apparently triggers fire wall construction under the building code. If the applicant wishes to increase that distance to reduce or avoid the fire wall requirement, staff would

### Fencing

The proposed fence runs between the buildings to provide a secure compound. It is proposed as a 6-foot tall chain link, with three strands of barbed wire above. The total height is not specified. The fencing ordinance allows up to seven feet total height without special approval from the Board.

### Utility Services

Only electrical service is planned. In order to receive standard single-phase electrical service, the existing transformer at the NE corner of the property will need to be replaced with a smaller, single-phase transformer. Details have been provided to the applicant. The cost is estimated at \$2,568.15.

### Signage

No signage is proposed at this time.

Garbage Collection

None proposed.

Snow Storage

The snow storage area is shown in the west end of the project.

**ATTACHMENTS:**

Site plan, landscaping plan.

**ALTERNATIVES:**

Approve or deny the site plan, with or without changes.

**RECOMMENDATION:**

Approve the application subject to following.

1. (Architectural or landscaping modifications?)
2. (Lighting information provided and appropriate?)
3. The disturbed areas that are not landscaped must be seeded with native grasses, or otherwise maintained to prevent dust and weeds.
4. The area between the Cougar Avenue sidewalk and the buildings must be maintained in a weed free manner.
5. Provide a method for emergency access, as specified by the fire marshal (knox box or lock expected).
6. Prior to a certificate of occupancy, the applicant's engineer must provide a certification that the storm water facilities have been constructed as designed.
7. That the project otherwise complies with the submitted site plan and applicable building, fire, and electrical codes; provided, sidewalk is not required to be installed along the undeveloped portion of the lot (west end) for this project, and the south building may be moved away from the south property line if desired.

- NOTES:  
 1. PICTURE IS SIMILAR TO PROPOSED UNITS.  
 2. COLORS TO BE LIGHT GREY STEEL SIDING WITH CHARCOAL TRIM.  
 3. LIGHTING PROVIDED BY WALL-MOUNT, DOWNCAST LED UNITS.



REVISION		JOB NO.
DATE	DESCRIPTION	2016-55
7-12-16	PRELIMINARY SUBMITTAL	DRAWN BY: BLH
		CHECKED BY: DRS
		APPROVED BY: DRS

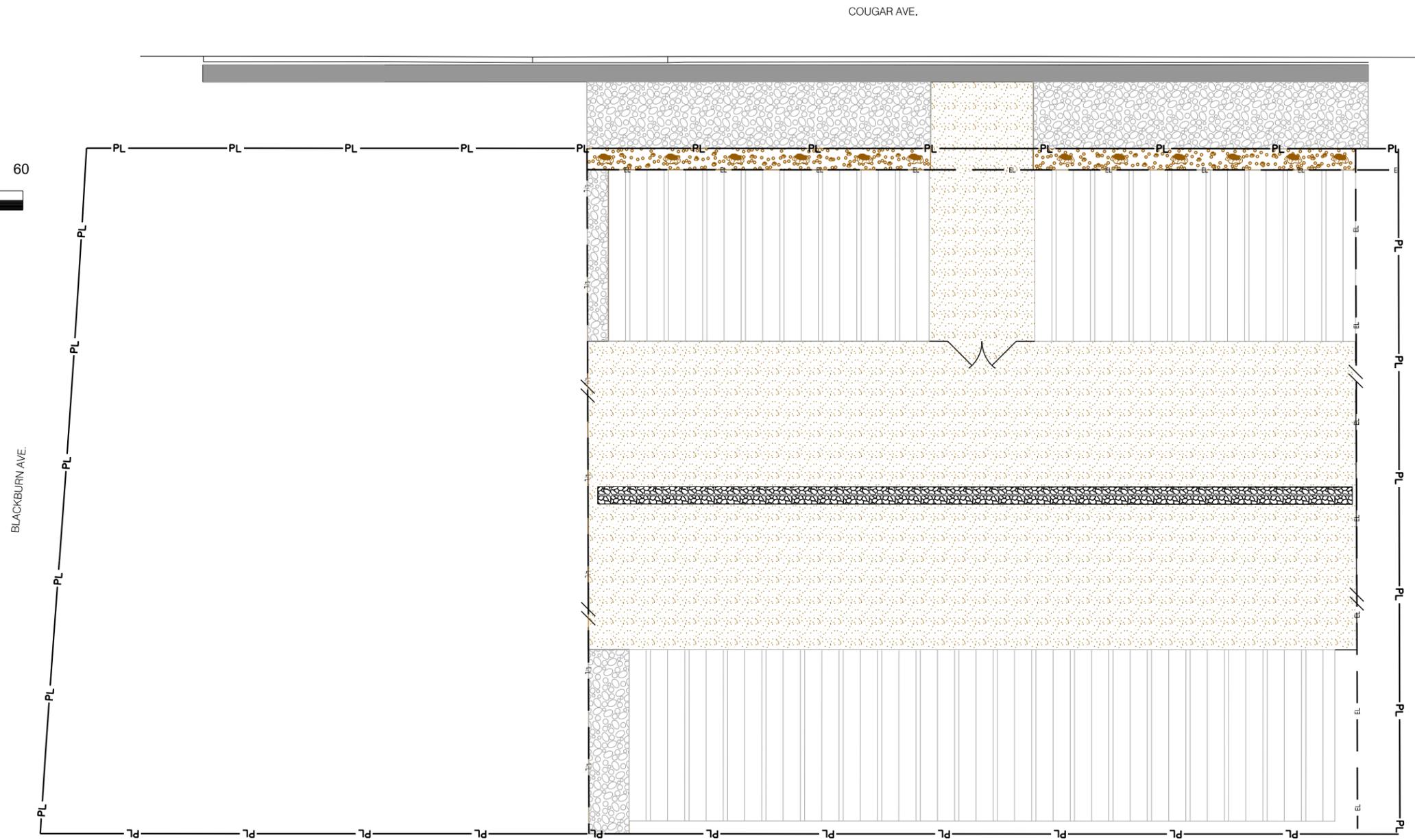
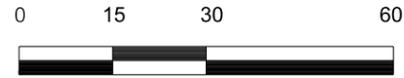
BUILDING ELEVATIONS

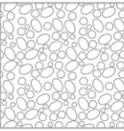
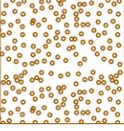
SILVER GATE STORAGE FACILITY  
 OWNER - SILVER GATE ENTERPRISES, LLC

2824 BIG HORN AVE.  
 CODY, WY 82414  
 PHONE: (307) 527-0915  
 FAX: (307) 527-0916



2725 W MAIN ST  
 P.O. BOX 1153  
 RIVERTON, WY 82501  
 PHONE: (307) 240-5915



-  SIDEWALK
-  WASHED ROCK
-  BOULDER/ROCK BARRIER W/ DECORATIVE ROCK
-  COMPACTED GRAVEL (WYDOT GR. W OR EQUIVALENT)
-  PERCOLATION TRENCH
-  BUILDING

REVISION	
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APPROVED BY: DRS

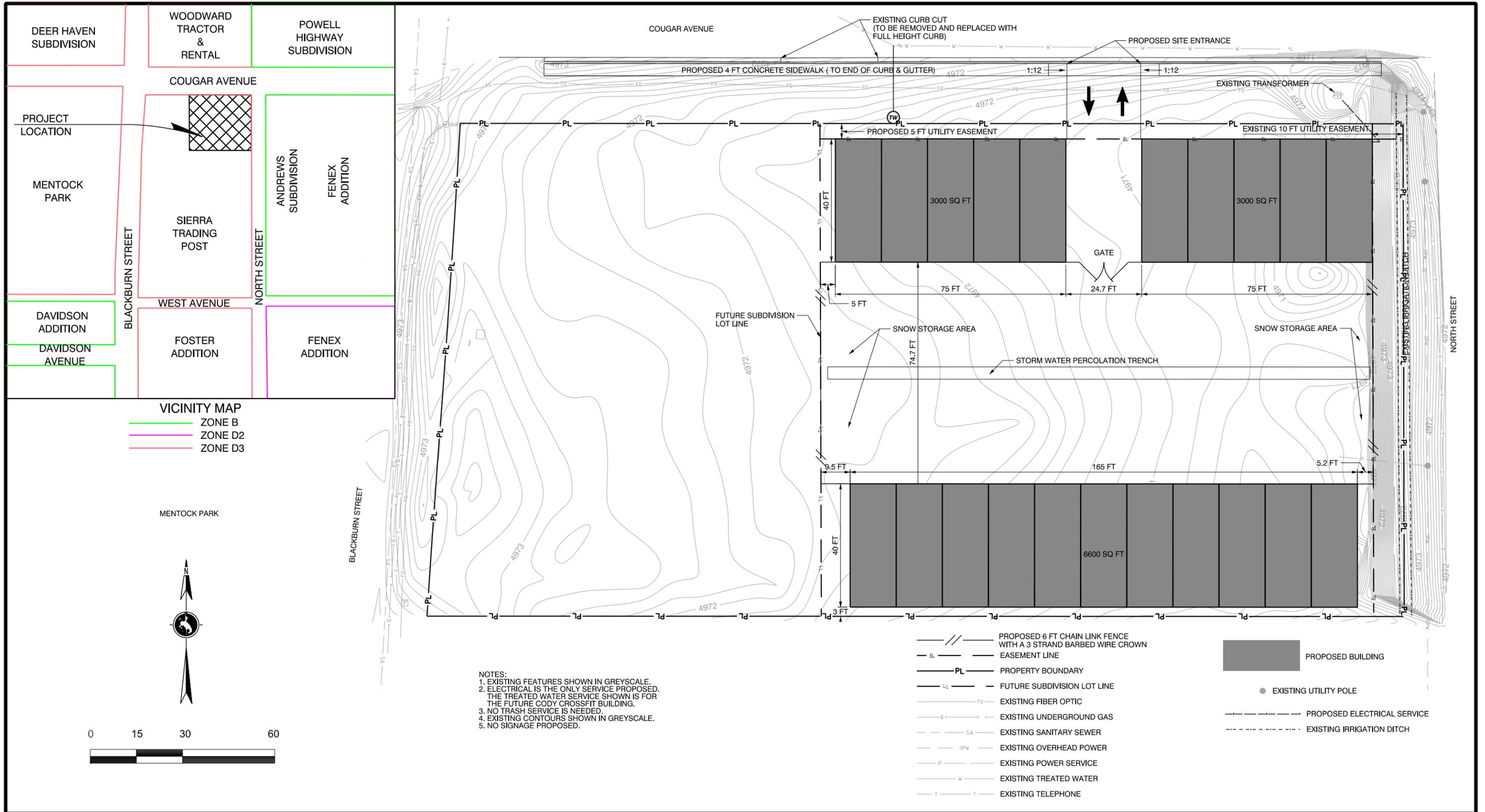
LANDSCAPE PLAN

SILVER GATE STORAGE FACILITY  
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1	7-12-16	PRELIMINARY SUBMITTAL

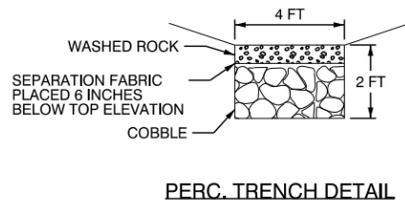
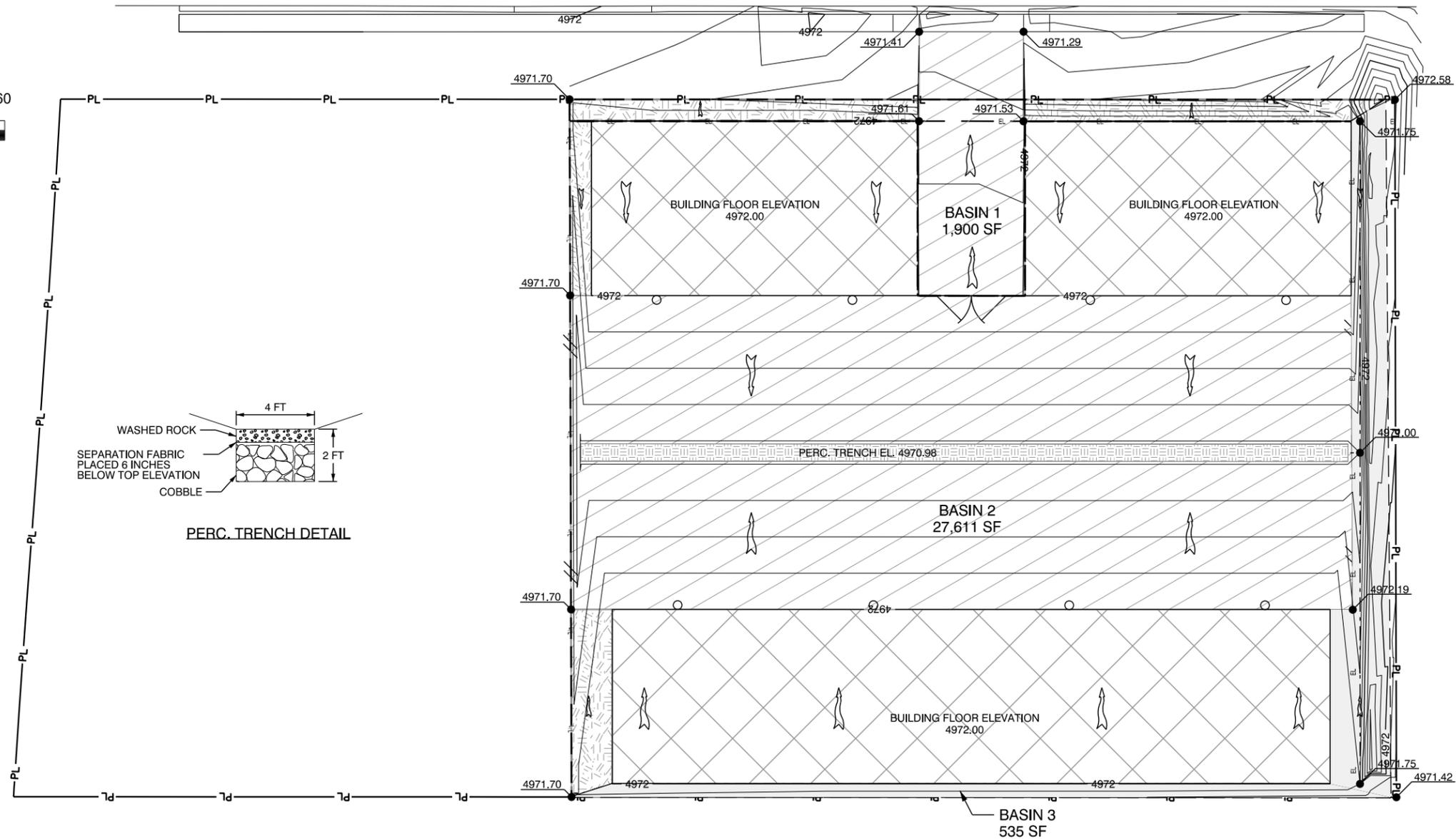
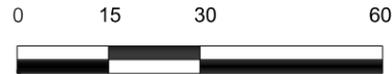
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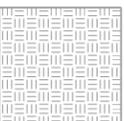
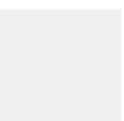
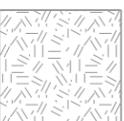
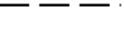
**SITE PLAN**

**SILVER GATE STORAGE FACILITY**  
OWNER - SILVER GATE ENTERPRISES, LLC

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-  BUILDING C=0.9
-  GRAVEL C=0.6
-  PERC. TRENCH C=0.3
-  UNIMPROVED C=0.3
-  LANDSCAPE C=0.3
-  SWALE
-  PROPOSED GRADE
-  SPOT ELEVATIONS
-  FLOW ARROW
-  DOWNSPOUT
-  DRAINAGE BASIN BOUNDARY

REVISION	DESCRIPTION
DATE	7-12-16
DESCRIPTION	PRELIMINARY SUBMITTAL

JOB NO.	2016-55
DRAWN BY:	BLH
CHECKED BY:	DRS
APPROVED BY:	DRS

DRAINAGE PLAN

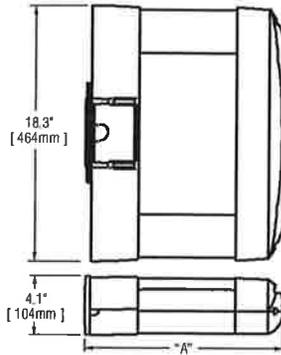
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BetaLED Catalog #: SEC - EDG - - WM - - D - - - - -



# of LEDs	Dim. "A"
20	11.91" [303mm]
40	11.91" [303mm]
60	13.91" [353mm]
80	15.91" [404mm]
100	17.91" [455mm]
120	19.91" [505mm]

Notes:

Product	Family	Optic	Mounting	# of LEDs (x 10)	LED Series	Voltage	Color Options	Drive Current Not Field Adjustable	Factory-Installed Options Please type additional options in manually on the lines provided above.
SEC	EDG	<input type="checkbox"/> 4M <sup>1</sup> <input type="checkbox"/> 4MB <sup>2</sup>	WM <sup>3</sup>	<input type="checkbox"/> 02 <input type="checkbox"/> 04 <input type="checkbox"/> 06 <input type="checkbox"/> 08 <input type="checkbox"/> 10 <input type="checkbox"/> 12	D	<input type="checkbox"/> UL Universal 120-277V <input type="checkbox"/> UH Universal 347-480V <input type="checkbox"/> 12 120V <input type="checkbox"/> 24 240V <input type="checkbox"/> 27 277V <input type="checkbox"/> 34 347V	<input type="checkbox"/> SV Silver (Standard) <input type="checkbox"/> BK Black <input type="checkbox"/> BZ Bronze <input type="checkbox"/> PB Platinum Bronze <input type="checkbox"/> WH White	<input type="checkbox"/> 350 350mA <input type="checkbox"/> 525 <sup>4</sup> 525mA <input type="checkbox"/> 700 <sup>5</sup> 700mA	<input type="checkbox"/> 40K 4000K Color Temperature <sup>6</sup> <input type="checkbox"/> DIM 0-10V Dimming <sup>7,8,9</sup> <input type="checkbox"/> F Fuse <sup>10,11,12</sup> <input type="checkbox"/> P Photocell <sup>11,12</sup> <input type="checkbox"/> ML Multi-Level (75/525) <sup>13</sup>

Footnotes

- 1. IESNA Type IV Medium distribution
- 2. IESNA Type IV Medium distribution w/ backlight control
- 3. Wall mount
- 4. Available on fixtures with 20-80 LEDs
- 5. Available on fixtures with 20-60 LEDs
- 6. Color temperature per fixture; 5700K standard; minimum 70 CRI
- 7. Control by others
- 8. Refer to dimming spec sheet for availability and additional information
- 9. Not available when UH voltage is selected
- 10. When code dictates fusing use time delay fuse
- 11. Not available with all multi-level options. Refer to multi-level spec sheet for availability and additional information
- 12. Must specify voltage other than UL or UH
- 13. Refer to multi-level spec sheet for availability and additional information

LED PERFORMANCE SPECS																								
# of LEDs	Initial Delivered Lumens - Type IV Medium @ 5700K	B U G Rating**		Initial Delivered Lumens - Type IV Medium w/ Backlight Control @ 5700K	B U G Rating**		Initial Delivered Lumens - Type IV Medium @ 4000K	B U G Rating**		Initial Delivered Lumens - Type IV Medium w/ Backlight Control @ 4000K	B U G Rating**		System Watts 120-480V	Total Current @ 120V	Total Current @ 240V	Total Current @ 277V	Total Current @ 347V	Total Current @ 480V	L <sub>70</sub> Hours* @ 25° C (77° F)	50K Hours Lumen Maintenance Factor* @ 15° C (59° F)				
		B	U		G	B		U	G		B	U									G	B	U	G
<b>350mA Fixture Operating at 25° C (77° F)</b>																								
20	1,913 (02)	1	0	1	1,441 (02)	0	1	1	1,763 (02)	1	0	1	1,328 (02)	0	0	1	26	0.20	0.11	0.10	0.09	0.07	>150,000	93%
40	3,826 (04)	1	0	1	2,882 (04)	1	0	1	3,526 (04)	1	0	1	2,656 (04)	1	0	1	47	0.40	0.21	0.19	0.15	0.12	>150,000	
60	5,665 (06)	2	0	2	4,267 (06)	2	0	2	5,221 (06)	2	0	2	3,933 (06)	2	0	2	68	0.58	0.30	0.26	0.20	0.16	>150,000	
80	7,554 (08)	2	0	2	5,690 (08)	2	0	2	6,962 (08)	2	0	2	5,244 (08)	2	0	2	90	0.77	0.38	0.34	0.26	0.20	>150,000	
100	9,419 (10)	2	0	2	7,095 (10)	2	0	2	8,681 (10)	2	0	2	6,539 (10)	2	0	2	111	0.95	0.47	0.42	0.32	0.24	>150,000	
120	11,302 (12)	3	0	3	8,513 (12)	3	0	3	10,417 (12)	3	0	3	7,846 (12)	3	0	3	132	1.15	0.56	0.50	0.38	0.28	>150,000	
<b>525mA Fixture Operating at 25° C (77° F)</b>																								
20	2,678 (02)	1	0	1	2,017 (02)	0	0	1	2,469 (02)	1	0	1	1,859 (02)	0	0	1	37	0.31	0.17	0.16	0.12	0.10	136,000	92%
40	5,357 (04)	2	0	2	4,035 (04)	2	0	1	4,937 (04)	1	0	1	3,719 (04)	2	0	1	70	0.57	0.29	0.26	0.21	0.16	136,000	
60	7,932 (06)	2	0	2	5,974 (06)	2	0	2	7,310 (06)	2	0	2	5,506 (06)	2	0	2	102	0.87	0.44	0.39	0.30	0.22	129,000	
80	10,575 (08)	2	0	2	7,966 (08)	2	0	2	9,747 (08)	2	0	2	7,342 (08)	2	0	2	133	1.14	0.56	0.49	0.39	0.29	129,000	
<b>700mA Fixture Operating at 25° C (77° F)</b>																								
20	3,271 (02)	1	0	1	2,450 (02)	0	0	1	3,015 (02)	1	0	1	2,258 (02)	0	0	1	50	0.42	0.22	0.20	0.15	0.12	111,000	90%
40	6,543 (04)	2	0	2	4,900 (04)	2	0	2	6,030 (04)	2	0	2	4,516 (04)	2	0	2	93	0.79	0.40	0.35	0.27	0.20	111,000	
60	9,688 (06)	2	0	2	7,255 (06)	2	0	2	8,929 (06)	2	0	2	6,686 (06)	2	0	2	137	1.18	0.59	0.51	0.39	0.29	111,000	

\* For recommended lumen maintenance factor data see TD-13. \*\* For more information on the IES BUG (Backlight-Uplight-Glare) Rating visit [www.iesna.org/PDF/Erratas/TM-15-11BugRatingAddendum.pdf](http://www.iesna.org/PDF/Erratas/TM-15-11BugRatingAddendum.pdf).



**CITY OF CODY  
PLANNING, ZONING AND ADJUSTMENT BOARD  
STAFF REPORT**

<b>MEETING DATE:</b>	JULY 26, 2016	<b>TYPE OF ACTION NEEDED</b>	
<b>AGENDA ITEM:</b>		P&Z BOARD APPROVAL:	X
<b>SUBJECT:</b>	SPECIAL EXEMPTION PUBLIC HEARING: REQUEST FOR 20' LOT FRONTAGE AND 1' SIDE SETBACK. SUP 2016-03	RECOMMENDATION TO COUNCIL:	
<b>PREPARED BY:</b>	TODD STOWELL, CITY PLANNER	DISCUSSION ONLY:	

**PROJECT DESCRIPTION & BACKGROUND:**

Robert and Andrea Cook have submitted a Special Exemption application regarding their property at 1307 32<sup>nd</sup> Street. As was discussed with the Planning and Zoning Board a month ago in the context of a subdivision request, their overall objective is to locate a mobile home on the property. There are already two homes on the property, a manufactured home near the cul-de-sac and a site-built home behind, each of which are on their own individual lot. The F-2 zoning of the property allows mobile homes, but clearly



requires that they be located on individual lots. In order to meet this requirement, the Cooks plan to do a Boundary Line Adjustment to move the property line into the format of the Proposed New Lot "9-B" shown on their attached sketch. New lot "9-B" would be a vacant lot, which would then be eligible to have a single mobile home, placed on a permanent foundation. New lot "9-A" would contain both existing homes, neither of which is technically a "mobile home", so the F-2 zone requirement of mobile homes being on independent lots is not technically applicable to those homes.

Unfortunately, the two lots, no matter what their configuration, do not meet the city's 50-foot frontage requirement. The requirement is that each lot must provide 50-feet of frontage, so as to not be considered a flag lot—flag lots are prohibited. The existing lot layout is a flag lot situation, which is non-conforming. The proposal effectively flips which lot is a flag lot—from the west lot to the east lot.

Section 10-13-3(C) of the city code specifies that legal nonconforming lots shall only be altered or reconfigured in a manner that achieves, or is closer to achieving, the lot size and dimensional requirements of this code. In this case, neither involved lot has sufficient frontage, so the language is interpreted to mean that the modified lots must each have at least as much frontage as the current situation—20 feet for one lot and 46.5 feet for the other lot.

The reconfiguration of the two lots places the property line about one foot from the east corner of the front manufactured home. The normal side yard setback requirement is ten feet from the property line. The applicant requests an exemption to the setback requirement to allow the proposed one-foot side setback.

**Existing Conditions:**

Driveway on west side.



Driveway on east side.



Existing home and proposed mobile



Property line splitting west driveway.



**PUBLIC COMMENTS:**

The public hearing for the exemption request was advertised as required by certified mail to neighboring properties within 140 feet, and by publication in the newspaper. Of

the twelve properties that were notified by mail, we received two letters of concern and two responses of “no objection”. The comments are attached.

**REVIEW CRITERIA:**

Pursuant to Section 10-14-2(B) of the City of Cody Code, the Planning and Zoning Board may consider special exemptions to setback requirements and other numerical specifications (lot frontage). The standards for approval of a special exemption are as follows, with staff comments provided.

*No special exemption shall be approved unless the planning and zoning board finds:*

- a. The special exemption will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties;*

Staff Comment: Analyzing the request directly, the answer is likely that it would not, in that there is effectively only a swap in lot frontage, so dimensionally there is no significant impact with the frontage request, and a one-foot setback from the interior lot line really only directly affects the owner’s own property as the manufactured home is already in place and not moving closer to a neighbor. However, there appears to be indirect impacts.

If the exemptions are approved, the owners will be able to place a mobile home on the property—without the exemption they would not be able to. (If the exemptions are not approved, there would be an option for a site built Accessory Dwelling Unit, but it would be new construction and not larger than 800 square feet.) Since we can see exactly what is intended for use as the third home, the observation is that the proposal would result in an early 1970’s mobile home being placed among homes that are substantially newer and higher in value—referring to the immediate neighbors on the cul-de-sac. The neighbor letters also correctly point out that it will indirectly result in increased traffic, less privacy, and a decrease in the average house value of the neighborhood.

It is noted that mobile homes are allowed in the F-2 zone, when applicable standards are met. So maybe the issues of property value impacts and aesthetics due to the type of home is only marginally relevant at best. However, that is not to say that impacts due to the addition of a home should not be considered.

For example, in a traditional lot layout you only have one adjacent home to one side of your lot. In this case, if the request is approved, the neighbors will have multiple next door neighbors to one side of their lot, with the associated concerns—increased traffic and less privacy. Again staff points out that the development standards are not designed for this situation. Planning staff believes paved access and fences between the properties should be the future standard for such situations in an urban

setting—the fence provides increased privacy and the pavement surface is quieter than gravel.

Neighbor comment is a primary factor in determining whether an undesirable change would result. All immediate neighbors are attempting to be understanding and not cause conflict, yet they clearly have concerns.

- b. The special exemption is designed to be compatible with adjacent land uses and the area or neighborhood;*

Staff Comment: Compatibility is discussed above. If the proposal is not compatible as proposed, mitigation measures should be considered. The applicant has not proposed any mitigation measures. Increased traffic and decreased privacy are topics that could be partially mitigated. Fencing or screening between the properties would be one method to reduce the impacts of increased traffic and decreased privacy, and has been specifically requested by the neighbors to the southwest.

It is noted that if a fence is required along the southwest property line, that it would split an existing driveway. The neighbors are okay with that and are willing to construct their own driveway. The applicant's property would also need modification to expand the driveway width.

- c. The special exemption is the minimum deviation from the specifications of the zoning ordinance necessary and adequate for the proposed activity, structure or use;*

Staff Comment: The lot frontage exemption is the minimum deviation, as the owners have no additional frontage to work with. The setback situation is pretty much set due to the frontage dimensions and the fire code access standard for fire lane width.

- d. The benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue other than a special exemption;*

Staff Comment: No other feasible options have been identified that would achieve the requested result.

- e. Adequate services and infrastructure are or will be available to serve the proposed activity, structure or use;*

Staff Comment: The installation of the mobile home will require utility services to be extended to the home location, which will be the applicant's responsibility. Sewer, water, power, and gas all appear to be available, subject to standard extension

requirements. It is noted that the existing home on the back of the lot will need a water line extended to it as well, and it makes sense to run that second line in the same trench at this time. Necessary utility easements will be established with the boundary line adjustment process.

*f. The special exemption is consistent with the goals, policies and future land use map of the master plan.*

Staff Comment: The future land use map designation for this area is "medium-density residential", which is consistent with the density proposed. There are no identified master plan goals specific to the setback situation or lot frontage requirement, other than general statements such as "protect the existing character in stable residential areas" which fits into items 'a' and 'b' above.

**ALTERNATIVES:**

Approve, deny or approve with conditions. The Board is authorized to "impose any reasonable conditions or modifications pertaining to operational or physical features of the proposal to ensure conformance with the approval standards."

**ATTACHMENTS:**

Site Plan and Draft Permit.

**RECOMMENDATION:**

That the Planning and Zoning Board make the following findings:  
(Draft, subject to information received at public hearing.)

1. That proper notice of the special exemption public hearing was provided by advertising in the Cody Enterprise and by certified mail to all property owners within 140 feet at least ten days before the hearing.
2. That the Planning and Zoning Board may grant special exemptions that are reasonable and harmless deviations from the zoning ordinance as determined by the standards outlined in Section 10-14-2, City of Cody Code.
3. That the Planning and Zoning Board has held a public hearing as required and has considered all comments pertaining to the request; and,
4. That the points identified in the staff report and at the Board meeting are adequate to set forth the reasoning why the criteria of 10-14-2(B)(2) are met.

AND,

Conditionally approve the Special Exemption request for a one-foot side yard setback and less than 50 feet of lot frontage, as depicted by the applicant's drawing, so that a boundary line adjustment can be done in the configuration proposed. The condition of approval is that the applicant install a solid, six-foot tall fence along each side property line (along Lot 8 and Lot 10 of the McMillan subdivision). The fence along the southwest property line shall extend at least from the front setback line to a point on the property line directly between the west corner of the back house and the west corner of the neighbor's house at 1325 32<sup>nd</sup>

Street. The fence along the east line shall be coordinated with the neighbor at 1308 32<sup>nd</sup> Street, as they may prefer existing vegetation to the fence. Unless the neighbor to the east specifies that they desire otherwise in writing, the fence shall extend from the front setback to a point immediately east of the north end of the mobile home. The fences must be installed prior to occupancy of the mobile home and otherwise comply with city code. A fence permit is required.

NOTE: If approved, the applicant will need to complete and record the special exemption permit at the County Clerk's office within 10 days. The draft permit is attached.

## LEGAL NOTICE TEMPLATE

Publish Date: July 12, 2016 *(Publish one time at least ten (10) days prior to the public hearing.)*

### **PUBLIC HEARING** **SPECIAL EXEMPTION REQUEST**

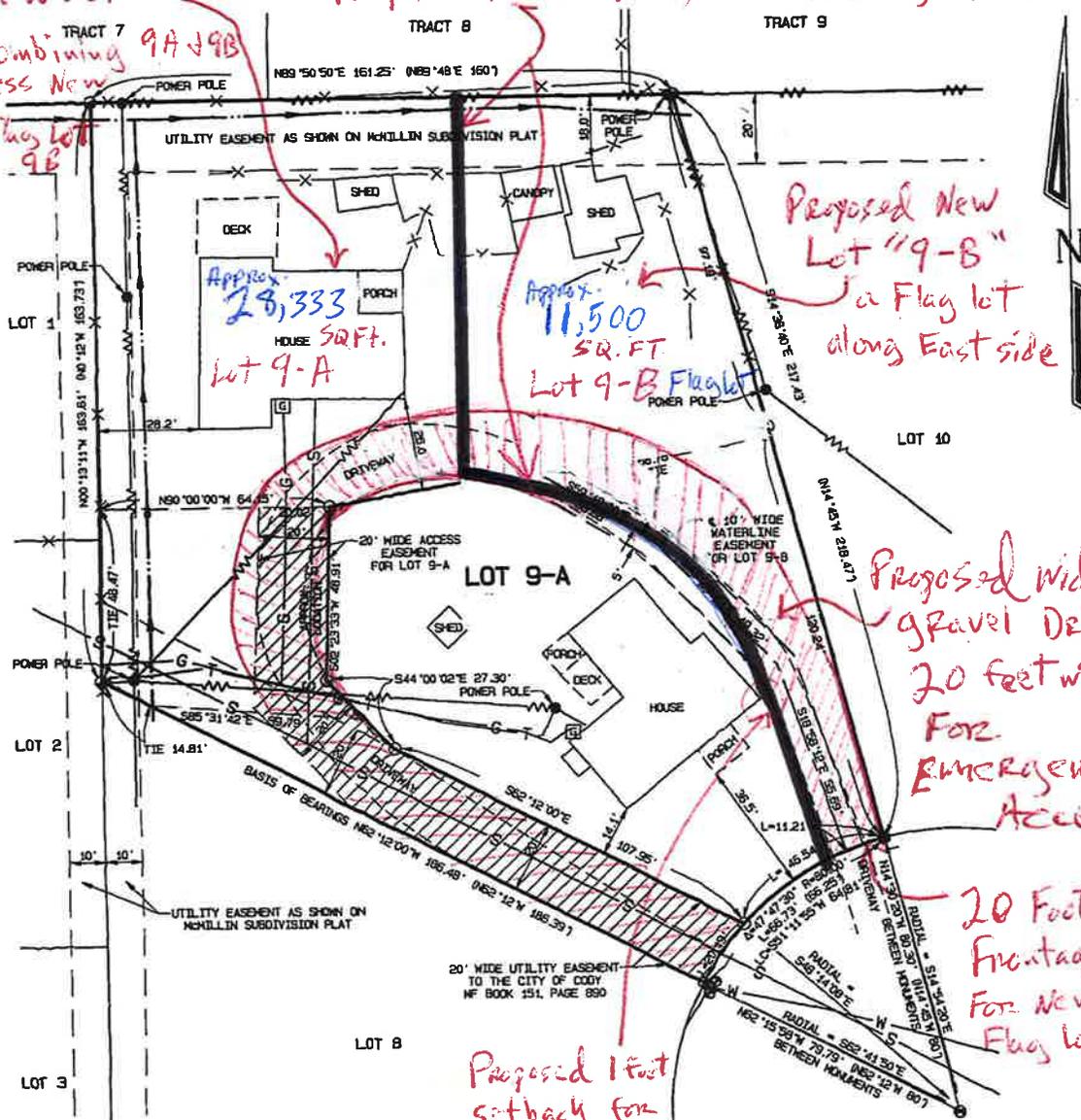
The City of Cody Planning and Zoning Board will hold a public hearing on Tuesday, July 26, 2016 at 12:00 p.m. (noon) or as soon thereafter as practical at 1338 Rumsey Avenue, in the Cody City Council Chambers to consider a request from Robert and Andrea Cook for a Special Exemption to authorize a 1-foot setback and a 20-foot street frontage in conjunction with a boundary line adjustment, where a 10-foot side setback and 50 foot street frontage is normally required. The property is at 1307 32<sup>nd</sup> Street, Cody.

Information regarding the requested Special Exemption is available at the Community Development Department in City Hall or by calling (307) 527-7511. Written comments may be directed to the Community Development Dept., P.O. Box 2200, Cody, WY 82414 and must be received prior to the date and time of the public hearing. Everyone is welcome to comment. If hearing assistance is needed, please call 24 hours in advance: (307) 527-7511.

# CITY OF CODY T. 53 N., R. 101 W. (RESURVEY)

*Proposed  
"New" Lot 9A  
Combining 9A & 9B  
Less New  
Flag Lot  
9B*

*Proposed New Property Line For Flag Lot 9B*



### LEGEND

- INDICATES REBAR WITH 2" ALUM. CAP SET ○
- INDICATES REBAR WITH ALUM. CAP FOUND ●
- INDICATES REBAR WITH NO CAP FOUND ⊙
- INDICATES 1/2" IRON PIPE FOUND ⊘
- RECORD DIMENSIONS SHOWN THUS ( )
- INDICATES GAS METER ⊞
- INDICATES WATER LINE CURB STOP ⊙
- INDICATES WATER LINE PIPELINE — W —
- INDICATES NATURAL GAS LINE — G —
- INDICATES SANITARY SEWER — S —
- INDICATES BURIED TELEPHONE CABLE — T —
- INDICATES BURIED ELECTRIC CABLE — E —
- INDICATES OVERHEAD POWER, TELEPHONE AND CABLE TV —
- INDICATES FENCE — X — X — X —
- INDICATES IRRIGATION OR DRAIN DITCH —
- INDICATES UTILITY AND IRRIGATION EASEMENT FOR LOT 9-A ▭
- INDICATES 20' WIDE ACCESS EASEMENT FOR LOT 9-A ▨

**NOTES:**

1. SANITARY SEWER, TREATED WATER, POWER, TELEPHONE, CABLE TV AND NATURAL GAS ARE EXISTING AND ARE CONNECTED TO THE RESIDENCES ON LOT 9-A AND LOT 9-B.
2. LOT 9-A AND LOT 9-B ARE CREATED SIMULTANEOUSLY AND ANY EXCESS OR DEFICIENCY IN MEASUREMENT SHALL BE DISTRIBUTED PROPORTIONALLY.
3. BEARINGS ARE BASED ON N62°12'W ALONG THE SOUTHWESTERLY LINE OF LOT 9.
4. INDIVIDUAL TREATED WATER SERVICES WILL BE REQUIRED FOR EACH PARCEL, WHEN LOT 9-A AND LOT 9-B ARE SEPARATED IN OWNERSHIP.
5. THE CANOPY AND A SHED ENCRoACH ONTO THE 20' WIDE UTILITY EASEMENT ON THE NORTH LINE OF LOT 9-B. THOSE PORTIONS ENCRoACHING WILL BE REMOVED AT SUCH TIME THAT THE TOTAL 20' IS NEEDED TO CONSTRUCT AND/OR MAINTAIN UTILITY FACILITIES.
6. BUILDINGS SETBACK REQUIREMENTS ARE AS FOLLOWS:  
FRONT YARD - 20'  
REAR YARD - 15'  
SIDE YARD - 10' FOR A MOBILE HOME  
5' FOR ALL OTHER BUILDINGS

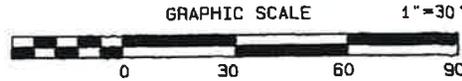
### CERTIFICATE OF SURVEYOR

STATE OF WYOMING } SS  
COUNTY OF PARK }  
I, PAUL A. BLOUGH ON BEHALF OF HOLM, BLOUGH AND COMPANY OF CODY, WYOMING DO HEREBY CERTIFY THAT THIS MAP WAS PREPARED FROM FIELD NOTES TAKEN DURING AN ACTUAL SURVEY MADE UNDER MY DIRECTION ON APRIL 2 AND MAY 2, 2003. THAT THIS MAP CORRECTLY SHOWS THE RESULTS OF SAID SURVEY AND THAT THE MONUMENTS FOUND OR SET ARE AS SHOWN TO THE BEST OF MY KNOWLEDGE AND BELIEF.

*Paul A. Blough*  
HOLM, BLOUGH AND COMPANY  
BY: PAUL A. BLOUGH (AGENT)

WYOMING L.S. REGISTRATION NO. 2392

*Proposed 1 foot  
setback for  
New Flag Lot  
and SE corner of  
exstg Double wide*



**Notice to Owners of Neighboring Properties:**

Please return this letter by July 19, 2016

to:

Date: July 5, 2016

Cody City Planner  
P.O. Box 2200  
Cody, WY 82414

RE: **SPECIAL EXEMPTION REQUEST**

**THE CITY OF CODY HAS RECEIVED THE FOLLOWING REQUEST FOR A SPECIAL EXEMPTION. YOUR COMMENTS WOULD BE APPRECIATED.**

Applicant Name(s): Robert & Andrea Cook

Address or Location/Legal Description: 1307 32<sup>nd</sup> Street

Description of Request: To authorize a 1-foot setback and a 20-foot street frontage in conjunction with a boundary line adjustment, where a 10-foot side setback and 50 foot street frontage is normally required. See also attached drawing.

**This request will be considered by City of Cody Planning & Zoning Board at their regularly scheduled meeting on Tuesday, July 26, 2016, at 12:00 p.m. in the City Hall Council Chambers, at 1338 Rumsey Ave.**

**Response Letter from Owners of Neighboring Properties within 140 Feet of Subject Property:**

(Responses may be submitted in any written format. The following form is provided for your convenience.)

Dear Planning and Zoning Board Members:

My name is \_\_\_\_\_ and I am familiar with the proposal by Robert and Andrea Cook  
(Printed name)

for the special exemption described above. I am the legal owner of \_\_\_\_\_  
(Address or property location)

I have **NO OBJECTION** to the Special Exemption Request.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Comments: \_\_\_\_\_

**If you would like to receive a copy of the Planning and Zoning Board agenda materials for this request, please provide your email address: E-mail address: \_\_\_\_\_**

\*\*\*\*\*

I **OBJECT** to the Special Exemption Request:

Name: Russell & Gayle Sell

Address: 1325 32<sup>nd</sup>

Reason for Objection: Please See Attached Letter

**If you would like to receive a copy of the Planning and Zoning Board agenda materials for this request, please provide your email address: E-mail address: \_\_\_\_\_**

Russell And Gayle Sell  
756 Platinum Drive  
Cody, WY 82414  
(307) 272-6145

Property Owner of  
1325 32<sup>nd</sup> Street  
Cody, Wyoming 82414

JULY 18, 2016

**City of Cody Planner**

P.O Box 2200

Cody WY, 82141

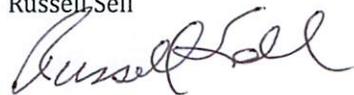
Dear City of Cody Planning department,

We have received and read your request for special exemption for the proposed addition of a third lot and street frontage boundary line adjustment on 1307 32<sup>nd</sup> Street. Currently this residence has plenty of parking for the two properties already established. However, with the addition of a third lot the parking spaces will be reduced and use of easements to and from the properties will increase. Our concern is the increased activity of the use of easement closest to our property and increased noise level from this use. Our other concern is how the addition of this third lot will directly affect and reduce the parking for the other two lots current parking. If this exemption is approved we would request that part of the approval be that the property owner of 1307 32<sup>nd</sup> street build a 6 foot cedar privacy fence on the property line between our property and theirs to help reduce noise and accidental parking on our property.

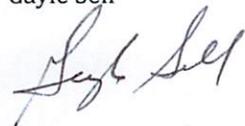
Currently we are objecting to this proposal without a plan for future parking on these lots and considerations of a fence being built on our shared property line.

Thank you for your considerations in this matter;

Russell Sell



Gayle Sell



July 19, 2016

Cody City Planner,

We are writing in order to comment on Special Exemption Request made by Robert & Andrea Cook in regard to their property located at 1307 32<sup>nd</sup> St., Cody, WY. We own the neighboring property to the east. Rather than check "No Objection" or "Objection", we would like to share our thoughts regarding this exemption request.

Robert and Andrea have been working very hard to clean up and improve their recently acquired property. Some of these improvements include work on the exterior of one of the two existing houses on the lot, improvement of the water/irrigation system, and removal of old sheds and dead brush. As residents of this subdivision for many years and as neighbors, we appreciate these improvements and the amount of hard work the Cooks have put into making these changes. I'm sure these improvements will make the existing structures more appealing to future, and hopefully long-term, renters.

We in no way want to prevent them from being able to make a living off of their rental properties or from developing their properties as they see fit and that is why we didn't feel we could simply check a box on the form. The addition of a third structure, a mobile home, to the lot next to us does concern us for a few reasons. First, the necessary exemption to the existing planning and zoning rules may necessitate the removal of well-established shrubs along the east side of the proposed gravel driveway in order to meet the 20' minimum. Secondly, further dividing up the existing lot into an additional "flag lot" and putting a trailer on it seems as though it would lower the value of other properties in the neighborhood, including ours. Additionally, it would seem to us that dividing the existing lot up in this way would be less appealing to long-term renters and would attract a more transient (short-term) renter. We think this would be less desirable to the land owner, the Cooks, and we feel does not help promote a strong neighborhood.

In closing, we would just encourage everyone to consider how you would feel if this proposal was for your neighborhood in the lot next door to your home.

Respectfully,



Pete & Kelly Idema

1308 32<sup>nd</sup> St.

Cody, WY 82414

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to:

Date: July 5, 2016

Cody City Planner  
P.O. Box 2200  
Cody, WY 82414

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**This request will be considered by City of Cody Planning & Zoning Board at their regularly scheduled meeting on Tuesday, July 26, 2016, at 12:00 p.m. in the City Hall Council Chambers, at 1338 Rumsey Ave.**

**Response Letter from Owners of Neighboring Properties within 140 Feet of Subject Property:**

(Responses may be submitted in any written format. The following form is provided for your convenience.)

Dear Planning and Zoning Board Members:

My name is Colleen Renner and I am familiar with the proposal by Robert and Andrea Cook  
(Printed name)

for the special exemption described above. I am the legal owner of 1308 31<sup>st</sup> Street  
(Address or property location)

I have **NO OBJECTION** to the Special Exemption Request.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Comments: \_\_\_\_\_

**If you would like to receive a copy of the Planning and Zoning Board agenda materials for this request, please provide your email address:** E-mail address: \_\_\_\_\_

\*\*\*\*\*

I **OBJECT** to the Special Exemption Request:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Reason for Objection: \_\_\_\_\_

**If you would like to receive a copy of the Planning and Zoning Board agenda materials for this request, please provide your email address:** E-mail address: colleenrenner2014@gmail.com

**Notice to Owners of Neighboring Properties:**

**Please return this letter by July 19, 2016**

**to:**

Date: July 5, 2016

Cody City Planner  
P.O. Box 2200  
Cody, WY 82414

RE: **SPECIAL EXEMPTION REQUEST**

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Applicant Name(s): Robert & Andrea Cook

Address or Location/Legal Description: 1307 32<sup>nd</sup> Street

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(Responses may be submitted in any written format. The following form is provided for your convenience.)

Dear Planning and Zoning Board Members:

My name is \_\_\_\_\_ and I am familiar with the proposal by Robert and Andrea Cook  
*(Printed name)*

for the special exemption described above. I am the legal owner of \_\_\_\_\_  
*(Address or property location)*

I have **NO OBJECTION** to the Special Exemption Request.

Name: David Ellis

Address: 1320 31st St.

Comments: \_\_\_\_\_

**If you would like to receive a copy of the Planning and Zoning Board agenda materials for this request, please provide your email address: E-mail address: \_\_\_\_\_**

\*\*\*\*\*

I **OBJECT** to the Special Exemption Request:

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Reason for Objection: \_\_\_\_\_

**If you would like to receive a copy of the Planning and Zoning Board agenda materials for this request, please provide your email address: E-mail address: \_\_\_\_\_**

## Chapter 14

### CONDITIONAL USES, ~~PERMIT AND~~ SPECIAL EXEMPTIONS, AND AIRPORT OVERLAY SPECIAL USE PERMITS

10-14-1: CONDITIONAL USES ~~PERMIT~~:

10-14-2: SPECIAL EXEMPTIONS:

10-14-3: AIRPORT OVERLAY SPECIAL USE PERMITS

(NOTE: THIS FIRST SECTION IS RENAMED, RENUMBERED AND MOVED TO 10-14-3)

10-14-3: AIRPORT OVERLAY SPECIAL USE PERMITS~~CONDITIONAL USE PERMIT:~~

Within the airport overlay zone, the governing body is empowered to grant Airport Overlay Special ~~conditional~~ Use ~~p~~Permits (hereinafter Special Use Permit) for specific uses as designated in the affected land use classifications.

The purpose of a ~~conditional~~special use permit shall be to assure that the maximum degree of land use compatibility shall be attained in the airport overlay zone, to minimize noise impacts of aircraft, and to provide for the protection of public safety and welfare.

- A. Approval Required Prior to Development: Any person proposing to develop a ~~conditional~~special use in the Airport Overlay shall apply for and obtain approval for a ~~conditional~~special use permit prior to beginning development.
- B. Application: The application for a ~~conditional~~special use permit shall be filed upon the prescribed form with the city planner, or designee, who shall review it for completeness, and the form shall include:
  1. The name and address of the owner and applicant.
  2. A legal description and address for site identification.
  3. A statement of the precise nature of the proposed use.
  4. A site plan showing the relationship of the proposed development to existing streets, structures, open spaces, height and use of each structure, including proposed structures, parking areas and landscaping.
- C. Fee: A fee for the filing and processing of applications for all permits required by this section shall be paid at the time an application is submitted. The amount of the fee shall be set forth by the governing body, and may be amended or changed by resolution by the governing body.
- D. Review Procedures Generally: The Yellowstone regional airport board shall have an opportunity to review and make a formal recommendation on proposed ~~conditional~~special use permits. The planning, zoning and adjustment board shall then review the application and supporting material. Within ten (10) days after the action of the planning, zoning and adjustment board, the recommendation shall be transmitted to the governing body. Within thirty (30) days following receipt of the planning, zoning and adjustment board recommendations, the governing body shall approve or disapprove the ~~conditional~~special use permit request by a majority vote of the governing body.

- E. Public Hearing: Upon receipt of a complete application, the planning, zoning and adjustment board shall schedule a public hearing and provide adequate notice as follows:
1. Notice to Neighboring Properties: The applicant shall notify by certified mail, return receipt required, all property owners within one hundred forty feet (140') of the perimeter of the subject property (excluding streets and rights of way) of the public hearing at least ten (10) days prior to the hearing. The applicant shall submit a list of the notified property owners, a copy of the notification letter, and mail receipts to the city planner, or designee, for verification of notification. The return receipts (green cards) shall include the city address for direct return of the receipts to the city planner, or designee (e.g., City Planner, City of Cody, P.O. Box 2200, Cody, WY 82414). The notice shall be in a standard form prescribed by the city planner, or designee. The notice shall contain a brief description of the application and proposed use, the address or a description of the location, the applicant's name, and the date, time and place of the hearing. The notice shall include a space where the property owner shall be allowed to state whether he or she objects or does not object to the proposed conditional special use permit, and space to explain their objection or lack thereof. The notice shall also describe the other methods by which the recipient may provide input prior to the public hearing, such as by e-mail, or by correspondence delivered to the city planner, or designee.
  2. Published Legal Notice: The applicant shall, at his expense, cause a legal notice to be published in the city's official newspaper at least ten (10) days prior to the hearing in a standard form prescribed by the city planner, or designee.
  3. Decision of Planning, Zoning and Adjustment Board: Following the public hearing, the planning, zoning and adjustment board shall recommend to the governing body denial of the conditional special use permit, approval of the conditional special use permit, or approval with conditions.
  4. Action of Governing Body: After the planning, zoning and adjustment board has conducted the public hearing and made its recommendation, the application shall go to the governing body at its next regularly scheduled meeting. The governing body shall consider the application, along with the recommendation of the planning, zoning and adjustment board, and shall take action to approve, approve with conditions or reject the application. At the meeting where the governing body considers the application, the governing body may hear and consider other comments and input from the staff and public.
  5. Approval; Recording: If the governing body approves the conditional special use permit, the governing body shall prepare a recordable document stating that the governing body approves the conditional special use permit, the date the conditional special use permit was approved, and stating any conditions, limitations and restrictions imposed on such permit. That document shall be signed by the mayor, and recorded with the Park County clerk and recorder's office in the real estate records.
- F. Nature of Review: When considering an application for a conditional special use permit, the planning, zoning and adjustment board and governing body shall consider the applicable standards, including the airport obstruction regulations, and may impose specific conditions precedent to establishing the use. Conditions may include, but are not limited to, the following:
1. Limitations upon the proposed use.

2. Stipulation as to the exact location of the proposed use as a means of minimizing noise impacts and aviation obstructions.
3. Requirement that structural features and vegetation be restricted in height.
4. Reduction of site density.
5. Compliance with approved engineering plans and specifications.
6. Requirement for minimum open space.
7. Stipulation that certain uses will be prohibited, specifically:
  - a. Aboveground storage of flammable materials.
  - b. Smoke or steam pollution sources and open burning.
  - c. Radio/transmitting sources which might interfere with aircraft radio/navigation equipment.
  - d. Any use which would tend to initiate or increase bird population.
  - e. Aboveground power lines, windmills, towers.
  - f. Places of public assembly or with high residential densities shall be discouraged.

G. Burden of Proof Rests with Applicant: In all cases, the applicant must demonstrate compatibility with aviation use and that potential conflicts or negative impacts will be mitigated.

H. Effectiveness of Conditional Special Use Permit:

1. A conditionalspecial use permit approval shall cease effectiveness if the use is not completely developed within two (2) years of the date of approval unless the applicant or owner requests, and the governing body provides for, a longer period of effectiveness, based on a finding that the use is a phased development requiring a longer period of development, not to exceed six (6) years, with said phases and time deadlines clearly spelled out in the application.
2. The governing body may extend the original approval for one additional year. No later than forty-five (45) days prior to the termination of the initial approval period, the city planner, or designee, shall inform the applicant and owner in writing by mail of the termination date. If the applicant or owner has not submitted to the city planner, or designee, a written request for extension of the approval period by the termination date, effectiveness of the conditionalspecial use permit shall be invalid, and further development of the project shall immediately cease.

The governing body may approve the request for extension if it finds that substantial progress has been made toward completion of the development and that said progress is in compliance with applicable regulations and standards, and any condition that is a part of the conditionalspecial use approval. The governing body shall deny the extension request if it finds that substantial progress has not been made on the project.

I. Amendment: A conditionalspecial use permit may be amended in the same manner as required for the approval of the permit.

J. Duration of Approval: A conditionalspecial use permit shall run with the land; compliance with the conditions of such permit is the responsibility of the current owner of the property, whether that is the original owner or a successor. The use may continue indefinitely,

regardless of ownership; provided, that the use or operation is consistent with the permit and conditions of the permit.

K. Reciprocal Requirements: When a zone (i.e., zone ~~BD-3~~) allows all uses permitted in another zone (i.e., zone ~~AD-2~~), all airport overlay restrictions ~~applying to zone A~~ shall remain applicable in both zones.~~also apply to zone B.~~

~~L. Marking and Lighting: The owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Yellowstone regional airport board to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstructions. Such markers and lights shall be installed, operated and maintained at the expense of the owner.~~

~~M. Regulations Not Retroactive: The regulations prescribed by this section shall not be construed to require the removal, lowering, or other changes or alterations of any structure or tree not conforming to the regulations as of the effective date hereof, or otherwise interfere with the continuance of a nonconforming use. Nothing contained herein shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date hereof, and is diligently prosecuted.~~

#### 10-14-1: CONDITIONAL USES:

A. Purpose: The purpose of this section is to establish the procedures and criteria for the review of conditional uses, as identified in the land use table(s). Conditional uses have been determined to have such characteristics that a discretionary, site-specific review by the Planning and Zoning Board is necessary to evaluate whether the particular use, as proposed, is compatible, or can be made compatible, with neighboring land uses and other uses permitted in the zoning district. Conditional uses may not be appropriate at all locations within a zoning district.

B. Application Required: Any person desiring to establish a conditional use shall complete a conditional use application, which application shall be filed with the community development department on a form prescribed by the city planner. Notwithstanding the content of the application form, the Planning and Zoning Board may require additional information as necessary to obtain a complete description of the project and identify potential impacts. No person shall begin development or operation of a conditional use without first applying for and obtaining a conditional use permit, as outlined herein. An application fee, as specified pursuant to Chapter 1(?), Section 6 shall accompany the application. Consultation with the city planner regarding the preparation of the application is recommended.

C. Notice and Public Hearing: The Planning and Zoning Board is the decision-making body for conditional use permits. The Board shall conduct a public hearing to obtain information pertaining to the request and the appropriateness of the conditional use permit. Notice of the hearing is required as follows:

1. Notice of the public hearing shall be given at least ten (10) days prior to the hearing by publication in the city's official newspaper and by USPS first class mail to the owners of all properties within one hundred forty feet (140') of the subject property. The notices must identify the date, time, location, and purpose of the public hearing. The property owner list shall be based on the ownership data from the Park County MapServer program (or equivalent) on the day of application.
2. The person sending the notices by mail shall complete an affidavit of mailing which identifies the document, the property owners to which it was sent, and the date mailed.
3. The city planner is granted authority to require or perform optional notice to inform other property owners, lessees, utility providers, or others that may be affected by the conditional use, of the public hearing. Optional notice is not subject to the 10-day requirement, may take any form, and is completely discretionary. Optional notice, or lack thereof, shall not be grounds for appeal.

D. Standards of Review: The Board has authority to approve, condition, or deny conditional use applications. The Board shall base its determination upon the following considerations. Negative impacts shall be justification to condition or deny the application.

1. Is the site large enough to accommodate the proposed use and meet all of the dimensional standards and development regulations of the zoning district in which the project is located?
2. Is the use, at the scale or density proposed, compatible with all other uses in the immediate area and with permitted uses that may be established in the area?
3. Does the proposed use involve activities, processes, materials, equipment, hours of operation, or any other operational characteristics that would be materially detrimental to any persons, property or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, dust, glare, odors, hazards, or similar impacts?
4. Does the proposal include provisions for necessary and desired public utilities and facilities such as potable water, fire hydrants, sewer, electrical power, streets, storm water facilities, and sidewalks/pathways?
5. Will the proposed use create excessive additional costs for public facilities and services that would be materially detrimental to the economic welfare of the community?
6. Will the proposed use result in the destruction, loss or damage of a natural, scenic or historic feature considered to be of major importance?
7. Is the proposed use consistent with the applicable provisions of the Cody Master Plan?

E. Conditioning Authority: The Board is authorized to impose conditions on the proposed use as necessary to ensure compliance with the provisions of this title and to mitigate or avoid negative impacts to neighboring properties or the general public health, safety and welfare of the community. Examples of such conditions may include, but are not limited to:

1. Limiting the size, height, location, or scale of the project or any component thereof.
2. Limiting the hours of operation of the use, or any component thereof;
3. Requiring sound-reduction methods;
4. Requiring screening of loading areas, storage areas, and other unsightly features;
5. Requiring dust control or surfacing improvements;
6. Limiting the duration of the conditional use permit to give opportunity for future review as the surrounding area becomes more developed;
7. Requiring the provision of on-site or off-site public facilities or services to serve the use.

F. Outstanding Violations: Any outstanding zoning violations that exist on the subject property shall be remedied prior to issuance of a conditional use permit.

G. Filing of Permit: If the conditional use is authorized by the Board, the City shall prepare a conditional use permit in a recordable format. The permit document is to include the date the conditional use was approved by the Board; a description of what was approved; any conditions, limitations and restrictions imposed on such conditional use; and, the “time limitations and expiration” language found below. The permit shall be signed by the Chair of the Planning and Zoning Board and recorded with the Park County clerk and recorder's office within fifteen (15) days, or as otherwise specified by the Board. Recording cost is at the applicant's expense.

H. Time Limitations and Expiration:

1. Unless specified otherwise by the Board, development of a permitted conditional use shall commence within two years of the granting of the conditional use permit, or the authorization shall expire. If the conditional use is associated with a building, commencing development shall be in the form of obtaining a building permit and starting construction on the project. If no building is associated with the conditional use, the conditional use activity shall commence within the specified deadline.
2. If a conditional use has been discontinued for one year or more, the conditional use permit shall automatically become null and void and the activity shall not be reestablished except in accordance with the provisions and procedures of this title.

I. Transfers: Conditional use permits are an entitlement to the specific property for which the approval was granted and upon property sale the entitlement, if not otherwise revoked or expired pursuant to this section, transfers to the new owner(s) without further application or

approval, provided, however, the new owner(s) shall be bound by the same time limits and conditions of approval as the original permit holder(s). A conditional use permit is not transferable from one property to another.

J. Modifications: A request to modify, expand, or otherwise change an approved conditional use permit in a manner that is not in substantial conformance with the approved site plan and permit shall be processed as a new application.

K. Revocation, Suspension or Modification by Board:

1. A conditional use permit may be revoked, suspended, or modified by the Board for cause upon notice to the permit holder and public hearing, for either a breach or violation of any condition of approval or limitation of the permit; or, if the conditional use is operated in a manner so as to create a public nuisance as defined and regulated by the City code.
2. If the Board desires to revoke, suspend, or modify a conditional use permit, either on its own action or after a formal complaint, the Board shall notify the permit holder of its intention and provide the permit holder with the opportunity to contest the revocation, suspension, or modification in the context of a public hearing.
3. Notice of the public hearing shall be mailed to the property owner by certified, return receipt mail, at least fourteen days before the public hearing. Notice shall also be provided to neighbors and the public in the same manner set forth for application of a conditional use permit.
4. The Board shall make findings of fact and conclusions of law if they decide to revoke, suspend, or modify the conditional use permit. If the Board does not decide to take such action, no findings of fact and conclusions of law shall be made.

#### 10-14-2: SPECIAL EXEMPTIONS:

Pursuant to Wyoming Statutes section 15-1-608, the planning and zoning board, in their capacity as the Board of Adjustment, is authorized to hear and decide special exemptions from the terms of this ~~chapter~~title, as specified herein. It is the intent of these special exemption provisions to provide necessary flexibility in this chapter without requiring applicants to provide proof of hardship. ~~Certain activities, structures and uses that are essential or desirable for the welfare of the city and not incompatible with other uses in the zoning district or neighborhood are eligible for special exemptions.~~ Special exemptions may be entirely appropriate but not at every location or without conditions being imposed by reason of special problems the use presents. The planning and zoning board may grant those special exceptions that are reasonable and harmless deviations from the zoning ordinance as determined by the following standards and procedures:

A. Application Procedures:

1. Optional Pre-Application Conference with Planning and Zoning Board: The pre-application conference is optional and is scheduled at the applicant's request. The conference allows the applicant to obtain information regarding the special exception process and to identify likely concerns regarding the proposal. No application fee is required and the planning and zoning board takes no formal action or decision concerning the proposal.

2. Filing of Applications:
  - a. Application Contents: The application for a special exemption shall include the following information:
    - (1) The proposed use or project;
    - (2) A plot plan showing the major details of the proposal such as location of buildings and structures, parking areas, means of vehicular access, signs, landscaping, fencing and screening, easements, utilities and pedestrian areas;
    - (3) A time schedule for development, if applicable;
    - (4) Such other information as the board shall by rules of practice require; and
    - (5) Any other information the applicant believes will support the request.
  - b. Filing Period: Applications shall be filed at least twenty-one (21) days prior to the anticipated date of public hearing.
3. Payment of Application Fees: At the time the application for a special exemption is submitted to the city, the application fee, as set by resolution of the city council, shall be paid by the applicant.
4. Notice ~~of Public Hearing~~Requirements:
  - a. Public Hearing: The Board shall conduct a public hearing to obtain information pertaining to the request and the appropriateness of the special exemption. Proper notice of the hearing is prerequisite to conducting the public hearing.
  - b. Notice of a public hearing shall be given at least ten (10) days prior to the hearing by publication in the city's official newspaper and by USPS first class mail to the owners of all properties within one hundred forty feet (140') of the subject property. The notices must identify the date, time, location, and purpose of the public hearing. The property owner list shall be based on the ownership data from the Park County MapServer program (or equivalent) on the day of application.
  - c. The person sending the notices by mail shall complete an affidavit of mailing which identifies the document, the property owners to which it was sent, and the date mailed.
  - d. The city planner is granted authority to require or perform optional notice to inform other property owners, lessees, utility providers, or others that may be affected by the exemption, of the public hearing. Optional notice is not subject to the 10-day requirement, may take any form, and is completely discretionary. Optional notice, or lack thereof, shall not be grounds for appeal.
  - a. ~~Notice to Neighboring Properties:~~

Upon receipt of a complete application, the director of public works, hereinafter referred to as director (or chairperson of the planning and zoning board) shall schedule a public hearing on the application. At least ten (10) days prior to the hearing, the applicant shall notify by certified mail all property owners within one hundred forty feet (140') of the perimeter of the subject property of the hearing. The notice shall be in a standard form prescribed by the director of public works. The notice shall contain a brief description of the project, the address or a description of the location, applicant's name, and the date, time and place of the hearing. The applicant shall provide the board with post office receipts as proof of notification.
  - b. ~~Published Legal Notice: The applicant shall cause a legal notice to be published in the city's official newspaper at least ten (10) days prior to the hearing in a standard form prescribed by the director.~~

B. Applicability: Applicants may request, and the planning and zoning board may consider, special exemptions from certain numerical specifications and for uses that are similar to permitted uses as specified below:

1. Exemption from Numerical Specifications: The following types of numerical standards may be waived or modified by special exemption:
  - a. Hour of business operation limits in D-1 district;
  - b. Any of the dimensional standards of the zoning districts, except those establishing density, minimum lot area, and number of main buildings on a lot (exceptions to those standards requires a variance). Examples of dimensional standards are  
~~Setbacks, and yard requirements;~~
  - e. ~~Height limits, lot coverage, and dwelling size requirements;~~
  - c. Supplemental Development Standards identified as eligible for special exemption;
  - d. Parking standards of chapter 16 of this title;
  - e. ~~Lot area;~~
  - f. ~~Lot coverage;~~
  - eg. Sign standards;
  - h. ~~Limitations on the number of employees; and~~
  - i. Other numerical specifications not specifically listed above, provided approval of the special exemption would not be tantamount to rezoning the subject property, or conflict with the classification method of the supplemental development standards.
2. Exemption for Use Similar to Permitted Uses: Special exemptions may be granted to allow uses not listed in the zoning ordinance when the planning and zoning board determines that such use is similar to a permitted use within the zoning district of the subject property. The determination on similarity shall be made in consideration of the size, intensity, noise, traffic, burden on infrastructure, and purposes of the use in question.
3. Relation to Rezoning, Planned Unit Development and Variances: The planning and zoning board shall not approve a special exemption application when the application would be more properly considered as a rezoning, planned unit development, or variance application.

C. Planning and Zoning Board Decision:

1. Public Hearing Procedures: The chairperson of the planning and zoning board shall conduct the public hearing in accordance with the board hearing rules, if any have been adopted. In addition, city staff shall have any opportunity to present the application and any staff reports and recommendations to the board. The applicant and those favoring the application shall follow and be allowed to speak and present any information to the board. Opponents shall then be allowed to speak and present information to the board. The board shall have the opportunity to question any speaker or ask any speaker to answer or respond to questions posed by other speakers.
2. Approval Standards: No special exemption shall be approved unless the planning and zoning board finds:
  - a. The special exemption will not produce an undesirable change in the character of the neighborhood or a detriment to nearby properties;

- b. The special exemption is designed to be compatible with adjacent land uses and the area or neighborhood;
  - c. The special exemption is the minimum deviation from the specifications of the zoning ordinance necessary and adequate for the proposed activity, structure or use;
  - d. The benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue other than a special exemption;
  - e. Adequate services and infrastructure are or will be available to serve the proposed activity, structure or use; and
  - f. The special exemption is consistent with the goals, policies and future land use map of the master plan.
3. Conditions: In approving a special exemption, the planning and zoning board may impose any reasonable conditions or modifications pertaining to operational or physical features of the proposal to ensure conformance with the approval standards of subsection C2 of this section. The board is further authorized to set time limits for renewal or expiration of special exemptions and to require financial guarantees, such as a performance bond or irrevocable letter of credit, to ensure completion of required improvements.
  4. Time Limit for Decision: The planning and zoning board shall make a decision within thirty (30) days of the public hearing. This time limit may be extended with the consent of the applicant.
  5. Record of Decision: The planning and zoning board decision shall be set forth in the board minutes, specifying the name of the applicant, the property address ~~and or~~ legal description, the exact nature of the special exemption, and any added conditions, modifications, requirements or limitations.
  6. Terms of Approval or ~~Conditional~~Special Approval; Limits on Modification of Use or Structure: No activity, use or structure allowed by a special exemption may be modified, increased in intensity or extent, structurally enlarged, or expanded in land area, unless:
    - a. Such is specifically allowed by terms of the approval; or
    - b. The planning and zoning board so amends the exemption following the procedures applicable to new applications for special exemptions.
  7. Duration: Duration shall be one of the following:
    - a. In the event the planning and zoning board limits the duration of the special exemption, the exemption shall not run with the land and renewal shall be required at the time specified in the board decision.
    - b. In the event the planning and zoning board does not limit the duration of special exemption, the exemption shall run with the land and the current property owner shall be responsible for compliance with the terms of approval. Said exemption shall be recorded in the office of the Park County clerk at the expense of the applicant within ten (10) days of the granting of the special exemption, or as otherwise specified by the Board.
  8. Expiration: If activities allowed by special exemption have not been established within one year of the approval or have ceased to occur for at least one year after having been established, the exemption shall expire and not resume unless an application is filed and approved in accordance with the procedures for review of new special exemptions.
  9. Revocation for Noncompliance: The planning and zoning commission shall have continuing jurisdiction over all special exemptions and may revoke, modify or suspend

the approval of the special exemption, after a public hearing and notice given in the same manner as for new applications, under the following conditions:

- a. The exemption was obtained by fraud or misrepresentation, or the public hearing had inadequate notice;
  - b. The exemption has been exercised contrary to the conditions of approval; or
  - c. The activity, structure or use permitted by the exemption has been exercised so as to be detrimental to the public health, safety or welfare, or as to constitute a nuisance.
10. Other Legal Remedies: In cases of noncompliance with the conditions of approval for special exemptions, the city may elect any other remedy provided by law for violations of this chapter. In cases warranting immediate abatement, the city may pursue such other legal remedies without delay and it shall not be necessary for the planning and zoning commission to have first revoked the exemption.