

CITY OF CODY
PLANNING, ZONING AND ADJUSTMENT BOARD TUESDAY, AUGUST 23, 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 August 9, 2016 regular meeting
6. NEW BUSINESS:
Downtown sign review: O'Donnell Wealth Management, located at 1306 Sheridan Avenue.
7. Review draft Zoning Ordinance Amendments (Conditional Uses, Special Exemptions, and Airport Overlay Special Use Permits), and discuss public review process.
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, August 9, 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, August 9, 2016 at 12:00 PM

Present: Justin Ness - Chairman; Buzzy Hassrick; Richard Jones; Brad Payne, Heidi Rasmussen, Curt Dansie; Sandra Kitchen, Deputy City Attorney; Steve Miller, Council Liaison; Utana Dye, Certified Engineering Tech; Bernie Butler, Administrative Assistant.

Absent: Reese Graham; Todd Stowell, City Planner

Chairman Justin Ness called the meeting to order at 12:03 PM, followed by the pledge of allegiance.

Brad Payne made a motion, seconded by Heidi Rasmussen, to approve the agenda. Vote on the motion was unanimous, motion carried.

Buzzy Hassrick made a motion, seconded by Curt Dansie, to approve the minutes for the July 26, 2016 meeting, with corrections. Vote on the motion was unanimous, motion carried.

TABLED ITEM:

Site plan review for the storage buildings proposed at 2502 Cougar Avenue.

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

Utana Dye presented a site plan review for the storage buildings proposed at 2502 Cougar Avenue. Updated information on the fencing, landscaping, and lighting was presented.

Curt Dansie made a motion, seconded by Buzzy Hassrick, to approve the site plan for the storage buildings, located at 2502 Cougar Avenue, with the following conditions:

1. N/A (No further architectural or landscaping modifications.)
2. N/A (The updated lighting information provided is 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 updated plans 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.

NEW BUSINESS:

A. Utana Dye reviewed a request for an 8-foot fence, located at 113 Windsor Drive.

Richard Jones made a motion, seconded by Buzzy Hassrick, to approve an 8-foot fence, located at 113 Windsor Drive, with the following staff comments:

In granting fence height exceptions, there should be some justification or physical conditions for why the additional height is requested. In this case, there are some unique characteristics of the proposal and the property.

While the subject property borders the South Fork Highway, the fence location is actually about 30 feet from the west property line, which puts it about 55 feet from the edge of the Highway pavement. The ground level where the fence is proposed is also a couple of feet below the highway in elevation. The combination of these factors reduces the impact of the fence to neighboring properties and the road corridor, while providing a reasonable, but not “fortress-like” level of privacy to the applicant’s residence.

Vote on the motion was unanimous, motion carried.

B. Utana Dye reviewed a Downtown wall sign for “U Blaze”, located at 1209 Sheridan Avenue.

Buzzy Hassrick made a motion, seconded by Heidi Rasmussen, to approve the Downtown wall sign for “U Blaze”, located at 1209 Sheridan Avenue.

Vote on the motion was unanimous, motion carried.

C. Utana Dye review a site plan for 4 dwellings, located at 1521 Rumsey Avenue.

Brad Payne made a motion, seconded by Curt Dansie, to approve the site plan for 4 dwellings, located at 1521 Rumsey Ave, with following recommendations:

1. Remove the large dead tree along the west property line.
2. The two existing lots must be combined into a single lot through the lot combination process of City of Cody Code 11-6B-3.
3. The curb cut replacement and the painting of the diagonal parking spaces along the lot frontage is to occur prior to occupancy. Once painted, the city will accept future maintenance/painting responsibility for the spaces.
4. Either all the exterior light fixtures must be cut off style (e.g. can lights under canopy), or fixture details must be submitted for future Board review.

5. All utility services are to installed pursuant to the requirements of the utility providers and applicable codes. This includes demonstrating compliance with the fixture count of the plumbing code. Any work within the public right-of-way or alley requires a city encroachment permit.
6. The project must otherwise substantially comply with the submitted plans.

Vote on the motion was unanimous, motion carried.

P & Z Board Matters – none

Council Updates – Steve Miller - none

Staff Items – Utana Dye - none

Brad Payne made a motion, seconded by Heidi Rasmussen, 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 12:33 PM.

Bernie Butler, Administrative Assistant

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

MEETING DATE:	AUGUST 9, 2016	TYPE OF ACTION NEEDED	
AGENDA ITEM:		P&Z BOARD APPROVAL:	X
SUBJECT:	DOWNTOWN SIGN DISTRICT REVIEW: WALL SIGN FOR O'DONNELL WEALTH MANAGEMENT SGN 2016-26	RECOMMENDATION TO COUNCIL:	
PREPARED BY:	TODD STOWELL	DISCUSSION ONLY:	

PROJECT DESCRIPTION:

Stephen O'Donnell Sr. of O'Donnell Wealth Management has submitted a sign application to install a 30" by 120" wall sign at 1306 Sheridan Avenue. The proposed sign is not illuminated and is depicted below.

Existing Condition:



Proposed Sign:



REVIEW CRITERIA:

The property is within the Downtown Architectural District established by Section 9-2-2 of the Cody City Code. Pursuant to Subsection B of 9-2-2, *"The planning, zoning and adjustment board shall examine and evaluate applications and plans involved in building and sign permits insofar as they pertain to the exterior of commercial buildings within the downtown district as herein described and shall make recommendations and suggestions to the applicants, property owners or occupants."*

The sign must also meet the size and location requirements of the sign code.

STAFF COMMENTS:

The business shares a lobby with other businesses (Grandma's Bazaar, O'Donnell Gallery, CrossTraining, and Shoshone Sage Aikido). Of the existing businesses, only Grandma's Bazaar has a wall sign on Sheridan Avenue. It is interpreted that the O'Donnell businesses occupy half of the frontage, or 25 feet, which entitles them to 37.5 square feet of wall signage (1.5 square feet of wall sign per linear foot of frontage). The proposed sign is 30 square feet in size.

With the proposed sign, the building is not entitled to any more wall signs.

The purpose of the Downtown Architectural District is understood to be the promotion of architectural compatibility and preservation of historic features. The sign has a professional appearance and does not affect any architectural features.

RECOMMENDATION:

As the sign meets the size and location requirements of the downtown sign district, it may be approved.

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~~4: 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 conditionalspecial 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 conditionalspecial use permit, approval of the conditionalspecial 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 conditionalspecial use permit, the governing body shall prepare a recordable document stating that the governing body approves the conditionalspecial use permit, the date the conditionalspecial 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 conditionalspecial 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.