

## Sec. 16-7-35. - Uses by special review.

## (a) Purpose.

- (1) In order to provide flexibility and to help diversify uses within a zoning district, specified uses are permitted in certain districts subject to the granting of a use by special review permit. Specific uses by special review for each zone district are listed in the Matrix of Permitted and Conditional Uses and Uses by Special Review by Zoning District, Section 16-5-10 of this Chapter.
- (2) Because of their unusual or special characteristics, uses by special review (USRs) require an evaluation so that they may be located properly with respect to their impacts on surrounding properties. The review process prescribed in this Section is intended to ensure compatibility and harmonious development between uses by special review, surrounding properties and the Town at large. USRs may be permitted subject to such conditions and limitations as the Town may prescribe to ensure that the location and operation of the USR will be in accordance with the USR approval criteria. The scope and elements of any USR may be limited or qualified by the conditions applicable to the specific property. Where conditions cannot be devised to achieve these objectives, applications for USR permits shall be denied.
- (3) In economic-oriented zones, USR proposals should promote economic sustainability, help the Town's transition from a residential-development-based economy to a commercial-based, localized economy through encouraging entrepreneurship, economic diversification, reduced retail leakage and increased economic multipliers to keep dollars circulating in the community while creating quality jobs locally.

## (b) Use by special review process.

- (1) Step 1: Pre-Application Conference. The applicant shall attend a pre-application conference with the Town Planner. The purpose of the meeting is to discuss the proposed use, submittal requirements and review process, including the Town Planner's estimate of the approximate timetable and direct costs of the process.
- (2) Step 2: Use by Special Review Application Package. The applicant shall submit three (3) copies of the complete USR application package to the Town Clerk. The application shall include:
  - a. Completed application form, application fee and fee agreement.
  - b. Current proof of ownership in the form of a title commitment issued within thirty (30) days of submission of the application.
  - c. A detailed description and any graphics necessary to describe the proposed use and its operating characteristics and to illustrate how all use by special review criteria have been satisfied. The written statement shall address the following points:
    1. Detailed description of the proposed operation;
    2. Maximum number of users per day or week;
    3. Hours of operation;
    4. Existing uses on surrounding properties;

5. Present and future impacts on the existing adjacent properties, uses and physical character of the surrounding environment (consider noise, odors, lighting, traffic, glare, visual impact, air quality, water quality, outdoor storage, recreational uses, wildlife habitat, etc.);
6. Description of anticipated traffic for the site, describing the number of vehicles at peak hours, total daily trips generated and the impact on area streets, accesses and traffic patterns;
7. Potential impacts on public facilities and services, including but not limited to fire, police, water, electric, sanitation, roadways, parks, schools and transit;
8. A statement of how the use will contribute to Lyons' small-town character;
9. A demonstration of how the use will be consistent with the Sustainable Design and Development Principles and other relevant goals of the Comprehensive Plan.

- d. A map showing the proposed development of the site, including topography, building locations, parking, traffic circulation, usable open space, landscaped areas, utilities and drainage features.
- e. Preliminary building plans and elevations sufficient to indicate the dimensions, general appearance and scale of all buildings.
- f. Such additional material as the PCDC and/or BOT may prescribe or the applicant may submit pertinent to the application.
- g. Surrounding and interested property ownership list. Provide the Town Clerk with a current list (not more than thirty [30] days old) of the names and addresses of the surrounding property owners within three hundred (300) feet of the property, mineral interest owners of record, mineral and oil and gas lessees for the property and appropriate ditch companies. The applicant shall certify that the report is complete and accurate.
- h. Surrounding and interested property ownership notification envelopes. One (1) set of stamped and addressed envelopes. The envelopes shall have the Town's address as the mailing address and return address and the envelopes shall be addressed to the surrounding property owners within three hundred (300) feet of the property, mineral interest owners of record, oil and gas lessees for the property and the appropriate referral agencies.
- i. A signed certification from the applicant that proper notice has been provided to the mineral estate owner pursuant to and in accordance with Section 24-65.5-103, C.R.S., or a certification that such notice is not required because the surface estate has not been separated from the mineral estate for the property described in the application. It is the applicant's responsibility to ensure that accurate and complete information is provided.
- j. An electronic copy of the application package in PDF format.

(3) Step 3: USR Application Certification of Completion. Within ten (10) working days, Town staff shall either certify that the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. The applicant shall then correct

any deficiencies in the application package, if necessary, and submit the required number of copies of the revised application package to the Town Clerk.

- (4) Step 4: Set PCDC Public Hearing and Complete Public Notification Process. The Town Clerk shall send notice of public hearing to the applicant, all property owners of record within three hundred (300) feet of the property in question, all mineral interest owners of record, oil and gas lessees for the property and the appropriate referral agencies before the PCDC public hearing. The Town Clerk shall also publish notice in the newspaper of record no less than ten (10) days prior to the public hearing. If the USR request is accompanying another application that is scheduled for public hearings before the PCDC and BOT, one (1) public hearing may be held on both applications.
- (5) Step 5: Final Staff Review and Report to PCDC. Town staff shall complete a final review of the materials, including referral responses, and prepare a report to the PCDC explaining how the application is or is not consistent with the USR approval criteria.
- (6) Step 6: PCDC Public Hearing and Action on the USR. The PCDC shall hold a public hearing to review the USR based on the USR approval criteria. The PCDC shall then make a recommendation to the BOT to either approve, conditionally approve or deny the USR application.
- (7) Step 7: BOT Meeting. The PCDC's recommendation shall be forwarded to the BOT. The BOT shall, following the PCDC recommendation, hold a first and second reading of the ordinance, which shall include a public hearing, in accordance with provisions set forth in Chapter 2, Article 4 of this Code, on the application and act to either approve, conditionally approve or deny the USR application in accordance with the approval criteria specified in Section 16-7-30 above.
- (8) Step 8: Submit and Record USR Map. The applicant shall submit two (2) original, signed Mylar drawings of the approved USR map to the Town Clerk for recording, accompanied by the recording fees and all other costs billed by the Town relative to the USR. Inaccurate, incomplete or poorly drawn plans shall be rejected. The Town Clerk shall submit the approved USR map to the County Clerk and Recorder's office for recording within thirty (30) business days of receipt of the complete information.

(c) USR approval review criteria. Because of their unusual or special characteristics, uses shall be evaluated by the Town against the following criteria:

- (1) The use shall satisfy all applicable provisions of this Chapter, design standards and subdivision regulations.
- (2) The use shall conform with or further the goals, policies and strategies set forth in the Comprehensive Plan.
- (3) The use shall be compatible with existing surrounding uses and enhance the community's character and conform with the Sustainable Design and Development Principles of the Comprehensive Plan. Compatibility should be evaluated by considering the magnitude, scale and diversity of product types in any given proposal so that no single project or combination of projects detracts from the character of the community.

(4)

The use shall result in efficient on-site and off-site traffic circulation which will not have a significant adverse impact on the adjacent uses or result in hazardous conditions for pedestrians or vehicles in or adjacent to the site.

- (5) Potential adverse impacts of the use on the neighborhood and the environment shall be adequately mitigated through setbacks, architecture, screen walls, landscaping, site arrangement or other methods.
- (6) The use avoids placing unreasonable financial burdens on the Town, such as police services and public facilities.
- (7) The proposed development shall conform with all applicable local, state and federal regulations.
- (8) The use shall not create more noise, dust, odors, vibrations, lights, traffic or parking than is customary for the zone district in which the USR is proposed, or such increased impacts can be adequately mitigated.

(d) Compatibility review. In addition to the other requirements in this Chapter and this Code, conditions may be imposed upon the approval of the use by special review applications to ensure that new development will be compatible with existing neighborhoods, uses, sensitive natural areas, Lyons' small-town character, environment and quality of life, and the guiding principles and goals of the Comprehensive Plan. Such conditions may include, but need not be limited to, restrictions on:

- (1) Hours of operation and deliveries.
- (2) Location on a site of activities that generate potential adverse impacts on adjacent uses or the Town at large, such as traffic, noise, glare and visual impacts.
- (3) Placement of trash receptacles.
- (4) Location of loading and delivery zones.
- (5) Light intensity and hours of full illumination.
- (6) Placement and illumination of outdoor vending machines.
- (7) Location of structures and uses relative to sensitive natural areas and habitat, including but not limited to the protection of the St. Vrain River corridor and associated riparian areas and floodplain.
- (8) Location and number of off-street parking spaces.
- (9) Location and size of commercial outdoor seating areas and similar active outdoor commercial areas.

(Ord. 911 §1, 2013)