

## **SECTION 13-900 USE BY SPECIAL REVIEW**

### **13-901 INTENT**

To establish a “Use By Special Review” process and procedure which provides Board of County Commissioner review and approval of certain uses which, although permitted within specific zoning districts, may contradict the purpose of these Regulations as required in this Land Development Code, providing for the public peace, health, safety and welfare. The following criteria shall be used to assist in determining that the proposed Use by Special Review is appropriate:

#### **13-901.01**

Recognize the limitations of existing and planned infrastructure, by thoroughly examining the availability and capability of water, sewer, drainage, and transportation systems to serve present and future land uses.

#### **13-901.02**

Assure compatibility between the proposed development, surrounding land uses, and the natural environment.

#### **13-901.03**

Allow for the efficient and adequate provision of public services. Applicable public services include, but are not limited to, police, fire, school, park, and libraries.

#### **13-901.04**

Enhance convenience for the present and future residents of Arapahoe County by ensuring that appropriate supporting activities, such as employment, housing, leisure-time, and retail centers are in close proximity to one another.

#### **13-901.05**

Ensure that public health and safety is adequately protected against natural and man-made hazards which include, but are not limited to, traffic noise, water pollution, airport hazards, and flooding.

#### **13-901.06**

Provide for accessibility within the proposed development, and between the development and existing adjacent uses. Adequate on-site interior traffic circulation, public transit, pedestrian avenues, parking and thoroughfare connections are all factors to be examined when determining the accessibility of a site.

#### **13-901.07**

Minimize disruption to existing physiographic features, including vegetation, streams, lakes, soil types and other relevant topographical elements.

#### **13-901.08**

Ensure that the amenities provided adequately enhance the quality of life in the area, by creating a comfortable and aesthetically enjoyable environment through conventions such as, the preservation of mountain views, the creation of landscaped open areas, and the establishment of recreational activities.

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### 13-901.09

- A. Enhance the useable open spaces in Arapahoe County, and provide sufficient unobstructed open space and recreational area to accommodate a project's residents and employees.
- B. The criteria, just stated, must be addressed prior to approval of any Use by Special Review requests, and are intended to provide clarity of purpose and direction for applicants, neighbors, concerned citizens, and Arapahoe County decision-makers.

### 13-901.10

In addition to the criteria in sections 13-901.01 through 13-901.09, the criteria set forth in the Regulations Governing Areas and Activities of State Interest in Arapahoe County ("1041 Regulations") shall also be considered in the evaluation of an application for a Use by Special Review for Major Electrical, Natural Gas, and Petroleum-Derivative Facilities of a Private Company in the A-E, A-1 and I-2 Zone Districts. Part V, sections A. and C., along with Appendix A, of the 1041 Regulations shall be used in determining whether such Use by Special Review should be approved.

## 13-902 PROCESS, SUBMITTAL REQUIREMENTS AND PROCEDURES

The process, submittal requirements and procedures for Use by Special Review applications are available from the Planning Division.

## 13-903 SUBMITTAL REQUIREMENTS

A complete application for a Use by Special Review hearing must contain the following:

### 13-903.01

Letter of Intent requesting the Use by Special Review hearing and fully describing the intended use of the property. The letter must be signed by the property owner and applicant (if different from property owner), and a copy of the owner's deed must be included in the submittal.

### 13-903.02

A fee established by the Board of County Commissioners shall be established and paid to the Planning Division (Check made payable to Arapahoe County).

### 13-903.03

Phase III Drainage Report conforming to the requirements of the "Arapahoe County Storm Drainage Design & Technical Criteria", if required.

### 13-903.04

Traffic Report conforming to the requirements of the "Guidelines For Traffic Impact Studies", if required.

### 13-903.05

Cost estimate of public improvements such as sidewalks, roadway and/or drainage improvements, etc., if required.

### 13-903.06

An appropriate number of 11" x 17" reductions of the site plan as determined by the Planning Division.

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### 13-903.07

Letter from the appropriate water and sanitation districts and fire district stating the availability to serve the proposal.

### 13-903.08

Structures located on the south side of streets or highways may be required to provide additional building setbacks, depending on structure heights, to allow necessary snow and ice melt from adjacent streets and sidewalks.

### 13-903.09

Owner(s) of Record signature block.

### 13-903.10

Additional information may be requested by the Planning Division as appropriate to the request, and information required above may be waived by the Planning Division Manager if it is deemed to be inappropriate to the request.

### 13-903.11

In addition to the above submittal requirements for a Use By Special Review application, the applicant for a Use by Special Review for a Major Electrical, Natural Gas, and Petroleum-Derivative Facilities of a Private Company shall comply with all of the submittal requirements for a 1041 Permit for "Major Electrical, Natural Gas, and Petroleum-Derivative Facilities of a Public Utility" as set forth in the Regulations Governing Areas and Activities of State Interest in Arapahoe County (1041 Regulations).

## 13-904 EXHIBIT REQUIREMENTS

The Use By Special Review Plan shall be an a photographic mylar or equivalent (prepared such that the text/line work does not bleed, flake, or scratch off) on 24" x 36" single/double matte mylar. The drawing shall be in upper case sans serif with a minimum 12-point font unless otherwise approved by the Planning Division Manager or designee. The drawing shall be in upper case sans serif with a minimum 12-point font unless otherwise approved by the Planning Division Manager or designee and contain the following information:

- A. Project name, type of proposal (Use By Special Review Plan), legal description of the Plan's land area, date of the drawing, scale and north arrow.
- B. Vicinity map with north arrow (scale of 1"=2,000' preferred) with an emphasis on the major roadway network within one (1) mile of the proposal.
- C. The existing zoning of the property, as well as the zoning and residential density of all adjacent properties.
- D. The graphic location, dimensions, maximum heights and gross floor area of all existing and proposed structure(s), the use(s) to be contained within, and the location of entrances and loading points.
- E. Chart comparing all of the regulations and requirements of the proposed Use By Special Review Plan with those of the zoning district criteria regarding the proposed use(s), building heights, minimum lot area, gross floor area, gross floor area ratios, setbacks, open space, etc.

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- F. Existing and proposed finished grade topography at two foot (2') contours or less, tied to a datum acceptable to the County.
- G. All proposed curb cut and driveway locations and dimensions, off-street parking locations, dimensions and total numbers by type (full size, compact, handicap, etc.), and types of surfacing, such as asphalt paving, gravel, etc.
- H. Public and private utility service lines and/or main lines with appurtenances.
- I. All walks, open and recreation areas, with a description of these improvements.
- J. Location of outdoor trash receptacle systems.
- K. Provision for access by emergency vehicles.
- L. Location and dimensions of all existing access points on immediately adjacent properties.
- M. Location and dimension and surface treatment of drainage easements, volume capacity of all drainage ponds, and the size of the outlet restrictor(s).
- N. An illustrative landscape plan showing locations and general types of all proposed landscaping materials, including fences, walls, planters and any other landscaping features.
- O. A Signage Plan describing and illustrating the size, location, type and material of all signs.
- P. Location, type and height of lighting devices.
- Q. Representative architectural elevation plans of all sides of proposed structures which show building heights, colors and general textures of materials to be used on the exterior of the proposed buildings.
- R. Applicable notes and certifications approved by the County Attorney which regulate the development (Airport Influence Area note, off- site improvements note, etc.).
- S. Board of County Commissioner's signature block.

### **13-905 SPECIFIC PROVISIONS**

#### **13-905.01**

- A. Applicants are required to meet with the Planning Division prior to formal submittal of Use by Special Review requests (unless waived by the Planning staff) in order to obtain input into the appropriateness of the request.
- B. In order to assist the Planning staff in determining the completeness of a submittal, the following statement shall be included in the "Letter of Intent" which accompanies the submittal:
- C. "I / (We) hereby affirm that this application meets the requirements of the Arapahoe County Zoning Regulations or includes proper requests for variance, waiver or exception from provisions that it does not meet. I understand that if it does not meet these

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Regulation's requirements or if proper requests for variance, waiver or exception are not included, this application may be rejected and the Board of County Commissioner's hearing dates may be postponed."

### 13-905.02

- A. The applicant shall be responsible for public notice, prior to the Board of County Commissioners hearings, in compliance with the public notice requirements in Chapter 17.
- B. In addition, an applicant for a Use by Special Review for Major Electrical, Natural Gas, and Petroleum-Derivative Facilities Owned by a Private Company shall provide mail notification of any required public hearings to all property owners located within 500 feet of the property boundaries of such proposed Use by Special Review at least 14 days prior to such public hearing.

### 13-905.03

- A. The Board of County Commissioners will cause Notice to be published in relation to said Use by Special Review request. A published notice must be placed within a newspaper of general circulation within the County at least fourteen (14) days prior to the hearing date. This mandatory requirement is a condition precedent to the Board holding a hearing. The applicant, or his authorized representative, will be required to be present in order to testify at the hearing as to the compliance with procedural requirements.
- B. An application for a Use by Special Review for Major Electrical, Natural Gas, and Petroleum-Derivative Facilities Owned by a Private Company shall require review by the Planning Commission at a public hearing prior to consideration by the Board of County Commissioners. A published notice of public hearing in a newspaper of general circulation in the County shall also be required at least 14 days prior to the public hearing at the Planning Commission. The County may require publication in the newspaper of general circulation with the largest circulation serving the area affected by the proposed Use by Special Review. With the exception of a Use by Special Review application for Major Electrical, Natural Gas, and Petroleum-Derivative Facilities Owned by a Private Company, all other Use by Special Review applications shall only require a public hearing before the Board of County Commissioners and shall not be reviewed by the Planning Commission.

### 13-905.04

The Board of County Commissioners will take one of the following actions at their hearing:

- A. Approve as submitted; or
- B. Approve with conditions; or
- C. Table (for further information, etc.); or
- D. Take the request under advisement; or
- E. Deny.

### 13-905.05

- A. Once the Board of County Commissioners acts on the Use By Special Review request, the applicant and/or duly appointed representative will be notified of the Commissioners' decision as soon as practicable.
- B. Copies of the Board of County Commissioners Resolution may be obtained at the Office of the Board of County Commissioners. The Use by Special Review becomes an approved use after the Board of County Commissioners Chairman signs

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the reproducible photographic mylar (prepared such that the text/line work does not bleed, flake, or scratch off) of the Use By Special Review Plan.

### **13-905.06**

Approval of a Use By Special Review request shall be, and may be, subject to stipulations and/or conditions precedent which the applicant is deemed to accept by preparing a reproducible photographic mylar (prepared such that the text/line work does not bleed, flake, or scratch off) for signature by the Chairman of the Board of County Commissioners within sixty (60) days from approval date. If no mylar is submitted, the Planning Division will recommend the Board of County Commissioners rescind approval of the request. An extension may be granted in writing by the Planning Division Manager.

### **13-905.07**

If the Board of County Commissioners denies the request, no further applications proposing substantially the same use, uses or mixture of uses can be submitted to the County for a period of at least one (1) year.

### **13-905.08**

An application for a Use by Special Review for Major Electrical, Natural Gas, and Petroleum-Derivative Facilities of a Private Company may be subject to the financial guarantee provisions contained in Part VI of the Regulations Governing Areas and Activities of State Interest in Arapahoe County (1041 Regulations).

## **13-906 AMENDMENTS**

### **13-906.01 MINOR CHANGES**

The guidelines used in the Administrative Amendment section will be used to determine if a change is minor. The Planning Division Manager will make the determination. Appeals to the Planning Division Manager's determination may be made to the Board of County Commissioners. If the changes are deemed minor, the minimum requirements are: one completed application form, one Letter of Intent, and one new revised reproducible photographic mylar (prepared such that the text/line work does not bleed, flake, or scratch off) of the Use By Special Review Plan for the Board of County Commissioners' signature.

### **13-906.02 SIGNIFICANT CHANGES**

If the changes are determined to be significant, the proposed amendment to the Use By Special Review Plan will involve a resubmittal of documents and a hearing before the Board of County Commissioners for approval of the changes.

### **13-906.03 USE BY SPECIAL REVIEW AMENDMENT DOCUMENTATION**

An amended Use by Special Review Plan shall contain all the original information, plus the items which are being changed. When possible, the development standards should appear in a chart format comparing the approved and proposed standards. Also, an Amendment History must be added to the document. If the amendment is required to be processed by the Board of County Commissioners, the submittal requirements for the Use by Special Review process will be required for the amendment.