



375 1st Ave East Wendell, ID 83355
Phone:208-536-5161 Fax:208-536-5527, cityclerk@wendell.id.gov

SPECIAL USE PERMIT/VARIANCE APPLICATION

Applicant(s) names(s): _____

Mailing Address _____

Location for Special Use Permit request _____

Phone / Cell numbers _____

Email address _____

1. Reason for Special Use Permit request

2. Real Property listed above is legally described as _____

3. Zoning Classification _____

4. Provide site plan showing property lines, existing buildings, location for building needing Special Use Permit. _____

5. A plan of the proposed site for the special use showing the location of all buildings, parking and loading area, traffic access and circulation, open spaces, landscaping, refuse and service areas, utilities, signs, and such other information as the City may require to determine if the proposed special use permit meets the intent and requirements of this application and the Comprehensive Plan.

A Filing Fee of \$300.00 must accompany this completed application.

Applicant is responsible for postage to each property owner within 300' of proposed subject property as well as cost of legal publication. Requirements outlined in Special Use Permit Application and payment in full for Postage and publications are required prior to application approval.

Hearing will be scheduled on approval of application.

I hereby certify that I am the applicant named herein, and that I have familiarized myself with the rules and regulations with respect to preparing and filing this application, and that the foregoing statements and answers herein contained are in all respects true and accurate to the best of my belief.

Signature of Applicant: _____ Date: _____

5-1-9 **SPECIAL USE PERMITS**

- (A) Application for Special Use Permit: It is recognized that an increasing number of new kinds of uses are appearing daily, and that many of these and some other more conventional uses possess characteristics of such unique and special nature relative to location, design, size, method of operation, circulation and public facilities that each specific use must be considered individually.

The Commission shall hold a public meeting on a special use permit application as specified in this Section. The Commission may approve, conditionally approve or deny a special use permit under the conditions as herein specified and considering such additional safeguards as will uphold the intent of this Section.

- (B) Application information: An application for special use permit shall be filed with the City Clerk by either the owner or lessee of property for which such special use is proposed. At a minimum, the application shall contain the following information:
1. Name, address and phone number of applicants.
 2. Legal description of property (with street address).
 3. Description of proposed special use.
 4. Zoning district.
 5. A plan of the proposed site for the special use showing the location of all buildings, parking and loading area, traffic access and circulation, open spaces, landscaping, refuse and service areas, utilities, signs, and such other information as the City may require to determine if the proposed special use meets the intent and requirements of this Section and the Comprehensive Plan.
 6. A narrative statement evaluating the effects on adjoining property; the effect of such elements as noise, glare, odor, fumes and vibration on adjoining property; a discussion of the general compatibility with adjacent and other properties in the district; and the relationship of the proposed use to the Comprehensive Plan.
- (C) Review of Circumstances by Commission: The Commission shall review the particular facts and circumstances of each proposed special use in terms of the following standards

and shall find adequate evidence showing that such use at the proposed location:

1. Will, in fact, constitute a special use as established in this Section for the zoning district involved, in that it is not already defined as a permitted use in the zoned area.
 2. Will be harmonious with and in accordance with the general objectives or with any specific objective of the Comprehensive Plan and/or the Zoning Ordinance.
 3. Will be designed, constructed, operated and maintained to be harmonious and appropriate in appearance with the existing or Intended character of the general vicinity and that such use will not change the essential character of the same area.
 4. Will not be hazardous or disturbing to existing or future neighboring uses.
 5. Will be served adequately by essential public facilities and services and/or that the persons or agencies responsible for establishment for the proposed use shall be able to provide adequately for any such services.
 6. Will not result in the destruction, loss or damage of a natural, scenic or historic feature of major Importance.
 7. Applies only to the holder of the permit and, does not run with the property.
- (D) Conditions, Bonds and Safeguards. In granting any special use, the Commission may prescribe appropriate conditions, bonds and safeguards in conformity with this Section. Violations of such conditions, bonds or safeguards, when made a part of the terms under which the special use is granted, shall be deemed a violation of this Section.
- (E) Public Hearing- Prior to granting a special use permit, at least one public hearing in which interested persons shall have an opportunity to be heard shall be held. At least fifteen (15) days prior to the hearing, notice of the time and place and a summary of the proposal shall be published in the official newspaper or paper of general circulation within the jurisdiction. Notice of the hearing shall also be provided by the applicant to property owners and residents within the land being considered, three hundred feet (300') beyond the external boundaries of the land being considered, and any additional area that may be substantially impacted by the proposed special use as determined by the P&Z Commission. When notice is required to two hundred (200) or more property owners or residences, in lieu of mailing notification, three (3) notices in the newspaper or paper of general circulation is sufficient; provided, the third notice appears at least ten (10) days prior to the public hearing.
- (F) Fees Paid in Advance: All publications and notices required in this Section shall be paid for in advance by the applicant requesting the special use permit.
- (G) Grant or Deny Application: Appeal Council Decision: Within thirty (30) days after the public hearing, the Commission shall either approve, conditionally approve or disapprove the application as presented. If the application is approved or approved with modifications, the Commission shall direct the Administrator to issue a special use permit listing the special conditions specified by the Commission for approval after the appeal period has elapsed.
1. Upon granting of a special use permit, conditions may be attached to the special use permit including, but not limited to:
 - (a) Minimizing adverse impact on other developments.
 - (b) Controlling the sequence and timing of development.
 - (c) Controlling the duration of development.
 - (d) Assuring the development is properly maintained.

- (e) Designating the exact location and nature of the development.
- (f) Requiring the provision for on-site or off-site public facilities or services.
- (g) Requiring more restrictive standards than those generally required in this Section.

2. Prior to granting a special use permit, the Commission may request studies from a special planning staff or other request an engineering study to be done at applicant's expense. A special use permit shall not be considered as establishing a binding precedent to grant other special use permits. A special use permit is not transferable from one parcel of land to another.

3. Upon granting or denying an application, the Commission shall specify:

- (a) The ordinance and standards used in evaluating the application.
- (b) The reasons for approval or denial.
- (c) The actions, if any, that the applicant could take to obtain a permit.

4. The applicant, or any affected person who appeared in person or in writing before the Commission, may appeal the decision to the City Council. Upon decision of the City Council, such appeal may proceed to the district court as provided in the Idaho Code.

5. Within ten (10) days after a decision has been rendered the City Clerk shall provide the applicant with written notice of the action on the request. (Ord. 357, 8-29-1991)

VARIANCES AND APPEALS

SECTIONS:

5-16-1: Council Powers

5-16-2: Procedure, Application for Variance/Appeals

5-16-3: Variances Granted When

5-16-1: PLANNING AND ZONING COMMISSION POWERS

The City Council shall have the following authority to vary the application and terms of this Ordinance subject to the laws of the State of Idaho and subject to appropriate conditions and safeguards in harmony with the purpose and intent of this Ordinance with the public interest and the most appropriate development of the neighborhood:

A. To hear and decide appeals from and review any order, requirement, decision or determination made by an administrative official charged with enforcement of the regulations established by this Title: and

B. To authorize, upon appeal in specific cases, variances from the terms of this ordinance, where by reason of exceptional narrowness, shallowness, or steepness of slope or other physical condition applying to a lot or building, the strict application of any regulation enacted herein would result in an exceptional difficulty or unnecessary hardship which would deprive the owner of the reasonable use of the land or building involved. Such relief may be granted provided it does not substantially impair the intent and purposes of this Ordinance, and provided no variance shall authorize any use in a zoning district other than a use specifically permitted in such zoning district.

5-16-2 PROCEDURE

A. The City Council shall hold a public hearing on all application for appeals, review and variances with the following special conditions required:

1. For application for variances to this title the City Council shall mail a written notice of said hearing at least 15 days prior to the hearing date to the applicant and to owners of property adjacent to the property in question. Failure to mail such notice to every property owner due to clerical omissions shall not affect the validity of any hearing or determination of the City Council.

2. At least 15 days prior to the public hearing date, notice of the time and place of such hearing shall be given by at least one publication in a newspaper of general circulation within the City of Wendell.

B. For applications for variances to this ordinance, the applicant shall be charged a fee to cover the cost of advertising and processing.

C. Unless otherwise stated in the City Council's minutes, all variance permits shall be issued and work shall commence within six (6) months from the date that such variance is granted; otherwise, the variance permit shall no longer be considered valid.

5-16-3 Variances Granted when.

The planning commission shall consider variances to the terms of this title which will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this title will result in unnecessary hardship and under such conditions that the spirit of this title shall be observed and substantial justice done. A variance shall not be considered a right or special privilege, but may be granted to an applicant only upon showing of undue hardship because of characteristics of the site and that the variance is not in conflict with the public interest. In acting upon such variance, the planning commission shall make full investigation and shall only recommend granting a variance upon finding that the following are true:

A. That the granting of the variance will not be in conflict with the spirit and intent of the comprehensive plan for the city, and will not affect a change in zoning;

B. That there are exceptional or extraordinary physical circumstances or conditions, applicable to the property involved, or the intended use thereof causing undue hardship, which do not apply generally to the property or class of use in the district, so that a denial of the relief sought will result in:

1. Undue loss in value of the property,
2. Inability to preserve the property rights of the owner,
3. The prevention of reasonable enjoyment of any property right of the owner;
4. Such hardship shall be proven by the owner

C. That the granting of such relief will not be materially detrimental to the public health, safety or welfare, or injurious to the property or

improvements of other property owners, or the quiet enjoyment of such property improvements.

D. That the reason for a variance was not caused by the owner's, or previous owners, actions.

FOR OFFICE USE ONLY

____ Property Owner written authorization attached

____ Addresses of property owners within 300' of site
(can be obtained from Gooding Co. Assessor)

____ Site Plan

____ \$300.00 Fee Receipt # _____ Date Paid _____

____ Postage and Legal Notice Fees Receipt # _____ Date Paid _____

____ Hearing Date: _____

Notice of Decision

Approved _____

Not Approved _____

Mayor _____

City Council _____

City Council _____

City Council _____

City Council _____

Additional comments and/or conditions
