

ATTACHMENT 5

If the application is approved or approved with conditions, the Town Manager shall issue the necessary Special Use Permit in accord with the action of the Council. The applicant shall record such permit in the office of the appropriate County Register of Deeds.

The Special Use Permit, including all conditions attached thereto, shall run with the land and shall be binding on the original applicant as well as all successors, assigns, and heirs.

18.4.12 Appeal of Decision

The Council's decision on an application for a special use permit may be appealed to Superior Court within thirty (30) days of the decision by an action in the nature of certiorari.

18.4.13 Final Plan Approval

The Town Manager shall not issue a Zoning Compliance Permit for development approved in a Special Use Permit unless and until such Special Use Permit has been recorded and the Town Manager has approved final plans for the development as a whole, or for phases thereof deemed satisfactory in relation to total development. The Town Manager shall prescribe the form and content of such final plans.

Approval of final plans shall be based on compliance with all applicable regulations and requirements, including all conditions attached to the Special Use Permit.

18.4.14 Issuance of Development Permits

After final plan approval, the Town Manager may issue Zoning Compliance Permits, Engineering Construction Permits, Building Permits, Sign Permits, and Certificates of Occupancy for development approved in a Special Use Permit, or an approved phase thereof, in the manner prescribed in Article 19, subject to compliance with the approved final plans and following additional requirements:

- a) Prior to issuance of a Building Permit for any new structures, additions, and exterior renovations or alterations, detailed architectural elevations of such structures, additions, and renovations or alterations shall be submitted to and approved by the Community Design Commission; and
- b) Prior to issuance of any Certificate of Occupancy for development approved in a Special Use Permit, a detailed landscape plan for such development, or an approved phase thereof, shall be submitted to and approved by the Town Manager.

18.5 Modifications of Special Use Permits

The Town Manager is authorized to approve minor changes in the approved final plans as long as such changes continue to be in compliance with the approving action of the Council and all other applicable requirements, but shall not have the authority to approve changes that constitute a modification of the Special Use Permit.

Any change requiring evidentiary support in addition to that presented at a public hearing on applications for the original Special Use Permit or subsequent Modifications of Special Use Permit shall constitute a modification of the Special Use Permit. Before making a determination as to whether a proposed action is a minor change or a modification, the Town Manager shall review the record of the proceedings on the original application for the Special Use Permit and subsequent applications for modifications of Special Use Permit and shall use the following criteria in making the determination:

- a) A change in the boundaries of the site approved by the Council shall constitute a modification;
- b) A change from the use approved by the Council shall constitute a modification;
- c) An increase of five (5) percent or more in the floor area approved by the Council, unless proposed addition is 2,500 square feet of floor area or less, shall constitute a modification, whether such addition is proposed at one time or over an extended period of time.

An increase of five (5) percent or more in the number of parking spaces approved by the Council, unless the proposed addition is 10 or fewer spaces, shall constitute a modification, whether such addition is proposed at one time or over an extended period of time.

- d) Substantial changes in the location of principal and/or accessory structures approved by the Council shall constitute a modification;
- e) Structural alterations significantly affecting the basic size, form, style, ornamentation, and appearance of principal and/or accessory structures as shown on the plans approved by the Council shall constitute a modification;
- f) Substantial changes in pedestrian or vehicular access or circulation approved by the Council shall constitute a modification; and
- g) Substantial change in the amount or location of landscape screens approved by the Council shall constitute a modification.

If the proposed action is determined to be a modification, the Town Manager shall require the filing of an application for approval of the modification.

The Town Manager shall prescribe the form(s) of applications as well as any other material he may reasonably require to determine compliance with this article.

An application for Modification of a Special Use Permit shall be reviewed in accord with the procedures established in Section 18.4.

No modification shall be allowed to a special use permit issued in a conditional use zoning district unless the applicant accepts all of the requirements and conditions the Council proposes to impose on the modification. Acceptance of conditions by the applicant may be indicated at the Council hearing on the Special Use Permit Modification or by affidavit submitted prior to the Council taking action on the modification application.

18.6 Expiration and Revocation of Special Use Permit Approvals

18.6.1 Special Use Permit Binding on Land

A Special Use Permit or Modification of Special Use Permit shall run with the land covered by the Permit or Modification. Once construction authorized by a Special Use Permit or Modification of Special Use Permit is started, no development other than that authorized by the Permit or Modification shall be approved on that land unless the Permit or Modification is first modified in accord with Section 18.5, or voided or revoked in accord with the provisions of this section.