

## ARTICLE 9 CONDITIONAL USE PERMIT

### §9.01 INTENT

These conditional use permit review procedures are instituted to provide an opportunity to use a lot for an activity which, under usual circumstances, would be detrimental to other permitted land uses and cannot be permitted within the same district, but which can be permitted under circumstances unique to the proposed location and subject to conditions acceptable to the community and providing protection to adjacent land uses. These procedures are adopted to provide guidelines for the City Planning Commission to follow in arriving at any decision over which such City Planning Commission has jurisdiction, and to provide for the public health, safety, morals, and general welfare, as well as to provide for the interest of the property owner.

### §9.02 PROCEDURES AND GUIDELINES

- A. An application for the approval of a conditional use shall be made, by an owner of an interest in the land on which the conditional use is to be located or by a person with an option to buy such land, to the City Clerk accompanied by the necessary fees as established by the City Commission and documents as provided herein.
- B. The application shall be accompanied by fourteen copies of a site plan drawn to a scale of 1" = 20' and placed on a standard sheet and containing the information required on a site plan in Section §8.02 of this ordinance.
- C. The application shall be referred by the City Clerk to the City Administrator, City Zoning Administrator, City Engineer and City DPW Department and the site plan review committee not less than 21 days prior to the City Planning Commission meeting. The application will be reviewed and their comments requested on the application no less than seven (7) days prior to the City Planning Commission meeting. The Site Plan Review Committee shall review the site plan to determine that it is complete. An incomplete site plan shall be returned to the applicant with an explanation regarding the missing information.
- D. The City Clerk shall submit copies of the application along with any staff reports on the application to the City Planning Commission not less than five (5) days prior to the City Planning Commission meeting at which it will be reviewed.
- E. Public Hearing Notice
  1. The City Clerk shall post a notice of public hearing in a newspaper of general circulation within the City not less than fifteen (15) days before the next regular meeting of the City Planning Commission. The content of the notice shall describe the nature of the request, indicate the property that is the subject of the request by street address, state when and where the request will be considered and indicate when and where written comments can be received per §103 (3) of PA 110.
  2. The City Clerk shall mail, by first class mail, a copy of such notices to each resident and owner of all properties as listed on the tax roll and located within three hundred (300) feet from the property involved in the application regardless of municipal boundaries.

- F. The City Planning Commission shall hear any person wishing to express an opinion on the petition and review the conditional use permit application.
- G. The City Planning Commission shall, within 30 days of the public hearing, vote to approve or deny the Conditional Use Permit unless an extension is agreed to by the applicant.
1. The City Planning Commission's action for approval, approval with modifications, or disapproval, shall be based on an assessment of the following factors, as well as others that the City Planning Commission determines to be uniquely applicable to the subject proposal.
    - a. The site plan complies with the district regulations, general provisions and other requirements of this ordinance.
    - b. The structural types and density of the proposed development are compatible with existing land use and zoning patterns within the area.
    - c. Sufficient setbacks, distances between buildings, and maximum building heights are maintained to insure compatibility with existing land use and zoning patterns within the area.
    - d. Vehicular traffic and pedestrian circulation features are designed so as to minimize conflicts between vehicular movement and pedestrian movement, adequate clear vision zones are provided, and ingress and egress drives are located and designed so as to minimize vehicular conflicts.
    - e. Off-street parking areas and off-street loading and unloading spaces are provided in accordance to Section 7.01.
    - f. When appropriate, minimum areas for open space or on-site recreation, as defined within other sections of this Ordinance, shall be provided.
    - g. Landscaping, fences, or walls, shall be provided to insure protection of adjacent properties from noise, light, glare, or other potential adverse effects created by the proposed development.
    - h. The location and capacity of water, sanitary sewer, storm drainage, and solid waste facilities shall be adequate to serve the proposed development.
    - i. All signs shall conform to the location, intensity, and dimensional requirements of the zoning district in which the proposed use is located and in accordance with Article 6 of this ordinance.

- j. The location, intensity, and orientation of all lighting facilities, including lighted signs, shall be designed so as not to create an adverse effect on adjacent properties, shall provide adequate light to insure the safety of occupants of the proposed development, and shall not create a nuisance or safety hazard to pedestrian or motorists in the vicinity of the site.
- k. No proposed development shall create smoke, noise, or odors in excess of that permitted under Section 3.19.
- l. All proposed developments shall take into account any natural features which exist on the site and shall be designed to insure the maximum protection of such features.

The requirements defined as forementioned are to be considered as minimum standards or guidelines. The City Planning Commission may impose conditions of a more restrictive nature if such conditions are deemed necessary to make the proposed use compatible with the surrounding area or to provide for the health, safety, and welfare of the prospective occupants of the conditional use. Such reason(s) for imposing conditions of a more restrictive nature shall be noted in writing by the City Planning Commission.

- 2. In making a motion to approve, approve with conditions or deny the CUP request, the Planning Commission shall establish findings of fact as they relate to these standards.
- H. The Building Inspector shall, upon receipt of notice of approval and upon application by the applicant, accompanied by a receipt duly executed by the City Treasurer attesting to the payment of all required fees, issue a building permit for the approved conditional use, provided he has found satisfactory compliance with all condition precedents imposed by such approval.
- I. A decision by the City Planning Commission on a CUP may not be appealed to the ZBA.

#### §9.03 EXPIRATION OF CONDITIONAL USE PERMIT

A Conditional Use Permit shall expire unless a building permit for the structures required under the Conditional Use Permit is applied for within six (6) months of the approval of the Conditional Use Permit and work is completed within two (2) years of issuance of the building permit (unless the Conditional Use Permit provides for development in phases). In the case of a Conditional Use Permit that does not require the construction of any buildings requiring a building permit, the Conditional Use Permit will expire unless the use authorized by the Conditional Use Permit has been established within six (6) months of approval.

#### §9.04 REVOCATION OF PERMIT

In any case where a conditional use is constructed or operated in a manner that violates the conditions placed on its approval or the general requirements of this ordinance, the Zoning Administrator shall schedule a public hearing before the Planning Commission following the notice requirements in Section 9.02E of this article for the applicant to show cause why their permit should not be revoked. If the Planning Commission determines that the property is out compliance with the terms of its permit or this ordinance and that a procedure to bring them into compliance agreeable to the Planning Commission is not identified, the Planning Commission shall revoke the Conditional Use Permit.

#### §9.05 CHANGES TO CONDITIONAL USE PERMIT

Any changes to the Conditional Use Permit, including changes in the uses permitted, revisions to the conditions for approval or changes to the site plan that require Planning Commission review must follow the application, review and approval process outlined in this article.

#### §9.06 PERFORMANCE GUARANTEES

Performance guarantees may be required by the Planning Commission per the requirements of Section 8.07.