

“CONDITIONAL USE PERMITS” 153.122 PROCEDURE FOR AUTHORIZING.

The following procedure is established to integrate properly, the conditional use with other land uses located in the district. These uses shall be reviewed and authorized or rejected under the following procedure:

(A) *Application.* An application shall be made by the property owner and filed with the zoning official, upon forms prescribed for that purpose, accompanied with the appropriate fee established by the City Council to defray processing costs. The application shall be accompanied by a graphic representation showing the location and proposed use of the site, along with such other descriptive material necessary for decision-making. Such may include, but is not limited to: preliminary site plans showing proposed uses and structures; proposed ingress and egress to the site, including adjacent streets; proposed off-street parking and landscaping; lighting and signage; a preliminary plan for provision of sanitation and drainage facilities; and proximity of adjacent uses and buildings.

(1) Each application shall be verified by at least one of the owners of the property proposed to be changed, attesting to the truth and correctness of all facts and information presented with the application.

(2) The filing deadline for inclusion on the Planning Commission agenda shall be the 1st Tuesday of the month prior to the Planning Commission meeting, which is held on the 4th Tuesday of the month.

(B) (1) *Notice.* Upon determining that an application is proper and complete, the zoning official shall insure that the matter is set for public hearing before the Planning Commission. The zoning official shall be responsible for insuring that, pursuant to law, at least 15 days' notice of the time, place, and subject of such hearing is published in a newspaper of general circulation in the city.

(2) The applicant shall present evidence to the zoning official, at least ten days prior to the required public hearing, that all property owners within 200 feet of the boundaries of the subject property have been notified of the proposed use, and of the time, date, and place of the hearing. Such evidence shall consist of postmarked, certified receipts and/or return receipts and/or dated, signed acknowledgments of receipt of notification; and shall be accompanied by a plat map showing the location of those properties, the owners of which the applicant certifies have been so notified.

(C) (1) *Planning Commission review and action.* The Planning Commission shall review conditional use permit applications at its regularly scheduled monthly meeting, at which time interested persons may appear at the required public hearing and offer information in support of or against the proposed conditional use. Following the public hearing, the commission may approve the application as presented, approve it with conditions, table it with cause for not to exceed one month, deny the application, or refer it to the City Council for final disposition. Approval shall require an affirmative vote of a majority of the authorized membership of the commission.

(2) In approving such conditional uses, the Planning Commission shall impose such conditions and restrictions upon the premises as it deems necessary to reduce or minimize the adverse effects of the use. Compatibility with surrounding property shall be insured to the

maximum extent practicable. If the Planning Commission disapproves or denies a conditional use application, the reasons for such action shall be given to the applicant with 15 days from the date of the decision. If denied, no application for such use or similar use shall be permitted involving part of the same property for a period of six months.

(D) The Planning Commission shall have final authority except that petitioners or record objectors aggrieved by an action, including any condition(s) placed upon application approval, by the commission shall file appeals to the City Council with the recorder-treasurer. The content of the appeal filing shall consist of: (1) A cover letter addressed to the mayor and City Council setting forth the request; and (2) a copy of the Planning Commission application indicating the action and properly executed by the staff. This filing shall occur within 15 calendar days of the action by the Planning Commission. Certified mail notice of the appeal hearing shall be provided not less than ten days prior to the date of the hearing, and the affidavit and other supporting evidence of notice shall be filed not less than five days prior to the date of review. This notice shall be given to all record parties in interest whether for or against the request. The cost of this notice shall be borne by the appellant.

(E) In no case, shall the Planning Commission or City Council authorize reduction from minimum requirements of these regulations relating to height, area, setbacks, parking, or landscaping. In addition, no conditional use authorized by the Planning Commission or City Council shall be subsequently considered in connection with a variance request to the Board of Zoning Adjustment.

(Ord. 2017-05-635, passed 5-2-17)

§ 153.123 EFFECT OF APPROVAL.

(A) No building permit shall be issued for any building or structure not in conformance with the site plan and all other conditions imposed in granting a conditional use permit. The construction, location, use, or operation of all land and structures within the site shall be in accordance with all conditions and limitations set forth in the approval. No structure, use or other element of any approved site plan shall be eliminated, significantly altered, or provided in another manner unless an amendment to the conditional use is approved. The procedure for amending a conditional use permit shall be the same as required for the original approval.

(B) Substantial work or construction under a conditional use permit must be commenced within one year, or the permit shall terminate. Conditional use permits shall be valid for an unlimited period unless a lesser period shall be provided in a particular permit. Upon the expiration of the time limit specified in the particular permit, the property owner may request that the permit be reviewed by the Planning Commission, which may extend it for an unlimited period or for an additional period of years.

(C) Once any portion of the conditional use permit authorization is utilized, all such conditions pertaining to such authorization shall become immediately operative. All conditions relating to or limiting the use, status, or operation of the development, after issuance of an occupancy permit, shall be complied with by the applicant or his successors or assigns. Failure to do so shall constitute a violation of these regulations, and cause for revocation of the conditional use authorization.

(D) Provided sufficient site information is submitted with the approved development plan, the Planning Commission may waive otherwise mandated site plan review requirements.

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