



Conditional Use Permit Supplemental Information

City of Dayton

Planning Department

Conditional Use Permits

PROCEDURE.

An application for a conditional use permit shall be approved or denied within sixty (60) days from the date of its official and complete submission unless extended by the City pursuant to Statute or a time waiver is granted by the applicant. Additional City requirements are as follows:

- A. Request for conditional use permits shall be filed with the Zoning Administrator on an official application form. Unless modified by the Zoning Administrator, such application shall be accompanied by a fee as provided for by City Council resolution. Such application shall also be accompanied by five (5) pre-sorted and pre-folded copies of detailed written and graphic materials fully explaining the proposed change, development, or use. The request shall be considered as being officially submitted when all the information requirements are satisfied. In cases where an application is judged to be incomplete, the Zoning Administrator shall notify the applicant, in writing, within ten (10) days of the date of submission.
- B. Upon receipt of said application, the City Clerk shall set a public hearing following proper hearing notification. The Planning Commission shall conduct the hearing, report its findings and make recommendations to the City Council. Notice of said hearing shall consist of a legal property description, description of request and property location, and be published in the official newspaper at least ten (10) days prior to the hearing. Written notification of said hearing shall be mailed at least ten (10) days prior to all owners of land within five hundred (500) feet of the boundary of the property in question.
- C. Failure of a property owner to receive said notice shall not invalidate any such proceedings as set forth within this Title.
- D. The Zoning Administrator shall instruct the appropriate staff persons to prepare technical reports where appropriate, and provide general assistance in preparing a recommendation on the action to the City Council.
- E. The Planning Commission shall consider possible effects of the proposed amendment. Its judgement shall be based upon, but not limited to, the following factors:
 1. No conditional use permit or interim conditional use permit shall be granted unless the City Council finds the following criteria have been met by a development proposal.
 2. The City Council may attach conditions to the permit, as it may deem necessary in order to lessen the impact of a proposed use, meet applicable performance standards and to promote health, safety and welfare.
 3. In Residential Districts, the City Council shall find the following:

- a. The use will not create an undue burden on parks, schools, streets and other public facilities and utilities which serve or are proposed to serve the area.
 - b. That the proposed use will not harm the public health, safety, and welfare; create a nuisance; or create traffic congestion injurious to nearby properties.
 - c. The proposed use will be sufficiently separated by distance or screening from adjacent residentially zoned or used land so there will not be an adverse impact on the residential quality of the area and there will be no deterrence to development of vacant land.
 - d. The structure and site shall have an appearance that will not have an adverse effect upon adjacent residential properties.
 - e. Non-residential uses, except agricultural related uses, accessory uses, and home extended businesses are located immediately adjacent to a commercial area, industrial area, or along an arterial or collector street.
 - f. The use in the opinion of the Council is reasonably consistent with the overall needs of the community and the existing land use in the area of the proposed use.
 - g. The use is consistent with the purposes of the Zoning Section as they are enumerated in Subsection [1001.01](#) and the purposes of the zoning district in which the applicant intends to locate the proposed use.
 - h. The proposed use is consistent with the Comprehensive Plan of the City.
4. In Non-Residential Districts, the City Council shall find the following:
- a. The proposed use will not conflict with existing or future development of the adjacent properties because of noise, odor, glare, inadequate screening, or other conditions caused by the proposed development or use.
 - b. The use will not create an undue burden on streets and other public facilities and utilities which serve or are proposed to serve the area.
 - c. That the proposed use will not harm the public health, safety, and welfare; create a nuisance; or create traffic congestion injurious to nearby properties.
 - d. Existing businesses nearby will not be adversely affected because of curtailment of customer trade brought about by intrusion of non-shopping traffic or general unsightliness.

- e. Wholesale business in Retail Business (RB) and Regional Commercial Districts (RC) shall be allowed only when they are of the nature and located in a manner so as not to unduly interfere with retail sales and services in the zone.
 - f. In Industrial Districts, the use will provide an economic return to the community commensurate with other permitted industrial uses for which the property could feasibly be used.
 - g. The use is consistent with the purposes of the Zoning Section as they are enumerated in Subsection [1001.01](#) and the purposes of the zoning district in which the applicant intends to locate the proposed use.
 - h. The proposed use is consistent with the Dayton Comprehensive Plan.
- F. The Planning Commission and City staff shall have the authority to request additional information from the applicant concerning operational factors or to retain expert testimony with the consent and at the expense of the applicant concerning operational factors. Said information is to be declared necessary to establish performance conditions in relation to all pertinent sections of the Zoning Ordinance. Failure on the part of the applicant to supply all necessary supportive information may be grounds for denial of the request.
- G. Unless excused by the Planning Commission Chair, the applicant or a representative thereof shall appear before the Planning Commission in order to answer questions concerning the proposed request.
- H. The Planning Commission shall make findings of fact and recommend such actions or conditions relating to the request as they deem necessary to carry out the intent and purpose of the Zoning Ordinance. Such recommendation shall be in writing and accompanied by the report and recommendation of the City staff, and shall be entered in and made part of the permanent written record of the City Council meeting.
- I. The City Council shall not grant a conditional use permit until the Planning Commission has held a public hearing on the request. The City Council shall act upon the conditional use permit within sixty (60) days from the date of submission of a complete application, unless an extension has been provided, pursuant to Minnesota Statutes 15.99.
- J. Upon receiving the report and recommendation of the Planning Commission and the City staff, the City Council shall have the option to set and hold a public hearing if deemed necessary, shall make recorded findings of fact and may impose any condition it considers necessary to protect the public health, safety and welfare.
- K. Subject to limitations of Minnesota Statutes 15.99, if, upon receiving said report and recommendations of the Planning Commission and City staff, the City Council finds that specific inconsistencies exist in the review process and thus the final recommendation of the City Council may differ from that of the Planning Commission, the City Council may, before taking final action, refer the matter back to the Planning Commission for further

consideration. The City Council shall provide the Planning Commission with a written statement detailing the specific reasons for referral. This procedure shall be followed only one (1) time on a singular action.

- L. Approval of a request shall require passage by a four-fifths (4/5) vote of the entire City Council.
- M. Whenever an application for a conditional use permit has been considered and denied by the City Council, a similar application for the conditional use permit affecting substantially the same property shall not be considered again by the Planning Commission or City Council for at least six (6) months from the date of its denial; and a subsequent application affecting substantially the same property shall likewise not be considered again by the Planning Commission or City Council for an additional six (6) months from the date of the second denial unless a decision to reconsider such matter is made by not less than four-fifths (4/5) vote of the full City Council.

GENERAL PERFORMANCE STANDARDS: As may be applicable, the evaluation of any proposed conditional use permit request shall be subject to and include, but not be limited to, the following general performance standards and criteria:

- A. The use and the site in question shall be served by a street of sufficient capacity to accommodate the type and volume of traffic which would be generated and adequate right-of-way shall be provided.
- B. The site design for access and parking shall minimize internal as well as external traffic conflicts.
- C. If applicable, a pedestrian circulation system shall be clearly defined and appropriate provisions made to protect such areas from encroachment by parked or moving vehicles.
- D. Adequate off-street parking and off-street loading shall be provided.
- E. Loading areas and drive-up facilities shall be positioned so as to minimize internal site access problems and maneuvering conflicts, to avoid visual or noise impacts on any "adjacent" residential use or district, and provided.
- F. Whenever a non-residential use "is adjacent to" a residential use or district, a buffer area with screening and landscaping shall be provided.
- G. General site screening and landscaping shall be provided.
- H. All exterior lighting shall be so directed so as not to cast glare toward or onto the public right-of-way or neighboring residential uses or districts.
- I. Potential exterior noise generated by the use shall be identified and mitigation measures as may be necessary shall be imposed to insure compliance with the Zoning Ordinance.

- J. The site drainage system shall be subject to the review and approval of the City Engineer.
- K. The architectural appearance and functional design of the building and site shall not be so dissimilar to the existing or potential buildings and area so as to cause a blighting influence. All sides of the principal and accessory structures are to have essentially the same or coordinated, harmonious exterior finish materials and treatment.
- L. Provisions shall be made for daily litter control, an interior location for recycling, and trash handling and storage or an outdoor, enclosed receptacle area shall be provided.
- M. All signs and informational or visual communication devices shall be in compliance with the Sign Ordinance.
- N. The use and site shall be in compliance with any federal, state or county law or regulation that are applicable and any related permits shall be obtained and documented to the City.
- O. Any applicable business licenses mandated by City Code are approved and obtained.
- P. The hours of operation may be restricted when there is judged to be an incompatibility with a residential use or district.
- Q. The use complies with all applicable performance standards of the zoning district in which it is located and where applicable, any non-conformities shall be eliminated.
- R. Additional Stipulations. All conditions pertaining to a specific site are subject to change when the Council, upon investigation in relation to a formal request, finds that the general welfare and public betterment can be served as well or better by modifying or expanding the conditions set forth herein.

REVOCATION: The Planning Commission may recommend, and the City Council may direct, the revocation of any conditional use permit for cause upon determination that the authorized conditional use is not in conformance with the conditions of the permit or is in continued violation of the Zoning Ordinance, City Codes, or other applicable regulations. The City Council or Planning Commission shall initiate an application and the Zoning Administrator shall notify the responsible person that they have an opportunity to show cause why the permit should not be revoked. The Zoning Administrator shall provide the responsible person a copy of the proceedings and findings of the Planning Commission and City Council.

PERMIT MODIFICATIONS: Holders of a conditional use permit may propose modifications to the permit at any time. No changes in the approved plans or scope of the conditional use shall, however, be undertaken without prior approval of those changes by the City. Proposed permit modifications shall be classified as major or minor, as determined by the Zoning Administrator. Major permit modifications may include, but shall not be limited to, hours of operation, number of employees, expansion of structures and/or premises, operational modifications resulting in increased traffic, and the like. Permit modifications shall be further subject to and processed as follows:

A. Minor Permit Modifications.

1. Additional Qualifications. In addition to other considerations noted above, minor permit modifications shall meet the following criteria:
 - a. Sites shall be in non-residential zoning districts, and shall not abut any residential zoned property.
 - b. All sites must be in the urban service area as defined by the Comprehensive Plan.
 - c. All sites must be legal parcels of record at the time of application.
 - d. All applications for permit modification shall be complete and in full accordance with the requirements of the Zoning Ordinance. All applicable fees shall be paid.
 - e. All permit modification proposals shall meet or exceed the standards of all applicable codes, ordinances, and policies and shall be free of any major variances from those standards.
 - f. Only applications for pre-existing, pre-approved uses explicitly classified as conditional uses within the respective zoning districts of the Zoning Ordinance are eligible for administrative approval.
2. Procedure. Administrative approval of minor permit modifications shall be subject to the requirements of Chapter 8 of this Title.

B. Major Permit Modifications.

1. Qualifications. Any permit modification not classified or qualifying as minor shall be classified as major.
2. Procedure. Major permit modifications shall be processed subject to all requirements and standards of the Conditional Use Permit Chapter of the Zoning Ordinance.

EXPIRATION: Unless the City Council specifically approves a different time when action is officially taken on the request, conditional use permits which have been issued under the provisions of this Chapter shall expire without further action by the Planning Commission or the City Council, unless the applicant commences the authorized use within one (1) year of the date the conditional use permit is issued; or, unless before the expiration of the one (1) year period; the applicant shall apply for an extension thereof by completing and submitting a request for extension, including the renewal fee as established by City Council resolution. The request for extension shall state facts showing a good faith attempt to complete or utilize the use permitted in the conditional use permit. A request for an extension not exceeding one (1) year shall be subject to the review and approval of the Zoning Administrator. Should a second extension of time or any extension of time longer than one (1) year be requested by the applicant, it shall be presented to the Planning Commission for a recommendation and to the City Council for a decision.

SITE IMPROVEMENT PERFORMANCE AGREEMENT AND FINANCIAL GUARANTEE: Prior to City Council consideration of a conditional use permit request, the applicant, as may be applicable, shall guarantee to the City the completion of all improvements as shown on the approved site plan and as required by the conditional use permit approval.

CERTIFICATION OF TAXES PAID: Prior to approving an application for a conditional use permit, the applicant shall provide certification to the City that there are no delinquent property taxes, special assessments, interest, or City utility fees due upon the parcel of land to which the conditional use permit application relates.

Information Requirement:

The information required for all conditional use permit applications generally consists of the following items, and shall be submitted unless waived by the Zoning Administrator.

- A. Site boundaries, buildings, structures and other improvements shall be identified on site with a current certificate of survey, prepared and signed by a Minnesota licensed land surveyor, depicting the following:
- _____ 1. Scale of plan (engineering scale only, at one (1) inch equals fifty (50) feet or less.
 - _____ 2. North point indication.
 - _____ 3. Existing boundaries with lot dimension and area.
 - _____ 4. Existing site improvements.
 - _____ 5. All encroachments.
 - _____ 6. Easements of record.
 - _____ 7. Legal description of the property.
 - _____ 8. Ponds, lakes, springs, rivers or other waterways bordering on or running through the subject property.
- B. A site plan utilizing a copy of the current certificate of survey as a base for the site in question, depicting the following:
- _____ 1. Name and address of developer/owner.
 - _____ 2. Name and address of architect/designer.
 - _____ 3. Date of plan preparation.
 - _____ 4. Dates and description of all revisions.
 - _____ 5. Name of project or development.
 - _____ 6. All proposed improvements, including:
 - _____ a. Required and proposed setbacks.
 - _____ b. Location, setback and dimensions of all proposed buildings and structures.
 - _____ c. Location of all adjacent buildings located within one hundred (100) feet of the exterior boundaries of the property in question.

- _____ d. Location, number dimensions, and setbacks of proposed parking spaces and drive aisles.
 - _____ e. Location, number, and dimensions of proposed loading spaces.
 - _____ f. Location, width, and setbacks of all curb cuts and driveways.
 - _____ g. Vehicular circulation.
 - _____ h. Sidewalks, walkways, trails.
 - _____ i. Location and type of all proposed lighting, including details of all proposed fixtures.
 - _____ j. Location of recreation and service areas.
 - _____ k. Location of rooftop equipment and proposed screening.
 - _____ l. Provisions for storage and disposal of waste, garbage, and recyclables, including details for screening exterior trash/recycling enclosures.
 - _____ m. Location, sizing, and type of water and sewer system mains and proposed service connections.
- C. Grading/storm water drainage plan, utilizing a copy of the current certificate of survey as a base for the site in question, prepared and signed by a Minnesota licensed engineer, depicting the following:
- _____ 1. Existing contours at two (2) feet intervals (may be prepared by a Minnesota licensed surveyor).
 - _____ 2. Proposed grade elevations of two (2) foot maximum intervals.
 - _____ 3. Drainage plan, including the configuration of drainage areas and calculations.
 - _____ 4. Storm sewer, catch basins, invert elevations, type of castings, and type of materials.
 - _____ 5. Spot elevations (may be prepared by a Minnesota licensed surveyor).
 - _____ 6. Proposed driveway grades.
 - _____ 7. Surface water ponding and treatment areas.
 - _____ 8. Erosion control measures.
- D. Landscaping plan, utilizing a copy of the current certificate of survey as a base for the site in question, depicting the following:
- _____ 1. Planting schedule (table) containing:
 - _____ a. Symbols.
 - _____ b. Quantities.
 - _____ c. Common names.
 - _____ d. Botanical names.
 - _____ e. Sizes of plant material.
 - _____ f. Root specification (bare root, balled and burlapped, potted, etc.).
 - _____ g. Special planting instructions.

- _____ 2. Location, type and size of all existing significant trees to be removed or preserved.
- _____ 3. Planting detail (show all species to scale at normal mature crown diameter or spread for local hardiness zone).
- _____ 4. Typical sections with details of fences, tie walls, planter boxes, tot lots, picnic areas, berms and the like.
- _____ 5. Typical sections with details of landscape islands, planter beds, and foundation plantings with identification of materials used.
- _____ 6. Note indicating how disturbed soil areas will be restored through the use of sodding, seeding, or other techniques.
- _____ 7. Delineation of both sodded and seeded areas with respective areas in square feet.
- _____ 8. Coverage plan for underground irrigation system, if any.
- _____ 9. Where landscape or man-made materials are used to provide screening from adjacent and neighboring properties, a cross-through section shall be provided showing the perspective of the site from the neighboring property at the property line elevations.
- _____ 10. Other existing or proposed conditions which could be expected to affect landscaping.

E. Other plans and information as required by the Zoning Administrator including, but not limited to:

- _____ 1. Architectural elevations of all principal and accessory buildings (type, color, and materials used in all external surfaces).
- _____ 2. "Typical" floor plan and "typical" room plan drawn to scale with a summary of square footage for each use or activity.
- _____ 3. Fire protection plan.
- _____ 4. Extent of and any proposed modifications to land with the Environmental Protection Districts, as established by the Zoning Ordinance.
- _____ 5. Type, location and size (area and height) of all signs to be erected upon the property in question.
- _____ 6. Vicinity map showing the subject property in reference to nearby highways or major street intersections.
- _____ 7. Sound source control plan.
- _____ 8. Lighting plan.