

## CHAPTER 11

## CONDITIONAL USES

## SECTION:

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## 8-11-1: PURPOSE:

The purpose of this chapter is to allow the proper integration into the county of uses which may be suitable only in certain locations in the county or zoning district, or only if such uses are designed or laid out on the site in a particular manner.

## 8-11-2: CONDITIONAL USE PERMIT:

A conditional use permit shall be required for all uses listed as conditional uses in the district regulations or elsewhere in this title. A conditional use permit may be revoked upon failure in compliance with conditions precedent to the original approval of the permit.

A. Application: Application for a conditional use permit shall be made by the property owner or certified agent thereof to the planning commission.

B. Accompanying Documents: Detailed site plans drawn to scale and other drawings necessary to assist the planning commission in arriving at an appropriate decision shall accompany the application.

C. Fee: The fee for any conditional use permit shall be as specified by the board of county commissioners, no part of which shall be refunded.

D. Public Hearing: No public hearing need be held; however, a hearing may be held when the planning commission shall deem such a hearing to be necessary and in the public interest.

1. The planning commission may hold the hearing.
2. The planning commission shall have a record of the hearing, together with a report of findings and recommendations relative thereto, for its consideration of the proposed conditional uses.
3. Such hearing, if deemed necessary, shall be held not more than sixty (60) days from the date of application. The particular time and place shall be established by the planning commission.
4. The planning commission shall publish a notice of hearing in a newspaper of general circulation in the county not less than ten (10) days prior to date of said hearing. Failure of property owners to receive notice of said hearing shall in no way affect the validity of action taken.

E. Determination:

1. The planning commission may permit a conditional use to be located within any zone district in which the particular conditional use is permitted by the zoning district regulations of this title. In authorizing any conditional use, the planning commission shall impose such requirements and conditions as required by law and any additional conditions as may be necessary for the protection of adjacent properties and the public welfare.
2. The planning commission shall establish policies regarding landscaping, fencing, lighting, ingress-egress, the height of buildings, etc., to ensure consistency in the issuance of conditional use permits.
3. The planning commission shall not authorize a conditional use permit unless the evidence presented is such as to establish:
  - a. The proposed use of the particular location is necessary or desirable to provide a service or facility which will contribute to the general well being of the neighborhood and the community; and
  - b. The proposed use will comply with regulations and conditions specified in this title for such use; and
  - c. The proposed use will conform to the intent of the county master plan; and
  - d. Such use will not, under the circumstances of the particular case and conditions imposed, be detrimental to the health, safety and welfare of persons, not injurious to property and improvements in

the community, but will be compatible with and complementary to the existing surroundings, uses, buildings and structures when considering the following zones:

(1) Residential and rural zones:

(A) Will the proposed use generate enough traffic to be detrimental to the immediate neighborhood?

(B) Will the proposed development overload the carrying capacity for which local streets were designed?

(C) Will internal traffic circulation adversely affect adjacent residential properties?

(D) Will the proposed signs adversely affect the development itself or the overall aesthetics or the general area?

(E) Will the proposed landscaping be sufficient to enhance the aesthetic acceptability of the development?

(2) Commercial zones:

(A) Will traffic ingress and egress adversely affect the general traffic patterns in the area?

(B) Will building location create a pedestrian traffic hazard by causing blind approaches for pedestrians?

(C) Will building design be compatible with or complementary to already established adjacent structures?

(D) If the development is adjacent to a residential zone or use, will the building location, lighting, parking or traffic circulation adversely affect the adjacent residential use or zone?

(3) Manufacturing zones:

(A) Will heavy vehicle traffic adversely affect adjacent residential or commercial properties?

(B) If the proposed use emits tolerable pollution of any type, will the prevailing breezes and winds direct the pollutant toward residential or commercial properties in the immediate area?

(C) Will landscaping add aesthetic acceptance to the proposed development?

(D) Will proposed signs be in good taste and not create adverse effects on adjacent residential or commercial properties?

#### 8-11-3: SPECIAL REQUIREMENTS:

The planning commission may establish conditions in addition to those outlined in this chapter to meet the concerns of safety for persons and property, health and sanitation, environment, master plan proposals, and neighborhood needs, performance and administration. More specifically, the planning commission may require:

##### A. Conditions Relating To Safety For Persons And Property:

1. Building elevations and grading plans which will prevent or minimize floodwater damage, where property may be subject to flooding.

2. The relocation, covering or fencing of irrigation ditches, drainage channels and other potentially attractive nuisances existing on or adjacent to the property.

3. Increased setback distances from lot lines where the planning commission determines it to be necessary to ensure the public safety and to ensure compatibility with the intended characteristics of the district as outlined in this title.

4. Appropriate design, construction and location of structures, buildings and facilities in relation to property and limitations and/or restrictions of the use and/or location of uses due to special site conditions, including, but not limited to, geologically hazardous areas, floodplains, fault zones, landslide areas.

5. Limitations and control of the number, location, color, size, height, lighting and landscaping of outdoor advertising signs and structures in relation to the creation of traffic hazards and appearance and harmony with adjacent development.

6. Plans for the location, arrangement and dimensions of truck loading and unloading facilities.

7. Construction of curbs, gutters, drainage culverts, sidewalks, streets, fire hydrants and streetlighting.

##### B. Conditions Relating To Health And Sanitation:

1. A guarantee of sufficient water to serve the intended land use and a water delivery system meeting standards adopted by the county.

2. Construction of water mains, sewer mains and drainage facilities serving the proposed use, in sizes necessary to protect existing utility users in the district and to provide for an orderly development in the county.

3. Other requirements ensuring the health, safety and welfare of residents within the county.

C. Conditions Relating To Environmental Concerns:

1. Limitations and/or restrictions on the use and/or location of uses in sensitive areas due to soils capabilities, wildlife and plant life.

2. Processes for the control, elimination or prevention of land, water or air pollution; the prevention of soil erosion and the control of objectionable odors and noise.

3. The planting of ground cover or other surfacing to prevent dust and erosion.

4. Restructuring of the land and planting of the same, as directed by the planning commission, when the conditional use involves cutting and/or filling the land and where such land would be adversely affected if not restructured.

D. Conditions Relating To Compliance With Intent Of Comprehensive Plan And Characteristics Of Vicinity (Or Neighborhood):

1. The removal of structures, debris or plant materials, incompatible with the intended characteristics of the district outlined in this title.

2. The screening of yards or other areas as protection from obnoxious land uses and activities.

3. Landscaping to ensure compatibility with the intended characteristics of the district as outlined in this title.

4. Limitations or controls on the location, height and materials of walls, fences, hedges and screen plantings to ensure harmony with adjacent development or to conceal storage areas, utility installations or other unsightly development.

5. Provision of or construction of recreational facilities necessary to satisfy needs of the conditional use.

6. Population density and intensity of land use limitations where land capability and/or vicinity relationships make it appropriate to do so to protect health, safety and welfare.

7. Other improvements which serve the property in question and which may compensate in part or in whole for possible adverse impacts to the district from the proposed conditions use.

E. Conditions Relating To Performance: A bond or other valuable assurance in favor of the county in an amount of said bond or other valuable assurance shall not exceed the amount calculated by the developer's engineer and approved by the local engineer as necessary to assure compliance with all conditions.

F. Specific Short And Long Range Plans Of Development:

1. Will the building location adversely affect adjacent residential and commercial property?

2. Will ingress and egress be sufficient to handle intended traffic and will internal traffic circulation adversely affect the general area traffic circulation?

3. Will the proposed use comply with the regulations and conditions specified in this title for such use?

4. Will the proposed use conform to the goals, policies and governing principles of the master plan for the county?

#### 8-11-4: LANDSCAPE REQUIREMENTS PERTAINING TO SITE APPROVAL OF COMMERCIAL, INDUSTRIAL, RESIDENTIAL PLANNED UNIT DEVELOPMENT AND CLUSTER (OPEN SPACE ONLY) SUBDIVISIONS:

The planning commission will require commercial, industrial and residential planned unit development and cluster (open space only) subdivisions be included on a site plan of a scale appropriate to the project of the following:

A. Where appropriate, a performance bond will be required to ensure compliance with approved site plans.

B. Plant material locations with names.

C. Size and location and type of construction of all walkways and landscaping.

D. Final grading plan, including areas of berming.

E. A plant list which specifies the names, number of each, and size of each to be planted.

F. A sprinkling system engineered to maintain the landscaped areas.

8-11-5: APPEALS:

Any person shall have a right to appeal to the board of adjustment any decision rendered by the planning commission by filing, in writing and in triplicate, the reasons for said appeal with said board of adjustment at any regular meeting thereof within thirty (30) days following the date upon which the decision from which appeal is being taken is made by the planning commission. After receiving said appeal, the board of adjustment may reaffirm the planning commission's decision or set a date for a public hearing.

A. Notification Of Planning Commission: The board of adjustment shall notify the planning commission of the date of said review in writing at least seven (7) days preceding said date set for hearing so that said planning commission may prepare the record for said hearing.

B. Determination Of Board Of Adjustment: The board of adjustment, after proper review of the decision of the planning commission, may affirm, reverse, alter or remand for further review and consideration, any action taken by said planning commission.

8-11-6: INSPECTION:

Following the issuance of a conditional use permit by the planning commission, the building inspector shall approve an application for a building permit pursuant to this title and shall ensure that development is undertaken and completed in compliance with said permits.

8-11-7: TIME LIMIT:

Unless there is substantial action under a conditional use permit within a maximum period of one year of its issuance, the conditional use permit shall expire. The planning commission may grant a maximum extension of six (6) months under exceptional circumstances.