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Conditional Use Permit Process

This guide describes the Conditional Use Permit (CUP) process. It should be used in conjunction with the City of Trinidad Municipal Code (See Chapter 14 Land Use Code), City of Trinidad Comprehensive Plan, and the guide to Pre-Application Review.

Purpose

The purpose of a Conditional Use Permit (CUP) is to allow flexibility and to help diversify uses within a zoning district, specified uses are permitted in certain districts subject to the granting of a conditional use permit. Specific conditional uses for each zone district are listed in the Table 14-42 Use Table (attached).

Conditional Use Permit (CUP) Application Review Criteria.

The CUP process provides the City with the means to evaluate such items as the building placement and size, characteristics of use, traffic generation and circulation, noise, hours of operation, adequacy of parking, landscaping, screening, and overall compatibility of the use with adjoining properties, and related development impacts. Additional conditions regarding (but not necessarily limited to) intensity or limitation of use, appearance, setbacks or required open space necessary to ensure that the proposed use will be compatible with the surrounding properties and environment.

A conditional use permit application is subject to the following approval criteria. It is the applicant's burden to demonstrate, by a preponderance of the evidence, that each of the following criteria is satisfied by the application:

1. The conditional use will satisfy all applicable provisions of the Land Use Code.
2. The conditional use will conform with or further the goals and strategies set forth in the Comprehensive Plan.
3. The conditional use will be adequately served with public utilities, services, and facilities (i.e. water, wastewater, electric, gas, schools, street system, fire protection, public transit, storm drainage, solid waste collection, parks system, etc.) and not impose an undue burden above and beyond those of the permitted uses of the district.
4. The conditional use will not substantially alter the basic character of the district.
5. The conditional use will result in efficient on- and off-site traffic circulation which will not have a significant adverse impact on the adjacent uses or result in hazardous conditions for pedestrians or vehicles in or adjacent to the site.
6. All applicable permits and approvals from other agencies, entities or jurisdictions have been or will be obtained.
7. Potential negative impacts of the conditional use on the rest of the neighborhood or of the neighborhood on the conditional use have been mitigated through setbacks, architecture, screen walls, landscaping, site arrangement or other methods. The application shall address the following potential negative impacts, at a minimum:
 - a. Traffic with particular reference to congestion, automotive and pedestrian safety and convenience, traffic flow and control, access, maneuverability, parking, loading/servicing, and removal of snow from the streets and parking areas;

- b. Activity levels;
- c. Light;
- d. Noise;
- e. Vibrations;
- f. Smoke;
- g. Dust;
- h. Odor;
- i. Heat;
- j. Glare;
- k. Effect upon the character of the area in which the proposed use is to be located, including the scale and bulk of the proposed use in relation to surrounding uses;
- l. Hours of operation; and
- m. Erosion control

REVIEW PROCESS

Step 1: Pre-Application Conference. A pre-application conference in accordance with Code Section 14-24 is required before the City will accept a conditional use permit application for processing.

Step 2: Conditional Use Permit Application Submittal. The applicant shall submit a complete conditional use application to the Planning Division that includes the following items:

1. Land Use Application Form.
2. Development Review Fee \$1,750.00.
3. Completed Conditional Use Permit Review Process Public Information Guide Checklist.
4. Proof of Ownership.
5. Conditional Use Permit Review Criteria Statement. Written statement and any graphics necessary to describe the precise nature of the proposed use and its operating characteristics and to illustrate how all conditional use review criteria have been satisfied.
6. Conditional Use Map. A scaled drawing showing the proposed development of the site, including topography, existing and proposed building locations, parking, traffic circulation, usable open space, landscaped area and existing and proposed utilities and drainage features.
7. Preliminary Building Plans and Elevations. These plans and elevations must indicate the dimensions, general appearance, and scale of all buildings.
8. Interested Property Ownership Report. Provide a current list (not more than thirty (30) days old) of the names, addresses and mailing addresses of property owners, mineral interest owners of record, mineral and oil and gas lessees for the property and ditch companies with legal interests in the property. The applicant shall certify that the report is complete and accurate.
9. Any other information deemed necessary by the Staff to make a fully informed and deliberate review of the conditional use permit.

Step 3: Application Certification of Completion. Within a reasonable period of time, Staff shall either certify the application is complete and in compliance with all submittal requirements or reject it as incomplete and notify the applicant of any deficiencies. Applicant shall then correct any deficiencies in the application package, if necessary, and submit the revised application to the Planning Division.

Step 4: Refer Application. Staff shall circulate the complete application to referral individuals and agencies (collectively, “Referral Parties”.) As part of the review process, Referral Parties are notified and have the opportunity to respond in writing. This referral period is 21 days. Failure of a Referral Party to respond within the prescribed time period shall indicate consent to the contents of the application.

Step 5: Staff Reviews Application and Prepares Comments. Staff will complete a technical review of the conditional use permit application based on the conditional use review criteria, and referral comments received. Staff will then prepare a report and forward this report to the applicant.

Step 6: Applicant Addresses Staff Comments. The applicant shall submit the following to the Planning Division:

1. Letter addressing Staff comments; and
2. Revised conditional use map and other documents, as required.

Step 7: Final Staff Review and Report to Planning, Zoning, and Variance Commission. Staff will complete a final review of the resubmitted materials and then prepare a report to the Planning, Zoning, and Variance Commission explaining how the application is or is not consistent with the conditional use permit criteria.

Step 8: Schedule Conditional Use Permit Public Hearing and Complete Public Notification Process. At least ten (10) days prior to the Planning, Zoning, and Variance Commission hearing date, the City will provide notice of the public hearing to the abutting property owners by certified mail and publish the public notice in the local newspaper of general circulation. Notice shall include application type, the date of the application, the date of the hearing, and the name and address of the applicant, and such other information as may be required to fully apprise the public of the nature of the application.

Step 9: Planning, Zoning, and Variance Commission Action. The conditional use permit application and staff report shall be presented to the Commission for its review and action. The applicant and/or applicant agent must be present at the public hearing to address any questions by the Commission or members of the public. The Commission may approve, conditionally approve or deny the conditional use permit based on the conditional use review criteria. A conditional use permit is revocable, and may be granted for a limited time period, and may be granted subject to conditions.

Step 10: Notice of Decision. After the conclusion of the hearing, the Commission shall render its decision in writing. The applicant shall be issued a copy of the written decision of the Commission as soon as practicable after the decision has been rendered. Unless such decision is appealed to the City Council in accordance with Code Section 14-113, the decision shall become final when the appeal period lapses.

Step 11: Post Approval Actions. All CUP conditions shall be memorialized in an agreement (“CUP Agreement”).

1. **Certificate of Occupancy**. Under no circumstance shall a Certificate of Occupancy be issued by the Building Official for any structures associated with the CUP until the CUP Agreement has been executed and recorded, and any prerequisite conditions have been met. Exception for multiple structures under one CUP: A Certificate of Occupancy may be issued for each structure within the CUP once all conditions specific to an individual structure have been met.
2. **Expiration of a Conditional Use Permit**. All CUP approvals shall remain in effect for a specified period of time with the following exceptions:
 - a. The conditional use is not operational pursuant to the CUP approval within two years.
 - b. A business license has not been issued for the use, or a building permit has not been issued for the project if one is required, within two (2) years from the date of conditional use approval, the conditional use approval shall expire.

- c. All conditions of approval have not been addressed within two (2) years from the date of conditional use approval. The CUP operator may request up to three (3) one year extensions
- d. Any conditional use discontinued for at least one year or replaced by another use of land shall immediately expire.

Transfer of a Conditional Use Permit. Before a conditional use can be transferred to a new owner, the new owner must execute a CUP Agreement in substantially the same form as the original CUP Agreement, as approved by the City. No business license shall be issued for a transferred CUP until a new CUP Agreement has been executed and recorded.

Conditional Use Permit Periodic Review Procedures. Each CUP shall be reviewed by the Planning Division on an annual basis to ensure compliance with any imposed conditions and this Code. Once a CUP has been successfully reviewed three (3) times without any failures in compliance with the associated conditions, the Director may waive the annual review and instead review the CUP every three (3) years. The Planning Division will issue notice to the CUP holder of the review application requirements.