

CHAPTER 24 - CONDITIONALLY PERMITTED USE PROCEDURES

24.1 PURPOSE AND INTENT

- A. Conditional uses are those uses which are generally compatible with the permitted land uses in a given zoning district, but which require individual review of their location, design and configuration and the imposition of conditions in order to ensure the appropriateness of the use at a particular location within a given zoning district.
- B. Only those uses that are enumerated as conditional uses in a particular zoning district, or those nonconforming uses which are damaged or destroyed, and which are permitted to be reestablished pursuant to Chapter 27, shall be authorized as conditional uses by the Town Council. A conditional use permit shall not be required for a use allowed as a permitted use in a given zoning district. No conditional use shall be established until a conditional use permit is issued in accordance with the provisions of this chapter. Site plan approval, pursuant to Chapter 25, is required for establishment of a conditional use.

24.2 CHANGES TO DISTRICT STANDARDS

- A. Whenever an applicant for a conditional use permit seeks to vary or waive any of the regulations or standards applicable within the zoning district, he shall clearly identify such variation or waiver on the site plan required by this chapter.
- B. In order to implement the purposes of this chapter, the Town Council may grant variations or waivers to zoning district standards that have been requested by an applicant and specifically identified in the application, only if it determines that the proposed use is appropriate for the site and that such variations or waivers are necessary to render the use compatible with adjoining land uses and consistent with the purpose of the district in which the use is proposed.
- C. Any attempt to vary or waive a zoning district standard that is not specifically identified in the application for the conditional use shall be void.

24.3 STATUS OF CONDITIONALLY PERMITTED USES

- A. The designation of a use in a zoning district as a conditional use does not constitute an authorization or assurance that such use will be approved.
- B. Approval of a conditionally permitted use shall be deemed to authorize only the particular use for which the permit is issued.
- C. No conditionally permitted use shall be enlarged, extended, increased in intensity or relocated unless an application is made for a new conditionally permitted use in accordance with the procedures set forth in this chapter.

- D. Development of the use shall not be carried out until the applicant has secured all the permits and approvals required by these zoning regulations, the Sunnyvale Code, or any permits required by regional, state and federal agencies.

24.4 APPLICATION FOR CONDITIONAL USE PERMIT

- A. An application for a conditional use permit may be submitted by the property owner or by the property owner's designated representative.
- B. The application shall be submitted to the Town Administrator. The application shall be accompanied by a site plan prepared in accordance with all the requirements of Chapter 25. If a zoning amendment is required or requested, such application shall accompany the application for a conditional use permit.
- C. If the proposed use requires a division of land, an application for a subdivision or other land division shall be submitted in conjunction with the application for a conditionally permitted use. Approval of the conditionally permitted use shall not become effective until final approval of the subdivision application; provided that if the land is to be divided in phases, the approval of the conditionally permitted use shall take effect upon final approval of the phase of the subdivision containing the property on which the conditional use is to be located.

24.5 COMMISSION'S RECOMMENDATIONS FOR CONDITIONALLY PERMITTED USES

The Planning and Zoning Commission, upon receiving the report of the Town Administrator, shall make its recommendation to the Town Council for approval, conditional approval or denial of the application for a conditionally permitted use. The Commission shall conduct a public hearing pursuant to Section 21.6. Published and personal notice pursuant to Section 21.5B shall be required.

24.5 STANDARDS

When considering applications for a conditionally permitted use, the Commission and Council shall evaluate the impact of the conditional use on and its compatibility with surrounding properties and neighborhoods to ensure the appropriateness of the use at a particular location. The commission shall specifically consider the extent to which:

- A. The proposed use at the specified location is consistent with the policies embodied in the adopted Comprehensive Plan;
- B. The proposed use is consistent with the general purpose and intent of the applicable zoning district regulations;
- C. The proposed use is compatible with and preserves the character and integrity of adjacent development and neighborhoods and includes improvements or modifications either on-site or within the public rights-of-way to mitigate development related adverse impacts, such as traffic, noise, odors, visual nuisances, drainage or other similar adverse effects to adjacent development and

neighborhoods. These improvements or modifications may include, but shall not be limited to the placement or orientation of buildings and entryway, parking areas, buffer yards, and the addition of landscaping, walls, or both, to ameliorate such impacts;

- D. The proposed use does not generate pedestrian and vehicular traffic which will be hazardous or conflict with the existing and anticipated traffic in the neighborhood;
- E. The proposed use incorporates roadway adjustments, traffic control devices or mechanisms, and access restrictions to control traffic flow or divert traffic as may be needed to reduce or eliminate development generated traffic on neighborhood streets;
- F. The proposed use incorporates features to minimize adverse effects, including visual impacts, of the proposed conditional use on adjacent properties;
- G. The proposed conditional use complies with all other requirements of these regulations applicable to the proposed conditional use and, in particular, the requirements of Chapters 19 and 20; and
- H. The proposed conditional use is not materially detrimental to the public health, safety, convenience and welfare, or results in material damage or prejudice to other property in the vicinity.

24.7 COUNCIL'S DECISION ON APPLICATIONS FOR A CONDITIONALLY PERMITTED USE AND APPEAL

Upon receipt of the Commission's recommendation, a Town Council shall conduct a public hearing on the application pursuant to Section 21.6, and provide notice in accordance with the provisions regarding any request for a zoning change. The Council may approve, conditionally approve or deny the application.