

ARTICLE 16.0 CONDITIONAL USES

Section 16.01 Purpose.

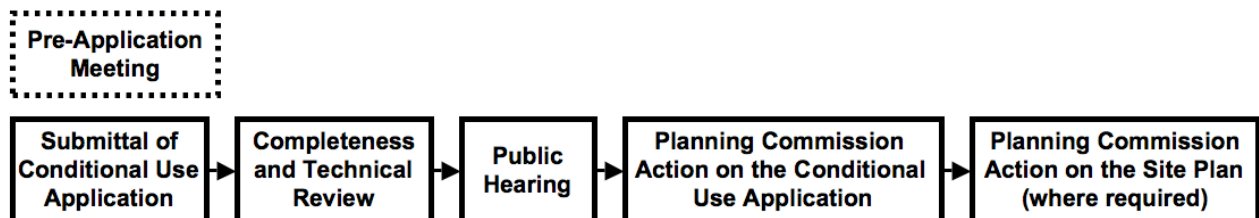
The purpose of this Article is to establish procedures and standards for review and approval of conditional uses that, because of their unique characteristics, require additional consideration in relation to the welfare of adjacent land, uses, residents, and the Township as a whole. This Article is intended to provide a consistent and uniform method for review of conditional use applications; ensure full compliance with the standards contained in this Ordinance; achieve efficient use of land; prevent adverse impacts on neighboring properties and districts; and facilitate development in accordance with the objectives of the Master Plan.

Section 16.02 Authority to Grant Permits.

The Planning Commission shall have the authority to grant conditional use permits and to attach conditions to a permit. Only those uses listed in Article 4.0 (Land Use Table) as conditional uses in the specific zoning district shall be considered for conditional use permit review and approval.

Section 16.03 Conditional Use Review Procedure.

All conditional use permit applications shall be submitted and reviewed as follows:



Conditional Use Approval Process

A. Pre-Application Meeting.

An applicant may request a pre-application meeting with the Zoning Administrator and/or Township Planner to discuss the proposal, submittal requirements, review procedures, and approval standards. Any required fee for the pre-application conference shall be paid to the Township at the time of the meeting.

B. Eligibility.

The application shall be submitted by the operator of the use or owner of an interest in the land or structure(s) for which conditional use permit approval is sought, or by the owner's designated agent. If the applicant is not the owner of the property, the applicant shall submit a notarized statement signed by the owner(s) consenting to the application for conditional use approval. Incomplete or inaccurate information shall constitute grounds for the Planning Commission to deny or postpone consideration of the application.

C. Required Fees and Escrow Deposits.

The Township Board shall establish, by resolution, fees and escrow deposits for review of conditional use permit applications. Required fees and escrow deposits shall be paid to the Township at the time of the filing of the application. No fee or escrow deposit shall be required for a conditional use permit application submitted by the Township.

D. Filing of Application.

A conditional use permit request shall be made by filing at least eight (8) paper copies and two (2) digital copies (in a format compatible with Township systems) of a complete and accurate application with the Township Clerk, along with the required review fee and escrow deposit. The application shall include the following information:

1. Name, address, telephone and facsimile numbers, and other contact information for the applicant and owners of record, along with proof of ownership.
2. The applicant's interest in the property, and if the applicant is not the property owner of record, a signed authorization of the owner(s) for the application.
3. Legal description, address, and tax parcel number of the property.
4. A scaled and accurate survey drawing, correlated with the legal description and showing all existing buildings, drives and other improvements.
5. A detailed description of the proposed use.
6. A site plan in compliance with Article 15.0 (Site Plan Review), where required.

E. Review Procedure.

Conditional use permit applications shall be reviewed in accordance with following:

1. **Technical review.** Prior to Planning Commission consideration, the application materials shall be distributed to designated Township officials and the Township Planner for review and comment. The Zoning Administrator or Planning Commission Chair may also request comments from other designated Township consultants, local agencies or departments with jurisdiction.
2. **Coordination with site plan review.** A site plan associated with a conditional use shall not be approved unless the conditional use permit has first been approved. The Planning Commission may, at its discretion, consider conditional use and site plan applications at the same meeting.
3. **Public hearing.** A public hearing shall be held for all conditional uses in accordance with Section 1.14 (Public Hearing Procedures).
4. **Planning Commission consideration.** Subsequent to the hearing, the Planning Commission shall review the application for conditional use permit approval, together with any reports and recommendations from Township officials, the Township Planner, other designated Township consultants, and any local agencies or departments with jurisdiction, along with any public comments. The Planning Commission shall then make a determination based on the

requirements of this Ordinance and the standards contained in Section 16.04 (Standards for Conditional Use Approval).

5. **Planning Commission action.** The Planning Commission is authorized to approve, approve subject to conditions, postpone action, or deny the conditional use as follows:
 - a. **Approval.** The conditional use shall be approved by the Planning Commission upon determination that it is in compliance with the provisions of this Ordinance, including Section 16.04 (Standards for Conditional Use Approval). Upon approval, the conditional use shall be deemed a conforming use permitted in the district in which it is proposed, subject to site plan approval and any conditions imposed on the use. Such approval shall affect only the lot or area thereof upon which the use is located.
 - b. **Approval subject to conditions.** The Planning Commission may approve a conditional use subject to reasonable conditions established in accordance with Section 16.05 (Conditions of Approval).
 - c. **Postponement.** Upon determination by the Planning Commission that a conditional use application is not sufficiently complete for approval or denial, failure of the applicant to attend the meeting, or upon request by the applicant, the Planning Commission may postpone consideration until a later meeting.
 - d. **Denial.** Upon determination that a conditional use application is not in compliance with the provisions of this Ordinance, including Section 16.04 (Standards for Conditional Use Approval), or would require extensive modifications to comply with said standards and regulations, the conditional use shall be denied. If a conditional use is denied, a written record shall be provided to the applicant listing the findings of fact and conclusions or reasons for such denial. Failure of the applicant to attend two (2) or more meetings shall be grounds for the Planning Commission to deny the conditional use permit.

F. Recording of Planning Commission Action.

Planning Commission action on the conditional use shall be recorded in the Planning Commission meeting minutes, stating the name, description, and location of the proposed use; address and tax identification number of the parcel; the findings of fact and conclusions or grounds for the Planning Commission's action, and any conditions of approval. The Secretary or Chair shall file one (1) copy of the written record with the Township Clerk for the permanent Township record, and shall forward one (1) copy to the applicant as evidence of the conditional use permit approval.

Section 16.04 Standards for Conditional Use Approval.

Approval of a conditional use shall be based upon the determination that the proposed use complies with all applicable requirements of this Ordinance, and all of the following standards as deemed applicable to the use by the Planning Commission:

1. Taking into consideration the size, location and character of the proposed land use, viewed within the context of surrounding land uses and land use planning for such area, the proposed use shall not be incompatible nor inharmonious, as determined by the application of generally accepted planning standards and principles, with:
 - a. Surrounding land uses;
 - b. Orderly development of the surrounding area and Township; and
 - c. Future land uses and development reasonably anticipated in the area.
2. The proposed use shall be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved, taking into consideration vehicular turning movements in relation to routes of traffic flow, proximity and relationship to intersections, adequacy of sight distances, location and access of off-street parking and provisions for pedestrian traffic, with particular attention to minimizing child-vehicle interfacing.
3. The proposed use shall not unreasonably impact upon surrounding property in terms of noise, dust, fumes, smoke, air, water, odor, light or vibration, and shall not unreasonably impact upon person perceiving the operation in terms of aesthetics. Where such concerns can be remedied by way of design, construction or use, the proposed use shall be designed, constructed, and used so as to eliminate the effects of the use which would otherwise substantiate denial thereof, taking into consideration the location, size, intensity, layout and periods of operation of such use.
4. The proposed use shall be such that the proposed location and height of buildings or structures and location, nature and height of walls, fences and landscaping will not interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value.
5. The proposed use shall relate harmoniously with the physical and economic aspects of adjacent land uses as regards prevailing shopping habits, convenience of access by prospective patrons, continuity of development, and need for particular services and facilities in specific areas of the Township.
6. The proposed use is so designed, located, planned and to be operated that the public health, safety and welfare will be protected.
7. The proposed use shall not cause substantial injury to the value of other property in the neighborhood in which it is to be located and will not be detrimental to existing or other permitted land uses in the zoning district or the present or intended character of the area.
8. The proposed use shall not result in an impairment, pollution or destruction of the air, water, natural resources or public trust therein.
9. The proposed use shall not unreasonably burden the capacity of public services or facilities.

10. The proposed use is consistent with the Township's Master Plan.
11. The proposed use will have adequate service by public services and facilities, and shall not unduly burden public sewers and facilities.

If the facts do not establish that the findings and standards of this Section and Ordinance will apply to the proposed use, the Planning Commission shall not grant a conditional use permit.

Section 16.05 Conditions of Approval.

In granting of any conditional use permit the Planning Commission shall impose such conditions, as it deems necessary to protect the public interest of the Township and the surrounding property, and to achieve the objectives of this Ordinance. The breach of any such condition of safeguard shall be considered a violation of this Ordinance.

Section 16.06 Compliance with Conditional Use Approval.

It shall be the responsibility of the property owner and operator of the use for which conditional use permit approval has been granted to develop, operate, and maintain the use, including the site, structures and all site elements, in accordance with the provisions of this Ordinance and all conditions of approval until the use is discontinued. Failure to comply with Ordinance requirements or conditions of approval shall be considered a violation of this Ordinance and may be punished in accordance with the provisions of Section 1.13 (Violations and Penalties); and shall constitute grounds for rescinding conditional use permit approval in accordance with Section 16.09 (Rescinding Conditional Use Approval).

The Zoning Administrator, Township Planner or other Township designee may make periodic investigations of developments for which a conditional use permit has been approved.

Section 16.07 Alteration and Expansion.

An approved conditional use permit, including all attached conditions, shall run with the parcel in the approval and shall remain unchanged except upon mutual consent of the Planning Commission and the landowner. Any alteration or expansion of an existing conditional use shall require approval of a conditional use permit in accordance with this Article.

Any use lawfully existing on the date of adoption of this Ordinance or an amendment thereof that is considered or permitted as a conditional use under this Ordinance or amendment may continue as a nonconforming use subject to Article 7.0 (Nonconformities) without approvals required in this Article. This nonconforming status shall be deemed removed upon approval of a conditional use permit in accordance with this Article.

Section 16.08 Re-Application.

No application for a conditional use permit which has been denied wholly or in part by the Planning Commission shall be resubmitted for a period of 365 calendar days from the date of such denial, except on grounds of new evidence or changed conditions as accepted by the Planning Commission to be valid. All re-applications shall be considered a new application and shall be reviewed in accordance with the provisions of this Article.

Section 16.09 Rescinding Conditional Use Approval.

Approval of a conditional use permit may be rescinded by the Planning Commission upon determination that the use has not been improved, constructed or maintained in compliance with this Ordinance, approved permits, site plans or conditions of site plan or conditional use permit approval; or is no longer relevant or necessary to allow the subject land use on the land (such as an extraction operation where mining has concluded and all land restoration work has been completed in accordance with approved plans). Such action shall be subject to the following:

1. **Public hearing.** Such action may be taken only after a public hearing has been held in accordance with the procedures set forth in Section 1.14 (Public Hearing Procedures), at which time the operator of the use or owner of an interest in the land or structure(s) for which conditional use permit approval was sought, or the owner's designated agent, shall be given an opportunity to present evidence in opposition to rescission.
2. **Determination.** Subsequent to the hearing, the decision of the Planning Commission with regard to the rescission shall be made and written notification provided to said owner, operator or designated agent.