



Weber County Planning Division

To: Ogden Valley and Western Weber Planning Commissions
From: Charles Ewert, AICP
Date: April 27, 2015
Subject: Weber County Land Use Code Revision Process: Conditional Use Code Revisions

Background. Following our last discussion regarding conditional uses, I have assembled a conditional use code that provides substantive standards applicable for conditional uses (see Exhibit A). It is based on standards found in conditional use codes throughout Utah.

It is imperative that the Planning Commission reviews the proposal with the understanding that conditional uses are allowed, provided they comply with applicable standards. There can be a lot of subjectivity in a conditional use permit determination. Stick to the facts, and be objective. Try not to be tempted to deny a permit because it does not comply with your interpretation of what is “attractive” or “incompatible with adjacent uses.” Try not to use standards to require the overdesign of a proposal so much that it is cost prohibitive. Instead, find reasonable ways to help the proposal fit in better.

The County’s design review standards (and architectural standards) should be enough to compel a developer to provide the County with a project that comes very close to approval-ready. All too often a Planning Commission may feel they are tasked with providing the community with projects that are designed with the community benefit in mind. This is not the case. The private property owner gets to design the project. The Planning Commission’s role is to verify that the community detriment of a project, if any, is made less severe. Remember that the word “mitigate” means “to cause to become less harsh or hostile” or “to make less severe or painful.”^a

Analysis. The following is a general review of the design of the ordinance and the reasons for it. I tried to keep the proposal in general compliance with the previous ordinance’s composition. There are several changes I inserted to help the ordinance flow, and to make some sections better compliment the new additions.

Application and review (§108-4-3). I strengthened the application requirements (§108-4-3(1)) to call for more detail about the proposal. This will hopefully provide the reviewers with a better understanding of the proposed use, which, in turn, will provide the Planning Commission with more reliable information.

I also provided more detail in the application submittal and review (§108-4-3(2)). The added detail is not materially different than the current process; it is merely a means of providing the applicant with notice of the process that is due.

Take note of §108-4-3(2)(b.5-6). As is typical, staff will provide the Planning Commission with a recommendation of conditions of approval. Staff should base the recommendation on specific standards (and provide appropriate citations), and provide specific findings. This will give the Planning Commission a basic template for their decision – provided the Planning Commission can find that staff appropriately vetted the application.

Standards (§108-4-5). In crafting the standards, I generally kept to standards that have measurable outcomes. Even though the actual outcomes for a specific CUP will not be known until well after its approval, the point is that review agencies can use the standards to review the project through the lense of best management practices and emerging trends – and predict the detrimental effects of the proposal given the outcomes of similar uses and similar situations.

^a Definition from Merriam-Webster



Weber County Planning Division

This helps the Planning Commission in two ways. First, it will provide for you the reasonably *anticipated* detrimental effects of the proposal. Remember, state code requires that only the reasonably anticipated detrimental effects can be considered. This is explicitly written to remind Planning Commissions to not get caught in the trap of conditions based on speculation, but rather to base all decisions on objective facts. Second, it provides you with your professional's opinions about what standards should be applied (with specific recommendations for conditions), and by inference, which standards are irrelevant. You will want to exercise caution when applying standards or adding conditions that your professionals have not recommended. If they have evaluated the project completely there is a reason they have not included the standard in their review and recommendation (however, don't be afraid to ask staff for an explanation).

It is important for the Planning Commission to note that not all of the listed standards will be applicable to all conditional uses. When considering enforceability, remember that only those standards that the Planning Commission applies to a CUP via relevant conditions of approval are enforceable. The record you make when deliberating is important for this, but not so much as the motion that is made. Your motions should have all relevant conditions, and all relevant findings for those conditions. Staff recommendation will aid in this as well.

Because the property owner, not the Planning Commission, is the project designer, when subjectivity exists in a standard the Planning Commission should error that subjectivity in favor of the will of the property owner. In most cases, if the Planning Commission can honestly determine that from the perspective of the property owner the proposal meets applicable standards, then the project should probably be approved with routine or limited conditions. Things are not always this clean cut, but it is a good platform from which to base your CUP considerations. When in doubt, confer with staff.

Code drafting, generally. The proposal still has some drafting and legal work before being adoption ready. However, the substance will not likely change.

Public comment. It is important that CUP decisions are supported by evidence. As has already been stressed to the Planning Commission, public clamor is not usually evidence. Use of the proposed standards should not be for the sake of satisfying public clamor. That will lead to biased decisions.

Staff would like to discuss with the Planning Commission a different method of taking public comment that may make meetings flow better, and cut down on clamor affecting the Planning Commission's decision. The different method involves setting a "public comment period" wherein the County will take written comments for some pre-determined timeframe prior to the meeting, but allow no comment during the meeting.

This will afford staff sufficient time to review the comments for evidence related to an applicable standard, and prepare a modified recommendation should any of them merit as much. It will help the meeting progress more efficiently because it will allow the Planning Commission to review the comments prior to the meeting, and be prepared for discussion on any of them that are relevant and credible.

This idea is not presented in the proposed draft, and is only for discussion at this time.

Planning Commission Consideration. I respectfully request that the Planning Commission carefully consider the proposal, and provide me general direction as to needed changes prior to it being formally presented for review and recommendation to the County Commission.

Attachments. In the attached exhibits the planning Commission will find the documents as listed below. They are being provided for the Planning Commission's reference, and may prove useful during our discussion.

- Exhibit A: (Proposed) Conditional Use Code with Track Changes
- Exhibit B: (Proposed) Conditional Use Code without Track Changes
- Exhibit C: Weber County Land Use Code Revision Process Workflow

Exhibit A: Proposed Conditional Use Code Amendments -- with Track Changes

1 CHAPTER 4. - CONDITIONAL USES

2 Sec. 108-4-1. - Purpose and intent.

3 Sec. 108-4-2. - Conditional use permit.

4 Sec. 108-4-3. - ~~Application and Review~~ procedure.

5 Sec. 108-4-4. - Decision requirements.

6 Sec. 108-4-~~5~~4. - ~~Criteria Conditional use standards for issuance of conditional use permit.~~

7 Sec. 108-4-~~6~~5. - Appeal ~~and revocation~~.

8 Sec. 108-4-~~7~~6. - Permit and improvement guarantee.

9 Sec. 108-4-~~8~~7. - ~~Revocation and Expiration~~.

10 Sec. 108-4-~~9~~8. - Discontinued use.

11 **Sec. 108-4-1. - Purpose and intent.**

12 (a) The purposes of this Chapter are to:

13 (1) Provide for the intent of the respective zones, and to provide for the vision, goals,
14 and objectives of the respective general plans, by specifying general standards that
15 may be applied by the Land Use Authority to a use listed as a conditional use in this
16 Land Use Code.

17 (2) Provide a reasonable process for the application for and timely review of a
18 conditional use permit.

19 (b) The intent of providing conditional use regulations is to provide allowance for additional
20 uses in each zone and give the land use authority flexibility in applying reasonable
21 conditions to effectively manage unique characteristics or detrimental effects of them, on
22 a case by case basis. Conditions shall be related to the standards of this Chapter, or
23 relevant requirements of any other Chapter of this Land Use Code.

24 ~~(a) The purpose of this chapter is to establish standards for land uses listed in each zone as~~
25 ~~a conditional use, and to provide for a reasonable application, review, and approval~~
26 ~~process for land uses that are specified as "conditional."~~

27 ~~(b) Conditional uses are intended to allow greater flexibility by providing a wider variety of~~
28 ~~uses in a zone, while at the same time allowing conditions to be applied, due to their~~
29 ~~unique characteristics or potential impacts on surrounding uses. These may be~~
30 ~~appropriate only in certain locations and/or under specific conditions that mitigate~~
31 ~~potential impacts. If impacts cannot be mitigated, the conditional use may be deemed~~
32 ~~incompatible in some areas.~~

Comment [c1]: Future change: reference the new land use table here.

33 **Sec. 108-4-2. - Conditional use permit.**

34 (a) A conditional use permit shall be required for all uses listed as a conditional use in the
35 Weber County Land Use Code. The conditional use permit shall list all conditions and
36 requirements, based on applicable standards, determined appropriate to substantially
37 mitigate the ~~impacts detrimental effects~~ created by the use in order to make it acceptable
38 at the specific location.

39 (b) In the event a change is proposed from the conditions of the original approval, an
40 amendment to the original conditional use permit shall be required.

41 ~~(b)(c)~~ (c) A conditional use permit shall run with the property, unless the permit has expired, ~~or~~
42 ~~has~~ been revoked, or been abandoned.

43 **Sec. 108-4-3. ~~r~~ Application and Review procedure.**

44 Applications for a conditional use permit shall be submitted to the planning division.

45 (1) An application shall include:

- 46 a. A completed application form signed by the property owner or certified agent.
- 47 b. An application fee. The payment of a partial application fee, or the submittal of
- 48 plans for a pre-submittal review, does not constitute a complete application.

49 c. A written narrative explaining the proposal. The narrative shall include, at a
50 minimum, the following information:

- 51 1. Name of the project.
- 52 2. The name, home, and if applicable, business address, of the applicant.
- 53 3. As applicable, the name and business address of the project designer or
54 engineer.
- 55 ~~4.4.~~ A written explanation of ~~addressing the criteria of issuance~~ how the
56 proposal complies with the applicable standards of ~~S~~section 108-4-4, and
57 those applicable standards of Section 108-1 and Section 108-2.

58 d. Detailed ~~location~~ vicinity map. The map shall include, at a minimum, the
59 following information:

- 60 1. Name of the project.
- 61 2. North arrow.
- 62 3. All significant natural and manmade features and existing structures within
63 200 feet of any portion of the proposed project area.
- 64 4. The property boundaries of the proposal.
- 65 ~~2.5.~~ The names and site addresses of adjacent property owners.

66 e. Graphic representation of the proposal. The graphic representation shall be
67 designed to provide, at a minimum, the following information:

- 68 1. Name of the project.
- 69 2. The name, home, and if applicable, business address, of the applicant.

- 70 3. As applicable, the name and business address of the project designer or
71 engineer.
- 72 4. Drawn to a scale that makes the project easily and clearly legible.
- 73 5. A north arrow pointing to the left or top of the sheet.
- 74 6. Boundary of the site, including any building pad, public and private
75 easements, and other areas affected by the proposal.
- 76 7. The names and site addresses of adjacent property owners.
- 77 8. Existing zoning
- 78 9. Total acreage of the entire affected property and, if the property is split by
79 zoning, the total acreage of property in each zone.
- 80 10. The location and width of existing and proposed roads, driveways, and
81 parking areas, as may be applicable.
- 82 11. The location of existing and proposed manmade features, including
83 bridges, railroad tracks, structures, and fences.
- 84 12. Existing and, if applicable, proposed culinary water, irrigation water, and
85 sanitary sewer infrastructure.
- 86 13. Existing and proposed topographic contours, including, if applicable, any
87 details necessary to explain proposed grade changes, fills or excavations,
88 or any other earth work, together with accompanied drainage plans, storm
89 water pollution protection plans, and revegetation plans.
- 90 14. Location and type of existing landscaping and vegetation, and proposed
91 changes thereto if any. If applicable, location and type of new landscaping
92 and vegetation.
- 93 15. Location of Flood Plain boundaries, if applicable.
- 94 ~~3-16. Any other proposed site improvements showing details and other~~
95 ~~applicable design and architectural requirements specified in Section 108-~~
96 ~~1 and Section 108-2. Detailed building plans and site plans specifications~~
97 ~~shall be drawn to scale including electronic copies showing details and~~
98 ~~other applicable zoning requirements as which are outlined in chapter 4 of~~
99 ~~this title, Design review, and chapter 2 of this title, Ogden Valley~~
100 ~~Architectural, Landscape and Screening Standards.~~
- 101 ~~e. Accompanying documents including water and wastewater feasibility letters.~~
- 102 ~~d.f. Any additional pertinent information needed to adequately describe the~~
103 ~~proposal.~~
- 104 g. A requirement that the applicant submit ~~A~~ applicable impact studies or other
105 technical studies ~~regarding grading, drainage, traffic, geologic hazards,~~
106 ~~etc.~~ that may be necessary to provide evidence of anticipated detrimental
107 effects of the proposal, or evidence of compliance with the applicable
108 standards.

109 e.h. Any additional pertinent information needed to adequately describe the
 110 proposal, or provide evidence of compliance with the applicable standards.

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 112 f.i. For those applications where no changes are proposed to an existing site or
 113 structure, or where the application requirements are unnecessary to
 114 demonstrate compliance with applicable ordinances and standards, the
 115 application requirements may be modified by the ~~planning director~~Zoning
 116 Administrator.

117 (2) Application submittal and review.

- 118 a. ~~The application review procedure for proposed conditional uses~~The County's
 119 review of a conditional use permit application and the site plan will ensure
 120 intended to verify compliance with ~~all~~ applicable ordinances and provide
 121 appropriate and reasonable mitigation of anticipated detrimental effects.
- 122 b. The application review procedure ~~shall contain the following components~~is as
 123 follows:
- 124 1. Pre-application meeting. Prior to submission of a complete application, a
 125 pre-application meeting is required to be held with planning staff, in which
 126 an applicant will provide preliminary ~~site plans are reviewed and for~~
 127 planning staff to review and discussed discuss with the applicant. This
 128 meeting is intended to provide the applicant with a better understanding of
 129 the conditional use process and requirements in order to assist with the
 130 submission of a complete application, prior to finished plans being
 131 submitted for review;
 - 132 2. Complete application submission. Upon assembling a complete
 133 application, the applicant may submit it for substantive review. Incomplete
 134 applications shall not be accepted. Staff will review the application for
 135 completeness. In the event the application is incomplete, staff will return it
 136 to the applicant with a list of deficiencies. A review of the application for
 137 completeness;
 - 138 3. ~~Referral of the application to all referral agencies;~~Upon acceptance of an
 139 application, planning staff shall transmit it to applicable reviewers as may
 140 be determined necessary to verify compliance with the standards of this
 141 Chapter, or relevant requirements of any other Chapter of this Land Use
 142 Code.
 - 143 4. Applicable reviewers shall forward to planning staff reasonable
 144 recommendations for conditions necessary to substantially mitigate the
 145 reasonably anticipated detrimental effects of the proposed use in
 146 accordance with applicable standards.
 - 147 5. Planning staff shall review the application, together with the reasonable
 148 recommendations from applicable reviewers, to determine compliance
 149 with this Land Use Code. Planning staff shall assemble a staff

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recommendation, with conditions and findings, for the application, then forward the recommendation with the application to the Land Use Authority for a final decision.

6. Upon receipt of the application and staff recommendation the Land Use Authority shall make final decision on whether the application complies with this Land Use Code, in accordance with the requirements of Section 108-4-4. Final decisions shall be accompanied by any applicable conditions, and relevant findings.

~~3.7. The Planning Commission is the Land Use Authority for conditional use permits.~~

~~4. A review of the proposed site plan for compliance with applicable sections of the Land Use Code;~~

~~5. A review of the proposed use and site plan to ascertain potential negative impacts and whether reasonable conditions can be imposed to mitigate those impacts.~~

Sec. 108-4-4. – Decision requirements.

(a) A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to substantially mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with the standards of this Chapter, or relevant standards or requirements of any other Chapter of this Land Use Code. When considering any of the standards, the Land Use Authority shall consider the reasonably anticipated detrimental effects of the proposed use in the context of current conditions and, to the extent supported by law, the policy recommendations of the applicable general plan.

(b) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.

Sec. 108-4-54. - Criteria Conditional use standards for issuance of conditional use permit.

The following is a list of standards that may be applied to a conditional use permit. The Land Use Authority may apply any relevant standard to a conditional use provided credible evidence exists that such standard is reasonable and necessary to mitigate detrimental effects of the use.

(1) Standards relating to safety for persons and property.

a. Mitigate injury, loss of life, property damage, or other disproportionate demand for services on applicable fire fighting agencies.

Comment [c2]: This is a placeholder until the Land Use Authority matrix is completed and the land use table is completed. It may change after that.

Comment [c3]: Definition of "mitigate";
1: to cause to become less harsh or hostile : mollify <aggressiveness may be *mitigated* or ... channeled — Ashley Montagu>
2a : to make less severe or painful : alleviate
b : extenuate

Comment [c4]: From State Code. UCA §17-27a-506.
In essence: find a way to enable the use, but mitigate the negative effects. Use standards to help mitigate the effects.

Comment [c5]: Straight from State Code. UCA §17-27a-506.

Comment [c6]: Examples of conditions for mitigation may include any reasonable method of fire hazard avoidance or fire fighting, including, but not limited to: coordination and cooperation with the local fire authorities, site design and layout; building, structure, or other facility design and layout; defensible space; ingress and egress; emergency evacuation; fire fighting facilities; fire flow capacity; fire apparatus access; fire fighting staging; and other related fire hazards mitigation as authorize by local, state, and federal laws.

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- b. Mitigate injury, loss of life, or other disproportionate demand for services on applicable emergency medical service agencies.
 - c. Mitigate injury, loss of life, property damage, criminal activity, the need for added peace keeping activities, or other disproportionate demand for services on the County Sheriff's Office.
 - d. Mitigate injury, loss of life, or property damage of any known geologic hazard or flood hazard, if credible evidence of such a detrimental effect is present.
 - e. Mitigate the creation of traffic hazards and right-of-way conflicts, including mitigation of traffic hazards caused by:
 1. the location, massing, size, or height of buildings, structures, and other facilities, including signage, fencing and landscaping;
 2. the frequency of heavy truck traffic to and from the site (i.e. import and export of materials, deliveries, etc.) to minimize right-of-way conflicts with regular vehicle and pedestrian traffic.
 - f. Substantially mitigate the likelihood that the proposed use or facility may cause bodily injury or property damage to potential persons or property in the area.
- (2) Standards relating to infrastructure, amenities, and services.
- a. Mitigate undesirable vehicle or pedestrian traffic patterns or volumes.
 - b. Mitigate internal circulation inefficiencies and provide for adequate onsite parking given the unique specificities of the proposed use or the proposed site plan.
 - c. Mitigate material degradation of the level of service of any street.
 - d. Mitigate material degradation of the level of service of any storm water drainage facility or infrastructure, and adequately provide for storm water drainage from the site.
 - e. Mitigate material degradation of the level of service of any culinary and irrigation water facility or infrastructure, and, if applicable, adequately provide culinary and irrigation water service to the site.
 - f. Mitigate material degradation of the level of service of any sanitary sewer service, and, if applicable, adequately provide sanitary sewer service to the site.
 - g. Mitigate material degradation of the level of service of any other utility, and, if applicable, adequately provide such utility services to the site.
 - h. Mitigate material degradation of the level of service, functionality, capacity, or usability of the existing open spaces, public features, or recreational amenities in the area, and, if applicable, adequately provide additional open spaces, public features, or recreational amenities.
 - i. Mitigate any disproportionate demand for government services, generally.
- (3) Standards relating to the environment.

Comment [c7]: Examples of conditions for mitigation may include coordination and cooperation with the fire and EMS agencies, and compensation for the need for additional fire and EMS presence beyond typical service levels.

Comment [c8]: Examples of conditions for mitigation may include coordination and cooperation with the Sheriff's Office, and compensation for the need for additional Sheriff's Deputy presence beyond typical service levels.

Comment [c9]: Examples of conditions for mitigation may include appropriate design, construction, and location of structures, buildings and facilities.

Comment [c10]: Credible evidence needs to be more than a statement from a concerned neighbor. It should come from a source with sufficient knowledge of the facts. As with most things, credibility has a range. Use caution

Comment [11]: This standard is intended to be the "umbrella" standard to catch what the others do not. Much more difficult to track the outcomes, and the resulting conditions are going to be more difficult to defend without really good findings, but it may be useful when a proposal is presented that other standards do not catch.

Comment [c12]: Examples of conditions for mitigation: this may include provision for, relocation of, or protection of infrastructure or amenities. Mitigation may take into consideration the existing and, if applicable, proposed configuration and size of streets, driveways, driveway and parking lot approaches, parking lots and/or parking spaces, and pedestrian pathways. Mitigation may also consider peak traffic demands, and other applicable infrastructure constraints.

Comment [c13]: Examples of conditions for mitigation may include the provision for infrastructure or amenities for the reduction of vehicle and pedestrian conflicts; the provision of sufficient space for loading and unloading; the provision of sufficient space and access to waste collection facilities; and the provision for additional parking lot standards beyond those required in Section 108-8, including, but not limited to, number of parking spaces, parking space dimensions, parking lot isle dimensions, parking lot isle and driveway connections and configuration, and cross access easements or agreements for adjacent properties.

- 222 a. Mitigate detrimental effects on the natural features of the site, and the
- 223 surrounding affected areas, if credible evidence of such a detrimental effect is
- 224 present; including, but not limited to, rivers and creeks, lakes, ponds, and
- 225 reservoirs, wetlands, drainage ways, ground water protection, and slopes.
- 226 b. Mitigate detrimental effects on the natural environment of the site, and the
- 227 surrounding affected areas, if credible evidence of such a detrimental effect is
- 228 present; including, but not limited to, wildlife, air quality, water quality (including
- 229 erosion control), local natural resources, natural vegetation (including
- 230 protection against noxious or invasive species), and wildland areas.
- 231 (4) Standards relating to the current qualities and characteristics of the surrounding area
- 232 and compliance with the Intent of the general plan.
- 233 a. Mitigate the proximity of incompatible uses, unattractive site features, and
- 234 disharmony with existing and future land uses in the area by providing
- 235 buffering, screening, or fencing of the use or site, as may be applicable.
- 236 b. Mitigate unacceptable light emission from the site by requiring appropriate
- 237 controls for the duration, direction, shielding, and intensity of lighting such that
- 238 limited, if any, direct light leaves the site and reflected light is at generally
- 239 accepted dark sky standards.
- 240 c. Mitigate nuisance factors including, but not limited to, noise, vibrations, smoke,
- 241 dust, dirt, odors, gases, noxious matter, heat, glare, electromagnetic
- 242 disturbances, and radiation, if credible evidence of such a nuisance is present.
- 243 d. Mitigate unattractive or unsightly property with vegetation and other landscape
- 244 features which are designed to increase the attractiveness of the site.
- 245 e. Mitigate unattractive or incompatible design of buildings and site
- 246 improvements, including the mass, size, number, location, and exterior
- 247 features and materials of buildings, structures, and other facilities, including
- 248 signage, in a manner that generally resembles or complements development in
- 249 the surrounding area, and advances the design goals and objectives, if any, of
- 250 the general plan or applicable master plan.
- 251 f. Mitigate unattractive colors of buildings and site improvements, including
- 252 signage, in a manner that uses natural colors found in the surrounding area,
- 253 and advances the design goals and objectives, if any, of the general plan or
- 254 applicable master plan.
- 255 g. Mitigate conflict or incompatibility with surrounding uses by providing hours of
- 256 operation appropriate for the general nature and character of existing land
- 257 uses in the area.
- 258 h. Mitigate aesthetic impacts by requiring reclamation, restoration, clean-up, and
- 259 beautification of the site as the use evolves, or as the use is terminated.
- 260 i. Mitigate detrimental effects of the use when considering the combined effect of
- 261 it and other main uses on the property.

Comment [c14]: Rather than denying an application because "it doesn't fit," help it fit by requiring these types of site features.

Comment [c15]: There can be a lot of subjectivity in this determination. Stick to the facts. Try not to be tempted to deny a permit because it does not comply with your interpretation of this. Try not to use this to overdesign the proposal so much that it is cost prohibitive. Instead, find reasonable ways to help the proposal fit in better. Look to existing design features in the area. Look to the design review standards for help. Strengthen the design review standards if necessary.

262 j. To the extent supported by law, mitigate other general detrimental effects in a
263 manner that sustains the objectives and intentions of the County's general
264 plan, future land use map (or proposed land use map) and this Land Use
265 Code.

266 (5) Standards Relating to Performance.

267 a. Mitigate potential noncompliance or poor performance by providing
268 appropriate performance measures, including, but not limited to, completion or
269 performance bonds, completion agreements, and development agreements.

270 b. Mitigate potential noncompliance or poor performance by requiring regular
271 review or monitoring of the use by an appropriately qualified professional.

272 (6) Standards Generally

273 a. Mitigate unsustainable effects on the economy of the surrounding area or
274 County, generally, if credible evidence of such negative effects is present.

275 b. Provide appropriate mitigation of detrimental effects as provided elsewhere in
276 this land use code in a manner that provides compliance with the provisions of
277 the land use code, and any other federal, state, or local regulation, as may be
278 applicable.

279 ~~(4)~~(7) Voluntary contributions providing satisfactory compliance with applicable
280 standards. When considering a conditional use the Land Use Authority has
281 discretion to determine satisfactory compliance with any applicable standard,
282 requirement, provision, or restriction of this Chapter if the applicant has voluntarily
283 offered a more desirable alternative to mitigate the reasonably anticipated
284 detrimental effects of the use than those otherwise specified here. The Land Use
285 Authority may require a development agreement to execute the voluntary alternative.

286 ~~Conditional uses shall be approved on a case-by-case basis. The planning commission shall not~~
287 ~~authorize a conditional use permit unless evidence is presented to establish:~~

288 ~~(1) Reasonably anticipated detrimental effects of a proposed conditional use can be~~
289 ~~substantially mitigated by the proposal or by the imposition of reasonable~~
290 ~~conditions to achieve compliance with applicable standards. Examples of~~
291 ~~potential negative impacts are odor, vibration, light, dust, smoke, or noise.~~

292 ~~(2) That the proposed use will comply with the regulations and conditions specified~~
293 ~~in the Land Use Code and other applicable agency standards for such use.~~

294 **Sec. 108-4-65. - Appeal and revocation.**

295 (a) The decision of the ~~planning commission~~Land Use Authority may be appealed to the
296 ~~county commission~~Appeal Authority, in accordance with section 102-3 of this land use
297 code, by filing such appeal within 15 days after the written decision of the ~~planning~~
298 ~~commission~~Land Use Authority.

299 (b) The ~~county commission~~Appeal Authority may uphold or reverse the decision of the
300 ~~planning commission~~Land Use Authority and impose any additional conditions that it may
301 deem necessary in granting an appeal. ~~The decision of the county commission shall be~~
302 ~~final.~~

303 ~~(b)~~(c) The Board of Adjustment is the Appeal Authority for conditional use permits.

304 ~~(c) A conditional use permit may be revoked by the planning commission upon failure to~~
305 ~~comply with the conditional use permit.~~

Comment [c16]: This is a placeholder until the Appeal Authority section has been re-written. It may change after that.

306 **Sec. 108-4-~~76~~.** - Permit and improvement guarantee.

307 (a) Prior to the issuance of a conditional use permit the applicant shall submit the
308 appropriate required letters and/or permits from the appropriate review agencies.

309 (b) Prior to the issuance of certificate of occupancy permit, a business license or any other
310 permit required by the county, the developer shall deposit funds into an escrow account
311 with the county engineering division for all off-site improvements and on-site landscaping,
312 as may be allowed by law, as per the approved site plan, and for the completion of any
313 ~~in un~~completed improvements or conditions of approval.

314 **Sec. 108-4-~~87~~.** - Revocation and ~~E~~expiration.

315 (a) A conditional use permit may be revoked by the Land Use Authority upon failure to
316 comply with any applicable standard, requirement, provision, restriction, or condition of
317 approval. A conditional use permit may also be revoked by the Land Use Authority if the
318 use evolves to be more impactful than originally proposed, anticipated, evaluated or
319 reviewed.

320 (b) Unless there is substantial action under a conditional use permit within a maximum
321 period of one year of its approval from the ~~planning commission~~Land Use Authority, the
322 conditional use permit shall expire. The ~~planning commission~~Land Use Authority may
323 grant a maximum extension of six months. Upon expiration of any extension of time
324 granted by the ~~planning commission~~Land Use Authority, the approval for the conditional
325 use permit shall expire and become null and void.

327 **Sec. 108-4-~~98~~.** - Discontinued use.

328 When an approved conditional use has been discontinued and/or abandoned for a period of one
329 year, the conditional use permit becomes null and void. In order to restore the conditional use, a
330 new application shall be filed for review and consideration by the ~~planning commission~~Land Use
331 Authority.

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Exhibit B: Proposed Conditional Use Code Amendments -- with Track Changes

1 CHAPTER 4. - CONDITIONAL USES

- 2 Sec. 108-4-1. - Purpose and intent.
- 3 Sec. 108-4-2. - Conditional use permit.
- 4 Sec. 108-4-3. – Application and review procedure.
- 5 Sec. 108-4-4. – Decision requirements.
- 6 Sec. 108-4-5. - Conditional use standards.
- 7 Sec. 108-4-6. - Appeal.
- 8 Sec. 108-4-7. - Permit and improvement guarantee.
- 9 Sec. 108-4-8. – Revocation and expiration.
- 10 Sec. 108-4-9. - Discontinued use.

11 **Sec. 108-4-1. - Purpose and intent.**

- 12 (a) The purposes of this Chapter are to:
 - 13 (1) Provide for the intent of the respective zones, and to provide for the vision, goals,
 - 14 and objectives of the respective general plans, by specifying general standards that
 - 15 may be applied by the Land Use Authority to a use listed as a conditional use in this
 - 16 Land Use Code.
 - 17 (2) Provide a reasonable process for the application for and timely review of a
 - 18 conditional use permit.
- 19 (b) The intent of providing conditional use regulations is to provide allowance for additional
- 20 uses in each zone and give the land use authority flexibility in applying reasonable
- 21 conditions to effectively manage unique characteristics or detrimental effects of them, on
- 22 a case by case basis. Conditions shall be related to the standards of this Chapter, or
- 23 relevant requirements of any other Chapter of this Land Use Code.

24 **Sec. 108-4-2. - Conditional use permit.**

- 25 (a) A conditional use permit shall be required for all uses listed as a conditional use in the
- 26 Weber County Land Use Code. The conditional use permit shall list all conditions and
- 27 requirements, based on applicable standards, determined appropriate to substantially
- 28 mitigate the detrimental effects created by the use in order to make it acceptable at the
- 29 specific location.
- 30 (b) In the event a change is proposed from the conditions of the original approval, an
- 31 amendment to the original conditional use permit shall be required.

32 (c) A conditional use permit shall run with the property, unless the permit has expired, been
33 revoked, or been abandoned.

34 **Sec. 108-4-3. – Application and review procedure.**

35 Applications for a conditional use permit shall be submitted to the planning division.

36 (1) An application shall include:

- 37 a. A completed application form signed by the property owner or certified agent.
- 38 b. An application fee. The payment of a partial application fee, or the submittal of
39 plans for a pre-submittal review, does not constitute a complete application.
- 40 c. A written narrative explaining the proposal. The narrative shall include, at a
41 minimum, the following information:
- 42 1. Name of the project.
- 43 2. The name, home, and if applicable, business address, of the applicant.
- 44 3. As applicable, the name and business address of the project designer or
45 engineer.
- 46 4. A written explanation of how the proposal complies with the applicable
47 standards of [Section 108-4-4](#), and those applicable standards of Section
48 108-1 and Section 108-2.
- 49 d. Detailed vicinity map. The map shall include, at a minimum, the following
50 information:
- 51 1. Name of the project.
- 52 2. North arrow.
- 53 3. All significant natural and manmade features and existing structures within
54 200 feet of any portion of the proposed project area.
- 55 4. The property boundaries of the proposal.
- 56 5. The names and site addresses of adjacent property owners.
- 57 e. Graphic representation of the proposal. The graphic representation shall be
58 designed to provide, at a minimum, the following information:
- 59 1. Name of the project.
- 60 2. The name, home, and if applicable, business address, of the applicant.
- 61 3. As applicable, the name and business address of the project designer or
62 engineer.
- 63 4. Drawn to a scale that makes the project easily and clearly legible.
- 64 5. A north arrow pointing to the left or top of the sheet.
- 65 6. Boundary of the site, including any building pad, public and private
66 easements, and other areas affected by the proposal.
- 67 7. The names and site addresses of adjacent property owners.

- 68 8. Existing zoning
- 69 9. Total acreage of the entire affected property and, if the property is split by
- 70 zoning, the total acreage of property in each zone.
- 71 10. The location and width of existing and proposed roads, driveways, and
- 72 parking areas, as may be applicable.
- 73 11. The location of existing and proposed manmade features, including
- 74 bridges, railroad tracks, structures, and fences.
- 75 12. Existing and, if applicable, proposed culinary water, irrigation water, and
- 76 sanitary sewer infrastructure.
- 77 13. Existing and proposed topographic contours, including, if applicable, any
- 78 details necessary to explain proposed grade changes, fills or excavations,
- 79 or any other earth work, together with accompanied drainage plans, storm
- 80 water pollution protection plans, and revegetation plans.
- 81 14. Location and type of existing landscaping and vegetation, and proposed
- 82 changes thereto if any. If applicable, location and type of new landscaping
- 83 and vegetation.
- 84 15. Location of Flood Plain boundaries, if applicable.
- 85 16. Any other proposed site improvements showing details and other
- 86 applicable design and architectural requirements specified in Section 108-
- 87 1 and Section 108-2.

- 88 f.
- 89 g. Applicable impact studies or other technical studies that may be necessary to
- 90 provide evidence of anticipated detrimental effects of the proposal, or evidence
- 91 of compliance with the applicable standards.
- 92 h. Any additional pertinent information needed to adequately describe the
- 93 proposal, or provide evidence of compliance with the applicable standards.
- 94 i. For those applications where no changes are proposed to an existing site or
- 95 structure, or where the application requirements are unnecessary to
- 96 demonstrate compliance with applicable ordinances and standards, the
- 97 application requirements may be modified by the Zoning Administrator.

98 (2) Application submittal and review.

- 99 a. The County's review of a conditional use permit application is intended to
- 100 verify compliance with applicable ordinances and provide appropriate and
- 101 reasonable mitigation of anticipated detrimental effects.
- 102 b. The application review procedure is as follows:
 - 103 1. Pre-application meeting. Prior to submission of a complete application, a
 - 104 pre-application meeting is required to be held with planning staff, in which
 - 105 an applicant will provide preliminary plans for planning staff to review and
 - 106 discuss with the applicant. This meeting is intended to provide the
 - 107 applicant with a better understanding of the conditional use process and

- 108 requirements in order to assist with the submission of a complete
 109 application.
- 110 2. Complete application submission. Upon assembling a complete
 111 application, the applicant may submit it for substantive review. Incomplete
 112 applications shall not be accepted. Staff will review the application for
 113 completeness. In the event the application is incomplete, staff will return it
 114 to the applicant with a list of deficiencies.
- 115 3. Upon acceptance of an application, planning staff shall transmit it to
 116 applicable reviewers as may be determined necessary to verify
 117 compliance with the standards of this Chapter, or relevant requirements of
 118 any other Chapter of this Land Use Code.
- 119 4. Applicable reviewers shall forward to planning staff reasonable
 120 recommendations for conditions necessary to substantially mitigate the
 121 reasonably anticipated detrimental effects of the proposed use in
 122 accordance with applicable standards.
- 123 5. Planning staff shall review the application, together with the reasonable
 124 recommendations from applicable reviewers, to determine compliance
 125 with this Land Use Code. Planning staff shall assemble a staff
 126 recommendation, with conditions and findings, for the application, then
 127 forward the recommendation with the application to the Land Use
 128 Authority for a final decision.
- 129 6. Upon receipt of the application and staff recommendation the Land Use
 130 Authority shall make final decision on whether the application complies
 131 with this Land Use Code, in accordance with the requirements of Section
 132 108-4-4. Final decisions shall be accompanied by any applicable
 133 conditions, and relevant findings.
- 134 7. The Planning Commission is the Land Use Authority for conditional use
 135 permits.

136 **Sec. 108-4-4. – Decision requirements.**

- 137 (a) A conditional use shall be approved if reasonable conditions are proposed, or can be
 138 imposed, to substantially mitigate the reasonably anticipated detrimental effects of the
 139 proposed use in accordance with the standards of this Chapter, or relevant standards or
 140 requirements of any other Chapter of this Land Use Code. When considering any of the
 141 standards, the Land Use Authority shall consider the reasonably anticipated detrimental
 142 effects of the proposed use in the context of current conditions and, to the extent supported
 143 by law, the policy recommendations of the applicable general plan.
- 144 (b) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be
 145 substantially mitigated by the proposal or the imposition of reasonable conditions to achieve
 146 compliance with applicable standards, the conditional use may be denied.

147 **Sec. 108-4-5. - Conditional use standards.**

148 The following is a list of standards that may be applied to a conditional use permit. The Land
 149 Use Authority may apply any relevant standard to a conditional use provided credible evidence
 150 exists that such standard is reasonable and necessary to mitigate detrimental effects of the use.

- 151 (1) Standards relating to safety for persons and property.
- 152 a. Mitigate injury, loss of life, property damage, or other disproportionate demand
 153 for services on applicable fire fighting agencies.
 - 154 b. Mitigate injury, loss of life, or other disproportionate demand for services on
 155 applicable emergency medical service agencies.
 - 156 c. Mitigate injury, loss of life, property damage, criminal activity, the need for
 157 added peace keeping activities, or other disproportionate demand for services
 158 on the County Sheriff's Office.
 - 159 d. Mitigate injury, loss of life, or property damage of any known geologic hazard
 160 or flood hazard, if credible evidence of such a detrimental effect is present.
 - 161 e. Mitigate the creation of traffic hazards and right-of-way conflicts, including
 162 mitigation of traffic hazards caused by:
 - 163 1. the location, massing, size, or height of buildings, structures, and other
 164 facilities, including signage, fencing and landscaping;
 - 165 2. the frequency of heavy truck traffic to and from the site (i.e. import and
 166 export of materials, deliveries, etc.) to minimize right-of-way conflicts with
 167 regular vehicle and pedestrian traffic.
 - 168 f. Substantially mitigate the likelihood that the proposed use or facility may cause
 169 bodily injury or property damage to potential persons or property in the area.
- 170 (2) Standards relating to infrastructure, amenities, and services.
- 171 a. Mitigate undesirable vehicle or pedestrian traffic patterns or volumes.
 - 172 b. Mitigate internal circulation inefficiencies and provide for adequate onsite
 173 parking given the unique specificities of the proposed use or the proposed site
 174 plan.
 - 175 c. Mitigate material degradation of the level of service of any street.
 - 176 d. Mitigate material degradation of the level of service of any storm water
 177 drainage facility or infrastructure, and adequately provide for storm water
 178 drainage from the site.
 - 179 e. Mitigate material degradation of the level of service of any culinary and
 180 irrigation water facility or infrastructure, and, if applicable, adequately provide
 181 culinary and irrigation water service to the site.

- 182 f. Mitigate material degradation of the level of service of any sanitary sewer
183 service, and, if applicable, adequately provide sanitary sewer service to the
184 site.
- 185 g. Mitigate material degradation of the level of service of any other utility, and, if
186 applicable, adequately provide such utility services to the site.
- 187 h. Mitigate material degradation of the level of service, functionality, capacity, or
188 usability of the existing open spaces, public features, or recreational amenities
189 in the area, and, if applicable, adequately provide additional open spaces,
190 public features, or recreational amenities.
- 191 i. Mitigate any disproportionate demand for government services, generally.

192 (3) Standards relating to the environment.

- 193 a. Mitigate detrimental effects on the natural features of the site, and the
194 surrounding affected areas, if credible evidence of such a detrimental effect is
195 present; including, but not limited to, rivers and creeks, lakes, ponds, and
196 reservoirs, wetlands, drainage ways, ground water protection, and slopes.
- 197 b. Mitigate detrimental effects on the natural environment of the site, and the
198 surrounding affected areas, if credible evidence of such a detrimental effect is
199 present; including, but not limited to, wildlife, air quality, water quality (including
200 erosion control), local natural resources, natural vegetation (including
201 protection against noxious or invasive species), and wildland areas.

202 (4) Standards relating to the current qualities and characteristics of the surrounding area
203 and compliance with the Intent of the general plan.

- 204 a. Mitigate the proximity of incompatible uses, unattractive site features, and
205 disharmony with existing and future land uses in the area by providing
206 buffering, screening, or fencing of the use or site, as may be applicable.
- 207 b. Mitigate unacceptable light emission from the site by requiring appropriate
208 controls for the duration, direction, shielding, and intensity of lighting such that
209 limited, if any, direct light leaves the site and reflected light is at generally
210 accepted dark sky standards.
- 211 c. Mitigate nuisance factors including, but not limited to, noise, vibrations, smoke,
212 dust, dirt, odors, gases, noxious matter, heat, glare, electromagnetic
213 disturbances, and radiation, if credible evidence of such a nuisance is present.
- 214 d. Mitigate unattractive or unsightly property with vegetation and other landscape
215 features which are designed to increase the attractiveness of the site.
- 216 e. Mitigate unattractive or incompatible design of buildings and site
217 improvements, including the mass, size, number, location, and exterior
218 features and materials of buildings, structures, and other facilities, including
219 signage, in a manner that generally resembles or complements development in
220 the surrounding area, and advances the design goals and objectives, if any, of
221 the general plan or applicable master plan.

- 222 f. Mitigate unattractive colors of buildings and site improvements, including
223 signage, in a manner that uses natural colors found in the surrounding area,
224 and advances the design goals and objectives, if any, of the general plan or
225 applicable master plan.
- 226 g. Mitigate conflict or incompatibility with surrounding uses by providing hours of
227 operation appropriate for the general nature and character of existing land
228 uses in the area.
- 229 h. Mitigate aesthetic impacts by requiring reclamation, restoration, clean-up, and
230 beautification of the site as the use evolves, or as the use is terminated.
- 231 i. Mitigate detrimental effects of the use when considering the combined effect of
232 it and other main uses on the property.
- 233 j. To the extent supported by law, mitigate other general detrimental effects in a
234 manner that sustains the objectives and intentions of the County's general
235 plan, future land use map (or proposed land use map) and this Land Use
236 Code,

237 (5) Standards Relating to Performance.

- 238 a. Mitigate potential noncompliance or poor performance by providing
239 appropriate performance measures, including, but not limited to, completion or
240 performance bonds, completion agreements, and development agreements.
- 241 b. Mitigate potential noncompliance or poor performance by requiring regular
242 review or monitoring of the use by an appropriately qualified professional.

243 (6) Standards Generally

- 244 a. Mitigate unsustainable effects on the economy of the surrounding area or
245 County, generally, if credible evidence of such negative effects is present.
- 246 b. Provide appropriate mitigation of detrimental effects as provided elsewhere in
247 this land use code in a manner that provides compliance with the provisions of
248 the land use code, and any other federal, state, or local regulation, as may be
249 applicable.

250 (7) Voluntary contributions providing satisfactory compliance with applicable standards.

251 When considering a conditional use the Land Use Authority has discretion to
252 determine satisfactory compliance with any applicable standard, requirement,
253 provision, or restriction of this Chapter if the applicant has voluntarily offered a more
254 desirable alternative to mitigate the reasonably anticipated detrimental effects of the
255 use than those otherwise specified here. The Land Use Authority may require a
256 development agreement to execute the voluntary alternative.

257 **Sec. 108-4-6. - Appeal.**

- 258 (a) The decision of the Land Use Authority may be appealed to the Appeal Authority, in
259 accordance with section 102-3 of this land use code, by filing such appeal within 15 days
260 after the written decision of the Land Use Authority.

- 261 (b) The Appeal Authority may uphold or reverse the decision of the Land Use Authority and
262 impose any additional conditions that it may deem necessary in granting an appeal.
263 (c) The Board of Adjustment is the Appeal Authority for conditional use permits.

264 **Sec. 108-4-7. - Permit and improvement guarantee.**

- 265 (a) Prior to the issuance of a conditional use permit the applicant shall submit the
266 appropriate required letters and/or permits from the appropriate review agencies.
267 (b) Prior to the issuance of certificate of occupancy permit, a business license or any other
268 permit required by the county, the developer shall deposit funds into an escrow account
269 with the county engineering division for all off-site improvements and on-site landscaping,
270 as may be allowed by law, as per the approved site plan, and for the completion of any
271 incomplete improvements or conditions of approval.

272 **Sec. 108-4-8. – Revocation and expiration.**

- 273 (a) A conditional use permit may be revoked by the Land Use Authority upon failure to
274 comply with any applicable standard, requirement, provision, restriction, or condition of
275 approval. A conditional use permit may also be revoked by the Land Use Authority if the
276 use evolves to be more impactful than originally proposed, anticipated, evaluated or
277 reviewed.
278 (b) Unless there is substantial action under a conditional use permit within a maximum
279 period of one year of its approval from the Land Use Authority, the conditional use permit
280 shall expire. The Land Use Authority may grant a maximum extension of six months.
281 Upon expiration of any extension of time granted by the Land Use Authority, the approval
282 for the conditional use permit shall expire and become null and void.

284 **Sec. 108-4-9. - Discontinued use.**

285 When an approved conditional use has been discontinued and/or abandoned for a period of one
286 year, the conditional use permit becomes null and void. In order to restore the conditional use, a
287 new application shall be filed for review and consideration by the Land Use Authority.

288

Weber County Land Use Code Revision Process Workflow

This flowchart is intended to illustrate the intended course of the revision process. It is not an absolute plan, and deviations may occur as more information is gathered, but it will provide the Planning Commission with an idea where we are in the process at any given time. Staff will refer to this structure regularly.

