



## Staff Report to the Western Weber Planning Commission

Weber County Planning Division

### Synopsis

#### Application Information

**Application Request:** Consideration and recommendation on a proposal to amend the following sections of the Weber County Land Use Code: Definitions (§ 101-1-7), Land Use Permit, Building Permit, and Certificate of Occupancy (§ 102-4), Conditional Uses (§ 108-4), and Supplementary and Qualifying Regulations (§ 108-7) to update and clarify provisions related to conditional use permitting and procedures.

**Agenda Date:** Tuesday, July 14, 2015  
**Staff Report Date:** Thursday, July 7, 2015  
**Applicant:** Planning Division  
**File Number:** ZTA 2014-07

#### Property Information

**Approximate Address:** Not Applicable  
**Project Area:** Not Applicable  
**Zoning:** Not Applicable  
**Existing Land Use:** Not Applicable  
**Proposed Land Use:** Not Applicable  
**Parcel ID:** Not Applicable  
**Township, Range, Section:** Not Applicable

#### Adjacent Land Use

**North:** Not Applicable                      **South:** Not Applicable  
**East:** Not Applicable                      **West:** Not Applicable

#### Staff Information

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**Report Reviewer:** SW

### Applicable Ordinances

Definitions (§ 101-1-7), Land Use Permit, Building Permit, and Certificate of Occupancy (§ 102-4), Conditional Uses (§ 108-4), and Supplementary and Qualifying Regulations (§ 108-7)

### Legislative Decisions

Decision on this item is a legislative action. When the Planning Commission is acting on a legislative item it is acting as a recommending body to the County Commission and has wide discretion. Examples of legislative actions are general plan, zoning map, and land use code amendments. Typically, the criterion for providing a recommendation on a legislative matter suggests a review for compatibility with the general plan and existing ordinances.

### Background

The Planning Commission has been working with staff for the last six months to provide changes to the conditional use ordinance. The attached ordinance changes reflect this collaborative process. Both of the County's Planning Commissions have been instrumental in providing these changes.

The ordinance is being changed because the current ordinance does not comply, in part, with state code. It is also being changed because it lacks substantive standards from which to review a conditional use permit.

### Policy Analysis

**Compliance with state code.** Under state statutory requirements<sup>1</sup> a conditional use permit “shall be approved” provided the use complies with applicable standards of an ordinance. This statute presumes approval. However, the County’s current conditional use ordinance presumes denial unless it complies with certain standards. The County code also fails to provide any substantive standards.<sup>2</sup> In theory, pursuant to state code, without substantive standards in the code all conditional use permits should be approved with limited or no review. This is counter to the purpose of providing for conditional uses in the land use code, which is to allow more land uses than are otherwise permitted in each zone, provided that the unique characteristics of those uses that may lead to detrimental effects on surrounding land owners are mitigated.

A permitted use is a land use for which a zone may be specifically written. For example, consider a residence in a residential zone. The zone is intended for residences and residential impacts. Obtaining a permit for a residence is straightforward. On the other hand, there are many other uses that can be allowed in that zone that have lesser known intended impacts. Providing for these uses by conditional use permit is intended to give a level of flexibility in the types of uses that can occur in the zone. Because some uses are notoriously detrimental to others or because the effect of some uses on others cannot be determined until a specific proposal has been made, allowing for these uses but requiring a heightened level of review and additional standards for them is imperative to reducing incompatibility between uses.

**Best management practices.** Regulating conditional uses has historic context. Historically, it was not uncommon for the conditional use process to be used to determine whether a specific use/proposal is appropriate for an area. If it was, then the permit was approved. If not, the permit was denied. This process usually involved significant public involvement, and decisions were usually based on the opinions of the neighbors.

Conditional use permit practices have changed (or perhaps better stated: conditional use permit practices have been clarified). The changes are primarily due to various court cases [and subsequent state law changes] in which the courts have decreed that the approval of a conditional use permit is an administrative approval,<sup>3</sup> and as such an owner is entitled to the approval provided compliance with adopted codes.<sup>4,5</sup> An administrative approval means that the permit is not subject to the legislative process. If it is a use allowed by the ordinance, and it complies with the standards of the ordinance, then the use is a right, and the owner is entitled to the use. Essentially, this means that the decision on a conditional use permit is not subject to the same level of discretionary decision making that a legislative decision like making a new law is; and it means that the opinions of the neighbors with respect to whether they like/dislike the proposed use is irrelevant unless their like/dislike is based on some related standard of an adopted law.<sup>6</sup>

**Review of the proposed ordinance.** The changes presented in the proposed ordinance generally fall into four categories: general clarifications, enhanced application and review provisions, the creation of new conditional use standards, and revocation provisions.

*General clarifications.* The general clarifications you will see throughout. They are being provided to clarify and supplement current regulations in a manner that compliments the new substantive changes.

*Applications review provisions.* The enhanced application and review provisions, Section 108-4-3 provides two things. First, they provide clearer application submittal requirements for conditional uses. These clearer requirements will help set the expectation for the applicant on what exactly they need to anticipate when applying for a permit. They will also help the County ensure that the correct amount of information is submitted with the application to initiate a complete review. Second, they provide clearer governmental review procedures. The County’s review has to comply with these procedures. This provides transparency for the applicant in what is occurring during the review of their permit. It also provides a level of responsibility and accountability on the County to conduct a thorough, objective, and complete review of every application.

*Conditional use standards.* The new standards, Section 108-4-5, provide the County with needed conditional use standards from which to review conditional use permit applications. These standards have been written to specify

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<sup>1</sup> See UCA § 17-27a-506(2)(a).

<sup>2</sup> County code provides a list of examples of negative impacts, but fails to give standards for mitigating them.

<sup>3</sup> See Salt Lake County Cottonwood Sanitary District v. Sandy City.

<sup>4</sup> See Krejci v. Saratoga Springs.

<sup>5</sup> See UCA § 17-27a-508(1)(a)(i).

<sup>6</sup> Davis County v. Clearfield.

a comprehensive list of detrimental effects that conditional uses may have. They require that those detrimental effects be mitigated.

Most of the standards do not provide specific methods of mitigation. The various ways the effects may be mitigated are really up to the applicant or the County. The applicant may propose ways to mitigate detrimental effects. In the event the applicant does not, or does not do so effectively, the Land Use Authority may apply conditions of approval that the applicant must meet in order for the permit to be valid.

The realm of possible conditions is not infinite. Conditions must be reasonable; they must be related to the effects listed in the relevant standard;<sup>7</sup> they must be based on credible evidence;<sup>8</sup> and in most cases they should not be used for the purpose of regulating a use out of existence. Rather, conditions should be used to affirmatively help a conditional use fit into its surroundings. They should be used to help break down the conflicts between the use and other uses. To this end, Section 108-4-5 begins with a requirement to help the Land Use Authority understand how to temper decisions.

This temperance is imperative given that the Planning Commission continues to desire to hold public comment for all conditional use permits. It will be tempting to make a decision based on the will of the public rather than the merits of the proposal when reviewed against the adopted ordinance. The ordinance is written in such a way to help keep the decision at the administrative review level.

A note about objectivity in the conditional use standards: if any portion of the proposed ordinance changes turn out to be too vague or unspecific that no amount of credible evidence, relevant standard, or reasonable condition can be fairly or objectively applied, the Land Use Authority should interpret the provision in favor of the property owner.<sup>9</sup> If this becomes a continual problem then we will address it with further legislative clarification.

*Revocation provisions.* Finally, the proposal provides procedures for permit revocation, in Section 102-4-3. This section is not part of the conditional use code. It is generally applicable to any land use that otherwise requires a permit. Revocation procedures are sparse in the current code, and are not always clear or consistent. This code section provides a clear due process for revocation of a permit. Revocation should always be a last resort to obtaining ordinance compliance.

## Conformance to the General Plan

State code requires that a general plan governs four critical elements: land use, transportation, low-moderate income housing, and county resource management.<sup>10</sup> The proposed ordinance changes touches in some manner on all of these elements. For example, a conditional use is a land use that is otherwise listed in respective zones. The proposed conditional use standards touch on traffic, circulation, and related safety concerns. Two, three, four, and multiple family housing are listed as conditional uses in several zones, which help provide for low-moderate income housing. And the proposal provides standards related to the environment and its resources.

However, the changes in this proposal go a little beyond the current general plans. The changes are really more about improving an existing provision of the land use code. However, one standards being proposed to take note of is Section 108-4-5(4)(f). This standard will help the Land Use Authority verify that a conditional use permit generally complies with the policies of the general plan. Keeping in mind that the general plan is a guiding document and not everything in it can be applied as a requirement, items like architectural or design controls can be used to help support a condition of approval for a conditional use permit.

## Conditions of Approval

Not Applicable

## Past Action on this Item

No action has occurred on this item yet. Both Planning Commissions have considered it in work session only.

<sup>7</sup> See Uintah Mountain, RTC v. Duchesne County.

<sup>8</sup> See Uintah Mountain, RTC v. Duchesne County.

<sup>9</sup> See Patterson v. Utah County Board of Adjustments.

<sup>10</sup> See UCA § 17-27a-403(2).

## Noticing Compliance

A hearing for this item before the Planning Commission has been posted for public notice in compliance with UCA §17-27a-205 in the following manners:

- Posted on the County's Official Website
- Posted on the Utah Public Notice Website
- Published in a local newspaper

## Staff Recommendation

Staff recommends approval of the text included as Exhibit B and Exhibit C with the following findings:

1. The changes will bring the conditional use code into compliance with state code.
2. The changes will provide standards necessary for a complete and objective review of conditional uses.
3. The clarification will provide for a more efficient administration of code.
4. The changes comply with the intent of the land use code.
5. The changes are supported by the general plan(s), and support the general plan(s).
6. The clarifications are not detrimental to the health, safety, and welfare of County residents.

The Planning Commission's decision should be made as a recommendation to the County Commission.

## Exhibits

- A. Summary, List, and Key to Proposed Changes.
- B. Code Change [Redlines] – Conditional Uses.
- C. Code Change [Clean] – Conditional Uses.
- D. Land Use Code Revision Process Flowchart.
- E. Conditional Use Permit Deliberation Worksheet.

## Exhibit A: Summary, list, and key to proposed changes

The following code changes are being proposed due to a current lack of standards in the conditional use code, and general nonconformity to current state statutes.

This change addresses the following code sections:

§ 101-1-7. Definitions: "Use, conditional."

§ 102-4. Land use permit, building permit, and certificate of occupancy.

§ 108-4. Conditional uses.

§ 108-7-26. Land use applications involving lots/parcels with existing violations.

Key to reading track changes:

Three periods (...) indicates that there are codes sections that have been left out of the proposed changes. These code sections will remain unchanged.

Language that has been added is shown in blue underline

~~Language that has been moved to a new location is shown in green double strikeout~~

~~Language that has been deleted is shown in red strikeout~~

Language that has been moved from an old location is shown in green double underline

## Exhibit B: Code Change [Redlines] – Conditional Uses

### 1 Title 101 - GENERAL PROVISIONS

2 ...

#### 3 Sec. 101-1-7. - Definitions.

4 ...

5 Use, conditional. ~~The term "conditional use" means a use, because of characteristics peculiar to it, or~~  
6 ~~because of size, technological processes, or type of equipment, or because of the exact location with~~  
7 ~~reference to surroundings, streets and existing improvements or demands upon public facilities, requires~~  
8 ~~a special degree of control that mitigates or eliminates any detrimental impacts the use might have on the~~  
9 ~~county, surrounding neighbors, or adjacent land uses and makes such uses consistent and compatible~~  
10 ~~with other existing or permissible uses in the same districts, and assures that such uses shall not be~~  
11 ~~adverse to the public interest. "Conditional use" means a land use that, because of its unique~~  
12 ~~characteristics or potential impact on the county, surrounding neighbors, or adjacent land uses, may not~~  
13 ~~be compatible in some areas or may be compatible only if certain conditions are required that mitigate or~~  
14 ~~eliminate the detrimental impacts.~~

15 ...

### 16 Title 102 - ADMINISTRATION

17 ...

#### 18 CHAPTER 4. PERMITS REQUIRED AND ENFORCEMENT ~~LAND USE PERMIT,~~ 19 ~~BUILDING PERMIT AND CERTIFICATE OF OCCUPANCY~~

20

#### 21 Sec. 102-4-1. - Purpose and intent.

22 The purpose of this chapter is to establish the requirements for land use permits from the Planning  
23 Division and building permits from the Building Division. This chapter identifies the responsibilities for  
24 enforcing the requirements of this Land Use Code.

25 (Ord. of 1956, § 30-1; Ord. No. 33-78; Ord. No. 22-2001; Ord. No. 2009-28)

#### 26 ~~Sec. 102-4-2. - Building permit required.~~

27 ~~Building permits, as specified by the county, are required for any construction, alteration, repair,~~  
28 ~~removal, or occupancy of any structure. Construction shall not be commenced, except after the issuance~~  
29 ~~of a written permit by the county building official.~~

30 ~~(Ord. of 1956, § 30-2; Ord. No. 33-78; Ord. No. 22-2001; Ord. No. 2009-28)~~

#### 31 ~~Sec. 102-4-3. - Certificate of occupancy required.~~

32 ~~No land shall be used or occupied and no building hereafter structurally altered or erected shall be~~  
33 ~~used or changed in use, except for agricultural purposes, until a certificate of occupancy has been issued~~

**Comment [c1]:** Taken straight from state code. Being proposed for the new conditional use code. 17-27A-103

**Comment [c2]:** Moved to after Land Use Permit regulations.

**Comment [c3]:** Remove this whole section to keep CofO from being a land use decision. Also add changes necessary in 108-12-9, and in 108-1-2(a). Search term "Certificate of Occupancy" to see if any other damage will be caused.

34 ~~by the building official stating that the building or the proposed use thereof or the use of the land,~~  
35 ~~complies with the provisions of this chapter. A certificate of occupancy either for the whole or part of a~~  
36 ~~building or structure shall be applied for coincidentally with the application for a building permit, and shall~~  
37 ~~be issued within ten days after the erection or structural alteration of such building or structure or part~~  
38 ~~thereof, shall have been completed in conformity with the provisions of this chapter.~~

39 ~~(Ord. of 1956, § 30-3; Ord. No. 33-78; Ord. No. 22-2001; Ord. No. 2009-28)~~

40 **Sec. 102-4-24. - Land use permit required.**

41 (a) In order to verify zoning requirements and setbacks compliance with applicable regulations, all land  
42 uses that require a land use permit or conditional use permit by this Land Use Code are prohibited  
43 until a land use permit or conditional use permit has received final written approval from the  
44 appropriate Land Use Authority.

**Comment [c4]:** Reference new LUA section (future changes).

45 ~~(b) No for permitted or conditional uses, no~~ structure, including agricultural structures, shall be  
46 constructed, changed in use, or altered, as ~~provided or as restricted in regulated by~~ this Land Use  
47 Code, until and unless a land use permit ~~or, if applicable, a conditional use permit, has received final~~  
48 ~~written approval from the appropriate Land Use Authority, is approved and issued by the planning~~  
49 ~~director or designee.~~

**Comment [c5]:** Reference new LUA section (future changes).

50 (c) No application for permits or approvals governed by this Land Use Code shall be approved for any  
51 lot or parcel until all unresolved zoning, subdivision, building, business license, nuisance, or other  
52 violations on the lot or parcel, or on any parcel included in any manner as part of the application, are  
53 resolved, unless approval of the application will resolve all of the existing violations.

**Comment [c6]:** Moved from Supplementary Regulations Section 108-7-26, with minor text clarifications.

54 **Sec. 102-4-3. - Land use permit revocation.**

55 A land use permit or conditional use permit may be revoked for violation of any part of this Land Use  
56 Code related to the specific use or permit in accordance with the following:

57 (1) Revocation shall be conducted by the Land Use Authority that is authorized to approve the  
58 permit.

59 (2) Prior to permit revocation, the land owner shall be given reasonable opportunity to resolve the  
60 violation by bringing the property into compliance or by diligently pursuing an amendment or  
61 modification to the permit, as may be allowed by this Land Use Code.

62 (3) In the event compliance cannot be attained the land owner shall be given a notice of the  
63 impending permit revocation 14 days prior to final revocation. The notice of the impending permit  
64 revocation shall specify the violation, and inform the land owner of the right to request a  
65 hearing.

66 (4) The land owner shall have a right to a hearing with the Land Use Authority to show cause for  
67 why the permit should not be revoked, if a written request for such is submitted prior to a final  
68 written revocation decision. If a hearing is requested, final revocation of the permit shall be  
69 stayed until after the hearing. The hearing shall be scheduled at a time specified by the Land  
70 Use Authority.

71 (5) Revocation of a permit is final upon the issuance of a final written decision. The final written  
72 decision may be appealed pursuant to Title 102, Section 3.

**Comment [c7]:** Verify reference.

73 ~~(+)(6)~~ Revocation of a permit shall not prohibit prosecution or any other legal action taken on  
74 account of the violation, as provided in this Land Use Code or any other applicable law.

75 (Ord. of 1956, § 30-4; Ord. No. 33-78; Ord. No. 22-2001; Ord. No. 2009-28)

76 **Sec. 102-4-45. - Code enforcement.**

77 The ~~P~~planning ~~D~~irector is designated and authorized as the official charged with the enforcement of  
78 this ~~chapter~~ Land Use Code.

79 (Ord. of 1956, § 30-5; Ord. No. 33-78; Ord. No. 22-2001; Ord. No. 2009-28)

80 **Sec. 102-4-52. - Building permit required.**

81 Building permits, as specified by the county, are required for any construction, alteration, repair,  
82 removal, or occupancy of any structure. Construction shall not be commenced, except after the issuance  
83 of a written permit by the County Building Official.

84 (Ord. of 1956, § 30-2; Ord. No. 33-78; Ord. No. 22-2001; Ord. No. 2009-28)

85

86 **Sec. 102-4-6. - Permits to comply with ordinance.**

87 The Building Official shall not grant a permit for the construction or alteration of any building or  
88 structure if such construction or alteration is in violation of any provision of this ~~chapter~~ Land Use Code;  
89 nor shall any county official grant any permit or license for the use of any building or land if such use  
90 would be in violation of this ~~chapter~~ Land Use Code.

91 (Ord. of 1956, § 30-6; Ord. No. 33-78; Ord. No. 22-2001; Ord. No. 2009-28)

92 **Sec. 102-4-7. - Powers and duties of building official.**

93 It shall be the duty of the building official to inspect or cause to be inspected all setbacks of buildings  
94 in the course of construction or repair. The building official shall assist in the enforcement of all provisions  
95 of this chapter. The building official shall not issue any permit unless the plans of, and for, the proposed  
96 erection, construction, reconstruction, alteration and use fully conform to ~~all zoning regulations~~ this Land  
97 Use Code.

98 (Ord. of 1956, § 30-7; Ord. No. 33-78; Ord. No. 22-2001; Ord. No. 2009-28)

99 ...

100 **Title 108 - STANDARDS**

101 ...

102 **CHAPTER 4. - CONDITIONAL USES**

103

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

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

106 (1) provide for the purpose and intent of the respective zones, and to provide for the vision, goals,  
107 and objectives of the respective general plans, by specifying general standards that may be  
108 applied by the Land Use Authority to a use listed as a conditional use in this Land Use Code;  
109 and

110 (2) provide a reasonable process for the application for, and timely review of, a conditional use  
111 permit.

112 (b) The intent of providing conditional use regulations is to provide allowance for additional uses in each  
113 zone and give the Land Use Authority flexibility in applying reasonable conditions to effectively  
114 manage unique characteristics or detrimental effects of those uses, on a case by case basis.

**Comment [c8]:** Future change: reference the new land use table here.



115 Conditions shall be related to the standards of this Chapter, or other applicable requirements of this  
116 Land Use Code.

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

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

125 (Ord. of 1956, § 22C-1; Ord. No. 4-71; Ord. No. 2010-26, 11-16-2010)

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

127 (a) A conditional use permit shall be required for all uses listed as a conditional use in the Weber  
128 County this Land Use Code. ~~The conditional use permit shall list all requirements determined~~  
129 ~~appropriate to mitigate the impacts created by the use in order to make it acceptable at the specific~~  
130 ~~location.~~

131 (b) In the event a change is ~~proposed~~ anticipated from the originally approved proposal or conditions of  
132 the original approval, an amendment to the original conditional use permit shall be required as  
133 provided herein.

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

136 (Ord. of 1956, § 22C-2; Ord. No. 4-71; Ord. No. 2010-26, 11-16-2010)

137 **Sec. 108-4-3. - Application and Rreview procedure.**

138 Applications for a conditional use permit shall be submitted to the Planning Division.

139 (1) ~~An application shall include:~~ The application shall include the information in the following list. For  
140 those applications where no changes are proposed to an existing site or structure, or where the  
141 application requirements are unnecessary to demonstrate compliance with applicable  
142 ordinances and standards, the application requirements may be modified or consolidated by the  
143 Planning Director or designee.

144 a. a completed application form signed by the property owner or certified agent;

145 b. a An application fee. The payment of a partial application fee, or the submittal of plans for a  
146 pre-submittal review, does not constitute a complete application;

147 c. a written narrative ~~addressing the criteria of issuance section 108-4-4~~ explaining the  
148 proposal. The narrative shall include, at a minimum, the following information:

149 1. the name of the project;

150 2. the name, home address, and, if applicable, business address of the applicant;

151 3. as applicable, the name and business address of the project designer or engineer;  
152 and

153 1.4. a written explanation of how the proposal complies with the applicable standards  
154 of Ssection 108-4-5, and those applicable standards of Title 108, Chapter 1, and  
155 Title 108, Chapter 2; and

156 d. a detailed ~~location~~ vicinity map. The map shall include, at a minimum, the following  
157 minimum information:

Comment [c9]: See new CUP definition

Comment [c10]: Future change: reference the Land Use Table.

Comment [c11]: Check reference

Comment [c12]: Check reference

- 158                   1. the name of the project;
- 159                   2. a north arrow;
- 160                   3. all significant natural and manmade features and existing structures within 200 feet
- 161                   of any portion of the proposed project area;
- 162                   4. the property boundaries of the proposal; and
- 163                   2-5. the names and site addresses of adjacent property owners; and
- 164                   e. a site plan of the proposal. The site plan shall be designed to provide, at a minimum, the
- 165                   following information:
- 166                   1. the name of the project;
- 167                   2. the name, home, and, if applicable, business address of the applicant;
- 168                   3. if applicable, the name and business address of the project designer or engineer;
- 169                   4. a scale, which shall be sized appropriately to make the site plan easily and clearly
- 170                   legible;
- 171                   5. a north arrow pointing to the left or top of the sheet;
- 172                   6. the boundary of the site, including any building pad, public and private easements,
- 173                   and other areas affected by the proposal;
- 174                   7. the existing uses and ownership information for adjacent parcels;
- 175                   8. existing zoning;
- 176                   9. total acreage of the entire affected property and, if the property is split by zoning,
- 177                   the total acreage of property in each zone;
- 178                   10. the location and width of existing and proposed roads, driveways, and parking
- 179                   areas, as may be applicable;
- 180                   11. the location of any existing and proposed manmade features, including, but not
- 181                   limited to, bridges, railroad tracks, trails and pathways, structures, and fences;
- 182                   12. the existing and, if applicable, proposed culinary water, irrigation water, and
- 183                   sanitary sewer or septic infrastructure;
- 184                   13. the existing and proposed topographic contours, including, if applicable, any details
- 185                   necessary to explain proposed grade changes, fills or excavations, or any other
- 186                   earth work, together with any applicable drainage plans, storm water pollution
- 187                   prevention plans, and revegetation plans;
- 188                   14. the location and type of existing landscaping and vegetation, and proposed
- 189                   changes thereto, if any. If applicable, location and type of new landscaping and
- 190                   vegetation;
- 191                   15. The location of flood plain boundaries, if applicable; and
- 192                   3-16. Any other proposed site improvements showing details and other applicable
- 193                   design and architectural requirements specified in Title 108, Chapter 1, and Title
- 194                   108, Chapter 2; and
- 195                   ~~Detailed building plans and site plans. Detailed building plans and site plans specifications shall be~~
- 196                   ~~drawn to scale including electronic copies showing details and other applicable zoning requirements as~~
- 197                   ~~which are outlined in chapter 1 of this title, Design review, and chapter 2 of this title, Ogden Valley~~
- 198                   ~~Architectural, Landscape and Screening Standards.~~
- 199                   a. ~~Accompanying documents including water and wastewater feasibility letters.~~

- 200 ~~b. Any additional pertinent information needed to adequately describe the proposal.~~
- 201 f. Culinary water and sanitary sewer or septic verification, as may be applicable for the
- 202 specific use. Culinary water and sanitary sewer or septic verification shall include feasibility
- 203 letters from the applicable water and sanitary sewer or septic entity or agency;
- 204 ~~g. A requirement that the applicant submit~~ applicable impact studies or other technical studies
- 205 that may be necessary to provide evidence of anticipated detrimental effects of the
- 206 proposal or evidence of compliance with the applicable standards, as may be required by
- 207 the Planning Director or County Engineer, regarding grading, drainage, traffic, geologic
- 208 hazards, etc., and
- 209 ~~e. Any additional pertinent information needed to adequately describe the proposal, or~~
- 210 provide evidence of compliance with the applicable standards, as determined by the
- 211 Planning Director.
- 212 ~~d.h. For those applications where no changes are proposed to an existing structure, the~~
- 213 ~~application requirements may be modified by the planning director.~~
- 214 (2) Application submittal and review.
- 215 a. ~~The application review procedure for proposed conditional uses~~ Review of a conditional use
- 216 permit application and the site plan will ensure is intended to verify compliance with all
- 217 applicable ordinances and provide appropriate and reasonable mitigation of anticipated
- 218 detrimental effects.
- 219 b. The application review procedure ~~shall contain the following components~~ is as follows:
- 220 1. Pre-application meeting. Prior to submission of a complete application, a pre-
- 221 application meeting is required to be held with Planning Division staff, in which the
- 222 applicant will provide preliminary site plans are reviewed and for Planning Division
- 223 staff to review and discussed discuss with the applicant. This meeting is intended
- 224 to provide the applicant with a better understanding of the conditional use process
- 225 and requirements in order to assist with the submission of a complete
- 226 application prior to finished plans being submitted for review;
- 227 2. Complete application submission. Upon assembling a complete application, the
- 228 applicant shall submit it for substantive review. Incomplete applications shall not be
- 229 accepted. Staff will review the application for completeness. In the event the
- 230 application is incomplete, staff will return it to the applicant with a list of
- 231 deficiencies. A review of the application for completeness;
- 232 3. Referral of the application to reviewers. Upon acceptance of an application,
- 233 planning staff shall transmit it to applicable reviewers as may be determined
- 234 necessary to verify compliance with the standards of this chapter, or any other
- 235 relevant requirements of this Land Use Code.
- 236 4. Reviewer's recommendations. Within a reasonable timeframe, applicable reviewers
- 237 shall forward to Planning Division staff reasonable recommendations for conditions
- 238 necessary to substantially mitigate the reasonably anticipated detrimental effects of
- 239 the proposed use in accordance with applicable standards.
- 240 5. Planning staff review and recommendation to the Land Use Authority. Planning
- 241 staff shall review the application, together with any reasonable recommendations
- 242 from applicable reviewers, to determine compliance with this Land Use Code.
- 243 Planning staff shall assemble a staff recommendation, with conditions and findings,
- 244 for the application, then forward the recommendation with the application to the
- 245 Land Use Authority for a final decision.
- 246 ~~3-6. Land Use Authority review and decision. Upon receipt of the application and staff~~
- 247 recommendation the Land Use Authority shall make final decision on whether the
- 248 application complies with this Land Use Code, in accordance with the requirements

249 of Section 108-4-4. Final decisions shall be accompanied by any applicable  
250 conditions and relevant findings.

251 7. The Planning Commission is the Land Use Authority for conditional use permits. De  
252 minimis revisions to a previously approved conditional use permit may be approved  
253 by the Planning Director provided it can be determined that the changes are slight,  
254 inconsequential, and not in violation of any substantive provision of this code. The  
255 Planning Director's written approval of a de minimis revision shall be appended to  
256 the written decision of the Planning Commission. Revisions that are de minimis  
257 shall not require public notice.

- 258 1. ~~A review of the proposed site plan for compliance with applicable sections of the~~  
259 ~~Land Use Code;~~
- 260 2. ~~A review of the proposed use and site plan to ascertain potential negative impacts~~  
261 ~~and whether reasonable conditions can be imposed to mitigate those impacts.~~

262 (Ord. of 1956, § 22C-3; Ord. No. 4-71; Ord. No. 2002-20; Ord. No. 2010-26, 11-16-2010)

263 **Sec. 108-4-4. – Decision requirements. Criteria for issuance of conditional use permit.**

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

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

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

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

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

282 (Ord. of 1956, § 22C-4; Ord. No. 4-71; Ord. No. 2010-26, 11-16-2010)

283 **Sec. 108-4-5. – Conditional use standards.**

284 (a) The Land Use Authority may apply conditions of approval related to any of the standards of this  
285 section, provided that credible evidence exists that:

286 (1) the application of the standard is relevant to the use; and

287 (2) the conditions are reasonable and necessary to substantially mitigate detrimental effects of the  
288 use as specified in the standard.

289 (b) The Land Use Authority shall consider the expertise and experience of applicable reviewers and  
290 qualified professionals to help determine credible evidence, relevant standards, and reasonable  
291 conditions.

292 (c) Conditional use standards are as follows:

**Comment [c13]:** This is a placeholder until the Land Use Authority matrix is completed and the land use table is completed. It may change after that.

**Formatted:** Space After: 6 pt, Line spacing: single, Outline numbered + Level: 4 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.9" + Indent at: 1.2", Tab stops: Not at 2"

**Comment [c14]:** 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 [c15]:** 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 [c16]:** Straight from State Code. UCA §17-27a-506.

- 293 (1) Standards relating to safety for persons and property.
- 294 a. Mitigate injury, loss of life, property damage, or other disproportionate demand for services
- 295 on applicable fire fighting agencies.
- 296 b. Mitigate injury, loss of life, or other disproportionate demand for services on applicable
- 297 emergency medical service agencies.
- 298 c. Mitigate injury, loss of life, property damage, criminal activity, the need for added peace
- 299 keeping activities, or other disproportionate demand for services on the County Sheriff's
- 300 Office.
- 301 d. Mitigate injury, loss of life, or property damage of any known geologic hazard or flood
- 302 hazard, if credible evidence of such a detrimental effect is present.
- 303 e. Mitigate the creation of traffic hazards and right-of-way conflicts, including mitigation of
- 304 traffic hazards caused by:
- 305 1. the location, massing, size, or height of buildings, structures, and other facilities,
- 306 including signage, fencing, and landscaping;
- 307 2. the frequency of heavy truck traffic to and from the site (i.e. import and export of
- 308 materials, deliveries, etc.) to minimize right-of-way conflicts with regular vehicle and
- 309 pedestrian traffic.
- 310 f. Substantially mitigate the likelihood that the proposed use or facility may cause bodily
- 311 injury or property damage to potential persons or property in the area.
- 312 (2) Standards relating to infrastructure, amenities, and services.
- 313 a. Mitigate undesirable vehicle or pedestrian traffic patterns or volumes.
- 314 b. Mitigate internal vehicle or pedestrian circulation inefficiencies onsite, and provide for
- 315 adequate onsite parking given the unique specificities of the proposed use or the proposed
- 316 site plan.
- 317 c. Mitigate material degradation of the level of service of any street.
- 318 d. Mitigate material degradation of the level of service of any storm water drainage facility or
- 319 infrastructure, and adequately provide for storm water drainage from the site.
- 320 e. Mitigate material degradation of the level of service of any culinary and irrigation water
- 321 facility or infrastructure, and, if applicable, provide adequate culinary and irrigation water
- 322 service to the site. To help determine adequacy of culinary water provisions the Land Use
- 323 Authority may require, but are not limited to, the following as a condition of approval of the
- 324 conditional use permit:
- 325 1. written verification that the culinary water source of any new public water system can
- 326 meet the requirements of the Utah Division of Drinking Water and/or the Weber
- 327 Morgan Health Department; or
- 328 2. a capacity assessment letter from the Utah Division of Drinking Water for additional
- 329 connections to any existing public water system; or
- 330 3. written verification that the source of any non-public well providing culinary water for
- 331 the use meets the requirements of the Weber Morgan Health Department. This
- 332 verification shall be based on a test of a new or existing well.
- 333 f. Mitigate material degradation of the level of service of any sanitary sewer service, and, if
- 334 applicable, provide adequate sanitary sewer service to, or septic system on, the site.
- 335 g. Mitigate material degradation of the level of service of any other utility, and, if applicable,
- 336 adequately provide such utility services to the site.

**Comment [c17]:** 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.

**Comment [c18]:** 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 [c19]:** 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 [c20]:** Examples of conditions for mitigation may include appropriate design, construction, and location of structures, buildings and facilities.

**Comment [c21]:** 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 [c22]:** 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 [c23]:** 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.

- 337 h. Mitigate material degradation of the level of service, functionality, capacity, or usability of  
 338 the existing open spaces, public features, or recreational amenities in the area, and, if  
 339 applicable, adequately provide additional open spaces, public features, or recreational  
 340 amenities.
- 341 i. Mitigate any disproportionate demand for government services, generally.
- 342 (3) Standards relating to the environment.
- 343 a. Mitigate detrimental effects on the natural features of the site, and the surrounding affected  
 344 areas, if credible evidence of such a detrimental effect is present; including, but not limited  
 345 to, rivers and creeks, lakes, ponds, reservoirs, wetlands, drainage ways, ground water  
 346 protection, and slopes.
- 347 b. Mitigate detrimental effects on the natural environment of the site, and the surrounding  
 348 affected areas, if credible evidence of such a detrimental effect is present; including, but  
 349 not limited to, wildlife, air quality, water quality (including erosion control), local natural  
 350 resources, natural vegetation (including protection against noxious or invasive species),  
 351 and wildland areas.
- 352 (4) Standards relating to the current qualities and characteristics of the surrounding area and  
 353 compliance with the intent of the general plan.
- 354 a. Provide buffering, screening, or fencing of the use or site, or provide other landscape  
 355 features, sufficient to mitigate the proximity of incompatible uses, objectionable site  
 356 features, and disharmony with existing and future land uses in the area.
- 357 b. Provide hours of operation appropriate for the general nature and character of existing land  
 358 uses in the area to mitigate conflict or incompatibility with surrounding uses.
- 359 c. Provide reclamation, restoration, clean-up, or beautification of the site as the use evolves,  
 360 or as the use is terminated, in order to mitigate aesthetic and nuisance effects.
- 361 d. Mitigate nuisance factors including, but not limited to, light and glare, noise, vibrations,  
 362 smoke, dust, dirt, odors, gases, noxious matter, heat, electromagnetic disturbances, and  
 363 radiation, if credible evidence of such a nuisance is present.
- 364 e. Mitigate detrimental effects of the use considering the combined effect of it and other main  
 365 uses on the property.
- 366 f. To the extent supported by law, mitigate other general detrimental effects in a manner that  
 367 sustains the objectives and intentions of the County's general plan, future land use map (or  
 368 proposed land use map), and this Land Use Code.
- 369 (5) Standards Relating to Performance.
- 370 a. Mitigate potential noncompliance or poor performance by providing appropriate  
 371 performance measures, including, but not limited to, completion or performance bonds,  
 372 completion agreements, and development agreements.
- 373 b. Mitigate potential noncompliance or poor performance by requiring regular review or  
 374 monitoring of certain specified detrimental effects by an appropriately qualified  
 375 professional.
- 376 (6) Standards Generally
- 377 a. Mitigate unsustainable effects on the economy of the surrounding area or County,  
 378 generally, if credible evidence of such negative effects is present.
- 379 b. Provide appropriate mitigation of detrimental effects as required in standards found  
 380 elsewhere in this Land Use Code in a manner that complies with this Land Use Code, and  
 381 any other federal, state, or local regulation, as may be applicable.

**Comment [c24]:** 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.

**Comment [c25]:** Rather than denying an application because "it doesn't fit," help it fit by requiring these types of site features.

382 ~~(4)~~(7) Voluntary contributions providing satisfactory compliance with applicable standards.  
383 When considering a conditional use the Land Use Authority has discretion to determine  
384 satisfactory compliance with any applicable standard, requirement, provision, or restriction of  
385 this Chapter if the applicant has voluntarily offered a more desirable alternative to mitigate the  
386 reasonably anticipated detrimental effects of the use than those otherwise specified here. The  
387 Land Use Authority may require a development agreement to execute the voluntary alternative.

388 **Sec. 108-4-~~65~~ - Appeal.**

389 ~~(a) The decision of the planning commission~~The decision of the Land Use Authority may be appealed to  
390 the ~~county commission~~Appeal Authority, in accordance with Title 102, Chapter 3 of this Land Use  
391 Code.

Comment [c26]: Verify reference.

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

Comment [c27]: This is a placeholder until the Appeal Authority section has been re-written. It may change after that.

393 ~~— A conditional use permit may be revoked by the planning commission upon failure to comply with the~~  
394 ~~conditional use permit.~~

395 (Ord. of 1956, § 22C-5; Ord. No. 4-71; Ord. No. 2010-26, 11-16-2010)

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

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

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

404 (Ord. of 1956, § 22C-6; Ord. No. 4-71; Ord. No. 21-83; Ord. No. 2002-20; Ord. No. 2010-26, 11-16-2010)

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

406 ~~(a) A conditional use permit may be revoked by the Land Use Authority upon failure to comply with the~~  
407 ~~applicant's approved proposal, or any applied standard, or applicable requirement, provision,~~  
408 ~~restriction, or condition of approval. Violation of any condition of approval of a conditional use permit~~  
409 ~~shall constitute a violation of this Land Use Code. Rules for revocation are provided in Section 102-~~  
410 ~~4-3.~~

Comment [c28]: Verify reference.

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

416 (Ord. of 1956, § 22C-7; Ord. No. 4-71; Ord. No. 2010-26, 11-16-2010)

417 **Sec. 108-4-~~98~~ - ~~Discontinued~~Abandoned use.**

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

421 (Ord. of 1956, § 22C-8; Ord. No. 4-71; Ord. No. 2010-26, 11-16-2010)

422

## Exhibit C: Code Change [Clean] – Conditional Uses

### 1 **Title 101 - GENERAL PROVISIONS**

2 ...

#### 3 **Sec. 101-1-7. - Definitions.**

4 ...

5 Use, conditional. "Conditional use" means a land use that, because of its unique characteristics or  
6 potential impact on the county, surrounding neighbors, or adjacent land uses, may not be compatible in  
7 some areas or may be compatible only if certain conditions are required that mitigate or eliminate the  
8 detrimental impacts.

9 ...

### 10 **Title 102 - ADMINISTRATION**

11 ...

#### 12 **CHAPTER 4. – PERMITS REQUIRED AND ENFORCEMENT**

13

#### 14 **Sec. 102-4-1. - Purpose and intent.**

15 The purpose of this chapter is to establish the requirements for land use permits from the Planning  
16 Division and building permits from the Building Division. This chapter identifies the responsibilities for  
17 enforcing the requirements of this Land Use Code.

18 (Ord. of 1956, § 30-1; Ord. No. 33-78; Ord. No. 22-2001; Ord. No. 2009-28)

#### 19 **Sec. 102-4-2. - Land use permit required.**

20 (a) In order to verify compliance with applicable regulations, all land uses that require a land use permit  
21 or conditional use permit by this Land Use Code are prohibited until a land use permit or conditional  
22 use permit has received final written approval from the appropriate Land Use Authority.

23 (b) No structure, including agricultural structures, shall be constructed, changed in use, or altered, as  
24 regulated by this Land Use Code, until and unless a land use permit or, if applicable, a conditional  
25 use permit, has received final written approval from the appropriate Land Use Authority.

26 (c) No application for permits or approvals governed by this Land Use Code shall be approved for any  
27 lot or parcel until all unresolved zoning, subdivision, building, business license, nuisance, or other  
28 violations on the lot or parcel, or on any parcel included in any manner as part of the application, are  
29 resolved, unless approval of the application will resolve all of the existing violations.

#### 30 **Sec. 102-4-3. – Land use permit revocation.**

31 A land use permit or conditional use permit may be revoked for violation of any part of this Land Use  
32 Code related to the specific use or permit in accordance with the following:



- 33 (1) Revocation shall be conducted by the Land Use Authority that is authorized to approve the  
34 permit.
- 35 (2) Prior to permit revocation, the land owner shall be given reasonable opportunity to resolve the  
36 violation by bringing the property into compliance or by diligently pursuing an amendment or  
37 modification to the permit, as may be allowed by this Land Use Code.
- 38 (3) In the event compliance cannot be attained the land owner shall be given a notice of the  
39 impending permit revocation 14 days prior to final revocation. The notice of the impending permit  
40 revocation shall specify the violation, and inform the land owner of the right to request a  
41 hearing.
- 42 (4) The land owner shall have a right to a hearing with the Land Use Authority to show cause for  
43 why the permit should not be revoked, if a written request for such is submitted prior to a final  
44 written revocation decision. If a hearing is requested, final revocation of the permit shall be  
45 stayed until after the hearing. The hearing shall be scheduled at a time specified by the Land  
46 Use Authority.
- 47 (5) Revocation of a permit is final upon the issuance of a final written decision. The final written  
48 decision may be appealed pursuant to Title 102, Section 3.
- 49 (6) Revocation of a permit shall not prohibit prosecution or any other legal action taken on account  
50 of the violation, as provided in this Land Use Code or any other applicable law.

51 (Ord. of 1956, § 30-4; Ord. No. 33-78; Ord. No. 22-2001; Ord. No. 2009-28)

52 **Sec. 102-4-4. - Code enforcement.**

53 The Planning Director is designated and authorized as the official charged with the enforcement of  
54 this Land Use Code.

55 (Ord. of 1956, § 30-5; Ord. No. 33-78; Ord. No. 22-2001; Ord. No. 2009-28)

56 **Sec. 102-4-5. - Building permit required.**

57 Building permits, as specified by the county, are required for any construction, alteration, repair,  
58 removal, or occupancy of any structure. Construction shall not be commenced, except after the issuance  
59 of a written permit by the County Building Official.

60 (Ord. of 1956, § 30-2; Ord. No. 33-78; Ord. No. 22-2001; Ord. No. 2009-28)

61 **Sec. 102-4-6. - Permits to comply with ordinance.**

62 The Building Official shall not grant a permit for the construction or alteration of any building or  
63 structure if such construction or alteration is in violation of any provision of this Land Use Code; nor shall  
64 any county official grant any permit or license for the use of any building or land if such use would be in  
65 violation of this Land Use Code.

66 (Ord. of 1956, § 30-6; Ord. No. 33-78; Ord. No. 22-2001; Ord. No. 2009-28)

67 **Sec. 102-4-7. - Powers and duties of building official.**

68 It shall be the duty of the building official to inspect or cause to be inspected all setbacks of buildings  
69 in the course of construction or repair. The building official shall assist in the enforcement of all provisions  
70 of this chapter. The building official shall not issue any permit unless the plans of, and for, the proposed  
71 erection, construction, reconstruction, alteration and use fully conform to this Land Use Code.

72 (Ord. of 1956, § 30-7; Ord. No. 33-78; Ord. No. 22-2001; Ord. No. 2009-28)

73 ...

## 74 **Title 108 - STANDARDS**

75 ...

### 76 **CHAPTER 4. - CONDITIONAL USES**

77

#### 78 **Sec. 108-4-1. - Purpose and intent.**

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

80 (1) provide for the purpose and intent of the respective zones, and to provide for the vision, goals,  
81 and objectives of the respective general plans, by specifying general standards that may be  
82 applied by the Land Use Authority to a use listed as a conditional use in this Land Use Code;  
83 and

84 (2) provide a reasonable process for the application for, and timely review of, a conditional use  
85 permit.

86 (b) The intent of providing conditional use regulations is to provide allowance for additional uses in each  
87 zone and give the Land Use Authority flexibility in applying reasonable conditions to effectively  
88 manage unique characteristics or detrimental effects of those uses, on a case by case basis.  
89 Conditions shall be related to the standards of this Chapter, or other applicable requirements of this  
90 Land Use Code.

91 (Ord. of 1956, § 22C-1; Ord. No. 4-71; Ord. No. 2010-26, 11-16-2010)

#### 92 **Sec. 108-4-2. - Conditional use permit.**

93 (a) A conditional use permit shall be required for all uses listed as a conditional use in this Land Use  
94 Code.

95 (b) In the event a change is anticipated from the originally approved proposal or conditions of the  
96 original approval, an amendment to the original conditional use permit shall be required as provided  
97 herein.

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

100 (Ord. of 1956, § 22C-2; Ord. No. 4-71; Ord. No. 2010-26, 11-16-2010)

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

102 Applications for a conditional use permit shall be submitted to the Planning Division.

103 (1) The application shall include the information in the following list. For those applications where  
104 no changes are proposed to an existing site or structure, or where the application requirements  
105 are unnecessary to demonstrate compliance with applicable ordinances and standards, the  
106 application requirements may be modified or consolidated by the Planning Director or designee.

107 a. a completed application form signed by the property owner or certified agent;

108 b. an application fee. The payment of a partial application fee, or the submittal of plans for a  
109 pre-submittal review, does not constitute a complete application;

110 c. a written narrative explaining the proposal. The narrative shall include, at a minimum, the  
111 following information:

- 112 1. the name of the project;
- 113 2. the name, home address, and, if applicable, business address of the applicant;
- 114 3. as applicable, the name and business address of the project designer or engineer;
- 115 and
- 116 4. a written explanation of how the proposal complies with the applicable standards
- 117 of [Section 108-4-5](#), and those applicable standards of Title 108, Chapter 1, and
- 118 Title 108, Chapter 2; and
- 119 d. a detailed vicinity map. The map shall include, at a minimum, the following information:
- 120 1. the name of the project;
- 121 2. a north arrow;
- 122 3. all significant natural and manmade features and existing structures within 200 feet
- 123 of any portion of the proposed project area;
- 124 4. the property boundaries of the proposal; and
- 125 5. the names and site addresses of adjacent property owners; and
- 126 e. a site plan of the proposal. The site plan shall be designed to provide, at a minimum, the
- 127 following information:
- 128 1. the name of the project;
- 129 2. the name, home, and, if applicable, business address of the applicant;
- 130 3. if applicable, the name and business address of the project designer or engineer;
- 131 4. a scale, which shall be sized appropriately to make the site plan easily and clearly
- 132 legible;
- 133 5. a north arrow pointing to the left or top of the sheet;
- 134 6. the boundary of the site, including any building pad, public and private easements,
- 135 and other areas affected by the proposal;
- 136 7. the existing uses and ownership information for adjacent parcels;
- 137 8. existing zoning;
- 138 9. total acreage of the entire affected property and, if the property is split by zoning,
- 139 the total acreage of property in each zone;
- 140 10. the location and width of existing and proposed roads, driveways, and parking
- 141 areas, as may be applicable;
- 142 11. the location of any existing and proposed manmade features, including, but not
- 143 limited to, bridges, railroad tracks, trails and pathways, structures, and fences;
- 144 12. the existing and, if applicable, proposed culinary water, irrigation water, and
- 145 sanitary sewer or septic infrastructure;
- 146 13. the existing and proposed topographic contours, including, if applicable, any details
- 147 necessary to explain proposed grade changes, fills or excavations, or any other
- 148 earth work, together with any applicable drainage plans, storm water pollution
- 149 prevention plans, and revegetation plans;
- 150 14. the location and type of existing landscaping and vegetation, and proposed
- 151 changes thereto, if any. If applicable, location and type of new landscaping and
- 152 vegetation;
- 153 15. The location of flood plain boundaries, if applicable; and

- 154 16. Any other proposed site improvements showing details and other applicable design  
 155 and architectural requirements specified in Title 108, Chapter 1, and Title 108,  
 156 Chapter 2; and
- 157 f. culinary water and sanitary sewer or septic verification, as may be applicable for the  
 158 specific use. Culinary water and sanitary sewer or septic verification shall include feasibility  
 159 letters from the applicable water and sanitary sewer or septic entity or agency;
- 160 g. applicable impact studies or other technical studies that may be necessary to provide  
 161 evidence of anticipated detrimental effects of the proposal or evidence of compliance with  
 162 the applicable standards, as may be required by the Planning Director or County Engineer;  
 163 and
- 164 h. Any additional pertinent information needed to adequately describe the proposal, or  
 165 provide evidence of compliance with the applicable standards, as determined by the  
 166 Planning Director.
- 167 (2) Application submittal and review.
- 168 a. Review of a conditional use permit application is intended to verify compliance with  
 169 applicable ordinances and provide appropriate and reasonable mitigation of anticipated  
 170 detrimental effects.
- 171 b. The application review procedure is as follows:
- 172 1. Pre-application meeting. Prior to submission of a complete application, a pre-  
 173 application meeting is required to be held with Planning Division staff, in which the  
 174 applicant will provide preliminary plans for Planning Division staff to review and  
 175 discuss with the applicant. This meeting is intended to provide the applicant with a  
 176 better understanding of the conditional use process and requirements in order to  
 177 assist with the submission of a complete application.
- 178 2. Complete application submission. Upon assembling a complete application, the  
 179 applicant shall submit it for substantive review. Incomplete applications shall not be  
 180 accepted. Staff will review the application for completeness. In the event the  
 181 application is incomplete, staff will return it to the applicant with a list of  
 182 deficiencies.
- 183 3. Referral of the application to reviewers. Upon acceptance of an application,  
 184 planning staff shall transmit it to applicable reviewers as may be determined  
 185 necessary to verify compliance with the standards of this chapter, or any other  
 186 relevant requirements of this Land Use Code.
- 187 4. Reviewer's recommendations. Within a reasonable timeframe, applicable reviewers  
 188 shall forward to Planning Division staff reasonable recommendations for conditions  
 189 necessary to substantially mitigate the reasonably anticipated detrimental effects of  
 190 the proposed use in accordance with applicable standards.
- 191 5. Planning staff review and recommendation to the Land Use Authority. Planning  
 192 staff shall review the application, together with any reasonable recommendations  
 193 from applicable reviewers, to determine compliance with this Land Use Code.  
 194 Planning staff shall assemble a staff recommendation, with conditions and findings,  
 195 for the application, then forward the recommendation with the application to the  
 196 Land Use Authority for a final decision.
- 197 6. Land Use Authority review and decision. Upon receipt of the application and staff  
 198 recommendation the Land Use Authority shall make final decision on whether the  
 199 application complies with this Land Use Code, in accordance with the requirements  
 200 of Section 108-4-4. Final decisions shall be accompanied by any applicable  
 201 conditions and relevant findings.
- 202 7. The Planning Commission is the Land Use Authority for conditional use permits. De  
 203 minimis revisions to a previously approved conditional use permit may be approved

204 by the Planning Director provided it can be determined that the changes are slight,  
205 inconsequential, and not in violation of any substantive provision of this code. The  
206 Planning Director's written approval of a de minimis revision shall be appended to  
207 the written decision of the Planning Commission. Revisions that are de minimis  
208 shall not require public notice.

209 (Ord. of 1956, § 22C-3; Ord. No. 4-71; Ord. No. 2002-20; Ord. No. 2010-26, 11-16-2010)

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

- 211 (a) A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to  
212 substantially mitigate the reasonably anticipated detrimental effects of the proposed use in  
213 accordance with the standards of this chapter, or relevant standards or requirements of any other  
214 chapter of this Land Use Code. When considering any of the standards, the Land Use Authority shall  
215 consider the reasonably anticipated detrimental effects of the proposed use in the context of current  
216 conditions and, to the extent supported by law, the policy recommendations of the applicable general  
217 plan.
- 218 (b) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be  
219 substantially mitigated by the proposal or the imposition of reasonable conditions to achieve  
220 compliance with applicable standards, the conditional use may be denied.

221 (Ord. of 1956, § 22C-4; Ord. No. 4-71; Ord. No. 2010-26, 11-16-2010)

222 **Sec. 108-4-5. – Conditional use standards.**

- 223 (a) The Land Use Authority may apply conditions of approval related to any of the standards of this  
224 section, provided that credible evidence exists that:
- 225 (1) the application of the standard is relevant to the use; and
- 226 (2) the conditions are reasonable and necessary to substantially mitigate detrimental effects of the  
227 use as specified in the standard.
- 228 (b) The Land Use Authority shall consider the expertise and experience of applicable reviewers and  
229 qualified professionals to help determine credible evidence, relevant standards, and reasonable  
230 conditions.
- 231 (c) Conditional use standards are as follows:
- 232 (1) Standards relating to safety for persons and property.
- 233 a. Mitigate injury, loss of life, property damage, or other disproportionate demand for services  
234 on applicable fire fighting agencies.
- 235 b. Mitigate injury, loss of life, or other disproportionate demand for services on applicable  
236 emergency medical service agencies.
- 237 c. Mitigate injury, loss of life, property damage, criminal activity, the need for added peace  
238 keeping activities, or other disproportionate demand for services on the County Sheriff's  
239 Office.
- 240 d. Mitigate injury, loss of life, or property damage of any known geologic hazard or flood  
241 hazard, if credible evidence of such a detrimental effect is present.
- 242 e. Mitigate the creation of traffic hazards and right-of-way conflicts, including mitigation of  
243 traffic hazards caused by:
- 244 1. the location, massing, size, or height of buildings, structures, and other facilities,  
245 including signage, fencing, and landscaping;

- 246 2. the frequency of heavy truck traffic to and from the site (i.e. import and export of  
 247 materials, deliveries, etc.) to minimize right-of-way conflicts with regular vehicle and  
 248 pedestrian traffic.
- 249 f. Substantially mitigate the likelihood that the proposed use or facility may cause bodily  
 250 injury or property damage to potential persons or property in the area.
- 251 (2) Standards relating to infrastructure, amenities, and services.
- 252 a. Mitigate undesirable vehicle or pedestrian traffic patterns or volumes.
- 253 b. Mitigate internal vehicle or pedestrian circulation inefficiencies onsite, and provide for  
 254 adequate onsite parking given the unique specificities of the proposed use or the proposed  
 255 site plan.
- 256 c. Mitigate material degradation of the level of service of any street.
- 257 d. Mitigate material degradation of the level of service of any storm water drainage facility or  
 258 infrastructure, and adequately provide for storm water drainage from the site.
- 259 e. Mitigate material degradation of the level of service of any culinary and irrigation water  
 260 facility or infrastructure, and, if applicable, provide adequate culinary and irrigation water  
 261 service to the site. To help determine adequacy of culinary water provisions the Land Use  
 262 Authority may require, but are not limited to, the following as a condition of approval of the  
 263 conditional use permit:
- 264 1. written verification that the culinary water source of any new public water system can  
 265 meet the requirements of the Utah Division of Drinking Water and/or the Weber  
 266 Morgan Health Department; or
- 267 2. a capacity assessment letter from the Utah Division of Drinking Water for additional  
 268 connections to any existing public water system; or
- 269 3. written verification that the source of any non-public well providing culinary water for  
 270 the use meets the requirements of the Weber Morgan Health Department. This  
 271 verification shall be based on a test of a new or existing well.
- 272 f. Mitigate material degradation of the level of service of any sanitary sewer service, and, if  
 273 applicable, provide adequate sanitary sewer service to, or septic system on, the site.
- 274 g. Mitigate material degradation of the level of service of any other utility, and, if applicable,  
 275 adequately provide such utility services to the site.
- 276 h. Mitigate material degradation of the level of service, functionality, capacity, or usability of  
 277 the existing open spaces, public features, or recreational amenities in the area, and, if  
 278 applicable, adequately provide additional open spaces, public features, or recreational  
 279 amenities.
- 280 i. Mitigate any disproportionate demand for government services, generally.
- 281 (3) Standards relating to the environment.
- 282 a. Mitigate detrimental effects on the natural features of the site, and the surrounding affected  
 283 areas, if credible evidence of such a detrimental effect is present; including, but not limited  
 284 to, rivers and creeks, lakes, ponds, reservoirs, wetlands, drainage ways, ground water  
 285 protection, and slopes.
- 286 b. Mitigate detrimental effects on the natural environment of the site, and the surrounding  
 287 affected areas, if credible evidence of such a detrimental effect is present; including, but  
 288 not limited to, wildlife, air quality, water quality (including erosion control), local natural  
 289 resources, natural vegetation (including protection against noxious or invasive species),  
 290 and wildland areas.



- 291 (4) Standards relating to the current qualities and characteristics of the surrounding area and  
 292 compliance with the intent of the general plan.
- 293 a. Provide buffering, screening, or fencing of the use or site, or provide other landscape  
 294 features, sufficient to mitigate the proximity of incompatible uses, objectionable site  
 295 features, and disharmony with existing and future land uses in the area.
- 296 b. Provide hours of operation appropriate for the general nature and character of existing land  
 297 uses in the area to mitigate conflict or incompatibility with surrounding uses.
- 298 c. Provide reclamation, restoration, clean-up, or beautification of the site as the use evolves,  
 299 or as the use is terminated, in order to mitigate aesthetic and nuisance effects.
- 300 d. Mitigate nuisance factors including, but not limited to, light and glare, noise, vibrations,  
 301 smoke, dust, dirt, odors, gases, noxious matter, heat, electromagnetic disturbances, and  
 302 radiation, if credible evidence of such a nuisance is present.
- 303 e. Mitigate detrimental effects of the use considering the combined effect of it and other main  
 304 uses on the property.
- 305 f. To the extent supported by law, mitigate other general detrimental effects in a manner that  
 306 sustains the objectives and intentions of the County's general plan, future land use map (or  
 307 proposed land use map), and this Land Use Code.
- 308 (5) Standards Relating to Performance.
- 309 a. Mitigate potential noncompliance or poor performance by providing appropriate  
 310 performance measures, including, but not limited to, completion or performance bonds,  
 311 completion agreements, and development agreements.
- 312 b. Mitigate potential noncompliance or poor performance by requiring regular review or  
 313 monitoring of certain specified detrimental effects by an appropriately qualified  
 314 professional.
- 315 (6) Standards Generally
- 316 a. Mitigate unsustainable effects on the economy of the surrounding area or County,  
 317 generally, if credible evidence of such negative effects is present.
- 318 b. Provide appropriate mitigation of detrimental effects as required in standards found  
 319 elsewhere in this Land Use Code in a manner that complies with this Land Use Code, and  
 320 any other federal, state, or local regulation, as may be applicable.
- 321 (7) Voluntary contributions providing satisfactory compliance with applicable standards. When  
 322 considering a conditional use the Land Use Authority has discretion to determine satisfactory  
 323 compliance with any applicable standard, requirement, provision, or restriction of this Chapter if  
 324 the applicant has voluntarily offered a more desirable alternative to mitigate the reasonably  
 325 anticipated detrimental effects of the use than those otherwise specified here. The Land Use  
 326 Authority may require a development agreement to execute the voluntary alternative.

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

- 328 (a) The decision of the Land Use Authority may be appealed to the Appeal Authority, in accordance with  
 329 Title 102, Chapter 3 of this Land Use Code.
- 330 (b) The Board of Adjustment is the Appeal Authority for conditional use permits.

331 (Ord. of 1956, § 22C-5; Ord. No. 4-71; Ord. No. 2010-26, 11-16-2010)

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

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

335 (b) Prior to the issuance of a certificate of occupancy permit, a business license or any other permit  
336 required by the county, the developer shall deposit funds into an escrow account with the county  
337 engineering division for all off-site improvements and on-site landscaping, as may be allowed by law,  
338 as per the approved site plan, and for the completion of any incomplete improvements or conditions  
339 of approval.

340 (Ord. of 1956, § 22C-6; Ord. No. 4-71; Ord. No. 21-83; Ord. No. 2002-20; Ord. No. 2010-26, 11-16-2010)

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

342 (a) A conditional use permit may be revoked by the Land Use Authority upon failure to comply with the  
343 applicant’s approved proposal, or any applied standard, or applicable requirement, provision,  
344 restriction, or condition of approval. Violation of any condition of approval of a conditional use permit  
345 shall constitute a violation of this Land Use Code. Rules for revocation are provided in Section 102-  
346 4-3.

347 (b) Unless there is substantial action under a conditional use permit within a maximum period of one  
348 year of its approval from the Land Use Authority, the conditional use permit shall expire. The Land  
349 Use Authority may grant a maximum extension of six months. Upon expiration of any extension of  
350 time granted by the Land Use Authority, the approval for the conditional use permit shall expire and  
351 become null and void.

352 (Ord. of 1956, § 22C-7; Ord. No. 4-71; Ord. No. 2010-26, 11-16-2010)

353 **Sec. 108-4-9. - Abandoned use.**

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

357 (Ord. of 1956, § 22C-8; Ord. No. 4-71; Ord. No. 2010-26, 11-16-2010)

358

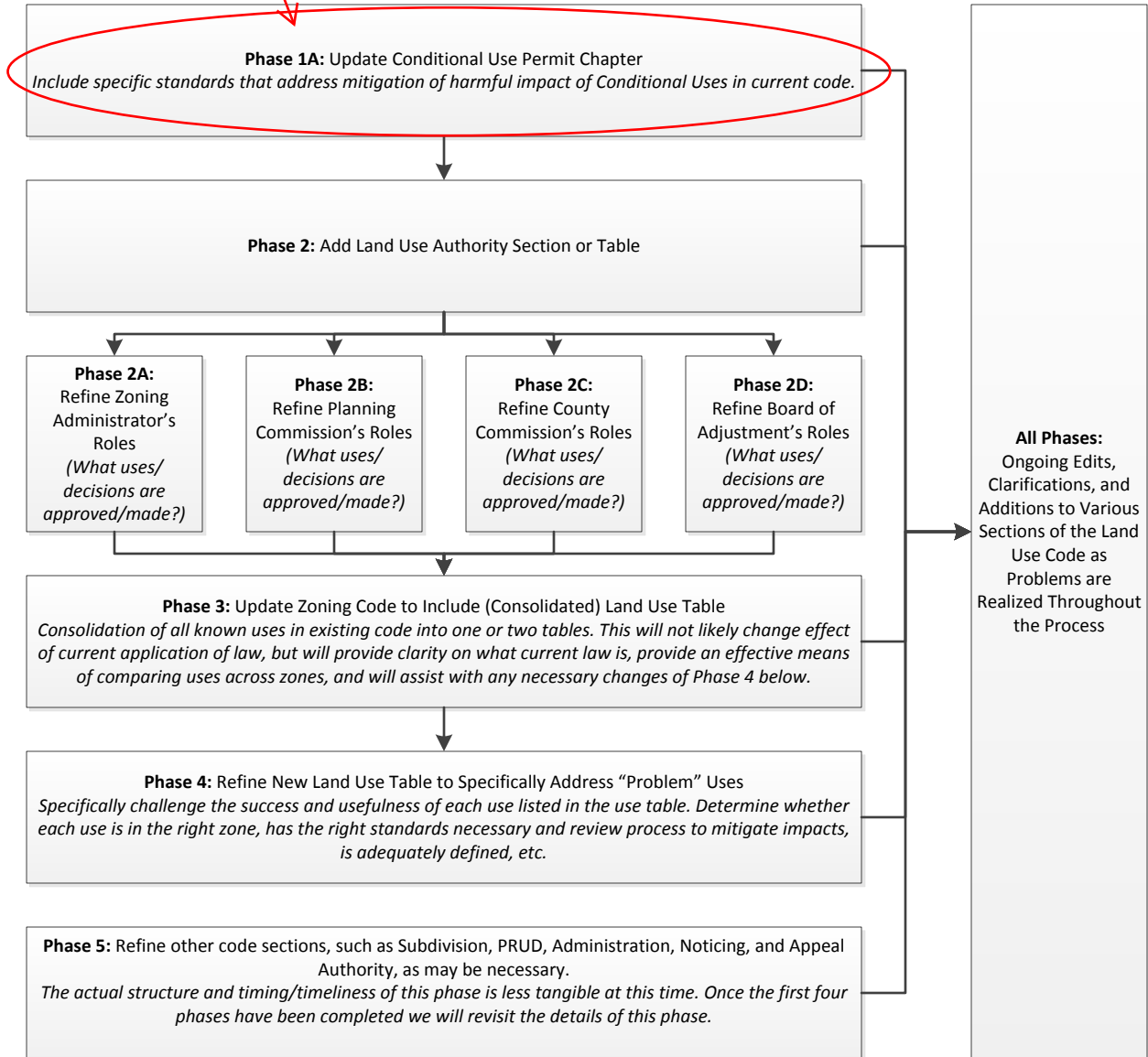


# Exhibit D: Land Use Code Revision Process Flowchart

## 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.

The proposed edits fall here



Conditional Use Permit Deliberation Method

This simple exercise outlines the four-step deliberation process for approving a conditional use permit. The Planning Commission may find it useful to help establish a consistent, predictable, efficient, and defensible method for conditional use decisions.

Note: CUP denial should be rare. Discretion is limited. Pursuant to UCA §17-27a-508 "an applicant is entitled to approval of a land use application if the application conforms to [the County's] requirements..." In other words, if it is listed in the code, it is allowed. With every conditional use review the Land Use Authority should take note of whether the allowance of the use in the zone is conducive to the intent of the zone and the intent of the General Plan. If it is not, then the code and/or plan should be changed. This provides for the continual evaluation of the codes and general plan – as is the prerogative of the Planning Commission under UCA §17-27a-302.

Step one: Identify the use to be evaluated. The use must be listed as a conditional use in the zone in which the use is located. The applicant will have likely already specified the use; however, the Land Use Authority should be familiar with the uses permitted in each zone. Some uses do not fit within the tightly defined parameters of what is listed in the code. Some uses may fall into multiple categories of regulation. It is up to the Land Use Authority to find that the request aligns with the intent of the code and is reviewed in accordance with the applicable process and applicable standards.

Use: \_\_\_\_\_

Step two: Identify the potential detrimental effects of the use. General detrimental effects of the use should be spelled out in the land use code (i.e. , vibration, light, dust, smoke, noise, etc.). More specific effects may be listed as long as the land use code enables the Land Use Authority to regulate them.

Step three: Identify the reasonable conditions that can substantially mitigate the detrimental effects. Keep in mind, "substantial mitigation" is not "total elimination." General conditions should be listed in the land use code, but the Land Use Authority may formulate more specific requirements for the conditional use permit as long as they address standards of the land use code.

Detrimental Effects:

Reasonable Conditions:

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Step Four: Provide findings. You have already found that there are detrimental effects. You have also found reasonable conditions to apply that will substantially mitigate the effects. These are all findings. Other findings to help support your decision beyond these are findings about the use's compliance with the land use code, whether the use will protect the general health, safety, and welfare of the County's residents, and how the use complies with the vision, goals and objectives of the General Plan. Your findings are intended to provide clear and defensible support for your decision.

\_\_\_\_\_
\_\_\_\_\_