

4.9.6. Conditional Use Permits (CUP). For approval of certain conditional uses as set forth in the Use Matrix and elsewhere in the SLDC, pursuant to this Section.

4.9.6.1. Purpose and Findings. This Section provides for certain uses that, because of unique characteristics or potential impacts on adjacent land uses, are not permitted in zoning districts as a matter of right but which may, under appropriate standards and factors set forth herein, be approved. These uses shall be permitted through the issuance of a conditional use permit (CUP).

4.9.6.2. Applicability. The provisions of this Section apply to any application for approval of a CUP as required by the Use Matrix. Conditional uses are those uses that are generally compatible with the land uses permitted by right in a zoning district but that require individual review of their location, design and configuration, and the imposition of conditions or mitigations in order to ensure the appropriateness of the use at a particular location within a given zoning district. Only those uses that are enumerated as conditional uses in a zoning district, as set forth in the use matrix, may be authorized by the Planning Commission. No inherent right exists to receive a CUP. Concurrent with approval of a CUP, additional standards, conditions and mitigating requirements may be attached to the development order. Additionally, every CUP application shall be required to comply with all applicable requirements contained in the SLDC.

4.9.6.3. Application. An applicant may apply for a CUP by filing an application for discretionary development approval with the Administrator. A site development plan is required to be submitted with any CUP application and shall include any SRAs required pursuant to Table 6-1 in Chapter 6.

4.9.6.4. Review. The application shall be referred to the Hearing Officer and Planning Commission for the holding of a quasi-judicial public hearing.

4.9.6.5. Approval Criteria. CUPs may only be approved if it is determined that the use for which the permit is requested will not:

1. be detrimental to the health, safety and general welfare of the area;
2. tend to create congestion in roads;
3. create a potential hazard for fire, panic, or other danger;
4. tend to overcrowd land and cause undue concentration of population;
5. interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
6. interfere with adequate light and air; and
7. be inconsistent with the purposes of the property's zoning classification or in any other way inconsistent with the spirit and intent of the SLDC or SGMP.

4.9.6.6. Conditions. In approving any CUP, the Planning Commission may:

1. Impose such reasonable standards, conditions, or mitigation requirements, in addition to any general standard specified in the SLDC or the SGMP, as the Planning Commission may deem necessary. Such additional standards, conditions, or mitigation requirements may include, but are not be limited to:

- a. financing and availability of adequate public facilities or services;
- b. reservations and dedications;
- c. payment of development fees;
- d. establishment of assessment and public improvement districts;
- e. adoption of restrictive covenants or easements;
- f. special buffers or setbacks, yard requirements, increased screening or landscaping requirements;
- g. development phasing;
- h. standards pertaining to traffic, circulation, noise, lighting, hours of operation, protection of environmentally sensitive areas, or preservation of archaeological, cultural and historic resources; and
- i. provision of sustainable design and improvement features, solar, wind or other renewable energy source, rainwater capture, storage and treatment or other sustainability requirements.

2. Require that a payment and performance guaranty be delivered by the owner/applicant to the Administrator to ensure compliance with all conditions and mitigation measures as are set forth in the development order; and

3. Encourage that a voluntary development agreement be entered into between the owner/applicant and the County to carry out all requirements, conditions and mitigation measures.

4.9.6.7. Scope of Approval. The CUP approval applies only to the project as presented and approved at the hearing. If the project changes in any way it will be subject to the major/minor amendments provisions of Section 4.9.6.9.

4.9.6.8. Recording Procedures. The CUP showing the site layout and conditions of approval shall be recorded at the expense of the applicant in the office of the County Clerk.

4.9.6.9. Amendments. An amendment is a request for any enlargement, expansion, greater density or intensity, relocation, decrease in a project's size or density, or modification of any condition of a previously approved and currently valid CUP.

1. Minor Amendments. Shifts in on-site location and changes in size, shape, intensity, or configuration of less than five percent (5%), or a five percent (5%) or less increase in either impervious surface or floor area over what was originally approved, may be authorized by the Administrator, provided that such changes comply with the following criteria:

- a. no previous minor amendment has been previously granted pursuant to this Section;
- b. nothing in the currently valid CUP precludes or otherwise limits such expansion or enlargement; and

c. the proposal conforms to the SLDC and is consistent with the goals, policies and strategies of the SGMP.

2. Minor Amendments Causing Detrimental Impact. If the Administrator determines that there may be any detrimental impact on adjacent property caused by the minor amendment's change in the appearance or use of the property or other contributing factor, the owner/applicant shall be required to file a major amendment.

3. Major Amendments. Any proposed amendment, other than minor amendments provided for in Section 4.9.6.9.1, shall be approved in the same manner and under the same procedures as are applicable to the issuance of the original CUP development approval.

4.9.6.10. Expiration of CUP. Substantial construction or operation of the building, structure or use authorized by the CUP must commence within twenty-four (24) months of the development order granting the CUP or the CUP shall expire; provided, however, that the deadline may be extended by the Planning Commission for up to twelve (12) additional months. No further extension shall be granted under any circumstances, and any changes in the requirements of the SLDC, or federal or state law shall apply to any new CUP development approval application.

4.9.7. Variances.

4.9.7.1. Purpose. The purpose of this Section is to provide a mechanism in the form of a variance that grants a landowner relief from certain standards in this code where, due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner. The granting of an area variance shall allow a deviation from the dimensional requirements and standards of the Code, but in no way shall it authorize a use of land that is otherwise prohibited in the relevant zoning district.

4.9.7.2. Process. All applications for variances will be processed in accordance with this chapter of the Code. A letter addressing Section 4.9.7.4. review criteria must accompany the application explaining the need for a variance.

4.9.7.3. Applicability. When consistent with the review criteria listed below, the planning commission may grant a zoning variance from any provision of the SLDC except that the planning commission shall not grant a variance that authorizes a use of land that is otherwise prohibited in the relevant zoning district.

4.9.7.4. Review criteria. A variance may be granted only by a majority of all the members of the Planning Commission (or the Board, on appeal from the Planning Commission) based upon the following criteria:

1. where the request is not contrary to the public interest;
2. where due to extraordinary and exceptional situations or conditions of the property, the strict application of the code would result in peculiar and exceptional practical difficulties or exceptional and undue hardship on the owner; and
3. so that the spirit of the SLDC is observed and substantial justice is done.