



# Franklin County Communique to the Planning Board

## REQUEST FOR UDO AMENDMENTS 15-UDO-03

### STAFF ANALYSIS

#### **15-UDO-03**

##### **Staff Discussion**

Staff is proposing to amend the UDO Section 7-2 Procedure for Conditional Use Permit Granted by the County Board of Adjustment. In a recent Conditional Use Permit petition to the Board of Adjustment, staff was made aware that the ordinance did not specifically state that site plans shall be prepared by a licensed surveyor or engineer. Special Use Permit applications require site plans prepared by a licensed surveyor or engineer. Since Conditional Use and Special Use Permits require quasi-judicial review, staff feels that accurate site plans should be required.

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#### **(2) Section 7-2 Procedure for Conditional Use Permit Granted by the County Board of Adjustment**

Conditional use permits may be issued by the Administrator, after approval by the Board of Adjustment, for the uses as designated in the table of regulations for conditional uses. The petition for a conditional use permit and the accompanying plans shall be submitted to the Administrator at least three (3) weeks prior to the regular monthly Board of Adjustment meeting at which it is to be heard. Such application shall include all of the requirements pertaining to it as specified in Article 7. On receiving the application, the County Board of Adjustment shall give notice of a public hearing at least five (5) days prior to the date of the public hearing. At the public hearing, all interested persons shall be permitted to testify. The County Board of Adjustment shall consider the application and may approve or deny the requested conditional use permit. Majority rule shall be required to approve the Conditional Use Permit.

The conditional use permit, if approved, shall include approval of plans as may be required. In approving the permit, the County Board of Adjustment shall find as a specific finding of fact and reflect in their minutes that the permit will comply with the following four facts:

- (1) That the use will not materially endanger the public health, safety, or general welfare if located where proposed and developed according to the plan as submitted and approved;
- (2) That the use meets all required conditions and specifications;

- (3) That the use will not adversely affect the use or any physical attribute of adjoining or abutting property, or that the use is a public necessity; and
- (4) That the location and character of the use, if developed according to the plan as submitted and approved, will be in harmony with the area in which it is to be located and in general conformity with the Franklin County Land Use Plan.

In approving the conditional use permit, the County Board of Adjustment may designate, such conditions in addition and in connection therewith as will, in its opinion, assure that the use in its proposed location will be harmonious with the area in which it is proposed to be located and with the spirit of this Ordinance. All such additional conditions shall be entered in the minutes of the meeting at which the conditional use permit is granted and also on the conditional use permit approving, and on the approved plans submitted therewith. All specific conditions shall run with the land and shall be binding on the original applicant for the conditional use permit, the heirs, successors, and assigns. In order to ensure that such conditions and requirements for each conditional use permit will be fulfilled, the petitioner for the conditional use permit may be required to enter into a contract with Franklin County providing for the installation of the physical improvements required as a basis for the issuance of the conditional use permit. Performance of said contract shall be secured by cash or surety bond which will cover the total estimated cost of the improvements as determined by Franklin County; provided, however, that said bond may be waived by the County Board of Adjustment within its discretion.

If the County Board of Adjustment denies the permit, they shall enter the reason for its action in the minutes of the meeting at which the action is taken.

Each decision of the County Board of Adjustment is subject to review by the County Superior Court. Any appeal to the Superior Court shall be taken within thirty (30) days after the decision of the Board of Adjustment, or after a written copy of the decision is delivered to the appellant by registered mail, return receipt requested, whichever is later.

In addition to the conditions specifically imposed by the County Board of Adjustment, conditional uses shall comply with the height, area, and parking regulations of the zone in which they are located.

In the event of failure to comply with the plans approved by the Board of Adjustment or with any other conditions imposed upon the conditional use permit, the permit shall thereupon immediately become void and of no effect. No building permits for further construction nor a certificate of compliance under this conditional use permit shall be issued, and the use of all completed structures shall immediately cease and such completed structures not thereafter be used for any purpose other than a use-by-right as permitted by the zone in which the property is located.

~~Site plans are required to be submitted and approved as part of the application for a conditional use permit; modifications of the original plans may be authorized by the County Board of Adjustment after their review. All plans shall show the following:~~ All site plans for Conditional Use Permits shall be prepared by a licensed engineer or surveyor, with the minimum requirements listed below.

Topography: Topography of the site at contour intervals not greater than ten (10) feet.

Structure: Location and approximate size of all existing and proposed buildings and structures within the site and on the lots adjacent thereto.

Circulation: Proposed points of access and egress and pattern of internal circulation.

Lighting: Proposed lighting location and design.

Buffering: Shall be required.

Parking and Loading: Layout of parking spaces and type of proposed surfacing.

Drainage: Proposed provision for storm drainage (including retention pond facilities, when applicable), approved by the Administrator.

Landscaping: If applicable.

A statement analyzing the reasonableness of any proposed rezoning shall be prepared for each petition for a zoning amendment. This statement shall be drafted by County Planning Department staff, may be amended by the Planning Board, Board of Adjustment and/or the Board of Commissioners, and must be endorsed by all bodies approving or rejecting such rezonings. The statement must address exactly how the proposed rezoning is reasonable (or unreasonable), documenting whether or not it arbitrary and/or unduly discriminatory, state how the proposed action is or is not consistent with the County's adopted Comprehensive Land Use Plan and is or is not in the public interest.

## **ARTICLE 9. SPECIAL USES**

The provisions of this Ordinance permit some uses to be established by right in the appropriate district while other uses are listed which require a permit from the Board of Adjustment or Board of Commissioners. Those which require a permit from the Board of Adjustment are termed conditional uses by this Ordinance, while those which involve broader policy considerations are termed special uses and are permitted by the Board of Commissioners. See Appendix VII for procedural flow chart. Both types of uses, in some circumstances, may be compatible with and

desirable in the districts in which they are designed as special or conditional uses, but they may also have characteristics which could have detrimental effects on adjacent properties if not properly designed and controlled.

Special Use Permits shall only be granted after the Franklin County Board of Commissioners has held a public hearing using the procedure set forth below:

- (A) Applications for Special Use Permits and a fee as indicated on the fee schedule shall be received by the Administrator twenty-one (21) days prior to the Planning Board meeting at which it is to be considered. Incomplete applications which do not meet all requirements of this ordinance will not be considered by the Planning Board until all ordinance requirements are adhered to at least twenty-one (21) days prior to the Planning Board.
- (B) ~~For consideration of all Special Use Permits prepared by a licensed engineer or surveyor, plans are required and must show:~~ All site plans for Special Use Permits shall be prepared by a licensed engineer or surveyor, with the minimum requirements listed below.

*Structures.* Location of buildings and sign, and size of the sign.

*Circulation.* Proposed points of access and egress and pattern of internal circulation.

*Buffering.* Location of all proposed buffering and fencing.

*Parking.* Layout of parking spaces.

*Lighting.* Lighting plan, inclusive of wattage and illumination.

*Drainage.* Proposed provision for storm drainage (including retention pond facilities, when applicable), approved by the Building Inspector.

*Topography:* Topography of the site at contour intervals of not less than ten (10) feet.

*Utilities:* Location of all existing and proposed utilities if the development is to be serviced by public utilities including but not limited to water, sewer and gas.

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## PLANNING STAFF RECOMMENDATION TO THE PLANNING BOARD

Recommend approval of the requested UDO amendments as noted above.