

Summary of the Conditional Use Process

Conditional Uses are certain land use types in various zoning districts which are not permitted as a matter of right but which may be permitted if approved by the Hearing Authority. The approval of a Conditional Use request is subject to a determination on whether the request complies with applicable criteria that are specified in the Zoning Regulations. The types of allowable Conditional Use categories are listed in Section 131.0.N of the Zoning Regulations; other types of land uses that are not listed there cannot be considered in the Conditional Use process.

Applications

Conditional Use application forms (also known as petition forms) may be obtained from the Department of Planning and Zoning and from the Department of Planning and Zoning (“DPZ”) page on the County web site. These applications are officially requests to the Hearing Authority (i.e., the Howard County Hearing Examiner or the Howard County Board of Appeals, as applicable) and are not requests to DPZ, although DPZ processes and provides its evaluations on the applications. All applications include a Conditional Use plan containing those informational items listed in the application. The County Council establishes the filing fees for Conditional Use applications. The current fees are listed on the application form.

Conditional Use Process

1. Presubmission Community Meeting

An applicant for a Conditional Use must hold a Pre-submission Community Meeting prior to submitting the application. The requirements and procedures for this meeting are specified in the most current version of Section 16.128 of the County Code and the Subdivision and Land Development Regulations. These requirements and procedures are quite detailed, but basically, the applicant must provide at least 3 weeks written notice regarding the date, time and location of the meeting by mail to adjoining property owners and applicable community associations, post this information on the subject property, and provide this information to DPZ to put the meeting information on the DPZ web page. (For the detailed requirements, see the Subdivision and Land Development Regulations on the DPZ web page.)

2. Submission

After holding the Pre-submission Community Meeting, an applicant has up to one year to submit the application to DPZ. After the application is submitted, it is reviewed to check for errors or discrepancies and to determine whether it includes sufficient information for a thorough evaluation of the request. The applicant is notified in writing and given the opportunity to correct or supplement the information provided if the initial application is determined to be deficient. When an application is determined to include sufficient information, it is considered to be “officially accepted” for processing and scheduling.

3. Scheduling

After a Conditional Use application has been officially accepted, it is forwarded to the Hearing Examiner for a public hearing date and time to be scheduled. DPZ does not schedule these public hearings. The date scheduled is based upon the requirements for public notice and the number of cases currently on the Hearing Examiner docket.

4. Posting

The property must be posted with the information on the public hearing date and time at least 30 days immediately prior to the hearing. DPZ prepares the posters, but the applicant is responsible for posting them and maintaining them. The poster locations are specified by DPZ on a map that is given to the applicant, and the applicant is responsible for posting in these specified location(s). Prior to the public hearing, the applicant must submit a signed affidavit attesting that the property has been posted in accordance with all applicable requirements. The Hearing Examiner determines whether a property has been posted sufficiently; DPZ does not make this determination. Therefore, opinions about postings that are believed to be insufficient or incorrect must be presented to the Hearing Examiner at the public hearing.

Please be advised that when it specifies the poster location(s), DPZ cannot be aware of all the current detailed site conditions and site characteristics of the property, and some times a poster may be obscured due to various reasons. If this is brought to the attention of DPZ, DPZ will contact the applicant to correct the situation.

5. Advertising

The applicant must advertise the date, time and place of the hearing at least 30 days prior to the public hearing, in at least two newspapers of general circulation in Howard County. DPZ prepares the text for the advertising, which is given to the applicant. The applicant is responsible for submitting the text to the newspapers.

6. Technical Staff Report

Prior to the public hearing, DPZ prepares a Technical Staff Report ("TSR"), which evaluates the Conditional Use request on the basis of the information provided in the application materials. This TSR explains the details of the request, applicable information about the subject property and its surroundings, and presents a DPZ recommendation on the ultimate decision for the case. The Hearing Examiner makes the decision, which may or may not be the same as the DPZ recommendation. The most common DPZ recommendations are either for approval, for approval with revisions, or for denial, but other types of recommendations are possible.

When a TSR is finalized, it is forwarded to the Hearing Examiner and posted online in the Hearing Examiner's schedule. It may also be viewed at the DPZ public service counter. Typically, the TSR is finalized at least seven or more days prior to the public hearing, but the Hearing Examiner may reduce or waive this in advance.

7. Public Hearing

The applicant, or a designated representative, must attend the public hearing and be prepared to present the case and answer any questions. The applicant may have an attorney or other competent professional present the case, or to provide testimony supporting the case. Other people who have an interest in the case may attend the public hearing and present testimony as permitted in the Hearing Examiner's Rules of Procedure. For persons who want to present such testimony, reviewing the Rules of Procedure is recommended. Questions about the Rules of Procedure should be directed to the Administrative Assistant to the Hearing Examiner.

8. Criteria for Evaluating Conditional Use Requests

Any Conditional Use request is evaluated based upon two sets of requirements; the General Standards, which apply to all the various types of Conditional Use categories, and the Specific Criteria, which apply only to the type of Conditional Use category being requested. The current General Standards are as follows:

1. The proposed Conditional Use plan will be in harmony with the land uses and policies in the Howard County General Plan which can be related to the proposed use.
2. The nature and intensity of the use, the size of the site in relation to the use, and the location of the site with respect to streets giving access to the site are such that the overall intensity and scale of the use(s) are appropriate for the site.
3. The proposed use at the proposed location will not have adverse effects on vicinal properties above and beyond those ordinarily associated with such uses. In evaluating the proposed use under this standard, the Hearing Authority shall consider whether or not:
 - a. The impact of adverse effects such as, but not limited to, noise, dust, fumes, odors, intensity of lighting, vibrations, hazards or other physical conditions will be greater at the proposed site than it would generally be elsewhere in the same zoning district or other similar zoning districts.
 - b. The location, nature and height of structures, walls or fences, and the nature and extent of the existing and/or proposed landscaping on the site are such that the use will not hinder or discourage the development and/or use of adjacent land and structures more at the subject site than it would generally elsewhere in the same zoning district or other similar zoning districts.
 - c. The number of parking spaces will be appropriate to serve the particular use. Parking areas, loading areas, driveways and refuse areas will be appropriately located and buffered or screened from public roads and residential uses to minimize adverse impacts on adjacent properties.

- d. The ingress and egress drives will provide safe access with adequate sight distance, based on actual conditions, and with adequate acceleration and deceleration lanes where appropriate. For proposed Conditional Use sites which have driveway access that is shared with other residential properties, the proposed Conditional Use will not adversely impact the convenience or safety of shared use of the driveway.
- e. The proposed use will not have a greater potential for adversely impacting environmentally sensitive areas in the vicinity than elsewhere.
- f. The proposed use will not have a greater potential for diminishing the character and significance of historic sites in the vicinity than elsewhere.

The Specific Criteria for each individual Conditional Use category are found in 131.0.N of the Zoning Regulations. Persons with an interest in the Conditional Use request should review the Specific Criteria and the General Standards, as these are the basis upon which the final decision will be based.

9. Decision

The Hearing Examiner makes the decision to approve or deny a Conditional Use petition. This decision is based upon evaluations on whether the Conditional Use request complies with all of the applicable General Standards and Specific Criteria; for various reasons, some of these may not be applicable to a specific request. The Hearing Examiner issues the decision on the case in the form of a written Decision and Order containing Findings of Fact, Conclusions of Law, the Decision, and any conditions the Hearing Examiner requires for the Conditional Use.

10. Reconsideration

Within 15 days of the issuance of a Decision and Order any party to the case may request that the Hearing Examiner suspend and reconsider the Decision. The Hearing Examiner may reconsider the Decision only under limited circumstances such as cases of fraud, mistake or irregularity, to correct a clerical error, or for other good cause shown. The Hearing Examiner cannot rehear a matter unless new evidence is submitted which could not reasonably have been presented at the original hearing.

11. Appeals

A decision rendered by the Hearing Examiner may be appealed to the Board of Appeals of Howard County within 30 days after the Decision and Order is issued. Information concerning this appeal process should be obtained from private counsel or the Clerk of the Board of Appeals. In such an appeal, the Board of Appeals holds a public hearing and rehears the Conditional Use case.

12. Requirements Following the Approval of a Conditional Use

A Site Development Plan is required for all Conditional Uses in commercial or industrial districts. In other zoning districts, a Site Development Plan is required unless the type of Conditional Use approved includes no significant new physical improvements, such as the reuse of an existing improved site. The Site Development Plan must be in substantial compliance with the approved Conditional Use plan and must meet the requirements of the Subdivision and Land Development Regulations. Information concerning these regulations may be obtained by contacting the Division of Land Development in DPZ.

An approved Conditional Use becomes void unless a building permit conforming to the Conditional Use plan is obtained within two years, and substantial construction is completed within three years from the date of the decision, or, any Conditional Use for which a building permit is not necessary must commence operations within two years. However, the exceptions are that an applicant may request and be granted extensions of the approval, and a Conditional Use does remain valid as long as the associated Site Development Plan remains an active plan. For more details on the validity of a Conditional Use, please see Section 131.0.I.3 of the Zoning Regulations.

Please Note:

This information is not to be considered legal advice. Additional information concerning the Conditional Use process is contained in Section 131.0 of the Zoning Regulations and the in the Rules of Procedure of the Hearing Examiner or the Board of Appeals. These documents are available online and also at the DPZ public service counter. Questions can be answered in person at the DPZ public service counter.

By phone, people with questions can call the main number at 410-313-2350 and ask to speak to someone in the Division of Public Service and Zoning Administration.

By email, people can send questions to planning@howardcountymd.gov, or to the email addresses for the Division Chief or any of the [planners](#) as listed in the DPZ web page “Contact Us” link for the Division of Public Service and Zoning Administration.

To get to the DPZ web page, go to www.howardcountymd.gov, chose the “Departments” tab at the top, and then choose Planning and Zoning. The “Contact Us” link is on the right side, near the top.

