



CONDITIONAL USE PERMIT (CUP)

PROCESS

17.06.330 - Conditional Use

"Conditional use" means a use permitted in one or more zones as defined by this title, but which, because of characteristics peculiar to each such use or because of size, technological processes or equipment, or because of the exact location with reference to surroundings, streets, and existing improvements or demands upon public facilities, requires a special degree of control to make such uses consistent and compatible with other existing or permissible uses in the same zone or zones.

(Ord. 541 § 1 (part), 1999)

A **Conditional Use Permit (CUP)** allows the Town to consider uses which may be essential or desirable, but which are not allowed as a matter of right within a zoning district, through a public hearing process. A CUP can provide flexibility within a zoning ordinance. A review of project impact on the surrounding neighborhood and the vicinity is considered necessary before they are allowed to be established.

17.64.010 - Purpose

It is the purpose of this chapter to establish review and permit approval procedures for unusual or unique types of land uses, which, due to their nature, require special consideration of their impact on the neighborhood, and land uses in the vicinity.

(Ord. 541 § 1 (part), 1999)

Procedure

A permit application is complete for purposes of this section when it meets the procedural submission requirements of the department and is sufficient for continued processing even though additional information may be required or project modifications may be subsequently undertaken. The determination of completeness shall not preclude the department from requesting additional information or studies either at the time of notice of completeness or subsequently if new or additional information is required or substantial changes in the proposed action occur, as determined by the department.

Within twenty-eight (28) days of receiving your application, Town staff shall determine if it is complete. If additional information and/or materials is needed to meet the approval criteria for a particular application, the Town will contact you and outline what is needed to complete the application. If the application is incomplete and the applicant submits the additional information

requested by the department, the department shall mail or provide in person written notice to the applicant, within fourteen (14) days following the receipt of the additional information.

The department shall cancel an incomplete application if the applicant fails to submit the additional information required by DMC Sections 17.104.070(A) or (C) within ninety (90) days following notification from the department that the application is incomplete. The department may extend this cancellation date up to one hundred twenty (120) additional days if the applicant submits a written request for an extension prior to cancellation. The request must clearly demonstrate that the delay is due to circumstances beyond the applicant's control (such as the need for seasonal wetland data) or unusual circumstances not typically faced by other applicants, and that a good faith effort has been made to provide the requested materials.

After the determination of a completed application, a decision from Town staff on a permit application is required within one hundred and twenty days (120).

The project will be scheduled for a public hearing before the Planning Commission once the application is determined to be complete. The hearing date will be no sooner than 30 days from the determination of a complete application. During this time, Town staff will review the application.

An environmental SEPA checklist review is required on every CUP Applications. The Town, followed by a 15-day comment period prior to the Planning Commission public hearing, must issue a Determination on the environmental impacts.

Design review approval by the Design Review Committee (DRC) may be associated with CUP review and would be done simultaneously with the CUP review if needed.

If approved by the Planning Commission, a recommendation is passed to the Town Council for final action.

The fact that an application is deemed complete pursuant to this section shall not, under any circumstances, prevent the Town from subsequently requesting additional information or studies regarding any aspect of a proposed project, which is deemed necessary to a complete review of the proposed project.

17.104.010 Classification of Project Permit Applications

Type 4 decisions are quasi-judicial decisions made by the Board of Architectural Review or the Planning Commission, following an open record hearing. Type 4 decisions may be appealed to the Town Council, which will hold a closed record appeal hearing based on the record established by the Board of Architectural Review or Planning Commission, except Shoreline Conditional Use Permits, which are appealable to the State Shoreline Hearings Board pursuant to RCW 90.58.

A Conditional Use Permit is a Type 4 Approval Process – Planning review is to be completed by a contracted professional planner and the final decision will be made by the Town of Darrington Subdivision Committee, following an open record public hearing. If approved by the Planning Commission, a recommendation is passed to the Town Council for final action.

A public "Notice of Application" must be posted on-site, within 14 days of completed application having been received. If the BLA contains wetlands, streams, or their buffers, then a SEPA Environmental review may apply. These additional approvals may increase review time. The Department of Ecology website contains SEPA information, forms and checklists needed.

www.ecy.wa.gov/programs/sea/sepa/forms.htm

A. A single notice board shall be posted for a project. This notice board shall also be used for the posting of the notice of decision and any notice of hearing, and shall be placed by the applicant as follows:

1. The notice board shall be located at the midpoint of the site street frontage or as otherwise directed by the department for maximum visibility.
2. The notice board shall be five feet inside the property line except when the board is structurally attached to an existing building, provided that no notice board shall be placed more than five feet from the street property without approval of the department.
3. Notice boards shall be at least four feet by four feet in size and shall be designed, constructed and installed in accordance with specifications promulgated by the department.
4. The top of the notice board shall be between seven to nine feet above grade.
5. The notice board shall be placed so that it is completely visible to pedestrians.

B. A mailed notice shall be issued to all owners/residents within five hundred (500) feet of any portion of the project boundary by first class mail by the department within fourteen (14) days following the department's determination of completeness and at least ten (10) days prior to the public hearing. Applicant will provide to the Town of Darrington staff, a complete mailing list and envelopes that must be size #10 (regular business size) **with** first class postage and with a Town of Darrington return address.

Criteria

Application for Conditional Use permit shall be filed with the planning department on forms prescribed by that office. A filing fee as indicated in the fee schedule (Ch. 17.88), shall accompany all applications. The Planning Commission will review applications for conditional use permits and the recommendations will be passed to the Town Council for final action. The Planning Commission may recommend to the Town Council denial, approval, or approval with conditions. Conditional use applicants must adhere to all applicable public notification requirements. Denial of conditional use permit applications is not appealable. All conditional use permits are subject to design review procedures.

The following criteria shall apply in granting a conditional use permit:

- A. The proposed Conditional Use will not be materially detrimental to the public welfare or injurious to the property or improvements in the vicinity of the proposed conditional use or in the district in which the subject property is situated;
- B. The proposed Conditional Use shall meet or exceed the performance standards that are required in the district it will occupy;

C. The proposed conditional use shall be compatible generally with the surrounding land uses in terms of traffic and pedestrian circulation, building and site design as approved by the board of architectural review.

D. The proposed conditional use shall be consistent with the goals and policies of the comprehensive land use policy plan;

E. All measures have been taken to minimize the possible adverse impacts, which the proposed use may have on the area in which it is located.

17.64.080 - Performance Bond and Other Security

A performance bond or other adequate and appropriate security may be required for any elements of the proposed project which the Planning Commission or Town Council, on appeal, determines are crucial to the protection of the public welfare. Such bond shall be in an amount equal to one hundred twenty-five percent (125%) of the cost of the installation or construction of the applicable improvements.

(Ord. 541 § 1 (part), 1999)

16.12.040 - Preliminary review procedures

A. Referral to Other Departments. Upon receipt of a complete and satisfactory application for a Conditional Use Permit, the planning department shall transmit one copy of the application to each member of the short subdivision committee, and one copy to any department or agency deemed necessary.

B. Planning Division Action. The Planning Department may determine that a meeting be conducted to resolve major issues identified as a result of departmental recommendations. Such a meeting shall be attended by those offices or agencies responsible for the recommendations, and must include the applicant. The proceedings and results of the meeting shall be documented.

C. The proposed subdivision is in conformance with the Darrington Comprehensive Plan and any other adopted plans

D. The subdivision complies with the relevant requirements of the Darrington subdivision and zoning ordinances, and all other relevant state and local regulations

D. Appropriate provisions have been made for water, storm drainage, erosion control and sanitary sewage disposal for the subdivision, which are consistent with current standards and plans

E. Appropriate provisions have been made for dedications, easements and reservations

F. The design, shape and orientation of the proposed lots are appropriate to the proposed use for which the lots are intended and are compatible with the area in which they are located

G. Short Subdivision Committee. The Short Subdivision Committee shall consist of the Town Planner who shall be chairman, the Public Works Director, Town Clerk, Town Council member and a Planning Commission member or their designated representatives.

16.08.030 - Preliminary Approval

In order to receive preliminary approval, the applicant must submit to the Darrington Planning Department a complete application, in quantities specified by the Department, and meet the criteria for approval.

A. Application. A complete application consists of the following:

1. A completed application on a form provided by the Planning Department and fee as identified in Chapter 17.88 DMC;

FEE: \$ 850.00 Non-Refundable

17.88.10 - Application fees.

Any applicant shall pay the following fees for a land use permit at the same time that said application is filed with the town

2. A neat and readable plan drawn (when required) to a standard decimal (engineer) scale. A survey may be required if it is determined that level of information is needed to ensure the adjustment meets the approval criteria. The plan shall show the following information:

a. Property lines, with those that remain in their existing location shown as a solid line, those that are being moved or removed shown as a dashed line, and those that have been relocated shown as a solid line and clearly identified as a relocated line,

b. Dimensions of all property lines and area of the lots, before and after the adjustment,

c. Location and floor area of all structures on the site and their setbacks from existing and new property lines,

d. Location and purpose of all easements on the site,

e. Location, purpose and legal description of any new or extended easements proposed,

f. Location of adjacent public roads and points of access from the public road(s) if a lot does not front on a public road, show how and where access is provided,

g. Location of existing utilities and utility easements,

h. Calculations which demonstrate that required yard setbacks of the Uniform Building Code are met;

3. Before and after legal description of the affected lots.

B. Review Criteria. In order to approve a Conditional Use, the short subdivision committee shall determine the project complies with the following criteria:

1. No additional lots, sites, parcels, tracts or divisions are created;

2. The adjustment will not create nonconforming lots with respect to zoning dimension and area standards, zoning setbacks and lot area coverage standards;
3. The degree of nonconformance on existing nonconforming lots with respect to zoning, dimensions and area standards, zoning setbacks and floor area ratio are not increased;
4. All lots have legal access to a public road. Existing required private access road improvements and easements are not diminished below subdivision ordinance standards for lots that are served by a private access road;
5. Existing easements for utilities are appropriate for their intended function, or they are extended, moved or otherwise altered to an appropriate location;
6. The adjustment does not create any nonconformity with respect to the Uniform Building Code or any other locally administered regulation.
(Ord. 542 § 1 (part), 1999)

16.08.040 - Final Approval and Recording

After preliminary approval has been granted, an application for final approval shall be submitted to the Planning Department for final review.

A. Application. A complete final application shall consist of the documents when required for recording including:

1. Drawing or survey of the boundary line adjustment;
2. Before and after legal description of the affected lots;
3. Affidavit of ownership;
4. Application on a form provided by the planning department;
5. Other documentation necessary to demonstrate the conditions of the approval have been met.

B. Recording. Upon receiving approval from the Town, the applicant will be responsible for picking up the documents from the department and recording them with the Snohomish County office of records. A copy of the recorded documents must be returned to the Planning Department to finalize the approval process. The adjustment shall not be deemed complete until the Town receives these documents.

(Ord. 542 § 1 (part), 1999)

17.64.070 - Revocation of Permit

A. The Planning Commission may revoke or modify a conditional use permit. Such revocation or modification shall be made on any one or more of the following grounds:

1. That the approval was obtained by deception, fraud, or other intentional and misleading representations;

2. That the use for which such approval was granted has been abandoned;
3. That the use for which such approval was granted has at any time ceased for a period of one year or more;
4. That the permit granted is being exercised contrary to be the terms or conditions of such approval or in violation of any statute, resolution, code, law or regulations; or
5. That the use for which the approval was granted was so exercised as to be detrimental to the public health or safety.

B. Any aggrieved party may petition the Planning Commission in writing to initiate revocation or modification proceedings.

C. Before a Conditional Use permit may be revoked or modified, a public hearing shall be held. Procedures concerning notice, reporting and appeals shall be the same as required by this chapter for the initial consideration of a conditional use permit application.

(Ord. 541 § 1 (part), 1999)

17.64.060 - Expiration and Renewal

A Conditional Use Permit (CUP) shall automatically expire one year after a notice of decision approving the permit is issued unless a building permit conforming to plans for which the CUP was granted is obtained within that period of time. A Conditional Use Permit shall automatically expire unless substantial construction of the proposed development is completed within two years from the date a notice of decision approving the permit is issued. The Planning Commission or Town Council, on appeal, may authorize longer periods for a conditional use permit if appropriate for the project. The Planning Commission or Town Council, on appeal, may grant a single renewal of the conditional use permit if the party seeking the renewal can demonstrate extraordinary circumstances or conditions not known or foreseeable at the time the original application for a conditional use permit was granted, which would not warrant such a renewal. No public hearing is required for a renewal of a Conditional Use Permit.

(Ord. 541 § 1 (part), 1999)

17.64.090 - Resubmittal of Application

An application for a Conditional Use Permit, which has been denied, may not be resubmitted within six months from the date of Planning Commission or Council disapproval, whichever is later.

(Ord. 541 § 1 (part), 1999)