

- C. The staff report should include a recommendation for approval or denial and suggest reasonable conditions that should be adopted if the permit is approved to mitigate all reasonably anticipated detrimental effects of the proposed use in accordance with the standards set forth in this Chapter. If the Planning Administrator concludes that no reasonable condition would adequately mitigate a reasonably anticipated detrimental effect of the proposed use, the Planning Administrator shall recommend denial of the conditional use permit.
- D. Each conditional use permit the Planning Commission approves shall contain: (1) a permit number assigned to the permit approval, (2) a clear list of the conditions imposed, (3) the date the conditional use is approved, and (4) an expiration date. The approved conditional use permit shall be recorded on the parcel for which it was approved.

### **6-3 Application**

~~A conditional use permit application shall be made to the Zoning Administrator as provided by this Ordinance. The Zoning Administrator shall submit the application to the Planning Commission, except that the Planning Commission may authorize the Zoning Administrator to grant, attach conditions or deny conditional use permits, subject to such limitations or qualifications as are deemed necessary. Applications for a conditional use permit shall be accompanied by maps, drawings, statements, or other documents as required by the Planning Commission.~~

### **Section 3: MINIMUM CONDITIONAL USE PERMIT APPLICATION REQUIREMENTS**

A. An applicant shall submit a completed conditional use permit application containing at least the following information. If items listed are determined to be unnecessary in a specific circumstance, the Planning Administrator may waive the requirement. Conversely, if additional information is needed in a specific circumstance, the Planning Administrator may request reasonable additional information. For certain conditional uses specified in the following chapters, additional information may be required. Otherwise, the minimum requirements for a conditional use application are:

1. A site plan showing the existing ground conditions, including terrain, drainage, any existing buildings, and other site conditions prior to any demolition or grading, and showing the north arrow and scale;
2. A plan identifying the subject site in relation to adjoining public streets, residential uses, and the surrounding adjacent properties in which it is located with north arrow and scale; The boundaries of the site, and any easements of record or known prescriptive easements;
3. Topography with contours shown at intervals of not more than two feet (2');
4. Vegetation type and location;
5. Soil type and load carrying capacity information;

6. One hundred (100) year floodplain and high groundwater areas, known spring and seep areas, and ditches or canals;
7. All existing roads, fences, irrigation ditches, and drainage facilities;
8. Location of public utility facilities and easements;
9. Site plan of the proposed conditional use, showing building locations and proposed landscaping;
10. Proposed road locations and other circulation features;
11. Proposed finished grade;
12. Proposed drainage, drainage works, retaining walls, and erosion control plans;
13. Proposed location of all site improvements, such as plazas, tennis courts, pools, or similar improvements;
14. Proposed easements for new utility services or relocated utility services;
15. Designations by proposed ownership of areas shown on site plan as being part of a condominium unit, common area, or dedicated open space;
16. General architectural concept elevation profile drawings of proposed buildings;
17. Lighting and signage plans;
18. View-shed analysis or photo simulations;
19. A preliminary title report showing title to the property vested in the applicant, the encumbrances, covenants, easements and other matters affecting the title, and a legal description of the site, with attached copies of any covenants or easements mentioned in the title report;
20. A development schedule indicating phased development, if any, and the estimated completion date for the project; A general description of the project, the prospective tenants or occupants, whether condominium ownership, timeshare ownership, or nightly rental uses are proposed, and the proposed property management structure for any timeshare or nightly rentals;
21. Proposed location of any satellite receiving stations; and
22. Other information as may be reasonably useful or necessary for the meaningful review of the project, as requested by the planning staff.

#### **6-4 Determination**

- ~~(1) The Planning Commission, or upon authorization, the Zoning Administrator, shall approve a conditional use to be located within any district in which the particular conditional use is permitted by the use regulations of this Ordinance. In authorizing any conditional use the Planning Commission shall impose such requirements and conditions as are necessary for the protection of adjacent properties and the public welfare. The Planning Commission shall not authorize a conditional use permit unless the evidence presented is such to establish:~~

~~That such use will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity; and~~

~~(2) That the proposed use will comply with intent, spirit, regulations and conditions specified in this Ordinance for such use and the zoning district where the use is to be located, as well as make the use harmonious with the neighboring uses in the zoning district.~~

~~(3) The Planning Commission shall itemize, describe, or justify the conditions imposed on the use.~~

## **6-5 Fees**

The application for any conditional use permit shall be accompanied by the appropriate fee as determined by the Board of County Commissioners and as listed in the County's Fee Schedule Ordinance.

## **6-6 Public Hearing**

A public hearing on a conditional use permit application may be held if the Planning Commission shall deem a hearing to be necessary and in the public interest.

## **Section 4: PUBLIC HEARING PROCEDURE FOR CONDITIONAL USE PERMITS**

Upon considering an application for a conditional use permit, the Planning Commission may decide to hold a public hearing on the application. If the Planning Commission decides to hold a public hearing, the Planning Administrator shall ensure that the hearing is scheduled for the next available Planning Commission meeting and properly noticed.

A. If held, the public hearing shall be conducted in the following order:

- (1) Presentation of the application by staff;
- (2) Statement from the applicant;
- (3) Statement(s) from the public;
- (4) Response from the applicant; and
- (5) Questions directed to the applicant from the Planning Commission.

## **6-7 Appeals of Decision**

Any person aggrieved by a decision of the Planning Commission or the Zoning Administrator regarding the issuance, denial or revocation or amendment of a conditional use permit may appeal such decision to the Board of County Commissioners whose decision shall be final. All appeals to the Board of County Commissioners must be in writing and filed with such within thirty (30) days of the date of decision appealed from.

The decision of the Board of County Commissioners may be appealed to the District Court

provided such appeal is filed within thirty (30) days of the Commission decision. Such appeal shall be filed with the County Administrator's office and the court clerk.

## **6-8 Inspection**

Following the issuance of a conditional use permit by the Zoning Administrator or the Planning Commission, the Zoning Administrator shall approve an application for a building permit, and shall ensure that development is undertaken and completed in compliance with said conditional use and building permit.

## **~~6-9 Substantial Action Required~~**

~~Unless there is a substantial action under a conditional use permit with one (1) year of its issuance, the permit shall expire. The Planning Commission may grant one extension up to six (6) months, when it is deemed in the public interest.~~

## **Section 5: GENERAL STANDARDS AND FINDINGS REQUIRED**

- A. These standards shall be in addition to any standards set forth in this LUDMO for the zone wherein the proposed conditional use will be established or the specific conditional uses addressed in the following chapters. If there is a conflict between these standards and those set forth for the appropriate zone or conditional use, the more specific standard controls. The County shall not issue a conditional use permit unless the Planning Commission finds or requires, as applicable:
- 8 The proposed use otherwise complies with all requirements of this LUDMO;
  - 9 If the proposed use is related to a business, the business shall maintain a business license;
  - 10 The use will be harmonious, or will be made so by the imposition of appropriate conditions, with adjacent structures in use, location, scale, mass, design, and traffic patterns;
  - 11 The reasonably anticipated detrimental visual or safety impacts caused by the proposed use can be and will be adequately mitigated with imposed conditions;
  - 12 The use is consistent with the LUDMO and the current San Juan County San Juan County General Plan; The reasonably anticipated detrimental effects of any planned or reasonably anticipated future expansion in use or scale can be and will be adequately mitigated through imposed conditions;
  - 13 All reasonably anticipated detrimental effects of the proposed use's lighting, parking, location, character, traffic impact on adjacent and collector streets can be and will be adequately mitigated through imposed conditions;
  - 14 The proposed use's reasonably anticipated detrimental effects on drainage, erosion, soil stability, wildlife, dust, odor, noise, and vibrations can be and will be adequately

mitigated through imposed conditions;

- 15 The proposed use will not, or with adequate mitigating conditions will not, place an unreasonable financial burden on the County; and

**The proposed use, as conditioned, will not have a reasonably anticipated detrimental effect on the health, safety, welfare; including infrastructure, roads, water, sewer, electric, fire and police, solid waste collection, etc. of the residents and visitors of San Juan County.****Section 6: TRANSFERABILITY, TIME FOR PERFORMANCE, EXPIRATION, MODIFICATION**

- (1) A conditional use permit is transferable with the title to the underlying property so that an applicant may convey or assign an approved project without losing the approval, so long as all conditions continue to be met. The applicant cannot transfer the permit off the site for which the approval was granted.
- (2) For all conditions capable of being satisfied prior to operation or occupancy, proof of compliance shall be submitted to the Planning Administrator before occupancy or operation commences. For any conditions that can only be satisfied after occupancy, proof of compliance shall be submitted to the Planning Administrator within three months of occupancy or operation.
- (3) Unless otherwise specified in the motion granting a conditional use permit, if the approved use has not started within 12 months from the approval date, the permit shall expire. Once any portion of the conditional use or any construction related thereto begins, the conditions related thereto become immediately operative and must be strictly obeyed. Upon showing evidence of substantial work toward commencing the conditional use, the Planning Commission may extend the time to commence work for another year.
- (4) To amend a permit, the permittee shall follow the same process required for obtaining a permit and the other provisions of this and other applicable chapters apply as they would to an initial application..
- (5) The Planning Administrator, upon receiving documented substantial evidence of noncompliance and in consultation with the County Attorney, may submit a request to the Planning Commission to revoke a previously granted conditional use permit. An action to revoke a conditional use permit is considered an enforcement action, and the Planning Administrator (as the enforcement officer) may, but is not required, to follow the process outlined in Chapter 2 Section 11 before submitting such a request. If a request to revoke a conditional use permit is made, the Planning Administrator shall send written notice of the request to the permittee at the address provided to the County at least 10 days before the Planning Commission meeting at which the request will be considered. All documentary evidence that the Planning Administrator intends to provide to the Planning Commission shall be provided to the permittee at least three days before the Planning Commission meeting.

## 6-10 Revocation

~~A conditional use permit shall be revocable by the Planning Commission at any time due to failure of the permittee to observe any condition specified or failure to observe other requirements of this Ordinance in regard to the maintenance and improvements or conduct of the use or business as approved. The County shall also have a right of action to compel offending structures or uses to be removed at the cost of the violator or owner.~~

~~No conditional use permit shall be revoked until a hearing is held by the Planning Commission. The permittee shall be notified in writing of such hearing. The notification shall state the grounds for complaint or reasons for revocation, and the time and location of the hearing. At the hearing, the permittee shall be given an opportunity to be heard. The permittee may call witnesses and present evidence. Upon conclusion of the hearing, the Planning Commission shall determine whether the permit should be revoked.~~

### Section 7: REVOCATION

If a request to revoke a conditional use permit is presented to the Planning Commission, that body shall hold a evidentiary hearing to consider evidence. The Planning Administrator and the permittee shall provide all evidence supporting or opposing the request to revoke at least 24 hours before the hearing, including any information about enforcement actions taken by the Planning Administrator before making the request to revoke. At the hearing, the Planning Administrator will provide a statement supporting revocation. The permit holder may then provide a statement opposing revocation. The Planning Commission may ask questions of both.

- (1) The Planning Commission may revoke a conditional use permit only if:
  - (1) The conditional use permit was obtained by mistake of fact, misrepresentation, or fraud; or
  - (2) The permittee is not complying with conditions imposed upon the conditional use permit.

## 6-11 Temporary Permit

A temporary use permit may be issued for any use listed as a conditional use for that zone for no longer than six (6) months and may be extended for an equivalent period with a maximum of three

- (3) extensions.