

Attachment 1

ZRT21-002 – Proposed Code Amendment on CUP Applicability

19.06.110 Criteria for approval – Conditional use permits, variances, and setback deviations.

A. *Conditional Use Permits.*

1. *Purpose.* A use may be authorized by a [conditional use](#) permit for those uses listed in Chapters [19.02](#) and [19.11](#) MICC. The intent of the [conditional use](#) permit review process is to evaluate the particular characteristics and location of certain uses relative to the [development](#) and design standards established in this title. The review shall determine if the [development proposal](#) should be permitted after weighing the public benefit and the need for the use with the potential impacts that the use may cause.

2. *Criteria for Conditional Use Permits That Are Not Located in Town Center.* An [applicant](#) must demonstrate how the [development proposal](#) meets the following criteria:

- a. The permit is consistent with the regulations applicable to the zone in which the [lot](#) is located;
- b. The proposed use is determined to be acceptable in terms of size and location of site, nature of the proposed uses, character of surrounding [development](#), traffic capacities of adjacent [streets](#), environmental factors, size of proposed [buildings](#), and density;
- c. The use is consistent with policies and provisions of the comprehensive plan; and
- d. Conditions shall be attached to the permit assuring that the use is compatible with other existing and potential uses within the same general area and that the use shall not constitute a nuisance.

3. *Criteria for Conditional Use Permits That Also Require Design Review and Are Located in Town Center.* An [applicant](#) must demonstrate how the [development proposal](#) meets the following criteria:

- a. *General Criteria.*
 - i. The proposed use complies with all the applicable [development](#) and design provisions of this chapter.
 - ii. The proposed use is consistent with the comprehensive plan.

- iii. The proposed use is harmonious and appropriate in design, character, and appearance with the existing or intended uses within the surrounding area.
- iv. The proposed use will not generate excessive fumes, odor, dust, light, radiation, or refuse that would be injurious to surrounding uses.
- v. The proposed use will not generate levels of noise that adversely impact the health, safety, or general welfare of surrounding uses.
- vi. The proposed use will be served by adequate public services, including [streets](#), fire and public safety protection, water, sewer, and storm water control, and will not adversely impact the level of service standards for such facilities.
- vii. The proposed location, size, design, and operating characteristics of the proposed use will not be detrimental to the public interest, health, safety, convenience, or welfare of the [city](#).

b. Additional Criteria for Approval of a Conditional Use for Adult Entertainment in Town Center.

- i. The point of entry into the [structure](#) housing the [adult entertainment](#) use shall be located at least 100 feet, measured in a straight line, from the property line of: (a) any R-zoned property; (b) any public institution zoned property; (c) any property containing one or more of the following uses: [residential uses](#) including single- or [multiple-family dwellings](#) or [residential care facilities](#); schools including public, private, primary or secondary, preschool, nursery school, or [day care](#); recreational uses including publicly owned park or [open space](#); commercial or noncommercial or private [recreation](#) facility; religious institutions; public institutions; or uses which cater primarily to minors.
- ii. No [adult entertainment](#) use shall be located closer than 400 feet to another [adult entertainment](#) use. Such distance shall be measured by following a straight line from the nearest point of entry into the proposed [adult entertainment](#) use to the nearest point of entry into another [adult entertainment](#) use.
- iii. The point of entry into an [adult entertainment](#) use shall not be located along 78th Avenue SE.
- iv. Signing shall be limited to words and letters only. [Window](#) or exterior displays of goods or services that depict, simulate, or are intended for use in connection with [specified sexual activities](#) as defined by Chapter [5.30](#) MICC are prohibited.

4. No building permit, business license, or other permits related to the use of the land shall be issued until final approval of the conditional use permit.

5. *Change After Conditional Use Permit Granted.*

a. *Change of Ownership.* Conditional use permits granted shall continue to be valid upon change of ownership of the site.

b. *Change of Use.* Modifications to the use shall require an amendment to the conditional use permit and shall be subject to the review process in Chapter 19.15 MICC.

c. *Applicability.* A conditional use permit shall be applicable only to the property for which it was granted, as defined by the legal description of the property boundaries submitted with the conditional use permit application (“Permitted Property”). The use(s) permitted under a conditional use permit shall not extend beyond the permissible only within the boundaries of the legal description submitted with the permit application, Permitted Property to adjoining property or property added to the Permitted Property even if the boundaries of the property are subsequently enlarged unless the conditionally approved use(s) are already allowed on the adjoining or added property or a new conditional use permit is granted for the adjoining or added property.

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