Quick Guide to the Conditional Use Process

**What is a Conditional Use Permit?**
A Conditional Use Permit refers to a situation in which a particular kind of land use is permitted in a district not as a matter “of right,” but under ordinance provisions that authorize the Town Council to issue such a permit when it makes specified findings. In addition to requiring compliance with specific ordinance provisions concerning the “conditional use,” the ordinance authorizes the Council to designate such conditions that “assure the use will conform to the requirements” of the zoning ordinance.

**Quasi-Judicial Process**
All Conditional Use Permits are reviewed under a quasi-judicial process where the Town Council performs its duties much like that of a court. This means all persons speaking before the Town Council, such as the applicant, a representative of the applicant, an adjoining property owner or a member of the general public must testify under oath and be subject to cross examination. The Council can only consider facts and evidence relevant to the case.

- All evidence and deliberation of the decision must be done in open, public session.
- Council members shall not discuss the permit request prior to the open meeting.
- Factual findings must not be based on hearsay evidence which would be inadmissible in a court of law.

The Public Hearing for a Conditional Use Permit is different than the normal public comment period held as part of the Town’s regular monthly meeting. Members of the public may speak on any matter at the monthly public comment period.

**What can I do to prepare for a public hearing if I wish to speak?**
- **Be brief, concise and clear.** Please contact the town manager prior to the meeting to discuss details of the request. Many times a discussion will answer questions or address concerns prior to the public hearing.
- **Address the Council clearly and speak to the point.** Be direct and clear with your comments. Provide pertinent, well organized comments that directly address the matter.
- **Evidence.** You may bring pictures or other documents to the meeting in order to clarify facts pertaining to the case. However, once you submit documents to the Town Council they become part of the official record and will be retained as evidence. Be sure and make copies of all evidence to be presented.

**What can I expect during the public hearing?**
Town staff and contract experts will present evidence to the Council explaining the technical aspects of the ordinance as it pertains to the case. The Permit Applicant will then present his or her case to the Council. Once the Town Council has heard and received all necessary evidence, discussion will then be open to the public or anyone else who wishes to present evidence related to the case. The Town Council will then openly discuss the facts and take a vote. The applicant may agree to modify the application in response to comments or questions by persons appearing at the hearing or to the suggestions by the Town Council.
**The Town Council has the responsibility to:**

1) Hear and decide upon only such conditional uses as the Town Council is specifically authorized to pass on under the zoning ordinance.

2) Decide such questions as are involved in determining whether a conditional use should be granted.

3) Grant conditional uses with such conditions and safeguards as are appropriate under the ordinance.

4) Deny conditional uses when not in harmony with the intent of this ordinance.

**A conditional use may be granted only after making the following findings:**

1) The Council is empowered under a specific section of this ordinance to grant the conditional use and that the granting of the conditional use will not adversely affect the public interest.

2) The Council has made written findings certifying compliance with all specific rules governing the individual conditional use.

3) The Council has made satisfactory provision and arrangements concerning the following (wherever applicable):
   a) Ingress and egress to property and proposed structures with particular reference to automobile and pedestrian safety, convenience, traffic flow and control, and access in case of fire or catastrophe.
   b) Off-street parking and loading areas where required with particular attention to the items in (1) above, and to the economic, noise, glare, and odor effects of the conditional use on adjoining properties and generally in the district.
   c) Refuse and service areas, with particular reference to the items in 1 and 2 above.
   d) Utilities, with reference to location, availability, and compatibility.
   e) Screening and buffering, with reference to type, dimensions, and character.
   f) Signs, if any, and proposed exterior lighting, with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district.
   g) Required yards and other open space.
   h) General compatibility with adjacent property and other property in the district.
   i) The Council shall request from the Laurel Park Planning Board a review and recommendation of the conditional use relative to the following considerations:
      - Relation of the conditional use to applicable elements of the planning program.
      - Appearance of the conditional use relative to location, structure, and design.

**What happens if a Conditional Use Permit is approved or denied?**

Once a final decision is reached on a quasi-judicial zoning decision, the same matter cannot be brought back to the Town Council for a rehearing. Unless there is a different application or conditions have changed on the site or in the ordinance, the Town Council does not have the legal authority to rehear these cases or terminate a permit.

Approved Conditional Use Permits are binding to the property unless subsequently changed or amended by the Town Council after consideration of a new conditional use permit. Any decision by the Council may be subject to judicial review in Superior Court within thirty (30) days of written notice of the Council’s decision.

*This guide is based on the Town Zoning Ordinance, last amended January 17, 2017. The Ordinance may change and this overview may become out of date. This guide summarizes portions of the Zoning Ordinance, and is not intended to comment on any particular permit request. This guide is intended for general information purposes and is not a statement of legal opinion. This guide does not replace or supersede the Zoning Ordinance.* 11.17