

3.7.0: CONDITIONAL USES

3.7.1 Authorization to Grant or Deny Conditional Uses.

(a) Uses designated in this ordinance as conditional uses may be permitted upon authorization by the Planning and Zoning Commission in accordance with the standards and procedures established in this Section. The Planning and Zoning Commission may impose, in addition to those standards and requirements expressly specified by this ordinance, any additional conditions which it considers necessary to protect the best interests of the surrounding property or the County as a whole. Those conditions may include, but are not limited to:

- (1) More restrictive standards than generally required, such as increased lot or yard size, with limitations, or increased parking space requirements.
- (2) Minimizing adverse impacts, such as limiting the number, size, and location of signs, and requiring screening, diking, fencing, or landscaping.
- (3) Controlling the timing, sequence, and duration of development.
- (4) Designating the exact location and nature of development, and assuring that it is maintained properly.
- (5) Requiring the provision of on-site or off-site public facilities.

(b) Any use, which is granted and permitted as a conditional use under the terms of this ordinance, shall be deemed to be a conforming use in said zone. A use existing prior to the effective date of this ordinance shall be considered a nonconforming use, except that any use which existed prior to April 1, 2005, and which could be allowed by a conditional use upon the existing lot shall be deemed as a conforming use if complying with current standards of this ordinance.

3.7.2: Application for a Conditional Use Permit.

A property owner, or his agent, may initiate a request for a conditional use, or for the modification of an existing conditional use, by filing an application with the zoning official on forms prescribed by Planning and Zoning Department. The application shall be submitted at least twenty-eight (28) days prior to the meeting at which it will be considered. The application for a conditional use shall be accompanied by a site plan drawn neatly and accurately and to an appropriate scale showing at least the following items:

- (a) Setbacks.
- (b) All building locations and overhangs.
- (c) Driveways and parking spaces.
- (d) Landscaping, if required.

The plan, as approved or modified by the Planning and Zoning Commission, shall be made a part of the applicant's file, and all construction and development shall comply with said plan.

3.7.3: Public Hearing on a Conditional Use.

Before the Planning and Zoning Commission shall act upon a request for a conditional use, it shall hold a public hearing pursuant to Section 3.15.0 of this ordinance.

3.7.4: Standards Governing Conditional Uses.

A conditional use shall comply with the standards of the zone in which it is located, except as the Planning and Zoning Commission may modify these standards in authorizing the conditional use, or as otherwise provided as follows:

(a) Yards. In a residential zone a required yard shall be at least two-thirds (2/3) the height of the principal structure. In any zone, additional yard requirements may be imposed.

(b) Churches, Synagogues, Temples, and Other Religious Facilities. The Planning and Zoning Commission may authorize a church etc., as a conditional use, if in its judgment, the size of the site is adequate for the intended use, access to the site is adequate, and the surrounding property will not otherwise be adversely affected. A church may exceed the height limitations of the zone in which it is located to a maximum of fifty (50) feet, if the total floor area of the building does not exceed one and one-half (1 ½) times the area of the site, and if the yard dimensions in each case are equal to at least two-thirds (2/3) of the height of the principal structure. In addition to the signs permitted in the zone in which it is located, a church may have a bulletin board not exceeding twenty (20) square feet in area and set back ten (10) feet from the road.

(c) Public utility. In considering an application for a public utility use, the Planning and Zoning Commission shall determine that the site, easement, or right-of-way is located so as to best serve the immediate area, and in the case of a right-of-way, easement will not result in the uneconomic parceling of land. As far as possible, transmission towers, poles, overhead wires, pumping stations, and similar gear shall be as located, designated, and installed as to minimize their effect on scenic values and interference in radio and television receivers in the vicinity.

(d) Wrecking yard. A wrecking yard shall be enclosed by a sight-obscuring fence not less than eight (8) feet high from the grade of the land.

(e) Mini-storage complexes. The following standards shall govern all conditional use permits for mini-storage complexes:

(1) Each mini-storage complex shall be screened by a sight obscuring fence of a minimum height of six (6) feet from the grade or landscaping along any lot line abutting a residential zone.

(2) A dustless surface shall be required on all areas designated for vehicular movement, on- or off-loading, or parking.

(3) A minimum of five percent (5%) of the gross vehicular area, including a minimum three-foot (3') buffer strip abutting a public right-of-way, except for required clear vision area, shall be landscaped with approved living plant materials which shall include but not be limited to trees and shrubs. Trees shall be at least six (6) feet high at the time of planting.

Living plant materials shall be spaced on three- (3) foot to five- (5) foot centers, depending on maximum growth at maturity. Shrubs shall be a minimum of thirty (30) inches in height at maturity.

(4) Adequate on-site area for on- and off-loading of vehicles shall be provided so that such operations do not take place on, or interfere with, public right-of-way.

(5) If exterior security lighting is provided, it shall be screened to prevent spillover into any adjacent residential areas.

3.7.5 Mineral Extraction Requirements:

Mineral (gravel, sand, and other minerals) extraction may be allowed pending the approval of a Conditional Use Permit in Zones designated on the Land Use Table section 3.3.3 of this ordinance. The following stipulations are required when applying and considering a Conditional Use Permit to extract minerals:

(A) Applicant shall provide a site plan showing the extraction or pit area with a landscape plan, irrigation system for trees/landscaping, and setbacks from

existing roads, adjacent residential and commercial areas. Landscaped buffer areas and setbacks are as follows:

(1) Landscaping Requirements:

- Fifteen foot (15') landscaped buffer between extraction area and existing residents, commercial structures, and roadways. Landscape buffer must setback thirty feet (30') from the center line of a County road. More restrictive setbacks maybe required if property abuts a State road way.
- A ten foot (10') wide earth berm that is five feet (5') in height with a slope of no more than three to one (3:1) is required as a condition. The buffer area shall contain a solid fence, wall, or a combination of six foot (6') tall coniferous and deciduous trees staggered / two rows. The berm shall also have grasses, shrubs, or fence to collect dirt, other debris and act as a sound barrier.
- Irrigation plan.
The landscaped buffer area must be in place before the extraction of minerals commences. There shall also be an irrigation plan to ensure dust mitigation.

(2) Setback Requirements:

- Setbacks between an open pit and County /public roads, canals, and other property lines shall not be less than five hundred feet (500'). The Planning and Zoning Commission may impose a maximum setback depending on burden or unless otherwise determined in the best interest of the County.

(B) Applicant shall have evidence that all State and Federal regulations have been met and approved.

- Applicant must provide an approved reclamation plan from the Department of Lands (*as per I.C. 47-1501*).
- A permit for evaporation loss or letter of approval from Idaho Water Resources must be provided if the area of extraction is in a high water area.
- Water rights must be acquired to ensure proper maintenance of landscaping. Developer shall proof of this at the time of the application.
- Applicant shall provide a review or approval letter from Idaho Department of Environmental Quality for setbacks and dust mitigation.
- Applicant shall have a letter of approval from Eastern Idaho Health Department to ensure pond / pit will not cause septic leach fields on abutting properties to fail.

(C) A Bond or Irrevocable Letter of Credit shall be required to ensure the completion and compliance of the "re-use" plan. The Bond or Letter of Credit shall be updated/renewed before the expiration date or shall stay current until a County Repetitive verifies the reclamation and "re-use" plan are completed and satisfy the conditions of the Conditional Use Permit. The number of years and hours of operation shall be provided on the application. If the extraction area is inactive for three (3) years or longer the Conditional Use Permit shall be revoked and the applicant must re-apply.

(D) Mining or Extraction of minerals shall not result in the damage or alteration of a floodway, channel, natural drainage way, wetlands, or wild life corridors.

- Developer / Applicant shall submit a Natural Features Analysis.
- (E) Developer / Applicant shall include the number of trucks traveling county roads, a planned route said trucks will travel and evidence that adjacent roads and bridges can withstand the increase and impacts of additional traffic created by gravel / sand pit or mineral extraction area; or the developer may be asked to allocate funds to improve or maintain the local infrastructure. This will be assessed by a per vehicle / weight fee for road impact.
- (F) Developer / Applicant shall show the need and public benefit of the extracted material and remaining pit.
- (G) Gravel, sand, and other mineral mining is viewed as a temporary use to be followed by another land use that is compatible with surrounding landscape. When an extraction area is progressively reclaimed during active mining, problems can be minimized and operator costs can also be reduced if reclamation is accomplished as part of the mining plan. Developer / Applicant shall have a drawing of a master plan of the “Re-Use” or what the project will look like when finished, beyond the basic reclamation plan (i.e. park, water feature, game reserve, and farm ground).
- (H) Developer / Applicant shall show a guarantee of bonding for the “Re-Use” plan.
- (I) Developer/Applicant shall include on the application or letter of intent the estimated time of completion and compliance of reclamation and “Re-Use” plan.
- (J) To mitigate dust the Developer / Applicant shall pave areas of transportation from private property county roads.
- (K) Water Quality-The Planning and Zoning Commission may be required of testing according to the Department of Environmental Quality (DEA) standards as a condition. If the pit or extraction area is a point source of contamination the Conditional Use Permit shall be revoked and the developer shall be responsible for mitigating the issue. If water in a pit becomes stagnate or creates a mosquito problem the Conditional Use Permit shall be revoked and it shall be the developer’s responsibility to mitigate the problem.
- (L) The Planning & Zoning Commission shall place a time stipulation as a condition.
- (M) All other regulations for Conditional use Permits as set forth in this ordinance shall apply.

3.7.6 Time Limit on Permit for Conditional Use:

Authorization of a conditional use shall be void after one year unless the use has been established or a building permit has been issued for the use. The Planning and Zoning Commission may extend this period upon the written request of the applicant if received prior to the expiration date.