

Section 9.07 Conditional Use Districts and Conditional Use Permits

Conditional use permits represent a supplemental enforcement opportunity for the Town of Holly Springs to ensure compliance with representations made by an owner in connection with a zoning map change for a *conditional use district* within the Town of Holly Springs and its extra-territorial jurisdiction. The purpose of a *conditional use permit* is to record an owners intent and assure compliance with the representations made regarding a proposed development.

A. Establishment of Conditional Use Districts.

A *conditional use district* shall be established in the following manner:

1. In the context of a requested zoning map change, the owner of a parcel of property may propose to limit the *use* or development of such parcel. Such voluntary limitation shall be deemed a request to change the zoning map change to a *conditional use district* corresponding to the requested *general use district*.
2. The *Planning Board*, during its review of a zoning map change, may permit the owner of a parcel of property to modify a zoning map change to request a *conditional use district* in connection with the *Planning Board's* recommendation regarding a zoning map change to any *district* classification contained in this UDO to the *Town Council* as a condition of development. [Amended Ordinance #04-06]*
3. The *Town Council* may permit the owner of a parcel of property to: (i) modify a zoning map change to request a *conditional use district*; or, (ii) further limit a proposed *conditional use district* and impose additional restrictions beyond those permitted by the *Planning Board*, by a favorable vote of a majority of the *Town Council*. [Amended Ordinance #04-06]*
4. In the event the *Town Council* shall approve a requested zoning map change to such *conditional use district*, the *use* and development of the real estate permitted as a matter of right shall be limited by the additional *use* and *development standard* restrictions specified in the requested zoning map change and an accompanying written statement which shall detail any such additional *use* and *development standard* restrictions. [Amended Ordinance #04-06]*

B. Record of Conditional Use District.

Each *conditional use district* shall be accompanied by a written statement, signed by the owner of the parcel of property, which shall detail the additional *use* or *development standard* restrictions offered by such owner.

C. Approval of a *Conditional Use District*.

A *conditional use district* request which includes a written statement, signed by the owner of the parcel of property, shall be considered approved in the same manner as a request for zoning map change to a *general use district*.

If, however, a *conditional use district* is first proposed to the *Town Council*, or further limited before the *Town Council*, and the *Town Council* approves a *conditional use district* subject to such limitations being set forth in a written statement, said *conditional use district* shall not be considered finally approved until the *Town Council* shall have received the required written statement, signed by the owner of the parcel of property, which accurately reflects the additional *use* or *development standard* restriction representations made to the *Town Council* and such written statement is approved by the *Town Council*. [Amended Ordinance #04-06]*

D. *Conditional Use Permits*.

The approval of such written statement by the *Town Council* as part of the *conditional use district* approval shall constitute the issuance of a *conditional use permit*. [Amended Ordinance #04-06]*

E. Recording of Conditional Use Permits.

Following the approval of a *conditional use district* and *conditional use permit* by the *Town Council*, such written statement / *conditional use permit* in conformance with the action of the *Town Council* shall be forwarded by the *Director* to the *Review Officer* for certification prior to recording. [Amended Ordinance #04-06]*

The written statement / *conditional use permit* shall be recorded by the owner in the office of the Wake County Register of Deeds within sixty (60) days of certification by the *Review Officer*. No *UDO permit* shall be issued for any *use* or development within such *conditional use district* until the written statement / *conditional use permit* has been recorded and a copy of the recorded written statement / *conditional use permit* has been provided to *Staff*. Further, all *UDO permits* shall demonstrate compliance with the additional terms and conditions imposed by the *conditional use district*. [Amended Ordinance #07-18]*

Staff shall retain a copy of recorded written statement / *conditional use permit* in the Department of Planning and Zoning files.

F. Duration of *Conditional Use District* and *Conditional Use Permit*.

The restrictions of a *conditional use district* and *conditional use permit* shall remain in effect for as long as the parcel of property remains zoned to the *conditional use district* classification to which the parcel of property was zoned.

G. Modification or Termination of *Conditional Use District* and *Conditional Use Permit*.

A *conditional use district* and *conditional use permit* shall only be modified or terminated upon approval of such modification or termination by the *Town Council* made in connection with a new petition for zoning map change. [Amended Ordinance #04-06]*

H. Enforcement.

The restrictions of any *conditional use district* or *conditional use permit* shall be subject to enforcement pursuant to Section 10 – Enforcement of this UDO, in the same manner as any other *use* regulation or *development standard* of this UDO.

I. Limitations of *Conditional Use District* Requests.

By permitting the owner to propose a *conditional use district*, the *Town Council*, does not obligate itself to approve or deny any request or to take any other action in regard to such request. Further, the act of permitting a *conditional use district* shall not represent a contractual agreement to approve a request in exchange for the representations made. A *conditional use district* shall not affect the validity of any covenant, easement, equitable servitude, or other land use restriction created in accordance with law. [Amended Ordinance #04-06]*