

**CONDITIONAL USE PERMIT  
JBS BOX COOLER ADDITION  
FEBRUARY 12, 2015  
PLANNING COMMISSION MEETING**

JBS is requesting to build a large addition east of their existing plant on property that was rezoned M-2. Packing plants require a conditional use permit from the Planning Commission before receiving site plan approval. You will want to review 17.84.060 of city code. If any conditions are imposed they must relate to items in F. I have included a sample checklist for conditional uses from the Utah League of Cities and Towns that will give you some guidelines to follow. You probably want to talk about traffic and truck patterns, noise potential (Where will cooling equipment be located), lighting, & parking.

The City Council agreed with the Planning Commission on the conditions of rezone last month. The conditions that deal with the Conditional Use & Site Plan are:

1. Two sided decorative 8 foot sound wall to the south of the plant 30 feet off of property line
2. Minimum 6 foot tall privacy fence required on west boundary of parking lot west of 200 west.

Other: The rezone as approved by the City Council and recommended by the Planning Commission contains a deed restriction that says the rezoned property can only be used for parking and landscaping purposes. The City Council also added that if a future business was to come back at a latter date to request a Phase three in this area that they would, among other thing, be required to do an engineering study to determine if the sound was an adequate buffer. The 30 foot buffer and the property around the "Hammond House" have remained R2.

Comment sheets have been sent to all the neighbors. We will provide you with any comments received.

**Chapter 17.84**

**CONDITIONAL USE PERMITS**

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**17.84.010 When required.**

A conditional use permit shall be obtained for all uses that do not comply with the requirements established in this title. No building permit or license shall be issued for a conditional use until the conditional use is approved by the Hyrum City Planning Commission.

**17.84.020 Application-Form.**

Application for a conditional use permit shall be made at the Hyrum City offices on forms provided for that purpose.

**17.84.030 Fees.**

All persons requesting a conditional use permit shall submit a nonrefundable fee as part of the application process. This fee may be set and changed from time to time by resolution of the City Council. Regardless of whether the conditional use permit is approved or not, the fee will be retained by Hyrum City. Fees charged for the permit (if any) may be set by City Council resolution and must be paid before the actual permit is issued.

**17.84.040 Development plan-Required-Contents.**

The applicant shall prepare a site plan of the proposed conditional use, drawn to scale and showing all existing and proposed buildings, fences, landscaping, vehicle parking and loading areas, and such other information as the Planning Commission may require.

**17.84.050 Development plan-Submission-Hearing.**

The development plan shall be submitted to the planning commission at least two weeks before its regularly scheduled meeting. The commission shall, insofar as practical, give notice of the first meeting at which the development plan will be considered to all contiguous properties and those properties across the street from the subject property's frontage, or frontages, in the case of a corner lot. These property owners will be invited to express their reaction to the proposal. The names and addresses of said property owners shall be furnished to the planning commission by the applicant at least two weeks before the meeting at which the development plan shall be first considered. Compliance with this section shall not be a condition precedent to proper legal notice and no hearing or action taken thereon shall be deemed invalid or illegal because of failure to provide notification as stated in this section. The planning commission may also hold a public hearing as may be deemed

necessary.

**17.84.060 Application-Determination.**

A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards. If the reasonably anticipated detrimental effects of a proposed conditional use cannot be mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied. Approval shall consider the following items:

- A. That the proposed use is necessary or desirable and will contribute to the general well-being of Hyrum City;
- B. That the use will not 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;
- C. That the proposed use will comply with the regulations of this title as may be applicable;
- D. That the proposed use is in harmony with the intent of the zone in which it is located.
- E. That the infrastructure will support the new facility.
- F. In setting conditions, the Planning Commission shall show relationship to the broad area of concern to which each condition applies. These areas include:
  1. Traffic
  2. Noise
  3. Odor
  4. Pollution
  5. Hours of operation
  6. Design criteria
  7. Lighting
  8. Visual blight
  9. Safety conditions not related to one of these broad areas may not be imposed.

**17.84.070 Time limit.**

A conditional use permit shall be null and void one year after approval unless substantial work shall have been accomplished towards its completion.

**17.84.080 Development-Inspection.**

The City Engineer shall inspect the development during the course of construction. Any items not in compliance with the conditions of the use permit shall be corrected before further construction proceeds.

**17.84.090 Appeals.**

Appeals of any decisions of the Planning Commission shall be made to the Administrative Appeals Hearing Officer. Appeals shall be filed in writing with the City Recorder within ten (10) calendar days of the decision of the commission as per provisions of Title 17.16.

**17.84.100 Revocation.**

A conditional use permit shall be reviewed every two years for compliance with the terms under which it was issued. It may be revoked upon failure to comply with requirements imposed when the permit was originally approved or as thereafter revised.

# CHECKLIST

## Conditional Use Approvals

- \_\_\_\_\_ 1. Determine that the land use ordinance allows the requested use as a conditional use in the zone where the property is located.
- \_\_\_\_\_ 2. Determine that the application contains the information required by ordinance for processing the conditional use application.
- \_\_\_\_\_ 3. Determine that all application fees have been paid.
- \_\_\_\_\_ 4. Place the item on an agenda for the land use authority, if the land use authority is composed of a board or commission that includes more than one person.
- \_\_\_\_\_ 5. Provide the required notice of a public meeting (or, if required by local ordinance, public hearing) to consider the application. State law requires no specific notice for conditional use permits. If the land use authority is the planning commission or the council, the Open and Public Meetings Act requires 24 hours notice prior to a public meeting. Local ordinances may require additional notice.
- \_\_\_\_\_ 6. Provide the applicant with the staff report three days in advance of the public meeting or hearing before the land use authority.
- \_\_\_\_\_ 7. Review only those standards that are written in the ordinance that apply to the consideration of the application. (If there are no standards, approve the application as if it were a permitted use without imposing conditions.)
- \_\_\_\_\_ 8. Conduct the meeting or hearing that is required by the ordinance as part of the consideration of the application.
- \_\_\_\_\_ 9. The land use authority should consider only the application, the relevant and credible evidence that concerns the negative aspects of the proposed use in the proposed location, and only to the extent that the ordinance requires mitigation for specific aspects of a use (i.e. traffic, noise, smell, light, etc.).
- \_\_\_\_\_ 10. After considering the ordinance-based standards and the evidence, identify the potentially negative aspects of the proposed use in the proposed location.
- \_\_\_\_\_ 11. Either:
  - a. Approve the use as proposed; or
  - b. If appropriate, impose reasonable conditions supported by substantial evidence in the record that cause the application to:
    - (i) Comply with the standards in the ordinance; and
    - (ii) Mitigate the potentially negative aspects of the proposed use that are required by standards in the ordinance; or

- c. Deny the use and adopt findings supported by substantial evidence in the record why the application:
  - (i) Does not comply with the standards in the ordinance, and
  - (ii) Cannot be mitigated by additional conditions.

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- 12. Preserve the record of the proceedings to document the law and evidence that was considered by the land use authority before it made a decision related to the application.:

**Notes and Practice Tips**

Be certain that the local ordinance contains standards and criteria for the conditional use. Any conditions placed on a project must relate to these standards and criteria as detailed in the local ordinance.