

CHAPTER 7) - CONDITIONAL ZONING STANDARDS

Section 7.1)- Purpose

Conditional Zoning Districts are created for the purpose of providing an optional rezoning choice where the owner of property proposes to rezone property and, in order to, among other reasons, carry out the purposes of the Village of Forest Hills Guiding Land Use Plan, proposes to impose special limitations and conditions on the use of the property proposed for rezoning, or desires increased flexibility in the use and/or development of the property.

Conditional Zoning Districts are zoning districts in which the development and use of the property is subject to predetermined Ordinance standards and the rules, regulations, and conditions imposed as part of the legislative decision creating the district and applying it to each individual development project.

For each General Use Zoning District, there is a corresponding Conditional Zoning District (CD) which corresponds to each of the districts authorized by Chapter 3 as follows: R-1-CZ, R-1-A-CZ, R-2-CZ, R-3-CZ, R-4-CZ, M-1-CZ, P-1-CZ, VMU-CZ.

Certain types of zoning districts would be inappropriate at certain locations in the absence of special conditions. Some land uses are of a nature or scale that may have significant impacts on both the immediately surrounding area and the entire community, which cannot be predetermined or controlled by general district standards. There are also circumstances in which a general use district designation allowing such a use by right would not be appropriate for a particular property though the use could, if properly planned, be appropriate for the property consistent with the objectives of these regulations, the adopted Village of Forest Hills Guiding Land Use Plan, and adopted district.

Section 7.2)- Review Process

The review process established in this section provides for the accommodation of such uses by a reclassification of property into a conditional zoning district, subject to specific conditions, which ensure compatibility of the use with the use and enjoyment of neighboring properties. Where the applicant for rezoning desires property to be rezoned to such a district in such situations, the Conditional Zoning District is a means by which such special conditions can be imposed in order to achieve the purpose of this Section and the recommendations of the Village of Forest Hills Guiding Land Use Plan.

The Conditional Zoning District classification will be considered for rezoning only with the consent of the property owner.

If, for any reason, any condition imposed pursuant to these regulations is found to be illegal or invalid or if the applicant should fail to accept any condition, it is the intent of the Ordinance that the authorization of such Conditional Zoning District shall be null and void and of no effect and that the property will revert back to its original zoning or, where necessary, proceedings shall be instituted to rezone the property to its previous zoning classification.

- A) Plans and other information to accompany petition. Property may be rezoned to a Conditional Zoning District only in response to, and consistent with, a petition submitted by the owners of all of the property to be included in the district. A petition for conditional zoning must include a site plan, drawn to scale, and supporting information and text that

specifies the actual use or uses intended for the property and any rules, regulations and conditions that, in addition to all predetermined requirements, will govern the development and use of the property.

- B) Approval of conditional zoning district. Conditional Zoning District decisions are a legislative process subject to judicial review using the same procedures and standard of review as applicable to general use district zoning decisions. Conditional Zoning District decisions shall be made in consideration of identified relevant adopted land use plans for the area, including, but not limited to, the Village of Forest Hills Guiding Land Use Plan and other land-use policy documents.
- C) Conditions to approval of petition. In approving a petition for the reclassification of property to a Conditional Zoning District, the Village of Forest Hills Planning Board may recommend, and the Village Council may request that reasonable and appropriate conditions be attached to the approval of the petition.

Conditions and site-specific standards shall be limited to those that address the conformance of the development and use of the site to Village ordinances and the Guiding Land Use Plan or other land use policy, that address the impacts reasonably expected to be generated by the development or use of the site. Any such conditions should relate to the impact of the proposed use on surrounding property, support facilities (such as parking areas and driveways), pedestrian and vehicular circulation systems, screening and buffering areas, timing of development, road and right-of-way improvements, water and sewer improvements, stormwater drainage, provision of open space, and other matters that the Village Council may find appropriate or the applicant may propose. Such conditions to approval of the petition may include dedication to the Village, County, State, or public entity, as appropriate, of any rights-of-way or easement for roads, pedestrian facilities, water, sewer, or other public utilities necessary to serve the proposed development. The applicant shall have a reasonable opportunity to consider and respond to any such conditions prior to final action by the Village Council. Only those conditions mutually approved by the Village Council and the applicant may be incorporated into the petition.

The Village Council may consider deviations from certain, specified standards of the Village Mixed- Use Conditional Zoning District. In considering proposed deviations, the Village Council must find that the deviations are necessitated by conditions that are peculiar to the development site, that the resulting development project would be in harmony with the general purpose and intent of the specified standard, would advance adopted plans of the Village, would be visually and functionally compatible with the surrounding area, would not be injurious to the public health, safety, and welfare, and would not be detrimental to the value of adjoining properties and associated uses.

- D) Effect of approval. If a petition for conditional zoning is approved, the development and use of the property shall be governed by the existing Ordinance requirements applicable to the district's category, the approved site plan for the district, and any additional approved rules, regulations, and conditions, all of which shall constitute zoning regulations for the approved district and are binding on the property as an amendment to these regulations and to the Village of Forest Hills Official Zoning Map. Only those uses and structures indicated in the approved petition and site plan shall be allowed on the subject property. A change of

location of the structures may be authorized pursuant to Section 602.E. Alterations to Approval. Changes to the site plan layout shall not increase the number of structures. Following the approval of the petition for a Conditional Zoning District, the subject property shall be identified on the Official Zoning Map by the appropriate district designation. A conditional zoning shall be identified by the same designation as the underlying general district followed by the letters "CZ" (for example, "R-1-CZ").

- E) Alterations to approval. Except as provided herein, changes to an approved petition or to the conditions attached to the approved petition shall be treated the same as amendments to these regulations or to the Official Zoning Map and shall be processed in accordance with the procedures of the Ordinance.

The Jackson County Planning Director or his/her designee shall recommend an amendment to an approved site plan that shall be reviewed by the Village of Forest Hills Planning Board. The Village Council shall have the authority to approve the recommended amendment to an approved site plan.

The standard for recommending, and approving or denying such an amendment, shall be that the change does not materially alter the site plan or its conditions and that the change does not have a material impact upon abutting properties. Any recommendation and approval must be in writing stating the grounds for approval or denial. For nonresidential development, materiality shall constitute an increase in the intensity of the development is limited to ten percent of the approved structure size or 1,000 square feet, whichever is less. For residential development, increases in density are limited to ten percent of the development or no more than ten dwelling units, whichever is less. The Jackson County Planning Director and Village Council, however, shall have the discretion to decline to exercise the delegated authority either because of uncertainty about approval of the change pursuant to the standard or because Village of Forest Hill Planning Board consideration and a public hearing is deemed appropriate under the circumstances. If the Jackson County Planning Director or Village Council declines to exercise this authority, the applicant may request a map amendment as permitted Section 12.6)- Ordinance Amendments.

- F) Review of approval of a conditional zoning district. It is intended that property shall be reclassified to a Conditional Zoning District only in the event of firm plans to develop the property. Therefore, no sooner than three years after the date of approval of the petition, the Village Planning Board may examine the progress made toward developing the property in accordance with the approved petition and any conditions attached to the approval. If the Planning Board determines that progress has not been made in accordance with the approved petition and conditions, the Planning Board shall forward to the Village Council a report, which may recommend that the property not be rezoned or be classified to another district.
- G) Approval of a Conditional Use, and any associated conditions of approval, shall be granted by means of adoption of a site-specific development ordinance.

Section 7.3)- Conditional Zoning Process for Approval

A) Pre-application Conference

(1) Applicants must schedule a pre-submittal conference with the Jackson County Planning Director or his/her appointee (staff) to discuss site plan issues and submittal process.

B) Pre-application Submittal

(1) The applicant must submit a pre-application for staff review.

C) Pre-submittal Conference

(1) Applicants must schedule another conference with staff to discuss the results of the staff review, possible changes to the request, and public input meeting requirements.

D) Public Input Meeting-

Before a public meeting may be held on a petition for a conditional zoning district, the applicant must hold at least one (1) community meeting. The community meeting shall be held prior to any recommendation by the staff and prior to the Village of Forest Hill's Planning Board's consideration of the request.

(1) The following procedures must be met:

Based on the perceived impact of the proposal as determined by the Village of Forest Hills and the Jackson County Planning Director, the affected property owners will be notified by the applicant by letter. The applicant will work with County and Village staff to develop a list of property owners that should be contacted. Such notice shall be mailed to said property owners not less than ten (10) days prior to the date of the public input meeting and a certification of this mailing shall be submitted as part of the required report. The notice shall contain information regarding the time and location of the meeting as well as a description of the proposal.

(2) A report of the meeting must be prepared by the applicant and should include, among other things, a listing of the following:

- a. those persons and organizations contacted about the meeting,
- b. the manner and date, time and location of the meeting,
- c. a roster of persons in attendance at the meeting,
- d. a summary of issues discussed at the meeting, and
- e. a description of any changes to the rezoning petition as a result of the meeting.

E) Formal Submittal Requirements

Application packets must be complete in order to be processed and must be submitted 31 days prior to the Village of Forest Hills Planning Board meeting date. A complete submittal package consists of the following:

(1) Completed Village of Forest Hills Rezoning Application.

(2) Application fee (\$500)

(3) 11 x 17 conceptual site plan drawn to scale (cannot be a reduced copy) along with 3 Copies of full-sized plan

(4) Public input meeting report (public input meeting reports shall include the information required in 2.D of this process).

(5) Site plans shall include the following information:

- (a) Property to be developed, with surveyed property lines, topography (at a minimum contour interval), streams and other water bodies with corresponding buffers, floodplain as shown on the official Flood Hazard Boundary Maps for Jackson County, areas to which Jackson County's Mountain and Hillside Development district applies, delineation of watershed boundaries labeled with their respective classifications and impervious calculations.
 - (b) Existing roads and utilities on and adjacent to the property, with rights-of-way and easements. Typical road cross sections.
 - (c) Limits of land disturbance (grading)
 - (d) Proposed buildings with description of total square footage, maximum height of buildings, and uses.
 - (e) Proposed typical building elevations (to assure design is compatible with community and/or design standards).
 - (f) Traffic, parking, and circulation plans, showing the proposed locations and arrangement of parking spaces and access points to adjacent streets including typical parking space dimensions and locations along with typical street cross sections. This shall include all existing and proposed points of access to public streets.
 - (g) Identification of open space to be provided
 - (h) Statement of responsibility for maintenance of open space (maintained by Property Owners Association (POA) or to be dedicated to Village)
 - (i) Location of pedestrian facilities (sidewalks, trails, etc.)
 - (j) Conceptual landscape plan with proposed plant list, all proposed setbacks, buffers, screening and landscaping required by this Chapter 9 of this Ordinance and proposed by the petitioner.
 - (k) Identification of proposed phases with schedule for development of phases (provide for revision of schedule upon approval by staff)
 - (l) The proposed phasing of the project.
 - (m) The proposed number, location, type and size of all signs.
 - (n) The location and description of any outdoor lighting.
 - (o) A project narrative describing the project in which the developer must clearly articulate where design flexibility is being proposed / requested, how such flexibility is necessary given site constraints and / or community context, how she/he is providing a higher level of quality in exchange for requested flexibility, how such flexibility will advance adopted plans of the Village, and how the proposed design will meet the spirit and intent of this ordinance and the specific goals describe herein.
- F) Set Request on Planning Board Agenda
The Village of Forest Hills Planning Board Chair will place the request on the Planning Board agenda and the applicant should attend this meeting.
- G) Adjoining Property Notification and Posting of Property
The Village of Forest Hills (Clerk) has responsibility to notify the adjoining property owners of the public meeting held by the Planning Board. Owners of the property are generated through the most current Jackson County Tax Records. Planning staff will also post a rezoning sign on the property where rezoning is being requested.

- H) Planning Board Meeting
Planning staff presents the conditional rezoning request to the Planning Board for their recommendation. The applicant should attend the Planning Board meeting to answer any questions the Planning Board or public may have about the project. The Planning Board may recommend approval, approval with conditions, denial or may defer their decision for 30 days. In approving a petition for the reclassification of a piece of property to a conditional zoning district, the Planning Board may recommend that reasonable and appropriate conditions be attached to approval of the petition. Any such conditions shall be limited to those that address conformance of the development plan and use of the site to applicable ordinances and adopted land development plans. Conditions should address the impacts reasonably expected to be generated by the development or use of the site.
- I) Adjoining Property Notification and Posting of Property
After a recommendation has been given by the Planning Board, it is Planning Staff's responsibility to notify the local paper and the adjoining property owners of the public hearing held by the Village Council. Again, owners of the property are generated through the most current Jackson County Tax Records.
- J) Village Council Meeting
Once the Planning Board has made a recommendation, the conditional rezoning request is submitted to the Village Council for the public hearing. In approving a petition for the reclassification of a piece of property to a conditional zoning district, the Village Council may of its own accord require that reasonable and appropriate conditions be attached to approval of the petition. Any such conditions shall be limited to those that address the conformance of the development plan and use of the site to applicable ordinances and adopted land development plans. Conditions should address the impacts reasonably expected to be generated by the development or use of the site. The petitioner shall have a reasonable opportunity to consider and respond to any proposed conditions prior to final action by the Village Council. Only those conditions mutually agreed upon by the Village Council and the applicant, with input from the public, may be incorporated into the conditional zoning district. A final determination will be rendered by the Village Council.

Section 7.4)- Additional Conditional Zoning District Information Review

In evaluating an application for the establishment of a conditional zoning district, the Planning Board and the Village Council may consider the following:

- A) Adherence to the general policies and objectives of the adopted land use plan, particularly in relation to the proposed site and surrounding area;
- B) The potential impacts on the surrounding area, including but not limited to the absolute certainty the specific use(s), traffic, erosion, land values and the compatibility of land use activities.
- C) Spot zoning
 - (1) Size of tract;
 - (2) Compatibility with adopted plan;
 - (3) Public benefits and detriments of proposed rezoning; and

(4)The relationship between proposed use and current use(s) of adjacent properties.