

# Guidelines for Completing the Application for a Conditional Use or an Administrative Use.

## Purpose

*This application is used to request the Board of Adjustment or Hearing Examiner to allow a special use that, because of its unique characteristics, requires consideration of its impact on neighboring land. All conditional uses must be compatible with other existing and permitted uses in Whitman County.*

*In granting a conditional use permit, the Board may impose any conditions or safeguards necessary to ensure conformity to the Whitman County zoning ordinance and to protect the public health, safety, and welfare. Failure to fulfill any condition imposed by the Board shall be grounds for revoking the conditional use permit. The Board grants conditional use permits only for those uses specifically identified and allowed in the applicable use district, subject to the following limitations:*

- a. The conditional use and any conditions imposed by the Board of Adjustment will not adversely affect the public health, safety and welfare.*
- b. The proposed use and any conditions imposed will be consistent with the Comprehensive Plan as it relates to the area in question.*
- c. The proposed use and any conditions will comply with the standards for the applicable use district.*
- d. The findings of fact adopted by the Board of Adjustment to support their decision will clearly indicate that the above criteria have been met.*

*The Board may take the following actions, or others, to add conditions to a conditional use permit:*

- a. Specify a time limit for start or completion (or both) of action for which the conditional use permit is required.*
- b. Require periodic reviews of an issued permit to assure compliance with any imposed conditions.*
- c. Increase the lot size or yard dimensions.*
- d. Limit the height and area requirements for buildings.*
- e. Control the number and location of driveways on the property.*
- f. Control the number of off-street parking or loading spaces.*
- g. Require suitable landscaping or drainage control.*
- h. Specify number and types of signs needed or allowed.*
- i. Control the hours of operation.*
- j. Control nuisance-generating features, such as noise, colors, air pollution, wastes, vibration, traffic physical hazards and glare.*

## Application

To be accepted, the application must, in the judgment of the County Planner, be complete, and the application fee must be paid. If necessary, a State Environmental Policy Act (SEPA) checklist will accompany the application, along with the appropriate filing fee (make checks payable to the Whitman County Planning Department). If the environmental checklist is necessary, it is advisable to

have the SEPA process completed including the appeal period before arranging the conditional use public hearing.

## Completing the Application Form

1. Enter applicant's name, address and phone number, together with applicant's status (eg. owner, lessee). If the applicant is not, according to the County Assessor's Office, the recorded property owner, the property owner must complete the owner's affidavit on the back of the application (section 5). For the purposes of this application, "owner" shall mean:
  - a. Recorded owner as shown by the County Assessor's Office.
  - b. In the case of mortgaged property, the mortgagor (person buying the property).
  - c. In the case of property purchased on contract, the signature of the contract holder (person selling the property).
  - d. In the case of a corporation owning the land, any officer of the corporation who is duly authorized to execute deeds or encumbrances on behalf of the corporation. In such cases, a certified excerpt from the bylaws of the corporation showing such authority shall be attached to the application.
  - e. In the case of property standing in the name of a deceased person or any person for whom a guardian has been appointed, the signature of the executor, administrator or guardian shall suffice.

2. Enter the address or location of the subject property, together with the current zone, size and acres or square feet. Attach a legal description and a site plan.

3. Briefly describe the existing use of the property, the intended use of the property, changes to be made in the property and any special information the Board of Adjustment should know.

4. Respond to the four Findings of Fact items to provide a basis for the Board's Findings of Fact. Explain how the proposed site is of adequate shape and size for the proposed use, how the use will affect traffic patterns, the effect the use will have on adjacent property and how the use conforms to the Comprehensive Plan.

## Supplementary documents

In addition to the application form, the applicant must submit four other documents in support of his application for a change:

**List of Property Owners:** Submit a list of names of owners of property abutting the lot or parcel of land involved, but not including public rights-of-way (generally alleys and streets). The County Planner may add to this list the names of owners of any other lots deemed to be affected by the proposed change. The County Assessor's

Office in Colfax or a title company can supply the names of neighboring property owners.

**Legal Description:** Provide a complete legal description that adequately describes the property in question. Grant deeds or statements of title insurance often provide a sufficient legal description. If public rights-of-way are involved, the legal description may need to be expanded to include the rights-of-way.

**Plan:** Submit a site plan showing clearly the location and size of all buildings, parking areas and landscaping on the property. All plans must be accurately drawn and complete with dimensions.

**Proof of Ownership:** Submit proof that indicates that the applicant (or the person signing the owner's affidavit) is the owner of the property.

## Review Procedure

The County Planner will review the application to make sure it is complete. If an environmental checklist is required, the Planner will determine whether the proposed action is "non-significant" or "significant" under the guidelines of the State Environmental Policy Act (SEPA). If the proposed action is significant, the applicant must prepare, at his/her own expense, an Environmental Impact Statement.

When the County Planner has determined an application is complete, a date for a public hearing before the Board of Adjustment or a Hearings Examiner will be scheduled. Planning Dept. staff will mail notices of the public hearing to the applicant and to all property owners within 300 feet of the applicant's property. For quarries the notification distance is 1,000 feet and for cell towers it is 1,500 feet. Planning staff prepares preliminary Findings of Fact for the Board or Hearing Examiner and e-mails a copy of this report to the applicant before the hearing.

At the hearing, the Board of Adjustment or Hearing Examiner will review the preliminary Findings of Fact and invite public testimony regarding the findings. Decisions concerning conditional uses must be made during a public hearing as this is a quasi-judicial proceeding and is legally binding. The applicant should avoid discussing the proposed use with individual members of the Board.

Such discussion would be in conflict with the "Appearance of Fairness" doctrine and could invalidate the conditional use if it were later challenged. After the applicant's presentation, the public is allowed to make comments for or against the proposed use or to ask pertinent questions. The applicant is generally allowed to answer questions or to make rebuttals at the discretion of the Chair.

After the presentations, the hearing is closed and the Board or Hearing Examiner discusses the issues and decides on the final version of the findings. Findings of fact are the official determination of the Board or Hearing Examiner and specify why the conditional use is granted. For the use to be granted, the Findings of Fact must verify that all of the following conditions exist:

- a. The site for the proposed use is of adequate size and shape.
- b. The site will have sufficient access to streets and highways wide enough and of the proper pavement type to carry the amount and kind of traffic the proposed use will generate.
- c. The proposed use will not have an overly adverse effect on adjacent property.
- d. There is a need for the proposed use and it conforms to the intent of the Comprehensive Plan for the area affected.

After the approval of the Findings of Fact, the Board of Adjustment or Hearing Examiner will approve the application, deny it, or approve it with conditions. The Board's or Hearing Examiner's decision is final unless appealed within 24 days from the date of mailing the decision to the applicant in a court of competent jurisdiction.

## Formal Notice of Action

The County Planner will mail the applicant a written notice of the Board's decision.

## Need Help?

The County Planner can provide further information about the application process. If you have any questions, call 397-4622.

Application received

# Application for Conditional Use

Application complete

Case Number: \_\_\_\_\_

## 1. Applicant

Name: \_\_\_\_\_ Telephone: \_\_\_\_\_

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ ZIP: \_\_\_\_\_

Status (lessee of property, agent, owner, prospective buyer, etc.): \_\_\_\_\_

(If applicant does not own the property, property owner must complete the affidavit on the reverse of this form.)  
Attach proof of ownership and a list of all property owners within 1000 feet of the boundaries of the property.

## 2. Property

Address or location: \_\_\_\_\_

Current Zone: \_\_\_\_\_ Size (acres or square feet): \_\_\_\_\_

Attach a legal description of the property and a plot plan.

## 3. Land Use

Existing use of the property:

\_\_\_\_\_  
\_\_\_\_\_

Intended use of the property:

\_\_\_\_\_  
\_\_\_\_\_

Changes to be made to the property:

\_\_\_\_\_  
\_\_\_\_\_

Special Information (deed restrictions, etc.) the Board of Adjustment should know:

\_\_\_\_\_  
\_\_\_\_\_

## 4. Findings of Fact (use additional sheets if necessary)

Show why the site for this proposed use is of adequate size and shape:

\_\_\_\_\_  
\_\_\_\_\_

Show how the site will have sufficient access to streets and highways wide enough and of the proper pavement type to carry the amount and kind of traffic the proposed use will generate:

\_\_\_\_\_  
\_\_\_\_\_

Show how the proposed use will not have an adverse effect on adjacent property:

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Show that there is a need for the proposed use and that it conforms to the intent of the Comprehensive Plan for the area affected:

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\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date

### Owner's Affidavit

(To be completed if the applicant is not the owner of the property involved)

STATE OF \_\_\_\_\_

ss.

County of \_\_\_\_\_

I, \_\_\_\_\_ being duly sworn,  
(print or type full name)

depost and say that I am the owner of property or his/her authorized agent, involved in this Application, and that the foregoing statements and answers herein contained and the information herewith submitted are in all respects true and correct to the best of my knowledge and belief; and I grant my permission to the above-named applicant to apply for a Conditional Use for the above-described property; and for County staff to examine this subject property in the cause of their work related to this application.

\_\_\_\_\_  
Property Owner

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, ZIP Code

\_\_\_\_\_  
Telephone Number

SUBSCRIBED and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Sign Name

Notary Public in and for the State of \_\_\_\_\_, residing at \_\_\_\_\_

\_\_\_\_\_  
Print Name

My commission expires \_\_\_\_\_