

ARTICLE 5: CONDITIONAL USES

Section 5.01 General Provisions.

The County Board of Supervisors may, by conditional use permit after a Public Hearing and recommendation from the Planning Commission (with specific findings of fact), authorize and permit conditional uses as designated in the district use regulations. Approval shall be based on findings that the location and characteristics of the use will not be detrimental to the health, safety, morals, and general welfare of the area.

Allowable uses may be permitted, enlarged, or altered upon application for a conditional use permit in accordance with the rules and procedures of this resolution. The County Board may grant or deny a conditional use permit in accordance with the intent and purpose of this resolution. In granting a conditional use permit, the County Board will authorize the issuance of a conditional use permit and shall prescribe and impose appropriate conditions, safeguards, and a specified time limit for the performance of the conditional use permit.

A request for a conditional use permit or modification of a conditional use permit may be initiated by a property owner or his or her authorized agent by filing an application with the County. The application shall be accompanied by any necessary drawing(s) or site plan and other such plans and data showing the dimensions, arrangements, descriptions data, and other materials constituting a record essential to an understanding of the proposed use and proposed modifications in relation to the provisions set forth herein. A plan as to the operation and maintenance of the proposed use shall also be submitted.

Any approval or denial of a conditional use permit shall be accompanied by specific findings of fact.

Section 5.02 Public Hearing

Before issuance of any conditional use permit, the County Board will consider the application together with the recommendations of the Planning Commission at a public hearing after prior notice of the time, place, and purpose of the hearing has been given by publication in a legal paper of general circulation in Merrick County, one time at least 10 days prior to such hearing.

Any notification and signing of property shall be per State Statutes and by specific procedures established by Merrick County.

Section 5.03 Decisions

A majority vote of the County Board shall be necessary to grant a conditional use permit. In the case of no action on the permit by the applicant, unless a longer period was specifically granted, the conditional use permit shall become invalid after a period of 12 months from the date of such order.

Section 5.04 Standards

No conditional use permit shall be granted unless the Planning Commission and County Board has found:

1. The use shall in all other respects conform to the applicable regulations of the district in which it is located, unless specifically authorized by the Board.
2. The use shall have adequate water, sewer, and drainage facilities.
3. The use shall be in harmony with the character of the area and the most appropriate use of the land.
4. That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, moral, comfort, or general welfare of the county.
5. That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
6. That the establishment of the conditional use will not impede the normal and orderly development of the surrounding property for uses permitted in the district.
7. That adequate utilities, access roads, and drainage facilities have been or are being provided.
8. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

9. The use shall not include noise, which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.
10. The use shall not involve any pollution of the air by fly-ash, dust, vapors or other substance which is harmful to health, animals, vegetation or other property or which can cause soiling, discomfort, or irritation.
11. The use shall not involve any malodorous gas or matter, which is discernible on any adjoining lot or property.
12. The use shall not involve any direct or reflected glare, which is visible from any adjoining property or from any Public Street, road, or highway.
13. The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.
14. The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.

Section 5.05 Conditions

In addition to the Standards listed in Section 5.04, the Planning Commission may recommend, and the County Board may adopt such other conditions as may be necessary or desirable to address specific concerns regarding the proposed use on a specific piece of property, including the most appropriate use of the land, the conservation and stabilization of the value of property, the provision of adequate open space for light and air, concentration of populations, congestion of public streets, and the promotion of the general health, safety, welfare, convenience, and comfort of the public. The County Board may require such conditions and restrictions upon the Conditional Use Permit as may be deemed necessary for the protection of the public interest and to secure compliance with this resolution.

Section 5.06 Protests

In case of protest against such conditional use permit, signed by the owners of 20 percent or more of either of the area of the lots included in such proposed change, or of those immediately adjacent, such conditional use permit shall not become effective except by the favorable vote of 4/5 of all the members of the County Board.