

ARTICLE 1800. Conditional Uses, Procedures and General Standards

§ 208-1801. Applicability.

The Borough Council shall have the power to approve Conditional Uses when this Chapter specifically requires the obtaining of such approval and for no other use or purpose.

§ 208-1802. Application and Approval Procedure.

A. Application Procedure.

- (1) An application for conditional use approval shall be filed with the Zoning Officer, on forms prescribed by the Borough, at least twenty (21) days prior to the date of the regular meeting of the Planning Commission. A conditional use application shall not be considered to be administratively complete until all items required by this Chapter, including the application fee and/or deposit, have been received by the Borough.
- (2) The Zoning Officer shall review the application to determine whether all materials required by this Chapter have been submitted by the applicant. If all such materials have not been submitted by the applicant, then the Zoning Officer shall reject the application as administratively incomplete and shall notify the applicant, in writing, citing the specific deficiencies and the specific requirements of this Chapter that have not been met.
- (3) Within five (5) days of receipt of an administratively complete application, the Zoning Officer shall submit one (1) copy of the application and any materials submitted therewith to: the Borough Solicitor; the Borough Engineer; any Borough professional consultant deemed necessary by the Borough Manager; and the County Planning Agency or its designee.
- (4) The Zoning Officer shall submit one (1) copy of an administratively complete application and any materials submitted therewith to each member of the Borough Planning Commission by no later than the Friday prior to the date of the regular meeting of the Planning Commission.
- (5) The Planning Commission shall review the application and forward its recommendation to the Borough Council.
- (6) The Borough Council shall hold a public hearing, pursuant to public notice, within the time periods and procedures required by the MPC. The public hearing shall commence within sixty (60) days of the date of the filing of an administratively complete application. Public hearings shall be conducted and held in accordance with the applicable provisions of the MPC.
- (7) The Borough Council shall render a written decision on the conditional use application within forty-five (45) days of the last hearing. Where the application is contested or denied, the Borough Council decision shall be accompanied by findings of fact and conclusions based thereon, together with any reasons therefor. Conclusions based on any provisions of this Chapter or any other rule, regulation, ordinance or statute shall contain a reference to the provision relied upon and the reasons why the conclusion is deemed appropriate in light of the facts found.
- (8) In granting a conditional use pursuant to this Chapter, the Borough Council may impose any reasonable conditions it believes are necessary to ensure compliance with this Chapter 184 Subdivision and Land Development, the Franklin Park Borough Code of Ordinances, as amended, and all other ordinances of the Borough, and as it otherwise deems necessary to implement the purposes of this Chapter and the MPC.
- (9) A copy of the final decision or, where no decision is called for, of the findings, shall be delivered to the applicant personally or mailed to him not later than the day following its

date.

- (10) All development, construction and use shall be in accordance with the approved conditional use decision and plan, unless a revised conditional use application is submitted, approved and filed. The approved conditional use plan shall consist of the application, as submitted, together with all of its attachments and exhibits, as finally approved by the Borough Council, and the conditions attached by the Borough Council. Any development contrary to the approved conditional use decision and plan shall constitute a violation of this Chapter.

B. Application Content.

- (1) All applications for conditional use approval shall demonstrate compliance with the: general standards and criteria of this Article; the applicable express standards and criteria of Article 1900, as applicable; and the applicable lot and yard requirements of the zoning district in which the use is proposed.
- (2) All applications for conditional use approval shall be submitted to the Zoning Officer, in the form prescribed. The number of copies of each of the following items shall be prescribed by the Zoning Officer.
 - a. Full scale copies and half-scale copies of all required plans, maps and drawings;
 - b. Copies of all other application materials.
- (3) An application for conditional use approval shall not be considered administratively complete until all items required by this Chapter, including the application fee and and/or deposit, have been received by the Zoning Officer.
- (4) All applications for conditional use approval shall contain the following:
 - a. A development plan, as defined by this Chapter;
 - b. A legal document verifying applicant's legal interest in the subject property (i.e. deed, sales agreement, lease);
 - c. A traffic impact study, as described in Chapter 184, Subdivision and Land Development, unless otherwise waived by the Borough Council;
 - d. The application fee and/or deposit in an amount set from time to time by resolution of the Borough Council; and
 - e. Construction plans, where renovations or modifications of an existing building is immediately contemplated, showing the scope, nature and extent of said renovation or modification.

- C. Expiration of Approval.** The grant of a conditional use shall expire 2 years after the date of the Borough Council written decision unless: (1) the applicant has applied for and obtained a building permit and commenced construction; or (2) in a case where the conditional use does not require the issuance of a building permit, the applicant has applied for and obtained an occupancy permit and has commenced the use which is the subject of the conditional use approval. Expiration of the conditional use approval under this Article shall require the applicant to re-apply for conditional use approval.

§ 208-1803. General Standards and Criteria.

- A.** Before approving a conditional use application, the Borough Council shall determine that the proposed use complies with the following general standards and criteria, which are in addition to any other requirements in Article 1900 for a specific type of use or development:
- (1) The proposed use will not alter the established character and use of the neighborhood or district in which it is located, and will not substantially impair the use or development of adjacent properties.
 - (2) The establishment, maintenance, location and operation of the proposed use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
 - (3) The proposed use complies with all applicable provisions and requirements for that type

of use contained in this Chapter (unless a variance to any provision has been granted by the Zoning Hearing Board) and all other applicable Federal, State, County, and Borough laws, statutes, ordinances and regulations, including but not limited to: Chapter 184 Subdivision and Land Development; _____ Storm Water Management; and the Franklin Park Borough Code of Ordinances, as amended.

- (4) The proposed use is compatible with surrounding land uses. It does not have a negative impact on the existing neighborhood or development in terms of air and water quality, noise, illumination and glare, restrictions to natural light and air circulation or other hazardous conditions that could endanger surrounding residents or impair the use of surrounding properties.
 - (5) The proposed site of the conditional use is suitable in terms of topography, soil conditions and size, based on number of projected users and the frequency of use of the proposed use.
 - (6) The proposed use and site provides for safe, adequate vehicular and pedestrian access. It has access from a street capable of handling the traffic generated by the proposed use, and it will not result in undue traffic congestion and hazardous conditions on adjacent streets. The use provides for safe and efficient internal circulation and sufficient off-street parking and loading.
 - (7) The proposed use complies with all applicable standards and requirements for providing sanitary sewage disposal, water supply, storm water management, solid and toxic waste storage and disposal.
 - (8) The proposed use provides landscaping, screening and buffer areas sufficient to protect the use, enjoyment and development of adjacent properties.
 - (9) The proposed use is in general conformity with the Borough Comprehensive Plan.
- B. The Borough Council shall grant a conditional use only if it finds adequate evidence presented by the applicant that the proposed conditional use is duly authorized under provisions of this Chapter, that the application falls within the terms of the specific provisions allowing for conditional uses and that the proposed use complies with all other requirements of this Chapter. The Borough Council shall refuse an application for conditional use where opponents to the application establish by a preponderance of evidence that the application is contrary to the health, safety and morals or general welfare of the community at large. The Borough Council, in granting a conditional use, may attach such reasonable conditions and safeguards other than those related to offsite transportation or road improvement, in addition to those expressed in this Chapter, as it may deem necessary to implement the purposes of this act and the Zoning Ordinance, except that conditions of approval shall not include those related to off-site transportation or road improvements pursuant to Section 603(c) (2) of the MPC.
- C. The Borough Council shall, among other things, require that any proposed use and location be:
1. In accordance with the Franklin Park Borough Comprehensive Plan and consistent with the spirit, purposes and the intent of this Chapter.
 2. In the best interests of the Borough, the convenience of the community and the public welfare and be a substantial improvement to the property in the immediate vicinity.
 3. Suitable for the property in question and designed, constructed, operated and maintained so as to be in harmony with and appropriate in appearance to the existing or intended character of the general vicinity.
 4. In conformance with all applicable requirements of this Chapter.
 5. Traffic Impact:
 - a. A traffic impact study (TIS) shall be required (unless otherwise waived by Borough Council) as described in Section 174-205(D) (14) of the Franklin Park Borough Subdivision and Land Development Ordinance.