

Proposed Zoning Ordinance Amendments – Conditional Use Permits

ARTICLE 2

~~Question~~ **1**: Shall the Zoning Ordinance of the Town of Lovell be amended, to clarify the procedures, required submissions, and standards for Conditional Use Permit Applications, as set forth in a document dated 11-17-2010, a copy of which is available from the Town Clerk?

*Note: The symbol of "*****" indicates that there is missing text that will remain unchanged, which has been left out of this document for the purpose of brevity. Underlines indicate proposed language to add, and strikeouts indicate proposed removals of language.*

9.9 Conditional Use Permits.

A. Authorization.

The Planning Board is hereby authorized to hear and decide upon applications for Conditional Use Permits, in accordance with State law and the provisions of this ordinance. The Board shall approve, approve with modifications or conditions, or disapprove an application for a Conditional Use Permit. No Conditional Use Permit shall be authorized unless specific provision for such Conditional Use is made in this ordinance.

B. Existing Conditional Use or Structure.

A Conditional Use which existed prior to the effective date of this ordinance may not be changed to another Conditional Use, nor significantly intensified, nor substantially expanded or altered in any floor area or volume, without review and approval of the Planning Board, to ensure except in conformity with all regulations of this ordinance pertaining to Conditional Uses.

No changes shall be made in any ~~approved~~ Conditional Use previously approved by the Planning Board, without approval of the change by the Planning Board.

C. Application Procedure.

A person informed by the Code Enforcement Officer that a Conditional Use Permit is required shall file an application for the permit with the Planning Board on forms provided for the purpose, with supporting information as set forth below. The applicant should request a pre-application conference with the Code Enforcement Officer or the Officer's designee, to review the application and submittal requirements, and to discuss potential waiver requests, prior to submitting the application package to the Planning Board. The applicant shall be responsible for a filing fee, which covers administrative and legal advertisement costs, which shall be set from time to time by the Board of Selectmen. Costs for advertising and notice for the public hearing shall be paid in addition to the filing fee, pursuant to section 9.9.E below. All plans for Conditional Uses presented for approval under this section shall be drawn at a scale of not smaller than one inch equals 50 feet and shall show or be accompanied by the following information unless the Planning Board waives these requirements.

1. A completed conditional use application form, including the name, telephone number, and address of the applicant (or his and any authorized agent) plus the name of the proposed development, and a copy of the deed or record of ownership, the assessor's map and lot number of the subject property.
2. A scaled site plan of the subject property showing the sizes and locations of existing and proposed building footprints, parking lots, drives, walkways, streets, roads, landscaping, and areas of proposed grading or clearing or areas to remain undisturbed. Total floor area, ground coverage, and location of each proposed building, structure, or addition.
3. ~~Perimeter survey of the parcel made and certified by a registered land surveyor licensed in Maine, relating to reference points, showing true north point, graphic scale, corners of parcel and date of survey and total acreage.~~
3. A narrative describing the proposed project, including such details as the projected number of employees; months, days, and hours of operation; and number of customers to be served.
4. Verification that the applicant has sufficient right, title or interest in the property by deed, purchase and sales agreement, option to purchase, or some other proof of interest. A copy of the

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most recently recorded deed shall be provided with a copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.

5. The zoning district in which the proposed site plan is located and the location of any zoning boundaries affecting the site plan.
6. If any portion of the site is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as depicted on the Flood Insurance Rate Map, shall be delineated on the plan.
7. Proposed Deed Restrictions: A copy of any proposed deed restrictions intended to cover all or part of the subject property.
8. An indication of the type of water supply system(s) to be used at the site, including evidence of adequate ground water supply and quality for potable water. Also, an indication of an adequate supply of water for firefighting purposes, from either on or off-site, satisfactory to the fire chief.
9. An indication of the type of sewage disposal to be used at the site, and a septic system design, prepared by a Licensed Site Evaluator or Professional Engineer.
10. Estimate of Traffic Generated. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used may be taken from the most recent available edition of the *Trip Generation Manual*, published by the Institute of Transportation Engineers.
11. Permits from State or Federal Authorities. If the Board is unsure whether a permit or license from a state or federal agency is necessary, the applicant shall be required to obtain a written opinion from the appropriate agency as to the applicability of their regulations. Upon written request of the applicant, the Board may consider accepting copies of permits granted by State or Federal authorities after any public hearing is held, but in no event shall any Conditional Use be approved without such permits.

D. Additional Application Submittals

Where new construction or expansion of a use is proposed, submission of each of the following additional items shall be required as part of the application. However, if the Board finds that strict compliance with this subsection would be excessive in light of the nature of the proposed structure or activity, or where there are special circumstances of a particular plan, the Board may waive any of these following application submissions, upon written request of the applicant, provided that such waivers will not nullify the intent and purpose of the Zoning Ordinance.

1. A standard boundary survey of the parcel made and certified by a registered land surveyor licensed in Maine, relating to reference points, showing true north point, graphic scale, corners of parcel and date of survey and total acreage. The site plan may be superimposed upon the survey information, or the survey may be submitted separately.
2. Existing or proposed culverts or other stormwater management features on or adjacent to the site.
3. Existing and proposed topographic contours at an interval of 2 feet, in relation to Mean Sea Level, for any areas to be developed.
4. The location of all wetlands, rivers, streams, brooks, vernal pools and other water bodies within or adjacent to the proposed site plan, as well as any other prominent natural features.
5. For undeveloped sites, a high intensity soil survey by a Certified Soil Scientist of those areas of the site proposed to be developed.
6. A written statement from the fire chief approving all dry hydrant, fire pond, or storage tank locations or other fire protection measures deemed necessary.
7. The location, names, and present widths of existing streets, highways, easements, or parks on or adjacent to the site.

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8. The location of any open space to be preserved and a description of proposed ownership, improvement and management.
9. A hydrogeologic assessment prepared by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology, where site considerations or development design indicate greater potential of adverse impacts on ground water quality. Such considerations may include, but shall not be limited to, extensive areas of shallow to bedrock soils, or the proposed use of shared or common subsurface waste water disposal systems.
10. Traffic Impact Analysis. For proposed projects requiring 40 or more parking spaces or projected to generate more than 200 vehicle trips per day, a traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets.
11. Wildlife Habitat Areas. Areas within or adjacent to the proposed site which have been identified as having a high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife or within the Comprehensive Plan. If any portion of the site is located within an area designated as a unique natural area by the Comprehensive Plan or the Maine Natural Areas Program or Maine Department of Inland Fisheries & Wildlife Beginning With Habitat Program, or as a significant vernal pool or other wildlife habitat governed by DEP Chapter 335 Rules, the plan shall indicate appropriate measures for the preservation of the values, which qualify the site for such designation.
12. Historic or Archaeological Sites. For all areas within or adjacent to the proposed site which are either listed on or eligible to be listed on the National Register of Historic Places, or have been identified in the comprehensive plan as sensitive or likely to contain archaeological sites, the applicant shall submit a copy of the site plan and a copy of any proposed mitigation measures to the Maine Historic Preservation Commission and submit any agency comments to the Board.
13. Parking, Driveway and Street plans, in sufficient detail to meeting the standards of this Ordinance.
14. A storm water management plan, prepared by a registered professional engineer in accordance with the *Maine Stormwater Best Management Practices Manual*, published by the Maine Department of Environmental Protection (2006). The Board may waive submission of the storm water management plan if the proposed site work will not involve grading which changes drainage patterns, and if the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the site.
15. An erosion and sedimentation control plan prepared in accordance with the *Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices*, published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, March 1991. The Board may waive submission of the erosion and sedimentation control plan if the proposed site work will not involve grading which changes drainage patterns and if the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the site.
16. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality of all public ways and open spaces shown on the plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If proposed streets and/or open spaces or other land is to be offered to the municipality, written evidence that the Board of Selectmen is satisfied with the legal sufficiency of the written offer to convey title shall be included.
17. The location and method of disposal for land clearing and construction debris.

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~~DE~~ Public Hearing.

~~If the~~ Planning Board shall find that the proposed use or structure is likely to have significant impacts on the neighborhood because of increased traffic or other factors, it shall hold a public hearing on the application within 35 days of determining it has received a complete application. The Board shall notify the Code Enforcement Officer and Municipal Officers, and shall publish notice of the time, place and subject matter of hearing at least 10 days in advance in a newspaper of general circulation in the area. The applicant shall reimburse the Town for the cost of the newspaper notice(s) prior to the start of the hearing.

1. The applicant shall notify by certified mail, return receipt requested, ~~the applicant and~~ the owners of all property within 200 feet of the property involved at least 10 days in advance of the hearing, of the nature of the application and of the time and place of the public hearing, except that the applicant for telecommunications facilities shall notify the owners of all property within 1,000 feet of the property involved at least 10 days in advance of the hearing, of the nature of the application and of the time and place of the public hearing. Notice to owners within 500 feet shall be by certified mail, return receipt requested; the remaining notices may be by first class mail. The applicant shall provide evidence of the required notification to the Board prior to the start of the hearing.
2. The owners of property shall be considered to be those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another hearing or invalidate any action by the Planning Board.
3. The Code Enforcement Officer or his designated assistant shall attend all hearings and may present to the Planning Board all plans, photographs or other material the Code Enforcement Officer deems appropriate for an understanding of the application.
4. The applicant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chairman.
5. The public hearing may be continued to the next regularly scheduled meeting, or to a time mutually agreed upon by the Planning Board and the applicant, to give the applicant sufficient time to gather further information as determined by the Planning Board during the public hearing.

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~~GH~~ Standards Applicable to Conditional Uses.

- ~~1.~~—It shall be the responsibility of the applicant to demonstrate that the proposed use meets all of the following criteria. The Board shall approve the application unless it makes written findings that one or more of these criteria have not been met.
 - ~~1.~~—a.—The use will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat, and shall meet the standards of section 7.21.
 - ~~2.~~—b.—The use will conserve shore cover and visual, as well as actual, access to water bodies.
 - ~~—c.~~—The use is consistent with the policies of the Comprehensive Plan.
 - ~~3.~~—d.—Traffic access to the site meets the standards contained in this ordinance; and traffic congestion has been addressed in accordance with performance standards in this ordinance, pursuant to sections 7.8 and 7.18.
 - ~~4.~~—e.—The site design is in conformance with all municipal flood hazard protection regulations found in the Floodplain Management Ordinance.
 - ~~5.~~—f.—Adequate provision for the disposal of all wastewater and solid waste has been made.
 - ~~6.~~—g.—Adequate provision for the transportation, storage and disposal of any hazardous materials has been made.

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- 7.—h.—A storm water drainage system capable of handling a 25-year storm without adverse impact on adjacent properties has been designed, pursuant to section 7.17.
- 8.—i.—Adequate provisions to control soil erosion and sedimentation have been made, in accordance with the *Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices*, published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, March 1991.
- 9.—j.—There is adequate water supply to meet the demands of the proposed use for both drinking and fire protection purposes.
- 10.—k.—The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odor and the like.
- 11.—l.—All other performance standards in this ordinance applicable to the proposed use will be met.