

CITY OF GRAND JUNCTION, COLORADO

ORDINANCE NO. 4691

AN ORDINANCE AMENDING SECTIONS 21.02.110 CONDITIONAL USE PERMIT (CUP) AND SECTION 21.06.070(G)(5) PLANNED DEVELOPMENTS AND CONDITIONAL USES

Recitals:

This ordinance amends the Zoning and Development Code, Title 21, of the Grand Junction Municipal Code (GJMC) by allowing a site sketch to determine a conditional use of a property, prior to site plan approval. Through the use of a site sketch the Planning Commission may make findings to determine that necessary site design features or mitigation measures will be taken to enhance or deter certain impacts to the neighborhood.

The proposed Ordinance further provides if the applicant changes or expands a structure or other feature of a site that is subject to a Conditional Use Permit, the Director shall determine whether the expansion/change is "major" or "minor." A major expansion/change shall be reviewed by the Planning Commission in accordance with the criteria for a Conditional Use Permit. A minor expansion/change shall be reviewed administratively in accordance with the applicable site plan review criteria and conditions of the Conditional Use Permit.

Section 21.06.070(g)(5) Planned Developments and Conditional Uses. This section of the Code requires that any signs for a conditional use site be made part of the development plan. There are sufficient Code requirements within the Sign Code to address signs for a property that has received a Conditional Use Permit. The reference to Conditional Uses in this section is redundant and should be removed.

After public notice and public hearing as required by the Grand Junction Zoning and Development Code, the Grand Junction Planning Commission recommended approval of amending Section 21.02.110 Conditional Use Permit (CUP) and Section 21.06.070(g)(5) Planned Developments and Conditional Uses.

The Planning Commission and City Council find that the amendment is in conformance with the stated criteria of Section 21.02.140 of the Grand Junction Municipal Code.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT:

1. Section 21.02.110 shall be amended to read:

21.02.110 Conditional use permit (CUP).

(a) **Purpose.** The purpose of a conditional use review is to provide an opportunity to utilize property for an activity which under usual circumstances could be detrimental to other permitted uses, and which normally is not permitted within the same district. A conditional use may be permitted under circumstances particular to the proposed location and subject to conditions that provide protection to adjacent land uses. A conditional use is not a use by right; it is one that is otherwise prohibited within a given zone district without approval of a conditional use permit.

(b) **Applicability.** A conditional use permit shall be required prior to the establishment of any conditional use identified in Chapter 21.04 GJMC or elsewhere in this code.

(c) **Approval Criteria.** The application shall demonstrate that the proposed development will comply with the following:

(1) **District Standards.** The underlying zoning districts standards established in Chapter 21.03 GJMC, except density when the application is pursuant to GJMC 21.08.020(c);

(2) **Specific Standards.** The use-specific standards established in Chapter 21.04 GJMC;

(3) **Availability of Complementary Uses.** Other uses complementary to, and supportive of, the proposed project shall be available including, but not limited to: schools, parks, hospitals, business and commercial facilities, and transportation facilities;

(4) **Compatibility with Adjoining Properties.** Compatibility with and protection of neighboring properties through measures such as:

(i) **Protection of Privacy.** The proposed plan shall provide reasonable visual and auditory privacy for all dwelling units located within and adjacent to the site. Fences, walls, barriers and/or vegetation shall be arranged to protect and enhance the property and to enhance the privacy of on-site and neighboring occupants;

(ii) **Protection of Use and Enjoyment.** All elements of the proposed plan shall be designed and arranged to have a minimal negative impact on the use and enjoyment of adjoining property;

(iii) **Compatible Design and Integration.** All elements of a plan shall coexist in a harmonious manner with nearby existing and anticipated development. Elements to consider include: buildings, outdoor storage areas and equipment, utility structures, building and paving coverage, landscaping, lighting, glare, dust, signage, views, noise, and odors. The plan must ensure that noxious emissions and conditions not typical of land uses in the same zoning district will be effectively confined so as not to be injurious or detrimental to nearby properties.

(d) Decision-Maker.

(1) The Director shall make recommendations to the Planning Commission.

(2) The Planning Commission shall approve, conditionally approve or deny all applications for a conditional use permit.

(e) Application and Review Procedures. Application requirements and processing procedures are described in GJMC 21.02.080. Site plan review and approval (pursuant to Section 21.02.070(f) or (g)) can occur either before or after the approval of a Conditional Use Permit by the Planning Commission. In either case, the applicant shall submit a site sketch showing sufficient detail to enable the Planning Commission to make findings on the Conditional Use Permit criteria (21.02.110(c)) and showing all site design features which are proposed or necessary to mitigate neighborhood impacts and/or enhance neighborhood compatibility. The Planning Commission can request additional information from the applicant if it deems the site sketch is insufficient to enable it to make a determination on the criteria. In any subsequent site plan review, the Director shall ensure and determine that all mitigating / enhancing site features approved or made conditions of approval by the Planning Commission are depicted on the approved site plan.

(f) Site expansion or changes. If the applicant changes or expands a structure or other feature of a site that is subject to a Conditional Use Permit, the Director shall determine whether the expansion/change is "major" or "minor." A major expansion/change shall be reviewed by the Planning Commission in accordance with the criteria for a Conditional Use Permit. A minor expansion/change shall be reviewed administratively in accordance with the applicable site plan review criteria and conditions of the Conditional Use Permit. A major expansion or change is one which:

(1) affects, changes, removes or eliminates a site feature or condition which was approved or imposed for the purpose of mitigating neighborhood impacts or enhancing neighborhood compatibility as described in Section 21.02.110(c)(4);

(2) increases the intensity of the use, the off-site impacts such as noise, light or odor, or the hours of operation;

(3) results in a substantial change to the features shown on the site sketch which formed the basis of the Planning Commission's approval of the Conditional Use Permit;

All other expansion/changes shall be considered minor.

(g) **Validity.** A conditional use permit approval shall run with the land and remain valid until the property changes use or the use is abandoned and nonoperational for a period of 12 consecutive months.

(h) **Amendment or Revocation of Conditional Use Permit.**

(1) **Interested Party.** Any interested party may apply to the City for the amendment or revocation of a conditional use permit. For purposes of this section, "interested party" shall include the following:

(i) The original applicant or successor in interest, or the current owner or lessee of the property for which the conditional use was granted (may also be referred to as the permit holder);

(ii) The City;

(iii) Any owner or lessee of property that lies within five hundred (500) feet of the property for which the conditional use permit was granted.

(2) **Fee.** Any person or entity, other than the City, seeking to amend or revoke a conditional use permit shall pay a fee in the amount established for an application for a conditional use permit.

(3) **Preliminary Criteria.** An applicant for amendment or revocation of a conditional use permit must establish the following to the satisfaction of the decision-maker before the requested change(s) can be considered by the decision-maker:

(i) **Grounds for Amendment – Permit Holder.** A conditional use permit may be amended at the request of the holder of the permit (the holder of the permit being the original applicant or successor in interest or the current owner or lessee of the land subject to the conditional use permit) upon a showing that a substantial change in circumstance has occurred since the approval of the permit which would justify a change in the permit.

(ii) **Grounds for Revocation or Termination – Permit Holder.** A conditional use permit may be revoked or terminated at the request of the holder of the permit upon a showing that, under this title, the use is an allowed use in the zone in which it is now established.

(iii) Grounds for Amendment or Revocation – Other Interested Party. A conditional use permit may be amended or revoked at the request of any other interested party if one or more of the following is established:

(A) The conditional use permit was obtained by misrepresentation or fraud;

(B) The use, or, if more than one, all the uses, for which the permit was granted has ceased or has been suspended for six months;

(C) The holder or user of the conditional use permit has failed to comply with any one or more of the conditions placed on the issuance of the permit;

(D) The holder or user of the conditional use permit has failed to comply with any City regulation governing the conduct of that use;

(E) The holder or user of the conditional use permit has failed to construct or maintain the approved site as shown on the approved site plan;

(F) The operation of the use or the character of the site has been found to be a nuisance or a public nuisance by a court of competent jurisdiction in any civil or criminal proceeding.

(iv) Due Process. No conditional use permit shall be amended or revoked against the wishes of the holder of the permit without first giving the holder an opportunity to appear before the Planning Commission and show cause as to why the permit should not be amended or revoked. Amendment or revocation of the permit shall not limit the City's ability to initiate or complete other legal proceedings against the holder or user of the permit.

(4) Decision-Maker. All applications for amendment of a conditional use permit shall be processed in the same manner as a new request for a conditional use permit, as set forth in subsection (e) of this section.

(5) Approval Criteria. An application for amendment or revocation of a conditional use permit shall demonstrate that the development or project will comply with all of the criteria set forth in subsection (c) of this section.

2. Section 21.06.070 (g) (5) be amended to read:

Section 21.06.070(g)

(5) Planned Developments. No sign shall be allowed on properties in a planned development zone unless the sign has been approved as part of the development plan. Variance of the maximum total surface area of signs shall not be permitted, but the

maximum sign allowance for the entire development or use may be aggregated and the total allowance redistributed.

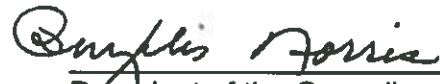
All other parts of Section 21.02.110 and Section 21.06.070(g)(5) shall remain in full force and effect.

Introduced on first reading this 3rd day of February, 2016 and ordered published in pamphlet form.

Adopted on second reading this 17th day of February, 2016 and ordered published in pamphlet form.

ATTEST:




President of the Council

I HEREBY CERTIFY THAT the foregoing Ordinance, being Ordinance No. 4691 was introduced by the City Council of the City of Grand Junction, Colorado at a regular meeting of said body held on the 3rd day of February, 2016 and that the same was published in The Daily Sentinel, a newspaper published and in general circulation in said City, in pamphlet form, at least ten days before its final passage.

I FURTHER CERTIFY THAT a Public Hearing was held on the 17th day of February, 2016, at which Ordinance No. 4691 was read, considered, adopted and ordered published in pamphlet form by the Grand Junction City Council.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 22nd day of February, 2016.


Stephanie Tuin, MMC
City Clerk

Published: February 5, 2016
Published: February 19, 2016
Effective: March 20, 2016

