

Jason Rittie Quoted in Leverage.com Article, “How a Conditional Use Permit Can Bypass Certain Zoning Laws”

As published by [Leverage.com](#), November 24, 2021

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When planning and building a commercial property, or making additions to your existing commercial property, you always need to pay attention to zoning laws in that area.

Unfortunately, zoning laws might sometimes inhibit your existing development plans. When an obstacle occurs, you need special approval from your local zoning board or planning commission. One such type of approval is a conditional use permit.

What Is a Conditional Use Permit (CUP)?

A conditional use permit (CUP) is a permit that requires discretionary approval from the city’s planning commission. CUPs are approved under a set of conditions and allow for exceptions to zoning laws. The conditional uses by which the permit is given depend on your specific jurisdiction.

“Any time there is a change in use of a commercial property, the property owner or tenant is typically required to obtain a [zoning permit](#),” said Jason R. Rittie, a partner at the law firm, [Einhorn, Barbarito, Frost & Botwinick](#).

However, a zoning permit might not suffice for your development. When that happens, a CUP can be granted, Rittie said, but only if it meets the criteria and conditions stated in your jurisdiction's Land Use and Zoning Ordinances.

A CUP allows property owners to use the property in ways that don't adhere to that area's zoning laws but still meet a set of specific conditions related to those laws. A CUP is often an easier alternative to [rezoning the entire property](#) or changing the use of the property from what it was originally zoned for.

How Much Is a Conditional Use Permit?

The costs of applying for a conditional use permit vary based on jurisdiction. Sometimes, the application is free, but often, there is an application fee. In addition to the application fee, Rittie said, other costs include escrow fees and expenses related to hiring professionals like lawyers, engineers, architects and professional planners.

If you're looking to apply for a conditional use permit, it's best to research these specific costs for your jurisdiction, as they can vary widely depending on your local laws and the area in which you live.

Does a Conditional Use Permit Expire?

According to Rittie, zoning approvals typically do not expire. However, some municipalities might have "zoning provisions in their ordinances that specify whether an approval expires after a certain time period should the property owner or tenant not obtain building permits or take occupancy within the stated time period(s)."

Again, it's best to check with your jurisdiction's specific zoning board to find out if your CUP includes any provisions with a [development timeline](#).

What's the Difference Between a Conditional Use Permit vs

Variance?

A variance is similar to a conditional use permit in that it is a limited exception to a zoning ordinance. However, variances are given out in situations where the zoning law would create unnecessary hardship or difficulty for the property owner. Variances are less commonly distributed than conditional use permits.

Rittie said conditional use permits generally abide by “specific requirements and conditions expressly stated and established under the Land Use and Zoning Ordinances.”

However, when a proposed conditional use application does not apply by those conditions, “the property owner or tenant must apply to the zoning board of adjustment for a variance.”

Example of a Conditional Use Permit

One common example of why you would need a conditional use permit is to allow for a home-based business operation in a residential district. Often, running a business in a residential district violates zoning laws because of the need for parking, signage, etc., which negatively impacts a residential area.

However, CUPs allow for exceptions to these laws given the home-based business meets specific standards outlined by your jurisdiction. Essentially, this is a form of [adaptive reuse](#), in which you are converting a residential property into a commercial property.

Rittie listed some common commercial properties that might exist due to CUPs, including “public garages and gasoline service stations, houses of worship, public and private elementary and secondary schools, municipal buildings and public uses, nursing homes and congregate care facilities, home occupations, home professionals, daycare centers and nurseries, community shelters and others.”

For instance, if a church is to be located in a residential district, the church can apply to a CUP as long

as it meets certain requirements to minimize the negative impacts of the church for nearby residents.

How to Get a Conditional Use Permit from the City

The steps for obtaining a conditional use permit vary depending on your jurisdiction and the local zoning laws, but there are a few commonalities across the spectrum.

1. Submit a Permit Application

In almost every instance, obtaining a conditional use permit will require you to fill out a CUP application and submit it to your local zoning authority. The review process will probably occur during a public hearing.

2. Attend the Public Hearing

The public hearing to discuss your CUP will be an opportunity for you to make your case and for owners of nearby properties to bring up their concerns. Be sure to come prepared with a comprehensive plan and anticipate what the opposition will say so that you have a response. Arrive with your plan in hand, ready to explain all of the details to the zoning board before they come to their decision.

3. Wait for a Response

Usually, you'll know whether your CUP was approved by the end of the public hearing, so the waiting period shouldn't be too long.

A CUP Could Be the Right Zoning Solution for Your Commercial Property

If your commercial property plans don't meet the exact zoning regulations in your particular zoning district, it's a good idea to look into conditional use permits for your area. Does your property meet

the necessary specifications to apply for a CUP? If so, talk to your local zoning board to get an application, as it could be the perfect solution for your zoning needs.

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