

# CONDITIONAL USE APPROVAL STANDARDS

## City Code Article 32, § 5-406

QUESTION 1: Would the establishment, location, construction, maintenance, or operation of the conditional use be detrimental to or endanger the public health, safety, or welfare?

QUESTION 2: Would the conditional use be precluded by any other law, including an applicable Urban Renewal Plan?

QUESTION 3: Would the authorization be contrary to the public interest?

QUESTION 4: Would the authorization be in harmony with the purpose and intent of this Code?

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### **THE BOARD MUST CONSIDER THE FOLLOWING, WHERE APPROPRIATE:**

- nature of the proposed site, including its size and shape and the proposed size, shape, and arrangement of structures
  - resulting traffic patterns and adequacy of proposed off-street parking and loading
  - nature of the surrounding area and the extent to which the proposed use might impair its present and future development
  - proximity of dwellings, churches, schools, public structures, and other places of public gathering
  - accessibility of the premises for emergency vehicles
  - accessibility of light and air to the premises and to the property in the vicinity
  - type and location of adequate utilities, access roads, drainage, and other necessary facilities that have been or will be provided
  - preservation of cultural and historic landmarks and structures
  - character of the neighborhood
  - provisions of the City's Comprehensive Master Plan or of any applicable Urban Renewal Plan
  - all applicable standards and requirements of this Code
  - the intent and purpose of this Code
  - any other matters considered to be in the interest of the general welfare.
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### ***SCHULTZ V. PRITTS* STANDARD**

In order to deny a conditional use, the Board must find facts and circumstances that show that the **particular use** proposed at the **particular location** proposed would have **adverse effects above and beyond** those inherently associated with such a [conditional use] irrespective of its location within the zone.

Stated another way: In order to deny the use, the Board must find that “facts and circumstances indicate that the particular [conditional use] and location proposed would cause an adverse effect upon adjoining and surrounding properties, unique and different, in kind or degree, than inherently associated with such use.” – *Mossburg v. Montgomery County*.

A conditional use is deemed *prima facie* compatible with a given zone but requires a case by case evaluation.

The legislature has deemed conditional uses to be generally compatible with other uses. Adverse effects are implied by making such uses conditional rather than permitted. The question is whether the adverse effects in a particular location would be greater than the adverse effects ordinarily associated with a particular use. – *Eastern Outdoor Adver. Co. v. Mayor and City Council of Baltimore, et. al.*, 128 Md. App. 494 (1999).