

City of Ellisville

Zoning Processes

(ARB and CUP Procedures)

May 2015



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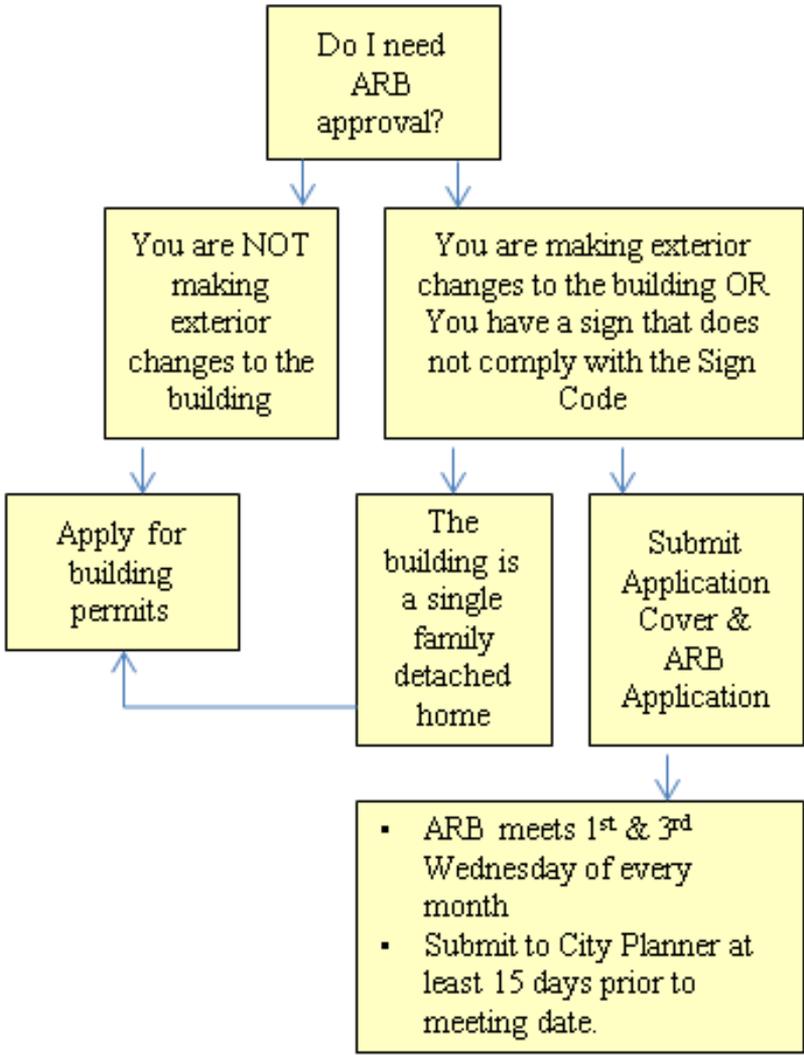
INTRODUCTION

This booklet is intended as a guide for residents and businesses to help with understanding the zoning process. The flow charts in this booklet depict typical scenarios and are not a guarantee as to how the process will unfold.

Residents are urged to review the City's adopted comprehensive plan and municipal code for complete information. You may also contact Ada Hood, Ellisville City Planner for specific information.

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DO I NEED ARCHITECTURAL REVIEW BOARD (ARB) APPROVAL?



The Application Cover and ARB Application can be found on the City’s website: www.ellisville.mo.us, then go to Documents Center, then click on

Planning and Community Development, then click on Permits and Applications, both documents can be downloaded and printed from here.

The ARB meets immediately following the 7PM City Council meeting. Generally, the ARB makes a decision on an application the same evening it first considers it. You or your representative must be present at the meeting. Bring photos and material samples if you believe it will help explain your project. Contact Ada Hood at ahood@ellisville.mo.us or 636-227-9660 for more information.

SECTION 400.040 ARCHITECTURAL REVIEW BOARD

- A. An Architectural Review Board, consisting of the members of the City Council, is hereby created:
1. To ensure that new structures erected in the City and exterior alterations of existing structures shall conform to certain minimum standards of appearance as provided herein,
 2. To avoid the erection and use of unsightly, grotesque, incompatible and unsuitable structures and exterior alterations, and
 3. To promote the stability of property values and the general health, safety and welfare of the community.
- B. The Architectural Review Board shall have the power to employ such experts, technicians or consultants as the Council may deem necessary to evaluate an application or other matter within its jurisdiction and all related costs shall be paid by the applicant. The City Planner or other such officer identified by the City Council (hereafter referred to as the "City Planner") shall serve as the staff representative to the Architectural Review Board and the City Attorney shall serve as legal counsel.
- C. The Board may adopt from time to time such reasonable rules and regulations as it may deem necessary and proper. The Board shall prepare an instruction sheet for applicants, describing procedures, plans and samples that should be submitted with each application.
- D. Except as provided in Subsection (E) all applications for building permits and all plans for proposed alterations, uses, repairs or maintenance that will affect the exterior appearance of a building shall be submitted to the Board

prior to the issuance of a building permit or the commencement of such alteration, use, repair or maintenance. The Board shall consider the application after the next scheduled meeting of the City Council or in no case more than forty-five (45) days after receipt of the application by the City Planner. Upon receipt of an application, the City Planner shall determine within ten (10) days whether the proposed modifications constitute major or substantial changes in exterior appearance. If the determination of the City Planner is that such modifications are not major or substantial, the application shall be listed under a "consent agenda".

Applications on the consent agenda may be approved on a motion of the Architectural Review Board. There will be no separate discussion on these items unless a Board member so requests, in which case the item will be removed from the consent agenda and considered separately at a hearing. Applications for new construction or for major or substantial modifications, as determined by the City Planner, may be placed on the consent agenda provided drawings and materials of construction are made available for public inspection for a period of ten (10) days prior to a hearing before the Architectural Review Board. In the event said drawings and materials are not made available as set out above, a full hearing must be held.

- E. The City Planner shall have authority to exclude from these requirements all new construction of and alterations to single-family residences that do not substantially affect exterior appearance, including the authority to approve or disapprove the applications. Any person directly affected by a ruling of the City Planner may appeal to the Architectural Review Board provided such appeal is filed within fifteen (15) days of the ruling.
- F. Each application to the Architectural Review Board shall include those plans, elevations and building material samples or other drawings deemed necessary for evaluation by the City Planner or the Board. The Board may continue any hearing for the submission of additional information necessary for evaluating the proposed exterior alteration.
- G. The Architectural Review Board shall consider each application for conformity to the following architectural, design and appearance standards:
 - 1. *Style.* No single architectural style should be superimposed upon buildings and each should reflect its own individual style. Monotonous design should

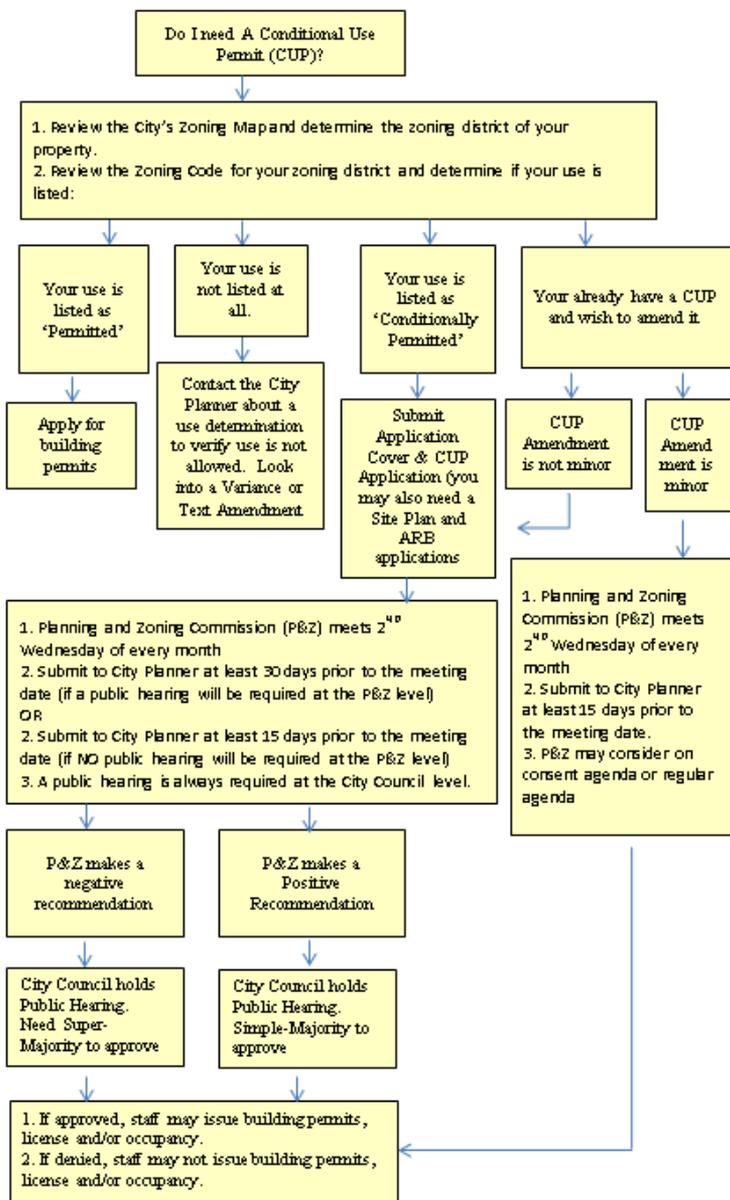
be avoided; variation of detail and form should be used to provide visual interest. Evaluation of the appearance of a project shall be based on the quality of its design and relationship to surroundings. Additions should relate to the existing buildings in design, details, colors and material.

2. *Scale and proportion.* The height, scale and proportion of each building should be compatible with its site and adjoining buildings. Building components such as windows and doors should have proportions appropriate to the architecture of the structure.
3. *Proportion.* Elements of building massing should relate to the size and shape of those of adjacent buildings.
4. *Materials.* Materials should be selected for suitability to the type of building and the design in which they are used and for harmony with adjoining buildings. Materials should be of durable quality.
5. *Colors.* Colors, including trim and accent colors, should be harmonious and visually compatible with neighboring buildings.
6. *Awnings, canopies and marquees.* Awnings, canopies and marquees should fit the character of the building and not interfere with the appearance of the surrounding buildings. Unused brackets should be removed.
7. *Preservation of period detail.* Original details on existing buildings, such as cornices, horizontal bands and decorative elements, should be preserved.
8. *Screening.* Facilities including, but not limited to, trash dumpsters and rooftop and mechanical units should be visually screened with materials harmonious with the building.
9. *Lighting.* Exterior lighting, including interior lighting affecting exterior appearance, when used should be of a design, size and intensity compatible with the building and adjacent areas. Excessive brightness should be avoided.
10. *Landscaping.* Landscape treatment, where appropriate, should be provided to enhance architectural features and provide visual interest. Landscape materials may include plants, trees, fences, walls and pavings.
11. *Interior elements.* Any interior materials, color, design or other detail visible from the exterior should be harmonious and visually compatible with the exterior and neighboring buildings.

H. Actions by the Board.

1. If approved as submitted, the City Planner may issue a building permit or other appropriate approval immediately upon notification of such action by the Board.
2. If the Board approves the application with modifications, the City Planner may issue a building permit or other such approval provided that the applicant shall conform to the modifications required by the Board. The City Planner may require that the applicant make appropriate changes in the drawings and specifications to demonstrate conformity with the Board's required modifications.
3. If the application is disapproved with recommendations, the City Planner shall not issue a building permit or other approval unless the applicant shall make appropriate changes in the plans and specifications to conform to the recommendations of the Board.
4. If the application is disapproved, no permit or other approval shall be issued by the City Planner nor shall any work or use proposed under the application be commenced. The Board shall advise the applicant in writing as to its reasons for the disapproval.
5. All applications shall be considered promptly by the Architectural Review Board. The Board shall render a decision no later forty (40) days from the date of submission of the application to the Board and failure to make a decision within that period shall be deemed an approval of the application; provided however, that this automatic approval provision shall not apply when the Board continues any hearing pursuant to Subsection (F) hereof.

DO I NEED A CONDITIONAL USE PERMIT (CUP)?



The Application Cover and CUP Application can be found on the City's website: www.ellisville.mo.us, then go to Documents Center, then click on Planning and Community Development, then click on Permits and Applications, both documents can be downloaded and printed from here.

The P&Z meets on the 2nd Wednesday of the month, and assuming the P&Z makes a recommendation that evening, the City Council will meet on the 3rd Wednesday of the month. If other applications are also being requested, all applications will be processed concurrently. Generally, the P&Z and City Council make a decision on applications the same evening it first considers it. You or your representative must be present at all meetings. Contact Ada Hood at ahood@ellisville.mo.us or 636-227-9660 for more information.

SECTION 400.150 CONDITIONAL USE PERMIT PROCEDURE

A. Purpose Statement. Conditional uses are those types of uses which are considered to be essentially desirable, necessary or convenient to the community but which by their nature can create 1) a tendency to generate additional traffic volume; 2) an anticipated need for parking beyond the development's private capacity; and/or 3) detrimental impacts on adjacent or neighboring properties due to noise, pollutants or other characteristics associated with that particular use. In order to assure that detrimental impact is avoided or mitigated, each request for conditional use must be reviewed, approved and issued a conditional use permit (CUP). Conditional uses are listed for each zoning district.

B. Application Requirements.

1. Applications for a conditional use permit shall be made to the City. To initiate the review process, the proper application, plans and fees as set out in this Code must be filed with the City Clerk. The property owner or leaseholder of a use may file a conditional use permit application. If an authorized agent or the leaseholder of the use is requesting the conditional use permit, the property owner must also sign the conditional use permit application. At the time that an application is filed, the applicant shall pay a fee as required by the fee schedule approved by the City Council.
2. The requirements of this application shall apply to the review of a proposed use for a conditional use permit. For an application to be accepted for review,

the following information shall be either placed on the application, site plan or on a separate sheet accompanying the submittal. Additional information to be placed on or submitted with the application and site plan beyond the requirements listed below may be requested by the City Planner. The City Planner may also waive the submission requirement for any of the same following information:

- a. Letter addressed to the City Council describing the proposed use and providing a complete account of the proposed operation.
- b. Location map, including north arrow and map scale.
- c. Zoning district, subdivision name, lot number, dimensions and area, and zoning of adjacent parcels where different than site.
- d. Name, address and telephone number of the person or firm submitting the application, the submitter's legal interest and the person or firm who desires the review comments to be forwarded to them.
- e. Proposed use of the building and its construction type and distance from adjacent property lines.
- f. Off-street parking and loading spaces, required and proposed, including the number, size and location of those designated for the handicapped.
- g. Type and availability of all utilities and of sanitary sewage treatment and stormwater drainage facilities, including detention and retention ponds.
- h. Dimensions of existing and proposed roadway pavement and right-of-way width for streets abutting the site.
- i. Existing and proposed landscaping, including name and size of plant material.
- j. Existing and proposed contour lines or elevations, based on mean sea level datum, at intervals of five (5) feet or less.
- k. Location and size of existing and proposed freestanding signs.
- l. Location and identification of all right-of-ways and easements (existing and proposed).
- m. Location and height of all light poles and type of lighting and shielding.
- n. Overall dimensions of all buildings and the gross floor area of each building.
- o. Approximate location of any stormwater retention or detention facilities, sink holes and springs, silt berms, ponds and other silt control facilities.

- p. At least two (2) section profiles through the site showing existing and/or proposed structures, as well as existing natural grade and/or proposed final grade.
- q. The proposed ingress and egress to the site including adjacent streets.
- r. A plan showing the proposed design intent as it relates to architectural consideration to be submitted to the Architectural Review Board for approval. Plans should be in sufficient detail to allow evaluation of the proposal and should show color, texture and material to be used for all exterior construction. Materials selected for wall, floor and roof construction shall comply with the provisions of the City Building Code. Presentation of construction materials shall include renderings, photographs, blueprints, a listing and/or photographs of pre-existing facilities located within the City of Ellisville using identical or similar materials and other graphic aids and/or physical samples as may be required to depict and define the appearance of the finished product as well as its durability as to exterior wall construction.
- s. Use(s) proposed to be operated on the subject improved property.
- t. Demonstration of capacity to fulfill requirements imposed in conjunction with the application if approved in original or amended form.

C. Staff Procedure. The City Clerk then shall forthwith transmit the application to the City Planner for review for deficiencies. Within fifteen (15) days of receipt of the application, the City Planner shall notify the applicant of any deficiencies or the application shall be accepted for consideration before the Planning and Zoning Commission, unless said timeframe is mutually waived. Applicant must respond to the City Planner's list of deficiencies within thirty (30) days or the application is deemed void, unless such timeframe is mutually waived. Applications are scheduled for consideration by Planning and Zoning when all submission requirements are met. Upon receipt of the application, which has been determined to be complete by the City Planner, the application shall be referred to the Planning and Zoning Commission.

D. Planning and Zoning Commission Procedure. The Planning and Zoning Commission may require a public hearing before their body. The Planning and Zoning Commission shall investigate and make a report and recommendation

regarding the effect of such proposed building or use upon character of the neighborhood, traffic conditions, fire hazards, public utility facilities and other matters pertaining to the public health, safety and general welfare of the community. Such report and recommendation shall be filed with the Council within sixty (60) days of official submission to the Commission unless said time period is extended by mutual agreement in writing. The failure of the Commission to act within sixty (60) days after the date of official submission to it shall be deemed approval. The "*date of official submission*" shall mean the date of the first (1st) official Planning and Zoning Commission meeting during which the application is received and placed on the agenda for consideration.

E. *City Council Procedure.* Upon receipt of the report and recommendation of the Planning and Zoning Commission, the Council shall hold a public hearing in relation to the application. The City Council may, at its discretion, add to or delete conditions recommended by the Planning and Zoning Commission. The City Council may refer the application back to the Planning and Zoning Commission for further study before making its final decision. The decision rendered by the City Council shall require a simple majority vote except that a vote of at least five (5) members of the City Council will be required to approve any application contrary to the Planning and Zoning Commission recommendation.

F. *Criteria for Conditional Use Permit Approval.*

1. It shall be the responsibility of the applicant to clearly establish that the following criteria are met:

a. The use will not have any negative effect upon traffic conditions.

(1) In the event that the proposed commercial use or building is a motor vehicle oriented business as defined by Section **400.430(A)(2)**, traffic impact consideration screening procedures as set forth in Section **400.430(A)(4)** shall be considered by the Council in determining whether there is a negative effect upon traffic conditions, in addition to any other evidence adduced pursuant to the permit procedure.

(2) In the event that the proposed use or building is a multi-family development as defined by Section **400.430(B)(2)**, traffic impact

consideration screening procedures as set forth in Section **400.430(B)(4)** shall be considered by the Council in determining whether there is a negative effect upon traffic conditions, in addition to any other evidence adduced pursuant to the permit procedure.

- b. The use will not substantially increase fire hazards.
- c. The use will not adversely affect the character of the neighborhood.
- d. The use will not adversely affect the general welfare of the community.
- e. The use will not overtax the sewage or public utilities.
- f. The use will not adversely affect or overtax Police or other City services.
- g. The use will be the highest and best use of the location applied for.
- h. The use will not adversely affect the financial condition of the City including any adverse impact upon utilities, property and sales tax.
- i. The use will not have a substantial negative impact on the environment.
- j. The proposed use is compatible with surrounding uses and with the surrounding neighborhood.
- k. The comparative size, floor area and mass of the proposed use and/or proposed structure are appropriate and reasonable in relation to adjacent structures and buildings on surrounding properties and in the surrounding neighborhood.
- l. The proposed use will not adversely affect the neighborhood in terms of water runoff, noise transfer or heat generation due to significant amount of hard surfaced areas for buildings, sidewalk, drives, parking and service areas.
- m. The frequency and duration of various indoor and outdoor activities and special events associated with the proposed use will not have a deleterious impact on the surrounding area.
- n. The proposed use is likely to remain in existence for a reasonable length of time and not become vacant or unused and whether such use involves the presence of unusual, single-purpose structures or components of a temporary nature.
- o. The proposed use complies with the standards of good planning practices.
- p. Where a proposed use has the potential for adverse impacts, sufficient measures have been or will be taken by the applicant that would negate, to an acceptable level, such potentially adverse impacts, as determined by the City Council.

q. The use will comply with all other applicable provisions of this Chapter including performance standards as set forth in Section **400.170**.

2. If the Council's findings are positive and the Council determines that the public health, welfare and safety are adequately protected, then the application shall be approved, but if the Council's findings are negative, then the application shall be denied.

G. Amendment to a Conditional Use Permit. Any change in the scope, use or aspect of an operation approved for a conditional use permit which results in a condition that differs from the provisions contained in the approved conditional use permit requires the approval of an amendment. All requests for amendments must be filed on an application form available through the Department of Planning. As part of the application submission, additional documentation or pertinent information related to the amendment may be required by the City Planner.

1. Minor amendments.

a. Requests for amendments that are deemed by the Director of Planning to represent minor change(s) from the provisions of the originally approved conditional use permit may be approved by the Planning and Zoning Commission on a consent agenda. Minor amendments may include:

- (1) Change in hours of operation;
- (2) Change in days of operation;
- (3) Increasing or decreasing outdoor dining capacity;
- (4) Change in business or trade name, where ownership and nature of business or trade remains the same;
- (5) Change in ownership of business not affecting the intensity of the use; and
- (6) Other similar changes deemed minor by the Director of Planning.

b. Amendments can be placed on a consent agenda only if the complete application is made available for public inspection for a period of ten (10) days prior to a hearing before the Planning and Zoning Commission.

c. Minor amendments may be approved on the consent agenda by motion of the Commission without separate discussion, but any such amendment may be removed from the consent agenda on request of a Commission member. If

removed, the amendment can be discussed separately at that time or rescheduled to a different hearing date.

2. *Other amendments.* All other amendments shall be subject to review and approval by the City Council and shall be subject to the provisions of this Chapter as though an original application.

H. *Time Limit on Approval.* Applications for permits, authorized by a decision of the City Council, must be submitted within one (1) year after the decision of the City Council. If no application for a building permit is submitted within the one (1) year period, the approval is automatically rescinded.

I. *Reapplication.* In the event that the City Council denies an application for a conditional use permit, no request for hearing upon the same application or substantially similar application will be accepted for a period of at least one (1) year from the date of denial by the City Council.

J. *Revocation.* The Council, after a public hearing, may revoke a conditional use permit for failure of compliance with the regulations and restrictions of this or any other Chapter of the Municipal Code of the City of Ellisville or the requirements of the conditional use permit.

K. *Appeals.* An aggrieved party may, within fifteen (15) days of the decision for which redress is sought, file with the City Council a written request for reconsideration and appeal of any decisions of the City Council under this Article. The written request must set forth in a concise manner the decision being appealed and all grounds known to the appellant as to wherein and why the decision is allegedly in error. The request for reconsideration and appeal must be filed with the City Clerk within the time specified above. A copy of the request and any supporting documents or materials filed by aggrieved party must be served by the aggrieved party on the applicant (if different than the aggrieved party) by certified U. S. mail, return receipt requested, within three (3) days of filing with the City Clerk. Proof of service on the applicant must be filed with the City Clerk within six (6) days of filing of the request. The City Council

may consider the appeal on the record of the prior decision or may, at its sole discretion, receive additional evidence in such manner, as it deems appropriate in light of the circumstances.