



## Olmsted County Planning Department

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### Olmsted County Planning Department

#### Conditional Use Permit Application Process:

- Consult planner about the request. A pre-application meeting is encouraged.
- Submit preliminary application-Eyota Township only, see Eyota Township handout
- See deadline calendar on Olmsted County website or dates that were provided by the planner during pre-application meeting
- Submit application packet as follows
  - a. Land Development Application
  - b. Application fee, Consult planner
  - c. Letter of Township Board Action
    - i. Carbon copy form provided by the planner during pre-application meeting
    - ii. Applicant fills out top of form, contact township clerk prior to attending township meeting, and attend township meeting to get it signed
    - iii. Township Board will fill in comments and sign
    - iv. The completed form is submitted with the Land Development Application
  - d. Legal Description of the property
  - e. Detailed Site Plan
    - i. 6 copies for plan sizes larger than 11x17 (must include one copy of smaller size plan)
    - ii. 1 copy of 11x17 or 8½x11
  - f. Electronic copy of exhibits
  - g. Completed Environmental Checklist
- Application materials are sent out for comments by referral agencies.
- Planner reviews application and writes staff report
- Public Hearing notices sent
- Staff report posted to website (about a week before the meeting)
- Public Hearing with OCPAC
  - a. Staff presents staff report and findings
  - b. Public Hearing is opened by commission
    - i. Applicant and/or consultant should speak during this time
    - ii. Chair will ask for comments from the public prior to closing public hearing
  - c. OCPAC is decision making board for the request
- Staff will receive copy of signed resolution, staff will record resolution.

Applications that may follow the approval of a conditional use permit:

1. Building permit
2. Erosion Control/Runoff Plan

\*Section 4.02 Subdivision D 11 "Should no construction or use begin within one year from the date of approval, or should the approved conditional use be discontinued for a period of one year, the conditional use shall be void."

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Form edited 4-1-2021

2122 Campus Drive SE, Suite 100, Rochester MN 55904  
507 328-7100

[www.olmstedcounty.gov](http://www.olmstedcounty.gov)

## **Amendment Findings:**

1. The proposal is consistent with the policies of the Olmsted County General Land Use Plan;
2. the amendment is in the public interest;
3. the proposed development is timely based on surrounding land uses, proximity to development, and the availability and adequacy of infrastructure;
4. the proposal permits land uses within the proposed district that are appropriate on the property and compatible with adjacent uses and the neighborhood;
5. the proposal does not result in a spot zoning;
6. the proposal is consistent with a General Development Plan for the area, if on exists.

## **Section 4.02    CONDITIONAL USE:**

The purpose of a conditional use is to permit a use that would not be appropriate generally but may be allowed with appropriate restrictions upon a finding that 1) certain conditions as detailed in the zoning ordinance exist, and 2) the use or development conforms to the Comprehensive Plan, and 3) is compatible with the existing area.

A conditional use is allowed only after a petition for a permit has been approved by the Planning Advisory Commission, except when there is an appeal to the Commission decision; then, only after the approval of the County Board of Commissioners.

- A. **Criteria for Granting Conditional Uses:** In granting a conditional use, the Planning Advisory Commission shall consider the effect of the proposed use on the Comprehensive Plan and upon the health, safety and general welfare of occupants of surrounding lands. Among other things, the Commission shall consider the following:
1. The proposed use will not be injurious to the use and enjoyment of other property in the neighborhood and will not significantly diminish or impair the values of such property;
  2. The proposed use will not impede the normal and orderly development and improvements of the surrounding property;
  3. Adequate utilities, parking, drainage and other necessary facilities will be provided;

4. Adequate ingress and egress will be provided to minimize traffic congestion in the public streets;
5. Based on a transportation impact analysis, if required under Section 10.48 of this Ordinance, or (if the requirement for a transportation impact analysis has been waived) considering the recommendation of the responsible road authority engineer as defined in that Section, either
  - the traffic generated by the proposed use can be safely accommodated on existing or planned street systems and the existing public roads providing access to the site will not need to be upgraded or improved by the Township or County or other affected jurisdictions in order to handle the additional traffic generated by the use; or
  - a road use agreement has been entered into specifying responsibility for improving and maintaining the roads of affected jurisdictions including remediation of damaged roads and specification of designated haul routes to limit heavy vehicle traffic to structurally adequate corridors;
6. Adequate measures have been taken or proposed to prevent or control offensive odor, fumes, dust, noise, vibration, or lighting which would otherwise disturb the use of neighboring property;
7. The special criteria or requirements indicated in Article X, General Regulations, are complied with;
8. The water and sanitary systems are or would be adequate to prevent disease, contamination and unsanitary conditions.

When deciding on conditional uses to the Floodway, Flood Fringe (FFA and FFB) and the Flood Plain Districts, the following additional factors shall also be considered:

9. The danger to life and property due to increased flood heights or velocities caused by encroachments.
10. The danger that materials may be swept onto other lands or downstream to the injury of others.
11. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner.
12. The relationship of the proposed use to the flood plain management program for the area.
13. The safety of access to the property in times of flood for ordinary and emergency vehicles.

14. The expected heights, velocity, duration, rate of rise and sediment transport of the flood waters expected at the site.
15. The proposed water supply and sanitation systems and the ability of these systems to prevent disease, contamination, and unsanitary conditions.
16. The importance of the services provided by the proposed facility to the community.
17. The requirements of the facility for a waterfront location.
18. The availability of alternative locations not subject to flooding for the proposed use.
19. The compatibility of the proposed use with existing development and development anticipated in the foreseeable future.
20. Based upon technical evaluation of the designated engineer or expert, the Planning Commission shall determine the specific flood hazard at the site and evaluate the suitability of the proposed use in relation to the flood hazard.

When deciding on a conditional use to the A 1, A 2, A 3, and A 4 Agricultural Districts, the following additional factors shall be considered.

21. The amount of prime agricultural land with a crop equivalent rating of 60 or above that would be taken out of production as a result of the use.
22. The need for new public roads or the need for improvement to existing public roads is minimal.
23. A thorough evaluation of the waterbody and topographic, vegetation, and soils conditions on the site must be made to ensure:
  - a) The prevention of soil erosion or other possible pollution of public waters, both during and after construction.
  - b) The visibility of structures and other facilities as viewed from public waters is limited;
  - c) The site is adequate for water supply and on-site sewage treatment; and
  - d) The types, uses, and numbers of watercraft that the project will generate are compatible in relation to the suitability of public waters to safely accommodate these watercraft.

**B. Additional Conditions:** In permitting a new conditional use or the alteration of an existing conditional use, the Planning Advisory Commission may impose, in addition to those standards and requirements expressly specified by this

ordinance, additional conditions which the Planning Advisory Commission considers necessary to protect the best interest of the surrounding area or the County as a whole. These conditions may include, but are not limited to the following:

1. Increasing the required lot size or yard dimension.
2. Limiting the height, size or location of buildings.
3. Controlling the location and number of vehicle access points.
4. Increasing the street width.
5. Increasing the number of required off street parking spaces.
6. Limiting the number, size, location or lighting of signs.
7. Requiring diking, fencing, screening, landscaping or other facilities to protect adjacent or nearby property.
8. Designating sites for open space.
9. Limiting the hours of operation.
10. Limiting the length of time for which the conditional use may exist.
11. Increased setbacks from the ordinary high water level.
12. Limitations on the natural vegetation to be removed or the requirement that additional vegetation be planted.
13. Special provisions for the location, design, and use of structures, sewage treatment systems, watercraft launching and docking areas, and vehicle parking areas.

C. **Required Exhibits:** The following exhibits shall be required unless waived by the Zoning Administrator:

1. A completed application form.
2. An accurate boundary description of the property.
3. A development plan of the property showing the existing or proposed buildings, streets, access roads, driveways, parking spaces and signs.
4. Landscaping and screening plans.
5. Drainage Plan.

- a. Conditional uses pertaining to the Floodway, Flood Fringe (FFA and FFB) and Flood Plain Districts, Sections 9.02, 9.04, 9.06, and 9.08, shall, in addition to the previous exhibits, require the following:
  6. Plans in triplicate drawn to scale showing the nature, location, dimensions and elevations of the lots, existing or proposed, fill, storage of materials, flood proofing measures, and the relationship of the above to the location of the stream channel.
  7. Specifications for building construction and materials, flood proofing, filling, dredging, grading, channel improvement, storage of materials, water supply and sanitary facilities.
  8. Any additional information deemed necessary by the Planning Advisory Commission to determine the suitability of the particular site for the proposed use.
  9. State and Federal Permits. Prior to granting a permit or processing an application for a Conditional Use Permit the Zoning Administrator shall determine that the applicant has obtained all necessary State and Federal Permits.

**D. Conditional Use Procedures:** The procedures for a property owner to obtain a conditional use are as follows:

1. The applicant shall obtain the application and necessary forms from the Rochester-Olmsted Planning Department.
2. The applicant shall return the application to the Rochester-Olmsted Planning Department along with the required exhibits and pay the fee established by the Board for processing the conditional use procedures (See Appendix A).
3. Prior to the processing of the application for a conditional use pertaining to the Floodway, Flood Fringe (FFA and FFB) and Flood Plain Districts, the Zoning Administrator shall determine that the applicant has obtained all necessary state and federal permits pertaining to flood proofing and flood protection measures.

If the conditional use is with respect to either the Floodway, Flood Fringe (FFA and FFB) or the Flood Plain Districts, the Zoning Administrator shall transmit one (1) set of plans to a designated engineer or other expert person or agency acceptable to the county for technical assistance in evaluating the proposed project in relation to flood heights and velocities, the seriousness of flood damage to the use, the adequacy of the plans for protections, and other matters.

In addition, the Zoning Administrator shall submit by mail to the Commissioner of Natural Resources a copy of the application for proposed

Conditional Use sufficiently in advance so that the Commissioner will receive at least ten (10) days notice of the hearing.

Upon receipt of an application for a Conditional Use Permit for a use within A Zones without a Floodway designation the Zoning Administrator must use the floodway delineation procedure outlined in Section 9.01 in order to determine which requirements shall apply. If the site is determined to be floodway, the requirements of Sections 9.02, 9.04 or 9.06 shall apply.

- a) Upon receipt of an application for a Conditional Use Permit for a use within the General Flood Plain District, the applicant shall be required to furnish such of the following information as is deemed necessary by the Zoning Administrator for the determination of the Regulatory Flood Protection Elevation and whether the proposed use is within the Floodway or Flood Fringe District.
  - 1) A typical valley cross section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross sectional areas to be occupied by the proposed development, and high water information.
  - 2) Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill, or storage elevations; size, location, and spatial arrangement of all proposed and existing structures on the site; location and elevations of streets; photographs showing existing land uses and vegetation upstream and downstream; and soil type.
  - 3) Profile showing the slope of the bottom of the channel or flow line of the stream for at least 500 feet in either direction from the proposed development.
  
- b) The applicant shall be responsible to submit one copy of the above information to a designated engineer or other expert person or agency for technical assistance in determining whether the proposed use is in the Floodway or Flood Fringe District and to determine the Regulatory Flood Protection Elevation. Procedures consistent with Minnesota Regulations 1983, Parts 6120.5000 6120.6200 shall be followed in this expert evaluation. The designated engineer or expert is strongly encouraged to discuss the proposed technical evaluation methodology with the respective Department of Natural Resources' Area Hydrologist prior to commencing the analysis. The designated engineer or expert shall:
  - 1) Estimate the peak discharge of the regional flood.
  - 2) Calculate the water surface profile of the regional flood based upon a hydraulic analysis of the stream channel and overbank areas.
  - 3) Compute the floodway necessary to convey or store the regional flood without increasing flood stages more than 0.5 foot. A

lesser stage increase than .5' shall be required if, as a result of the additional stage increase, increased flood damages would result. An equal degree of encroachment on both sides of the stream within the reach shall be assumed in computing floodway boundaries.

- c) The Zoning Administrator shall present the technical evaluation and findings of the designated engineer or expert to the Planning Advisory Commission. The Commission must formally accept the technical evaluation and the recommended Floodway and/or Flood Fringe District Boundary or deny the permit application. The Planning Commission, prior to official action, may submit the application and all supporting data and analyses to the Federal Emergency Management Agency and the Department of Natural Resources for review and comment. Once the Floodway and Flood Fringe Boundaries have been determined, the permit application may be processed.
4. The Zoning Administrator shall set a date for the public hearing before the Planning Advisory Commission in accordance with the public hearing requirements in Minnesota Statutes, Section 394.26. Failure of any property owner or occupant to receive such notice shall not invalidate the proceeding, provided a bona fide attempt to give such notice has been made.
5. The Commission shall hold the public hearing. The Commission shall table further action on any application which is not accompanied by a recommendation of the township. The tabling shall be until such time as a recommendation is received, but not to exceed thirty five (35) days. Failure of the township to act upon the application within thirty five (35) days of the commission's action tabling the request shall cause the township to forfeit its opportunity to comment upon said application.
6. The Commission shall adopt findings based upon the evidence established during the hearing and shall act upon the application within ninety (90) days from the date of the public hearing. Appeals from the decision of the Planning Advisory Commission can be made to the County Board of Commissioners.
7. The Planning Advisory Commission's decision granting the conditional use with respect to the Floodway, Flood Fringe (FFA and FFB) and the Flood Plain districts shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.
8. The Zoning Administrator shall transmit a certified copy of an approved conditional use, along with the legal description of the property, to the County Recorder for recording except when the Commission's decision is being appealed.



9. A conditional use permit shall remain in effect for so long as the conditions of the permit are observed or complied with.
10. No application for conditional use shall be reconsidered by the Planning Advisory Commission within the one (1) year period following a denial of such request, except the Commission may permit a new application if, in the opinion of the Commission, new evidence or a change of circumstances warrant it.
11. Should no construction or use begin within one year from the date of approval, or should the approved conditional use be discontinued for a period of one year, the conditional use shall be void.

#### **Section 4.04 APPEAL OF A PLANNING ADVISORY COMMISSION DECISION:**

A decision of the Planning Advisory Commission may be appealed to the County Board of Commissioners. Such appeal may be taken by a person aggrieved or by any officer, department, board or bureau of a town, municipality, county or state. Should a zoning certificate or building permit have been issued as a result of the Commission's decision, such permit shall be suspended until the County Board has rendered a decision on the appeal.

##### **A. Appeal Procedures:**

1. The appeal application shall be submitted to the Rochester-Olmsted Planning Department within ten (10) days of the Commission's decision and the appellant shall pay the fee for the appeal as established by the County Board of Commissioners (See Appendix A).
2. Within sixty (60) days after receipt of the appeal application, the Board shall hold a public hearing in accordance with Minnesota Statutes, Section 394.26. The Board shall adopt findings and shall act upon the appeal within sixty (60) days of the Board's scheduled public hearing date.
3. A decision of the Board granting the conditional use pertaining to the Floodway, Flood Fringe (FFA and FFB) and the Flood Plain Districts shall be forwarded by mail to the Commissioner of Natural Resources within ten (10) days of such action.
4. A certified copy of an approved conditional use, along with the legal description of the property, shall be transmitted to the County Recorder for recording.

#### **Section 4.06 APPEAL OF THE ZONING ADMINISTRATOR'S DECISION:**

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Application Number: \_\_\_\_\_

Related Records: \_\_\_\_\_

**Olmsted County Planning Department**

2122 Campus Dr SE, Suite 100

Rochester, MN 55904

P: 507-328-7100 F: 507-328-7958

planningweb@co.olmsted.mn.us

**LAND DEVELOPMENT APPLICATION**

**Type of Application**

Township:	Eyota	Marion	Oronoco	Quincy
Is this an amendment to an existing application?	Yes		No	
Appeal	Land Use Plan Amendment _____ to _____			
Conditional Use Permit	*+Metes & Bounds:			
Temporary Construction	Final			
Home Occupation (CUP)	Preliminary (different application for final approval)			
Erosion Control/Grading	*^Preliminary Plat - # lots _____			
Final Plat - # lots _____	+Variance			
General Development Plan _____	Rezoning _____ to _____			
	(name)			

*\* Relates to GIS Impact & E911 Addressing Fees*

*+ Relates to Environmental Review Fees*

*^ Relates to Subdivision Review Fees*

**Site Location**

Legal Description Attached

Site Address:	# of Acres:
PIN(s):	Township/Section:

**Proposal (Full documentation must accompany application)**

Describe project in detail: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Applicant**

Full Name:	Phone:	Email:
Mailing Address:		
Typed/Printed Name:	Signature:	Date:

**Property Owner**

Full Name:	Phone:	Email:
Mailing Address:		
Typed/Printed Name:	Signature:	Date:

Application Number: \_\_\_\_\_

Related Records: \_\_\_\_\_

**Consultant**

Full Name:

Phone:

Email:

Mailing Address:

Typed/Printed Name:

Signature:

Date:

**Additional Property Owners/Applicants/Addresses**

Full Name:

Phone:

Email:

Mailing Address:

Typed/Printed Name:

Signature:

Date:

**ENVIRONMENTAL REVIEW – Required prior to submitting a Conditional Use Permit, Plats, Metes & Bounds, & Variance Applications**

Written acknowledgement by Olmsted County Planning Department Well & Septic Code Enforcement Inspector of their preliminary review.

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature:

Date:

**PROPERTY RECORDS REVIEW– Required prior to submitting a FINAL Metes & Bounds application**

Written acknowledgement by Olmsted County Property Records of their preliminary review of the proposed metes & bounds subdivision.

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature:

Date:

**PLANNING DEPARTMENT SUBMITTAL – For office use only**

Note: Applications only accepted with ALL required support documents.

Deadline for agency action:           60 days - \_\_\_\_\_           120 days - \_\_\_\_\_

Received & reviewed by: \_\_\_\_\_ Date \_\_\_\_\_

Development Application Fee: \_\_\_\_\_

Environmental Review Fee (CUP, M&B Variance): \_\_\_\_\_

GIS Impact Fee (M&B, Plats): \_\_\_\_\_

E911 Addressing Fee (Final Plats, M&B): \_\_\_\_\_

Subdivision Review Fee: \_\_\_\_\_

**Total fees due:** \_\_\_\_\_

**COUNTY OF OLMSTED, MINNESOTA**

**LETTER OF TOWNBOARD ACTION**

DATE: \_\_\_\_\_

TO: County of Olmsted  
Rochester – Olmsted Planning Department  
2122 Campus Dr. SE, Suite 100  
Rochester, Minnesota 55904

RE: Report of Action by the Townboard of \_\_\_\_\_ Township on the  
Application by \_\_\_\_\_ (Applicant),  
Located in the \_\_\_\_\_ Quarter of Section \_\_\_\_\_.

TYPE OF APPLICATON: \_\_\_\_\_

The Townboard of \_\_\_\_\_ Township met on \_\_\_\_\_ (date) and  
considered the application of \_\_\_\_\_ (applicant)  
on the above referred property.

The Townboard has reviewed this application and makes the following comments:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Sincerely,

\_\_\_\_\_  
Clerk of \_\_\_\_\_ Township (Signature Required)

Townboard Members (Signature Required)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**DISTRIBUTION:**

Planning Department: (white copy)  
Townboard (canary copy)  
Applicant (pink copy)