

## Department of Planning and Zoning

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**TO:** Planning Commission Ordinance Committee  
**FROM:** Scott Gustin  
**DATE:** February 1, 2018  
**RE:** Sec. 5.3.5; Exemptions

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Zoning amendment ZA-15-02, *Conditional Use, Inclusionary & Replacement House, and Planned Unit Development* did much to clean up disparate conditional use triggers in the Comprehensive Development Ordinance. The amendment had the intended effect of limiting conditional use review largely to those uses noted as “conditional use” in Appendix A – Use Table. That amendment also added “conditional use” to the existing “major impact” exemptions of Sec. 5.3.5. Doing so has had the unintended effect of exempting many conditional use applications from conditional use review. Item (b) is particularly broad reaching. As presently worded, any conditional use – even one involving extensive building renovations – may replace another use and be exempt from conditional use review. This result is not the intent of this exemption. This exemption was originally intended to exempt a project involving substantial building renovation from “major impact” review so long as the floor area or structural capacity of the building did not expand. Its application to conditional uses as well has the effect of exempting many conditional uses going into existing buildings.

Conditional uses are intentionally differentiated from permitted uses in the CDO. Uses noted as conditional are those that warrant closer scrutiny per the conditional use standards of 3.5.6. Consideration is given to character of the neighborhood, traffic generation, impacts on city services, and potential nuisance impacts. These considerations remain pertinent to the conditional use whether proposed in an existing building or not.

Staff recommends eliminating “conditional use” from Sec. 3.5.3. Deleted language is ~~crossed out~~, and new language is underlined in red.

### **Sec. 3.5.3 Exemptions**

~~Neither Conditional Use nor Major Impact Review shall~~ not be required for applications involving one or more of the following:

- (a) Temporary structures that do not otherwise involve a conditional use;
- (b) ~~Substantial~~ Rehabilitation that does not expand the floor area of an existing building or the structural capacity of existing development;
- (c) Projects that do not result in a change of use or increased parking demand;
- (d) Subsurface site improvements including but not limited to underground utility lines and subsurface drainage ways; and,
- (e) Projects where the scope and authority of municipal regulation is limited by statute pursuant to 24 VSA 4413.