

What you need to know about...



## CONDITIONAL USES

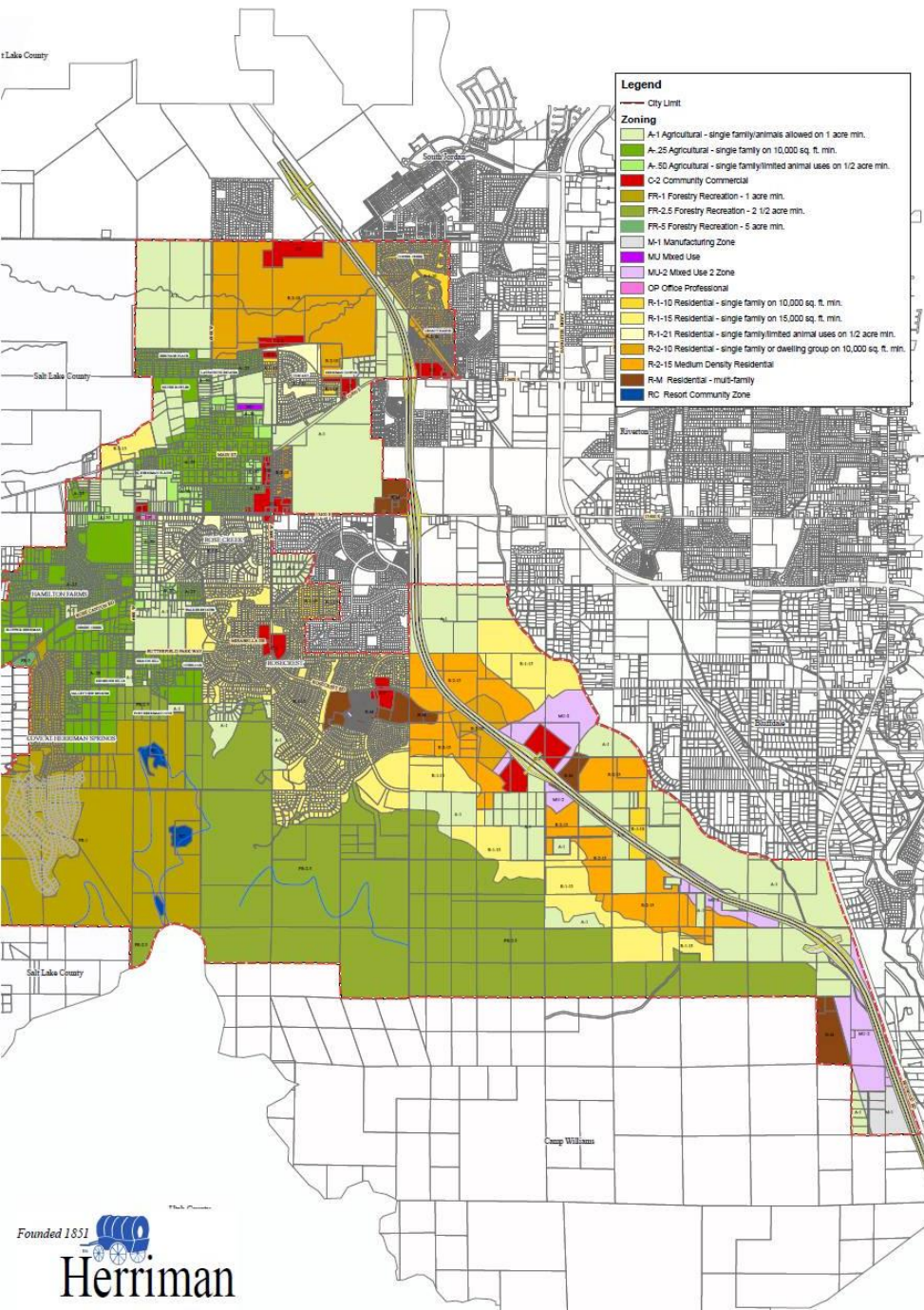




# You will learn today:

1. What is a CUP?
2. How do we use them?
3. Why we need to make sure our code is up to date if we use them.

# ZONING



# ZONING

[Title 10](#) Utah Municipal Code

[Chapter 9a](#) Municipal Land Use,  
Development, and  
Management Act

[Part 5](#) Land Use Regulations

[Section 507](#) Conditional uses.

A legislative body shall classify any use that a land use regulation allows in a zoning district as either a *permitted or conditional use* under this chapter.

Permitted





Prohibited

# Conditional



Permitted with conditions.....

# Utah State Code

10-9a-507. Conditional uses.

(1) A land use ordinance may include conditional uses and provisions for conditional uses that require compliance with standards set forth in an applicable ordinance.

# Utah State Code

## 10-9a-507. Conditional uses.

(2) (a) A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably **anticipated detrimental effects** of the proposed use in accordance with applicable standards.



# Utah State Code

## 10-9a-507. Conditional uses.

(2) (b) If the reasonably anticipated detrimental effects of a proposed conditional use *cannot be substantially mitigated* by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use *may* be denied.

Why is this a rare occurrence?



# “Mit·i·gate”

To moderate in force or intensity; alleviate.  
To become milder.



**DOES NOT MEAN ELIMINATE!**

# Standards have to be written in your Code!

- Not a discretionary approval
- Not subject to “I don’t like it”  
(from you or from the public)
- Not a question of “works here but not there”
- A conditional use is allowed in the zone

# Potential Standards

- Generally focused on off site impacts:
- The safety of people and/or property.
- Health and sanitation—Trash disposal, manure management.
- Environmental concerns—dust, chemicals, run-off
- Traffic
- Light
- Hours of operation
- Parking

# Standards first, then Conditions

- A standard of review could be “Off-site effects of Lighting”
- An ensuing condition related to that standard could be “No flood lights are allowed” or a photometric limitation or dark sky compliance, etc.

## Findings of Fact

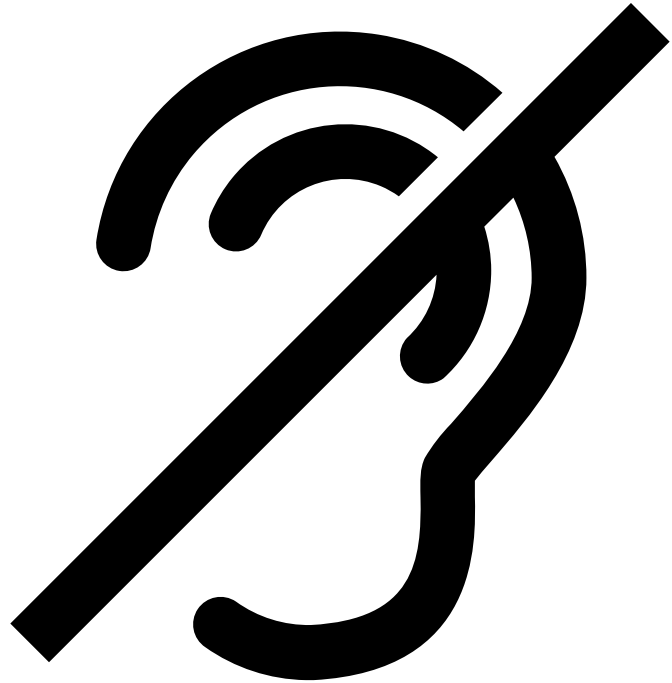
*"The facts, Ma'am  
Just the facts."*



Findings of fact (aka just “findings”) are the foundation of a decision. They are unique to each permit.

1. Findings should be part of a motion and recorded carefully in the minutes of the meeting. They cannot legally be added at a later date.
2. When action is taken to the court, the judge will read the minutes of your meeting, looking specifically at your process and your findings. If both are in order and relevant, the case usually goes no further. Seldom does the judge consider the merits. Moab Case now makes findings required!

**A written record also helps with compliance and future owners as conditional use permits run with the land.**



Can you Deny a CUP and if yes, how?



Process- Mail outs  
not required.  
Hearings not  
required.

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1

Remember,  
**ALLOWED** with  
conditions

2

Revise Code to  
eliminate  
Conditional  
Uses you hope  
to deny

3

Write standards  
in Code ahead  
of time

4

Be as specific as  
possible ahead  
of time

5

Remember,  
MITIGATE not  
ELIMINATE  
impacts

6

Revise your  
process - decide  
if you want to  
have hearings

7

Articulate clear  
findings and get  
them on the  
record

# Summary

# You learned today:

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1. What is a CUP?
2. How do we use them?
3. Why we need to make sure our code is up to date if we use them.