

ARTICLE 7.00 – SPECIAL LAND USES

Section 7.01 Special Land Uses

A. Intent

The procedures and standards in this Section are intended to provide a consistent and uniform method for review of proposed plans for special land uses. Special land uses are uses, either public or private, which possess unique characteristics and therefore cannot be properly classified as a permitted use in a particular zoning district. This Section contains standards for review of each special land use proposal individually on its own merits to determine if it is an appropriate use for the district and specific location where it is proposed.

Section 7.02 Procedures and Requirements

A. Procedures and Requirements

Special land use proposals shall be reviewed in accordance with the procedures in Section 11.02 for site plan review, except as follows:

1. Public Hearing Required

A public hearing shall be held by the Planning Commission before a decision is made on a special land use request. The public hearing shall be noticed as required by law.

2. Planning Commission Action

The Planning Commission shall review the application for special land use, including all pertinent plans, specifications and other data upon which the applicant intends to rely, together with the public hearing findings and reports and recommendations. The Planning Commission shall then make a decision regarding the proposed special land use, based on the requirements and standards of this Ordinance.

The Planning Commission may approve, approve with conditions, or deny the special land use application as follows:

- a. Approval. Upon determination by the Planning Commission that the final plan for special land use is in compliance with the standards and requirements of this Ordinance and other applicable ordinances and laws, the Planning Commission shall approve the special land use.

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- b. Approval with Conditions. The Planning Commission may impose reasonable conditions upon the approval of a special land use, to the extent authorized by law, for the purposes of insuring that public services and facilities affected by the proposed development will be capable of accommodating increased public service loads caused by the development, protecting the natural environment and conserving natural resources and energy, insuring compatibility with adjacent uses of land, and promoting the use of land in a socially and economically desirable manner.
 - 1) Conditions imposed shall be designed to protect natural resources and the public health, safety and welfare of individuals in the development and those immediately adjacent, and the community as a whole. Conditions imposed shall also be necessary to meet the intent and purpose of this Ordinance.
- c. Denial. Upon determination by the Planning Commission that a special land use proposal does not comply with the standards and regulations set forth in this Ordinance, or otherwise would be injurious to the public health, safety, welfare, and orderly development of the Township, the Planning Commission shall deny the special land use.

Where the Planning Commission determines that Township Board consideration of a special land use application is warranted, the Planning Commission may instead offer a recommendation on the application, with conditions if appropriate, for action by the Township Board.

3. Recording of Planning Commission

Each action taken with respect to a special land use shall be duly recorded in the minutes of the Planning Commission. The minutes shall record the findings of fact relative to each special land use proposal, the grounds for the action taken, and any conditions imposed in conjunction with approval.

4. Effect of Approval

Upon approval, a special land use shall be deemed a conforming use permitted in the district in which it is proposed, subject to any conditions imposed and final approval of the site plan. Such approval shall affect only the lot or portion thereof on which the proposed use is located. Such approval shall remain valid regardless of change of ownership.

5. Zoning Board of Appeals Authority

The Zoning Board of Appeals shall not have the authority to consider an appeal of a

decision concerning a special land use proposal. The ZBA shall have the authority to consider variances associated with a special land use that relate to setbacks and dimensional requirements.

6. Expiration of Special Land Use Approval

If construction has not commenced, or if the project has commenced but has not made reasonable progress within 12 months after final approval, the approval becomes null and void and a new application for special land use approval shall be required. However, the applicant may apply in writing to the Planning Commission for an extension of special land use approval. The Planning Commission may grant one or more extensions of up to 12 months, upon request from the applicant prior to expiration of the previous approval and provided that it finds that the approved special land use plan conforms to current Zoning Ordinance standards.

7. Modification to Approved Special Land Use

Special land use approval in accordance with provisions of this Section may subsequently be modified, subject to the following requirements:

- a. Modifications that do not change the nature of the use or that do not affect the intensity of use may be reviewed and approved following normal site plan review procedures described in Section 11.02.

In evaluating change in intensity of use, the Planning Commission shall consider the extent of increase of vehicular or pedestrian traffic, the change in demand for public services, extent to which the total floor area occupied by the proposed use will increase, increased demand for parking, off-site impacts from noise, fumes, drainage, etc., and similar considerations.

- b. Modifications that change the nature of the use or that result in an increase in the intensity of the use shall be reviewed in the same manner as a new special land use proposal, following the procedures in this Section.

8. Special Land Use Violation

In the event that construction or subsequent use is not in compliance with the approved special land use application, the Zoning Administrator shall take corrective action, unless a revised special land use application is submitted for Township review, following the normal special land use review procedures. If the builder, developer, or current user fails to take corrective action or pursue approval of an amended plan, the Zoning Administrator or his/her designee may issue a citation, after which the Township Board may commence and pursue appropriate action in a court having jurisdiction.

9. Revocation

All approved special land uses shall be subject to the following provisions, as a condition automatically imposed upon every such approved special land use.

1. The Zoning Administrator may recommend revocation of a special land use permit upon determining a violation of the terms and conditions of a special land use approval or related provisions of this Ordinance. The Zoning Administrator shall provide written notice of the revocation recommendation to the permit holder/property owner by personal delivery or regular mail, and also to the Township Clerk.
2. The Planning Commission shall review the Zoning Administrator's recommendations to revoke a special land use permit and shall hold a public hearing thereon preceded by notice in accordance with statutory provisions governing special land use matters. The Zoning Administrator shall provide written notice of the public hearing to the permit holder/property owner by personal delivery or regular mail.
3. After notice and public hearing as provided herein, the Planning Commission may vote by a majority of its membership, to revoke a special land use permit upon verifying the grounds for the Zoning Administrator's revocation recommendation by a preponderance of the evidence presented thereon at the hearing, and upon a further finding that the underlying violations have not been cured within a reasonable period of time as established by the Planning Commission. Written notification of a Planning Commission determination to revoke a special land use permit shall be provided to the permit holder/property owner by personal delivery or regular mail.
4. Premises for which a special land use permit has been revoked by the Planning Commission shall be used only as otherwise allowed pursuant to the relevant section of the Zoning Ordinance for the applicable zoning district.
5. A determination of the Planning Commission revoking a special land use permit may be appealed to Circuit Court as provided by law.

Section 7.03 *Criteria for Review*

A. Standards for Granting Special Land Use Approval

Approval of a special land use proposal shall be based on the determination that the proposed use will be consistent with the intent and purposes of this Ordinance, will

comply with all applicable requirements of this Ordinance, including site plan review criteria set forth in Section 11.02, applicable site development standards for specific uses set forth in Section 6.04, and the following standards:

1. Compatibility with Adjacent Uses

The proposed special land use shall be designed, constructed, operated and maintained to be compatible with uses on surrounding land. The site design of the proposed special land use shall minimize the impact of site activity on surrounding properties. In determining whether this requirement has been met, consideration shall be given to:

- a. The location and screening of vehicular circulation and parking areas in relation to surrounding development.
- b. The location and screening of outdoor storage, outdoor activity or work areas, and mechanical equipment in relation to surrounding development.
- c. The hours of operation of the proposed use. Approval of a special land use may be conditioned upon operation within specified hours considered appropriate to ensure minimal impact on surrounding uses.
- d. The bulk, placement, and materials of construction of the proposed use in relation to surrounding uses.
- e. Proposed landscaping and other site amenities. Additional landscaping over and above the requirements of this Ordinance may be required as a condition of approval of a special land use.

2. Compatibility with the Master Plan

The proposed special land use shall be consistent with the general principles and objectives of the Township's Master Plan.

3. Public Services

The proposed special land use shall be located so as to be adequately served by essential public facilities and services, such as highways, roads, police and fire protection, drainage systems, water and sewage facilities, and schools, unless the proposal contains an acceptable plan for providing necessary services or evidence that such services will be available by the time the special land use is established.

4. Impact of Traffic

The location of the proposed special land use within the zoning district shall minimize the impact of the traffic generated by the proposed use. In determining whether this requirement has been met, consideration shall be given to the following:

- a. Proximity and access to major thoroughfares.
- b. Estimated traffic generated by the proposed use.
- c. Proximity and relation to intersections.
- d. Adequacy of driver sight distances.
- e. Location of and access to off-street parking.
- f. Required vehicular turning movements.
- g. Provisions for pedestrian traffic.

5. Detrimental Effects

The proposed special land use shall not involve any activities, processes, materials, equipment, or conditions of operation, and shall not be located or designed so as to be detrimental or hazardous to persons or property or to public health, safety, and welfare. In determining whether this requirement has been met, consideration shall be given to the level of traffic, noise, vibration, smoke, fumes, odors, dust, glare, and light.

6. Economic Well-Being of the Community

The proposed special land use shall not be detrimental to the economic well-being of those who will use the land, residents, businesses, landowners, and the community as a whole.

7. Compatibility with Natural Environment

The proposed special land use shall be compatible with the natural environment and conserve natural resources and energy.