

Article 15 Special Land Use

Section 15.1 Intent

The formulation and enactment of this Ordinance is based upon the division of the Township into districts in which there are permitted specified uses which are mutually compatible. In addition to such permitted compatible uses however, there are certain other uses which may be necessary or desirable to allow in certain locations in certain districts but, because of their actual or potential impacts on neighboring uses or public facilities, there is a need to carefully regulate them with respect to their location for the protection of the community. These uses, due to their peculiar locational, need, or the nature of the service offered, may have to be established in a district where they cannot be reasonably allowed as a permitted use. [G-1]

Section 15.2 Authority to Grant Permits

The Planning Commission, as hereinafter provided, shall have the authority to grant Special Land Use Permits, subject to such conditions of design, operation, and safeguards as may be determined for all Special Land Uses specified in the various provisions of this Ordinance. [G-2]

Section 15.3 Application and Fee

Application for any Special Land Use Permit permissible under the provision of this Ordinance shall be made to the Planning Commission through the Township Clerk by filing an official Special Approval Use Permit application form, exhibits, and information, and depositing the required fee as established by resolution of the Township Board. [G-2]

Section 15.4 Data, Exhibits, and Information Required in Application

An application for a Special Land Use Permit shall contain the applicant's name and address in full, a statement that the applicant is the owner involved or is acting on the owner's behalf, the address of the property involved; a site plan in accordance with Section 14.3, and a statement of supporting data, exhibits, information, and evidence regarding the required findings set forth in this Ordinance. [G-2] [G-1]

Section 15.5 Public Hearings and Notices

Upon receipt of an application for a special land use, the Township shall schedule a public hearing before the Planning Commission and shall publish notice of the request in a newspaper of general circulation in the Township. Notice shall also be sent by mail or personal delivery to the owners of property for which approval is being considered. The public notice shall conform to the procedure listed in Section 16.8. [14-1] [G-1]

Section 15.6 Required Standards and Findings for Making Determinations

The Planning Commission shall review the particular circumstances and facts of each proposed use in terms of the following standards and required findings, and shall find and record adequate data, information, and evidence showing that such a use on the proposed site, lot, or parcel meets the following requirements:

- A. Will be in accordance with the general objectives, intent, and purposes of this Ordinance.
 - 1. Will be consistent with maintenance of the public health, safety, and welfare. [14-2] [G-1]
- B. Will be served adequately by essential public facilities and services such as highways, streets, schools, police and fire protection, drainage structures, refuse disposal, or those persons or agencies responsible for establishment of the proposed use shall be able to adequately provide any such service.
- C. Will be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved, taking into consideration vehicular turning movements in relation to routes of traffic flow, proximity and relationship to intersections, adequacy of sight distances, location and access of off street parking, and provisions for pedestrian traffic, with particular attention to minimizing child vehicle contacts in residential districts. [G-1]
- D. Will be compatible with adjacent uses of land and the natural environment.
 - 1. Will be of such location, size, and character that it will be in harmony with the appropriate and orderly development of the surrounding neighborhood. [G-1]
 - 2. Will be designed such that the location, size, intensity, site layout, and periods of operation of any such proposed use shall eliminate any possible nuisance emanating therefrom which might be noxious to the occupants of any other nearby permitted uses, whether by reason of dust, noise, fumes, vibration, smoke, or lights. [G-1]
 - 3. Will be designed such that the proposed location and height of buildings or structures and location, nature, and height of walls, fences and landscaping will not interfere with or discourage the appropriate development and use of adjacent land and buildings. [G-1]
 - 4. Will not cause substantial injury to the value of other property in the neighborhood in which it is to be located. [14-3] [G-1]
- E. Will relate harmoniously with the physical aspects of adjacent land uses regarding prevailing shopping habits, convenience of access by prospective patrons, continuity of development, and need for particular services and facilities in specific areas of the Township. [14-3]
- F. Will be in conformance with all local, state, and federal requirements. [G-1]

Section 15.7 Determination and Imposition of Conditions

If the facts in the case establish that the findings and standards set forth in this Ordinance apply to the proposed use, and have been met, the Planning Commission shall grant special land use. In granting a Special Land Use Permit, the Planning Commission may impose such reasonable conditions of use as is determined necessary to protect the best interest of the Township and the surrounding property, and to achieve the objectives of this Ordinance. Conditions imposed shall meet all of the following requirements: [G-2]

Special Land Use ***Error! Reference source not found.***

- A. Be designed to protect natural resources, the health, safety, and welfare and the social and economic well-being of those who will use the land use or activity under consideration; residents and landowners immediately adjacent to the proposed land use or activity; and the community as a whole. [G-1]
- B. Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity. [G-1]
- C. Be necessary to meet the intent and purpose of the Zoning Ordinance, be related to the standards established in the Ordinance for the land use or activity under consideration, and be necessary to insure compliance with those standards.
- D. There is a rough proportionality between the scope of the proposed condition in relationship to the impact to be mitigated.
- E. There is a reasonable connection between the condition imposed and the impact it is mitigating.

The conditions imposed with respect to the approval of a land use or activity shall be recorded in the record of the approval action, and shall remain unchanged except upon the mutual consent of the Planning Commission and the landowner. The Planning Commission shall maintain a record of conditions which are changed.

Section 15.8 Approval and Appeal Procedures

- A. **Approval, grant of permit.** The Planning Commission's decision on a Special Land Use shall be incorporated in a statement containing the conclusions relative to the special land use approval under consideration which specifies the basis for the decision and any conditions imposed. Upon approval, a Special Land Use Permit shall be issued to the applicant. The Planning Commission shall forward a copy of the permit to the Applicant, Clerk, and Zoning Administrator. This record shall be on file in the Clerk's office as well as being made a part of the site plan or building records for that parcel. [G-2 and 14-4] [G-1]
- B. **Appeal to Township Zoning Board of Appeals.** A person having an interest affected by a Special Land Use decision of the Township Planning Commission may appeal to the Township Zoning Board of Appeals. (See Section 17.4. [G-1])

Section 15.9 Amendments to Special Land Use Permit

- A. **Major Changes.** Any person or agency who has been granted a Special Land Use Permit shall notify the Zoning Administrator of any proposed amendment to the approved Site Plan of the Special Land Use Permit. A major amendment to a Special Land Use Permit shall require submittal of a new application for Special Land Use and follow the review procedures contained in this Ordinance. The Zoning Administrator shall determine whether the proposed amendment constitutes a minor or major amendment based on the following standards. [G-1]
 - 1. Changes that increase the building's usable floor area, occupancy load, or capacity by more than 25 percent.
 - 2. Parking lots are expanded by more than 25 percent.
 - 3. The use is expanded to occupy an additional 25 percent or more land area.

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- B. **Minor Changes.** Minor changes to the approved site plan shall meet requirements in Section 14.8
- C. **Change in Use.** Change to another Special Land Use shall require submittal of a new application for a Special Land Use and shall follow the procedure in this Article.
- D. **Separate Approval.** A separate Special Land Use Permit shall be required for each use which requires Special Land Use review on a lot.

[14-7]

Section 15.10 Voiding of Special Land Use Permit, and Transfer and Continuance of Special Land Use Permit

- A. Any approval given by the Planning Commission under which premises are not been implemented or work is not started within one (1) year shall lapse and be considered expired. The Planning Commission may grant the applicant one (1), one (1) extension of time if good cause is shown. [G-2, 14-5, & 14-7]
- B. A violation of a requirement, condition, or safeguard shall be considered a violation of this Ordinance and grounds for the Zoning Administrator to suspend such Special Land Use Permit until review by the Planning Commission. The procedure shall be as follows:
 1. The Zoning Administrator shall notify the property owner/responsible party for the Special Land Use of the violation as indicated in Section 16.11
 2. Upon issues with compliance, the Planning Commission shall hold a public hearing to determine if the holder of the Special Land Use failed to comply with requires in this Ordinance or as part of granting the Special Land Use approval. [G-2 and 14-5] [G-1]
- C. Special Land Use approval runs with the land, not the owner, and any transfer of property shall allow the continuance of any Special Land Use to operate within the conditions, restrictions, and limitations as specified in the permit and as registered with the County Register of Deeds and the Township Clerk. [G-1]
- D. As a condition of all Special Land Use Permits, all real property and personal property taxes and all business license fees shall be paid current with the date of application and shall remain paid current during the entire period within which the Special Land Use continues in operation. [G-1]

Section 15.11 Reapplication

- A. No application for a Special Land Use which has been denied wholly or in part by the Planning Commission shall be resubmitted until the expiration of one (1) year or more from the date of such denial, except on the grounds of newly-discovered evidence or proof of changed conditions. A reapplication shall require a new fee and the process will follow all provisions of Article 15 [14-7] [G-1]

[14-6]