

Article 7 Special Land Use Regulations

The purpose of this Article is to permit and provide for a special review process for unique use and activities in the zoning districts where they would not otherwise be permitted, provided these uses and activities are made compatible with permitted uses in these districts by following the standards in the Section.

Section 7.01 Types of Special Land Use permit Review

- A. Types of Procedure. Special Land Use Permits (SLUP's) are reviewed and approved through either a ~~City Commission and Township Board~~ Joint Planning Commission procedure or an administrative procedure depending upon the potential impact the proposed use or activity may have upon the adjacent land uses and the broader community.
- B. ~~City Commission/Township Board~~ Joint Planning Commission SLUP's. Applications for special land use permits for the following uses shall be reviewed by the ~~City Commission and Township Board~~ Joint Planning Commission according to the procedures and standards contained in this section: (we need to discuss what uses these may be)
- C. Administrative Land Use Permits. Applications for special land use permits for the following uses shall be reviewed by the Planning Directors according to the procedures and standards contained in this section: (we need to discuss what uses these may be)

Section 7.02 General Standards for Approval

Each application for a special land use shall be reviewed for the purpose of determining that the proposed use meets all of the following standards:

- A. The use shall be designed, constructed, operated and maintained so as to be harmonious and compatible in appearance with the intended character of the vicinity.
- B. The use shall not be hazardous nor disturbing to existing or planned uses in the vicinity.
- C. The use shall be served adequately by existing or proposed public infrastructure and services, including but not limited to, streets and highways, police and fire protection, refuse disposal; water, waste water, and storm sewer facilities; electrical service, and schools.
- D. The use shall not create excessive additional requirements for infrastructure, facilities, and services provided at public expense.
- E. The use shall not involve any activities, processes, materials, equipment or conditions of operation that would be detrimental to any person or property or to the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, odors or water runoff.
- F. Where possible, the use shall preserve, renovate and restore historic buildings or landmarks affected by the development. If the historic structure must be moved from the site, the relocation shall be subject to the standards of this section.

- G. Elements shall relate the design characteristics of an individual structure or development to existing or planned developments in a harmonious manner, resulting in a coherent overall development pattern and streetscape.
- H. The use shall be consistent with the intent and purposes of the zoning district in which it is proposed.

Section 7.03 Special Land Use Applications

All land for which an application for a special land use permit is made shall be owned by the applicant or by a person who has consented, in writing, to the application. The parcel must be capable of being planned and developed as one integral land use unit. Noncontiguous parcels may be considered. The application must be signed by the applicant and by the owner or a person with the owner's written consent and must contain:

- A. A site plan as described by this Zoning Code;
- B. A statement of present ownership of all land which is the subject of the request;
- C. An Application Fee. This application fee shall be non-refundable. The City Commission and Township Board shall, by joint resolution, establish the amount of the application fee.
- D. Upon the request of the Planning Directors or the Joint Planning Commission, the applicant shall provide such other information pertinent to the special land use application. Failure of the applicant to provide such requested information within reasonable time may be grounds for denial of the application.
- E. If the application is approved, the applicants shall pay all Register of Deeds recording fees to record the special land use permit.

Section 7.04 ~~City Commission and Township Board~~ Joint Planning Commission Procedure for Approval

The following procedures shall be followed for special land use permits to be granted by the **City Commission and Township Board** Joint Planning Commission.

- A. Pre-application Conference. Before submitting an application, the applicant shall meet with the Planning Directors to review the proposed project, the Zoning Ordinance and any planning documents that relate to the property.
- B. Application. A special land use permit application shall be submitted to the Joint Planning Commission for review and recommendation.
- C. Public Hearings.
 - 1. ~~The Joint Planning Commission shall hold a public hearing with such notice as it deems advisable. After review, the Joint Planning Commission shall submit a written recommendation to the City Commission and Township Board based upon the standards of this Zoning Ordinance.~~
 - 2. A public hearing shall be held by the ~~City Commission and Township Board~~ Joint Planning Commission on each special land use application properly filed under this Zoning Ordinance. Notice of the public hearing shall be given not less than fifteen days before the date of the public hearing. Notice shall be published in a newspaper of general circulation in the City and shall be mailed or personally delivered to:
 - a. The owners of the property for which approval is being considered;

- b. All persons to whom real property is assessed within 300 feet of the boundary of the property in question; and
 - c. At least one occupant of each dwelling unit or special area owned or leased by different persons within 300 feet of the boundary of the property in question. Where a single structure contains more than four dwelling units or other distinct spatial areas, notice may be given to the manager or owner of the structure with a request to post the notice at the primary entrance of the structure. The occupants of all structures within 300 feet of the boundary of the property in question. Where the name of the occupant is not known, the term “occupant” may be used in making notification.
- D. Notice. The notice of the ~~City Commission and Township Board~~ Joint Planning Commission public hearings shall contain:
- 1. A description of the nature of the special land use request;
 - 2. A description of the property which is the subject of the special land use request, including a listing of all existing street addresses within the property where they exist; and
 - 3. The time and place of consideration of and public hearing on the special land use request; and
 - 4. When and where written comments will be received concerning the request.
- E. Decision. The ~~City Commission and Township Board~~ Joint Planning Commission may deny, approve or approve with conditions requests for special land use approval after a hearing and notification as provided herein. Its decision shall be in the form of an order which shall incorporate a statement of conclusions and shall specify the basis for the decision and any conditions imposed. An order denying a special land use shall state the standards which have not been met. A decision of the ~~City Commission and Township Board~~ Joint Planning Commission shall be final. There shall be no appeal of the ~~City Commission and Township Board's~~ Joint Planning Commission's decision to the Zoning Board of Appeals.
- F. Order. If the ~~City Commission and Township Board~~ Joint Planning Commission determines that the application is consistent with the intent of this Zoning ordinance as expressed in this section and with the other standards and requirements herein contained, it shall issue an order authorizing the special land use in accordance with the application and material submitted, modified as it may consider necessary to carry out the intent and standards of this Zoning Ordinance, and containing any lawful conditions or restrictions which it may consider necessary to carry out the purposes of this Zoning Ordinance and to protect the public health, safety and welfare. The order shall recite the findings of fact and the reasons upon which it is based.
- G. Compliance. After approval of a special land use, the land to which it pertains shall be developed and used in its entirety only as authorized and described in the order approving the special land use or only as authorized by the provisions of the Zoning Ordinance which would apply if the special land use order has not been issued.

Section 7.05 Administrative Procedure for Approval

The following procedure shall be followed for special land use permits to be granted by the Planning Directors:

- A. Pre-application Conference. Before submitting an application, the applicant shall meet with the Planning Directors to review the proposed project, the Zoning Ordinance, and any planning documents that relate to the property

- B. Application. A special land use application shall be submitted to the Planning Directors for review and decision.
- C. Notice. If the applicant or the Planning Directors request a public hearing, only notification of the public hearing need be made. If not so requested, upon receipt of an application, the Planning Directors shall publish in a newspaper of general circulation in the City and Township one notice that the request has been received and shall send by mail or personal delivery such notice to the owners of property for which approval is being considered, to all persons to whom real property is assessed within 300 feet of the boundary of the property in question, and to the occupants of all structures within 300 feet. Such notice will be given not less than fifteen days before the application will be considered. If the name of the occupant is not known, the term "occupant" may be used in notification. Notification need not be given to more than one occupant of a structure unless there is more than one dwelling unit, in which case one occupant of each unit shall be given notice. Such notice shall do the following:
1. Describe the nature of the special land use request;
 2. Indicate the property which is the subject of the special land use request;
 3. State when and where the special land use request will be considered;
 4. Indicate when and where comments will be received concerning the request; and
 5. Indicate that a public hearing on a special land use request may be requested by a property owner or occupant of a structure located within 300 feet of the boundary of property being considered for a special use.
- D. Public Hearing. At the initiative of the Planning Directors, upon the request of the applicant, or upon request of a property owner or the occupant of a structure located within 300 feet of the boundary of the property being considered for a special land use, a public hearing with notification as required shall be held by the Planning Directors before rendering a decision.
- E. Decision; Order. The Planning Directors may deny, approve or approve with conditions, requests for special land use approval after notification as provided in this section. The decision shall be in the form of an order which shall specify the basis for the decision and any conditions imposed. An order denying a special land use shall state the standards which have not been met.
- F. Appeals to the Joint Planning Commission. Any person aggrieved by a final decision of the Planning Directors may appeal the decision within 14 days to the Joint Planning Commission. In order to file such an appeal, a person must complete and sign an application for appeal and submit it to the Planning Directors on the form provided by that office. In addition, the person appealing must pay the fee established by resolution of the City Commission and Township Board for such appeals. All reasons and facts in support of the appeal shall be submitted in writing by the person appealing. The Planning Directors shall transmit to the Joint Planning Commission all materials submitted in connection with the application including the written decision being appealed and a summary of public comments. Notice of the Planning Commission hearing shall be given in the same manner as notice of a hearing on a special land use granted by the Joint Planning Commission. After a hearing de novo, the Joint Planning Commission shall decide the appeal de novo within reasonable time and shall submit its final decision in writing to the applicant. A decision of the Joint Planning Commission shall be final. There shall be no appeal of the Joint Planning Commission's decision to the City Commission, Township Board or Zoning Board of Appeals.
- G. Compliance. After approval of a special land use, the land to which it pertains shall be developed and used in its entirety only as authorized and described in the order approving the special land

use or only as authorized by the provision of this Zoning Ordinance which would apply if the special land use order had not been issued.

- H. Planning Directors Referral to Joint Planning Commission. At the discretion of the Planning Directors, a special land use requiring administrative approval of the Planning Directors may be submitted to the Planning Commission under procedures described in Section 7.04

Section 7.06 Amendments

A SLUP order may be amended as follows:

- A. Minor Amendment. Minor Amendments are those which will have no foreseeable effect beyond the property boundary, such as minor changes in the siting of buildings, the alignment of utilities and the alignment of interior roadways and parking areas. Minor amendments for good cause may be authorized by the Planning Directors without notice or hearing, provided no such changes shall significantly increase the size or height of structures, significantly reduce the efficiency or number of public facilities serving the site, significantly reduce the usable open space or significantly encroach on natural features proposed by the plan to be protected.
- B. Major Amendment. Any amendment not qualifying as a minor amendment is considered to be a major amendment and must be approved by the authority granting the SLUP to be amended according to the procedure authorized by this chapter for approval of a SLUP.

Unless otherwise provided by this chapter or the granting order, an order approving a special land use may be amended by the granting authority according to the procedures authorized by this chapter for approval of a special land use.

Section 7.07 Termination of Orders

A special land use order shall expire two years from the date of final approval of the applicant has not commenced substantial construction and is not diligently proceeding to completion or, where no construction is necessary, if the use authorized has not been commenced. Upon written request stating the reasons therefor, the granting authority may extend the order for one additional year. An order may be terminated upon application by the owners of record of the land subject to a granting order. It shall be submitted and considered under the same process as is then established for granting or amending such order. The applicant shall demonstrate that is the order is terminated the property shall comply with all current requirements for the zoning district(s) of that property. The order may be rescinded at any time by the granting authority for a violation of the order by the applicant, its successors, agents or assigns after notice to the current owners and occupiers of the property and after a hearing on the violation. Upon termination of an order, the zoning requirements shall be the current requirements for the zoning district designated for the property. Any use authorized by a special land use order shall be continuously maintained once the same is commenced, and if not so continuously maintained, the special land use permit shall expire.

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