

ARTICLE 17
SPECIAL USE PERMITS

SECTION 17.01 PURPOSES

Until recent years, the regulation of all uses of land and structures through zoning has been accomplished by assigning each use to one or more use districts. However, the function and characteristics of an increasing number of new kinds of land uses, combined with conclusive experience regarding some of the older, familiar kinds of uses, call for a more flexible and equitable procedure for properly accommodating these activities in the Township. It should be recognized that the forces that influence decisions regarding the nature, magnitude, and location of such types of land use activities are many and varied, depending upon functional characteristics, competitive situations and the availability of land. Rather than assign all uses to special, individual, and limited zoning districts, it is important to provide controllable and reasonable flexibility in requirements for certain kinds of uses that will allow practicable latitude for the investor, but that will, at the same time, maintain adequate provisions for the security of the health, safety, convenience, and general welfare of the township's inhabitants.

In order to accomplish such a dual objective, provision is made in this Article for a more detailed consideration of each certain specified activity, as it may relate to proposed conditions of location, design, size, operation, intensity of use, generation of traffic and traffic movements, concentration of population processes and equipment employed, amount and kind of public facilities and services required, together with many other possible factors. Land and structure uses possessing these particularly unique characteristics are designated as SPECIAL USES and may be authorized by the issuance of a SPECIAL USE PERMIT with such conditions and safeguards attached as may be deemed necessary for the protection of the public welfare. The following sections, together with previous references in other Articles, designate what uses require a special use permit. With any exception noted, the procedures for obtaining such a permit apply to all special uses indicated.

SECTION 17.02 PROCEDURES FOR MAKING APPLICATION

Any application for a special use permit for any land or structure use permitted under this Article shall be submitted in accordance with the following procedures:

- A. Application Submitted to Planning Commission: Any application shall be submitted through the Zoning Administrator to the Planning Commission on a special form for that purpose. Each application shall be accompanied by the payment of a fee in accordance with the duly adopted "Schedule of Fees" to cover costs of processing the application. No part of any fee shall be refundable.
- B. Date Required in Application: Every application shall be accompanied by the following information and data:
 - 1. Special form supplied by the Zoning Administrator, filled out in full by the applicant.
 - 2. Site plan, drawn to a readable scale, of the total property involved, showing the location of all abutting streets, the location of all existing and proposed structures, the types of buildings and their uses.

3. Preliminary plans and outline specifications of the proposed development for all construction.
 4. A statement with supporting evidence regarding the required findings specified in SECTION 17.03 below.
- C. Review by Planning Commission: The Planning Commission shall review the proposed development, as presented on the submitted plans and specifications, in terms of the standards established in this Article.
- D. Notice and Hearing: After adequate review and study of any application, the Planning Commission shall hold a public hearing or hearings upon every application. Notice of the request shall be published in a newspaper of general circulation in the Township and sent by mail or personal delivery to the owners of property for which approval is being considered, to all persons to whom real property is assessed within three hundred (300) feet of the boundary of the subject site and to the occupants of all structures within three hundred (300) feet of the property regardless of whether the property or occupant is located in the zoning jurisdiction. If the name of the occupant is not known, the term "occupant" may be used in making notification. Such notice shall be given not less than fifteen (15) days before the date of the hearing. The notice shall do the following:
- a) Describe the nature of the request.
 - b) Indicate the property that is the subject of the request. The notice shall include a listing of all existing street addresses within the property. Street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
 - c) State when and where the request will be considered.
 - d) Indicate when and where written comments will be received concerning the request.
 - e) Indicate that a public hearing on the request may be requested by any property owner or the occupant of any structure located within three hundred (300) feet of the property being considered for the special use regardless of whether the property or occupant is located in the zoning jurisdiction.

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- E. Issuance of Special Use Permit: Only upon conclusion of hearing procedures relative to a particular application may the Planning Commission issue a special use permit. Any use for which a special use permit may be granted shall be deemed a use permitted in the district in which such use is located, PROVIDED:
1. Such permit was issued in conformity with the provisions of this Article; and
 2. Such permit shall be deemed to affect only the lot or portion thereof for which such permit shall have been granted.
- F. Site Plan Approval. Site plan approval shall be required in connection with every application for a special use permit.

SECTION 17.03 BASIS OF DETERMINATION

The Planning Commission shall establish beyond reasonable doubt that the general standards specified in the following and the specific standards outlined in each applicable Article of this

Ordinance shall be satisfied by the completion and operation of the proposed development.

- A. General Standards for Making Determinations. The Planning Commission shall review the particular circumstances and facts of each proposed use in terms of the following standards and shall find adequate evidence showing that such a use on the proposed location:
1. Will be harmonious with and in accordance with the general objectives or with any specific objectives of the Township Master Plan of current adoption;
 2. Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the same area;
 3. Will not be hazardous or disturbing to existing or future neighboring uses;
 4. Will be a substantial improvement to property in the immediate vicinity and to the community as a whole;
 5. Will be served adequately by essential public facilities and services, such as highways, streets, police and fire protection, drainage structures, refuse disposal and schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service;
 6. Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the community;
 7. Will not involve uses, activities, processes, materials and equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors; and
 8. Will be consistent with the intent and purposes of this Article.
- B. Conditions and Safeguards. The Planning Commission may impose such additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights, and to ensure that the intent and objectives of this Article will be observed.
1. The Planning Commission may require discontinuance of a use authorized by special use permit after a specified time period as a condition of issuance.
 2. The Planning Commission may require that a specified percentage of authorized construction and/or development be completed within a specified time period as a condition of issuance. Failure to meet this requirement shall invalidate special use authorization for only that portion of the lot or parcel not developed as required.
- C. Time Periods. Special use permits may be issued for time periods as determined by the Planning Commission. In any case, if the use permitted by issuance of a final special use permit has not commenced within one (1) year after issuance of said permit, the permit shall become null and void. To be under construction shall be deemed to have commenced.
- D. Enforcement. Conditions and requirements stated as a part of special use permit authorization shall be a continuing obligation of holders of said permits. The Zoning Administrator shall make periodic investigations of developments authorized by special use permit to determine compliance with all special use permit requirements. All violations shall be corrected within thirty (30) days after an order to correct is issued by the Zoning Administrator. Violations not corrected within this time period shall automatically cancel the permit.
- E. Renewal. Renewal of a special use permit on request shall be withheld only upon a determination by the Planning Commission either (1) that the conditions prescribed in the

original special use permit included the requirement that the use be discontinued after a specified time period, or (2) that there has been a failure of substantial compliance with any condition or provision of the original special use permit.

- F. Financial Guarantee. In authorizing a special use permit, the Planning Commission may require that a bond, or other financial guarantee acceptable to the Township, of ample sum be furnished by the developer to insure compliance with such requirements as drives, walks, utilities, parking, landscaping, and the like.
- G. Reapplication. No application for a special use permit 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 grounds of newly discovered evidence or proof of changed conditions found to be sufficient to justify consideration by the Planning Commission.
- H. Specific Requirements. The foregoing general standards are basic to all special uses; and the specific requirements accompanying the sections relating to particular uses are in addition and shall be required in all applicable situations.

SECTION 17.04 APPEALS OF PLANNING COMMISSION DECISIONS UNDER THIS ARTICLE

A person considering himself aggrieved by a decision of the Planning Commission in the granting or denial of a special use permit shall have the right to appeal said decision to the Township Board. The appellant shall file a letter with the Township Clerk, within ten (10) days of the decision of the Planning Commission. The appellant's letter shall specify with particularity the reason(s) that the appellant is appealing the decision of the Planning Commission and the appellant's appeal shall be limited to those issues stated with particularity in said letter. The appeal shall be based and considered solely on the record including the appellant's letter of appeal, the minutes of public hearings and informational hearings, site plans and other documentation presented to the Planning Commission prior to its decision in connection with the special use permit, written statements made by the Planning Commission supporting its decision, written responses to questions promulgated by the Township Board, etc. In its determination of the appeal, the Township Board may take (but is not limited to) any of the following actions:

- A. Affirm the decision of the Planning Commission with or without modification.
- B. Reverse the decision of the Township Commission and state its reason(s) therefore.
- C. Refer the matter back to the Planning Commission for further hearings or other action prior to final determination of the appeal by the Township Board.
- D. Refer the matter to the Zoning Board of Appeals if the issue appears to be a matter of interpretation of the provisions of this Article.

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The Township Board shall normally render its decision an appeal within ninety (90) days of its receipt of the appeal.