

Article 9

Special Land Uses and Conditional Rezoning

Section 9.01 Purpose

The formulation and enactment of this Zoning Ordinance is based upon the division of the Township into districts, each of which is permitted specified uses which are mutually compatible. In addition to such permitted compatible uses, however, it is recognized that certain other uses which may be necessary or desirable in certain locations in certain districts but which, on account of their actual or potential impact on neighboring uses or public facilities, need to be carefully regulated with respect to their location for the protection of the Township. Such uses, on account of their particular location or need or the nature of the service offered, may have to be established in a district in which they cannot be reasonably allowed as a permitted use.

The uses identified as special land uses within each district are recognized as possessing characteristics of such unique and special nature (relative to design, size, public utility needs, and other similar characteristics) as necessitating individual standards and conditions in order to safeguard the general health, safety, and welfare of the community.

Section 9.02 Authority

The Planning Commission shall review and decide all applications for approval of special land uses and shall, on its own initiative, hold a public hearing after giving notice as required under the Michigan Zoning Enabling Act (2006 PA 110). At the conclusion of the public hearing, the Planning Commission may deny, approve, or approve with conditions a request for special land use approval. The decision on a special land use request shall be incorporated in a statement containing the conclusions relative to the special land use under consideration, which specifies the basis for the decision and any conditions imposed.

Section 9.03 Application and Information Required

Petitions for the grant of special land uses shall be filed with the Zoning Administrator on forms provided therefor. At the time of filing the request for a grant of special land use, the petitioner shall pay the application fee as adopted by the Township Board by Resolution. The application shall include the following:

- A) Name, address, signature, and telephone number of the owner of the property, and name, address, signature, and telephone number of any person(s) holding options on the purchase of the property for the intended conditional use.
- B) Legal description and common address of the property being considered.
- C) Identification of the proposed special land use or conditional rezone and all accessory uses or structures, with square footage and height listed.
- D) Current Zoning of the property.
- E) Surrounding zoning classification of adjacent properties.

- F) A site plan submitted in accordance with the Site Plan requirements of Article 20.
- G) **Contents of notice.** The notice of the request for special land use or conditional rezone shall include the following:
- 1) Describe the nature of the request.
 - 2) Identify the property which is the subject of the request by street address, and if more than one property is to be considered for the special address. If more than one property is to be considered for the special land use or conditional rezone, the notice shall include a listing of all existing street addresses within the scope of consideration for a special land use or conditional rezone.
 - (a) The Township shall not be required to create a street address where one does not exist. If no street address is available, other means of identification may be used.
 - 3) Indicate that a public hearing on the special land use or conditional rezone request may be requested by any property owner or the occupant of any structure located within 300 (three hundred) feet of the property being considered for a special land use or conditional rezone, regardless of whether the property or occupant is located in Arlington Township; and
 - 4) Indicate when and where written comments will be received concerning the request.
 - 5) Any additional provisions as required by the Michigan Zoning Enabling Act (Act 110 of 2006 as amended).

Section 9.04 Public Hearing

A public hearing shall be conducted by the Township Planning Commission. Notice of the date and time of the public hearing shall be published once in a newspaper of general circulation within the Township not less than 15 (fifteen) days prior to said hearing. Notice of the date and time of the public hearing shall be mailed or personally delivered to the applicant, the property owner of the property for which the special land use or conditional rezone is being considered, to all owners of property within 300 (three hundred) feet of the property for which the special land use or conditional rezone is being considered and to the occupants of property within 300 (three hundred) feet, regardless of whether the 300-foot radius is within Arlington Township.

Section 9.05 Required Standards and Finding of Fact for Making Determinations

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

- A) Will be harmonious with and in accordance with the general objectives, intent, and purposes of this Ordinance.
- B) Will be designed, constructed, operated, maintained, and managed so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity.
- C) Will be served adequately by essential public facilities and services such as highways, streets, police and fire protection, drainage structures, refuse disposal, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately any such service.
- D) Will not be hazardous or disruptive to existing or future neighboring uses.
- E) Will not create excessive additional requirements at public cost for public facilities and services.
- F) Will comply with the Zoning District standards for the conditional use or conditional rezone.
- G) The Planning Commission may deny, approve, or approve with conditions a request for the special land use or conditional rezone approval.
- H) Following a public hearing, a request for approval of a special land use or conditional rezone or activity shall be approved if the request is in compliance with the standards stated within this ordinance, the conditions imposed under this Zoning Ordinance, other applicable ordinances, and state and federal statutes.

- I) The Township Zoning Board of Appeals (ZBA) shall have no authority to hear appeals from the Township Planning action on a special land use or conditional rezone.

Article 10

Site Plan Review

Section 10.01 Purpose

The site plan review procedures, standards, and required information in this Section are intended to provide a consistent and uniform method of review of proposed development plans, to ensure full compliance with the regulations and standards contained within this Ordinance and other applicable ordinances and laws, to achieve efficient use of the land, to protect natural resources, and to prevent adverse impact on adjoining or nearby properties.

Section 10.02 General Policies and Requirements

- A) **Building permits.** Except as hereinafter set forth, the Township shall not issue a building permit for construction or enlargement of any buildings, structures or uses until a site plan, submitted in accordance with this Article, shall have been reviewed and approved by the Planning Commission.
- B) **Exceptions.** Site plans and site plan review shall be required for all uses except the following:
- 1) Single- and two- family dwellings under separate ownership on an individual and separate lot for each home including driveways serving them.
 - 2) Residential and agricultural accessory buildings.
 - 3) Projects involving expansion, remodeling, or enlargement of existing buildings which comply fully with all requirements of this article and involve no new or additional means of access from adjoining public streets, roads, or highways.

Section 10.03 Effective Period

An approved site plan shall be effective for a period of one (1) year, or the life of the building permit obtained pursuant to the approved site plan, whichever is longer. If construction is not commenced within the period that the site plan is effective, no construction shall take place unless an extension has been approved by the Planning Commission, providing that there is compliance with all applicable site plan requirements that are in effect at the time the extension is granted.

Section 10.04 Procedures

- A) **Conceptual site plan review.** In order that developers may be better informed regarding the conformity and acceptability of their proposed plans prior to incurring extensive design, engineering, and other costs involved in preparing a final site plan, preliminary sketches (conceptual plans) of the proposed site and development plans may be submitted to the Planning Commission for preliminary review and discussion. Any preliminary guidance given by the Planning Commission at this stage is intended to be helpful to the applicant, but views expressed by commissioners at this stage are not to be construed as approvals binding on the Planning Commission. Such sketch plans should include, as a minimum, the following:
- 1) Names and addresses of the applicants and/or developers, including the appropriate officers of a corporation or members of a partnership, if applicable.
 - 2) A legal description of the property, its property number as used in the tax rolls, and its street address location.
 - 3) Sketch drawing showing proposed site and development plans, including planned dimensions, setbacks, etc.
- B) **Site plan review application procedure.** Requests for site plan review shall be made by filing with the Township Zoning Administrator, and shall include the following:
- 1) A completed site plan review application form obtainable from the Township Zoning Administrator, both in paper and digital format, and any additional copies as required for review by the Township.
 - 2) The submission of a site plan shall provide for the furnishing of the following information: names and addresses of applicants, street address, property number, and legal description of the land or property involved; area of the land in acres, or in square feet if less than two (2) acres; present zoning classification of the land; current ownership status; and a general description of the proposed development in specific terms.
 - 3) A site plan review fee according to the current schedule of fees as determined by the Township Board of Trustees.
- C) **Site plan requirements.** All site plans submitted for approval shall show:
- 1) An appropriate descriptive legend, north arrow, scale, date of preparation, and the name and address of the individual and firm which prepared the plan. For property of 3 (three) acres or less, scale shall be no smaller than one-inch equals 20 (twenty) feet; for property of more than 3 (three) acres, scale shall be no smaller than one inch equals 50 (fifty) feet.
 - 2) All lot and/or property lines, properly dimensioned, including building set back lines and existing easements and rights-of-way, if any.
 - 3) The location and height of all existing and proposed structures on the property and on adjacent properties within 100 (one hundred) feet of the property line, to include dimensions of proposed buildings as well as gross and usable floor space in square feet for each.
 - 4) The locations and dimensions of all existing and proposed drives, sidewalks, curb openings, signs, exterior lighting, parking areas, (including a typical parking space) unloading areas, and recreation areas. (Parking provisions shall be in accordance with Article 18). Evidence of approval for curb openings and drives on a state highway or county road from the appropriate commission shall also be provided.
 - 5) The location of both pavement and right-of-way widths of all abutting roads, streets, and alleys.
 - 6) The name, address, and telephone number of the property owner(s) and/or applicant.
 - 7) The name, address, and telephone number of the licensed professional who produced the plan, including their seal of approval stamped on the submitted plans.
 - 8) The location and size of all existing and proposed utilities.
 - 9) The location, size, and capacity of all surface drainage facilities.

- 10) Existing and proposed contours at a minimum interval of 2 (two) feet, unless otherwise prescribed by the Planning Commission.
 - 11) The location and type of all planned landscaping, green belts, or other required screening; location, height, and type of proposed fences and/or walls; location of all rubbish receptacles.
 - 12) The name and address of the professional individual responsible for preparing the site plan, together with the identification and seal of architect, engineer, land surveyor, or landscape architect who prepared the drawings.
 - 13) For multiple family developments, typical elevation views of the front and side of each type of proposed building, as well as dimensioned typical floor plans for each type.
 - 14) If applicable, a summary schedule which gives the following information:
 - (a) The number of dwelling units proposed, to include the number, size, and location (by legend, if necessary) of one-bedroom units, two-bedroom units, mobile/manufactured home sites, etc.
 - (b) The residential area of the site in acres and in square feet, including breakdowns for any sub-areas or staging areas.
- D) **Site plan review.** In addition to review by its members, the Planning Commission shall routinely have proposed site plans reviewed by the Township Attorney, Fire Chief, Zoning Administrator, and Building Inspector. In cases where the Planning Commission deems it appropriate, it may engage the services of a suitably qualified professional engineer or engineering firm to review and comment upon the site plan, the expenses of such review to be borne by the applicant and as established by the Township Fee Schedule.
- E) **Site plan approval.** The Planning Commission shall have the function, duty, and power to approve or disapprove, or to approve subject to compliance with certain modifications or conditions, site plans in accordance with the purposes, intent, and provisions of this section.

Section 10.05 Standards for Site Plan Review

The following criteria shall be used as a basis upon which site plans will be reviewed and approved:

- A) **Adequacy of Information:** The site plan shall include all required information in a sufficiently complete and understandable form to provide an accurate description of the proposed uses and structures.
- B) **Access:** That there is a proper relationship between the existing streets and highways in the vicinity of the proposed deceleration lanes, (if any) service drives, entrance and exit driveways, and parking areas to ensure the safety and convenience of both pedestrian and vehicular traffic.
- C) **Location:** That the buildings, structures, and entryways thereto proposed for the premises are situated so as to minimize the adverse effects upon owners and occupants of adjacent properties and the neighborhood in general.
- D) **Natural Features:** That as many natural features of the landscape as possible are retained where they furnish a barrier or buffer between the proposed development and any adjoining properties used for dissimilar purposes and/or where they assist in preserving the general appearance of the neighborhood or help control erosion or the discharge of stormwater;
- E) **Screening:** That any adverse effects of the proposed development and future resulting activities upon adjoining residents or owners shall be minimized by appropriate screening. That all provisions of this Article are complied with, unless an appropriate variance has been granted by the Zoning Board of Appeals.
- F) **Emergency Access:** That all buildings and structures are accessible to emergency vehicles.

- G) **Public Services:** That the site plan, as approved, is consistent with the intent and purpose of zoning to promote public health, safety, morals and general welfare; to encourage the use of land in accordance with its character and adaptability; to avoid overcrowding of population; to lessen congestion upon the public roads and streets; to reduce hazards to life and property; to facilitate adequate provision for systems of transportation, sewage disposal, safe and adequate water supply, education, recreation, and other public requirements; to conserve the expenditure of funds for public improvements and services; to conform with the most advantageous use of land, resources, and properties; to conserve property values and natural resources; and to give reasonable consideration to the character of a particular area, its peculiar suitability for particular uses, and the general and appropriate trend and character of land, building, and population development.
- H) **Exterior Lighting:** Exterior lighting shall be designed so that it is deflected away from adjoining properties and so that it does not impede the vision of drivers along adjacent streets. Such exterior lighting shall be shielded in order to prevent light trespass onto adjacent properties.

Section 10.06 Modifications and Revisions

- A) **Modification.** Any modifications of a submitted site plan desired by the Planning Commission shall be stated in writing to the applicant. Site plan approval may be granted contingent upon the revision of the site plan by the applicant to the satisfaction of the Planning Commission. If any part of a site plan is in conflict with any section of this article in terms of area and bulk regulations, setbacks, parking maneuvering lanes, etc., a variance must be obtained from the Zoning Board of Appeals before the Planning Commission can approve the site plan.
- B) **Incomplete or repeatedly revised plans.** Applicants who submit incomplete plans or revise them repeatedly after submission will be charged an additional review fee if their actions require the Planning Commission to have more than 2 (two) meetings to review and approve their site plans. The optional sketch plan review procedure outlined in section 10.04(a), does not count as one (1) of the 2 (two) meetings.

Section 10.07 Recording and Filing

Copies of the approved site plan, with modification, if any, shall be signed by the chairperson of the Planning Commission, and, if variances have been granted, by the chairperson of the Zoning Board of Appeals. Copies of the approved site plan will be retained per Township policy.

Section 10.08 Amending a Site Plan

A proposed amendment, modification, alteration, or other change to a previously approved site plan shall be submitted via the Zoning Administrator to the Planning Commission for review and approval in the same manner as the original application. Such proposed revisions shall be clearly identified, numbered, dated, and referenced to site plans and revisions previously approved by the Planning Commission.

Section 10.09 Performance Bond

The Planning Commission shall have the right and authority to require a developer to file with the Township, at the time of application for a building permit, a performance bond or bank letter of credit in such amount as may be determined by said Board to ensure the development of the site in accordance with the approved site plan, conditioned upon such proper construction and development. Such bond, if required, shall continue for the duration of the construction and development of the site and shall be in the face amount which is a reasonable percentage of the estimated total cost of construction and site development. The bond shall be for the purpose of securing the completion of improvements considered necessary to protect natural resources and/or health, safety, and welfare of the residents of the Township and adjacent residents and property owners. The Planning Commission shall provide for the rebate of any cash bond filed in this connection in reasonable proportion to the ratio of the work completed on the improvements for which the bond was required.

Section 10.10 Appeals and Questions of Interpretation

Any persons considering themselves aggrieved by the decision of the Planning Commission in granting or denying site plan approval shall have the right to appeal said decision in the Township Zoning Board of Appeals. The appeal must be filed with the Township Clerk within 15 (fifteen) days of the decision of the Planning Commission. The ZBA can reverse or affirm, in whole or part, or may modify the prior decision made by the administrative body or official from whom the appeal is taken.

However, the authority of the ZBA during the appeal process is limited. The initial decision of the ZBA is whether the action taken was appropriate and related to the standards applicable to that decision.

If the ZBA finds that proper procedures and considerations were used in denying site plan approval, the appeal should be denied and the decision upheld. If, on the other hand, the ZBA finds an error in the manner in which the decision was reached, it may grant the appeal and reach another decision. However, granting the appeal does not automatically reverse the original decision. Rather, it simply means that the ZBA now decides the site plan approval, using the same review standards applicable to the original decision.

If either party is dissatisfied with the ZBA's decision, the recourse is an appeal to the county circuit court.