

# DEXTER TOWNSHIP

## PLANNING & ZONING

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DATE: December 11, 2015  
TO: Dexter Township Planning Commission  
FROM: Zach Michels, Director of Planning & Zoning  
RE: Draft Special Land Use Article of the Zoning Ordinance

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### MEMORANDUM

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The Zoning Ordinance Review Committee (Pizza Club) has been reviewing and helping the Director of Planning and Zoning prepare revisions to the Zoning Ordinance. The attached article outlines the special land use process. It is currently Article 7 and a part of Article 16. *The attached draft does not show redline changes from the current Zoning Ordinance.*

Combining all of the special land use provisions into one Article will improve ease of use. The developmental/performance standards for special land uses, currently a part of Article 16, have been placed into a new article for specific land uses. As currently structured, these standards apply when a use is a special land use but not when they are a permitted use.

This article has been reviewed by the Township Attorney. No objections or recommendations were offered.

#### **§x.05 Intent and Purpose**

This section has been revised from a single paragraph to separate sentences for ease of use.

#### **§x.10 Authority**

This is a new section that has been added to describe the different responsibilities. Amendments to established special land uses will be either a minor and major amendment, allowing the Director of Planning and Zoning to approve minor amendments while the Planning Commission approved major amendments.



### **§x.15 General Provisions**

This is a new section that has been added to better clarify the process for applicants. It is similar in structure to revisions made to the Site Plan Article.

### **§x.20 Review Process**

The majority of the concepts in this section are currently in §7.02, but new text has been added.

(A) Preapplication Meeting is now required before submission of an application. This is similar to the revised Site Plan Article. The intent of requiring this is to improve the quality of submissions, making the process easier for the applicants, staff, and Planning Commission.

(C) Review of Completeness and (D) Scheduling are a departure from the current process. Presently, the Planning Commission reviews a special land use application at a meeting and sets the public hearing date. This delays action by a whole month. The revision places review responsibility on the Director of Planning and Zoning, providing a smoother, quicker process.

(K) Timely Decisions has been added. The Committee felt it was best to put some time limit on the Planning Commission's review to make the process more predictable for applicants. The option to postpone remains, with the applicant's consent.

(L) Acceptance of Conditions has been added. This condition has been placed on approvals for several years, and the Committee felt it would be best to codify it so an applicant would better know what to expect.

(M) Expiration has been added. Currently, there is no time limit to establish a special land use following approval. The concern is that conditions on the ground may change significantly between the time of approval and the establishment of a special land use, especially if there is a long delay.

### **§x.25 Decision Criteria**

This section is currently §16.01.



### **§x.30 Rehearing and Reapplication**

Portions of this section are currently §7.04.

(A) Rehearing has been added to clarify the rehearing process. This process is similar to the process for the Zoning Board of Appeals and site plans rehearings.

### **§x.35 Revocation and Suspension**

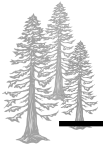
This section has been added to clarify the process and conditions to revoke or suspend an approved special land use.

### **§x.40 Amendments and Expansions**

This section is currently §7.05. It has been changed to allow for two types of amendments/expansions. Minor amendments/expansions are limited and will be approved by the Director of Planning and Zoning. Major amendments/expansions will continue to be approved by the Planning Commission at a public hearing.

### **§x.45 Change of Use**

This section has been added to make it clear that a new approval is required when an approved special land use is changed to another special land use.



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12.11.2015

## ARTICLE XX

### SPECIAL LAND USES

#### § ##.05 - INTENT & PURPOSE

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It is the intent and purpose of this Article to:

- (A) Recognize that there are certain uses that may be necessary or desirable to allow in certain locations within zoning districts but which, due to their actual or potential impact on neighboring uses or public facilities, need to be more carefully reviewed with respect to their location, design, and operation;
- (B) Establish the procedures for review of special land uses;
- (C) Establish standards for review of special land uses;
- (D) Provide a mechanism for public input on decisions involving more-intense land uses;
- (E) Promote a planned and orderly development pattern that can be adequately be served by public facilities and services in a cost-effective manner;
- (F) Provide greater flexibility to integrate land uses within the Township; and
- (G) Ensure that more-intense land uses can be accommodated by the environmental condition of their location.

#### § ##.10 - AUTHORITY

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- (A) The authority to approve, approve with conditions, or deny a special land use shall be with the Planning Commission. Its decision shall be final and may not be appealed to the Zoning Board of Appeals.
- (B) The authority to approve, approve with conditions, or deny a major amendment or expansion of an approved special land use shall be with the Planning Commission. Its decision shall be final and may not be appealed to the Zoning Board of Appeals.
- (C) The authority to approve, approve with conditions, or deny a minor amendment or expansion of an approved special land use shall be with the Director of Planning and Zoning. This decision may be appealed to the Zoning Board of Appeals.

#### § ##.15 - GENERAL PROVISIONS

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- (A) **Site Plan Required:** A site plan shall be required for all special land uses. The special land use approval shall be before or at the same meeting as the preliminary or amended site plan review and before administrative site plan approval.
- (B) **Special Land Uses Requiring a Variance:** The applicant shall obtain any necessary variance(s) before special land use approval.
- (C) **Separate Approval:** A separate special land use approval shall be required for each use that requires a special land use approval.

- (D) **Right to Enter Property:** Submission of a special land use application shall constitute permission for the Township to access the property to complete onsite investigations for the purpose of administering this Article.
- (E) **Performance Guarantee:** The applicant shall provide a performance guarantee, as outlined in Article xx, before issuance of a Zoning Permit/Preliminary Certificate of Zoning Compliance for the special land use.
- (F) **Conditions of Approval:** The approving authority may impose reasonable conditions in granting a special land use approval, amendment, or expansion, related to the following:
- (1) **Health, Safety, and Welfare:** Conditions shall be designed to protect the health, safety, and welfare of those who will use the site under consideration, residents and landowners immediately adjacent to the site, and the community as a whole;
  - (2) **Public Services and Facilities:** Conditions shall be designed to ensure that public services and facilities affected by a proposed special land use will be capable of accommodating the resulting increased service and facility loads;
  - (3) **Police Power:** Conditions shall be related to the valid exercise of the police power and purposes that are affected by the proposed special land use;
  - (4) **Compliance:** Conditions shall be necessary to ensure compliance with the standards and provisions of this Ordinance, other Township Ordinances, or county, state, and federal law;
- (G) **Contact with Planning Commissioners (Ex-parte Contact):** No person shall communicate directly with any member of the Planning Commission outside of a public hearing with the intent of influencing the member's action or decision. Written comments may be submitted to the Director of Planning and Zoning for distribution to the Planning Commission. This shall not prohibit the Director of Planning and Zoning from promulgating staff reports and other related materials to the Planning Commission.
- (H) **Public Hearing:** Special land uses, including original approval and major amendments or expansions of approved special land uses, shall be reviewed by the Planning Commission at a public hearing. Minor amendments or expansions of an approved special land use shall not be reviewed at a public hearing but shall be noticed as part of the administrative site plan review process.
- (I) **Zoning Permit:** A zoning permit shall be required before establishment of a special land use that has been approved by the Planning Commission.

## § ##.20 - REVIEW PROCESS

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Special land uses shall be reviewed as described below and in this Article.

- (A) **Preapplication Meeting:** The applicant shall meet with Township Officials, other agencies, and other interested parties before submission of a special land use application.
- (1) **Intent:** The intent of the preapplication meeting is to inform Township Officials and other interested parties of the general concept of the proposed special land use and to provide the applicant with feedback and guidance concerning the application. Statements made in the course of a preapplication meeting shall not be legally-binding on any party nor construed as representing approval or actions the Planning Commission may make during special land use review.

- (2) *Township Attendance:* The Director of Planning and Zoning shall invite the following individuals to attend the preapplication meeting:
    - a. Other Township Officials, including, but not limited to: the Planning Commission Chair, the Township Engineer, and the Township Attorney; and
    - b. Officials from other agencies, including, but not limited to: the Washtenaw County Road Commission, the Washtenaw County Environmental Health Department, the Washtenaw County Water Resources Commissioner, the Dexter Area Fire Department, and local schools.
  - (3) *Applicant Attendance:* The applicant, or an agent, shall attend and shall be responsible for inviting individuals responsible for preparing the associated site plan.
- (B) Application:** A special land use application shall include the following:
- (1) *Application Form:* A signed and completed application form;
  - (2) *Fee:* An application fee, as outlined in the adopted fee schedule. No fee shall be required if the Township is the applicant;
  - (3) *Site Plans:* The applicant shall submit at least one (1) hard copy and a digital copy of the associated site plan, in a format acceptable to the Township, with the application and shall submit at least fifteen (15) hard copies remaining copies following the review of completeness. When copies are required for site plan review, the number of copies required for the special land use may be reduced accordingly;
  - (4) *Additional Materials:* Any additional information determined necessary by the Director of Planning and Zoning; and
  - (5) *Complete and Accurate:* Submission of an application constitutes a representation that all the information is complete and accurate.
- (C) Review of Completeness:** A special land use application shall be reviewed by the Director of Planning and Zoning for completeness.
- (1) *Review Letter:* The Director of Planning and Zoning shall issue a review letter within fourteen (14) business days of receiving the application stating whether the application is complete or, if not, what additional materials or information is necessary for it to be considered complete. This period may be extended at the applicant's request in writing. If the review letter is not issued within the above period, the special land use application shall be placed on the next available Planning Commission agenda.
  - (2) *Administratively Complete:* The application shall be considered administratively complete on the date that the Director of Planning and Zoning declares an application complete or the expiration of the fourteen (14) day period described above, unless the application has been declared incomplete.
- (D) Scheduling:** Upon declaration of an administratively complete special land use application by the Director of Planning and Zoning, the application shall be placed on the next available agenda for the Planning Commission. The applicant may request it be placed on a later meeting agenda or may request a special meeting, with payment of an additional special meeting fee
- (E) Transmission of Materials:** The Director of Planning and Zoning or appropriate official or body shall transmit all relevant records and other materials to the Planning Commission.

- (F) **Applicant's Responsibilities:** The applicant shall post a public notice sign or signs, provided by the Township, on the site, clearly visible from each adjacent street and mark the property, at least fifteen (15) days before the public hearing. The public notice sign(s) and marking shall be maintained in good condition until a final decision is made.
- (G) **Notice of Hearing:** The Township shall give public notice of the special land use public hearing, as outlined in Section XX of this Ordinance and STATE REFERENCE HERE.
- (H) **Hearing Appearance:** Any party may appear in person or by duly-authorized agent at public hearings.
- (I) **Hearing Recess:** The Planning Commission may recess public hearings for a special land use from time to time with notice conforming to the requirements of the Open Meetings Act.
- (J) **Planning Commission Review:** The Planning Commission, following a public hearing, shall approve, approve with conditions, deny, or postpone a special land use using the standards in this Article.
- (1) **Approval:** If a special land use is approved, the Planning Commission shall cite its reasons for approval and any conditions necessary for approval. The concurring vote of at least four (4) members of the Planning Commission shall be necessary for approval.
  - (2) **Denial:** If a special land use is denied, the Planning Commission shall cite its reasons for denial.
  - (3) **Postponement:** If the Planning Commission determines that the special land use does not contain enough information necessary to conduct a review, additional information is necessary, or significant changes are necessary to receive approval, it may postpone review until a later date and shall cite the reasons for postponement.
- (K) **Timely Decisions:** The Planning Commission shall render its decision within sixty (60) days of the date the application is administratively complete, unless a delay is agreed to by the applicant and the Planning Commission. The decision shall be final upon adoption of meeting minutes or signing of a resolution by the Township, whichever occurs first.
- (L) **Acceptance of Conditions:** The approval of any special land use shall only be effective upon acceptance of the approval and any conditions of the approval by the applicant.
- (M) **Expiration:** An approved special land use shall run with the land but shall expire as outlined below:
- (1) **Establishment:** An approved special land use shall be established within two (2) years of the approval date, or the approval shall become null and void, and the special land use shall extinguish.
  - (2) **Discontinuation:** An approved special land use that has been inactive for a period of two (2) consecutive years or more, whether or not there is an intent to abandon the use, shall become null and void, and the special land use shall extinguish.
  - (3) **Notice:** Upon finding that an approved special land use has expired, the Director of Planning and Zoning shall send written notice to the property owner to the last known address of record.
  - (4) **Effect:** Special land uses that have expired shall be resubmitted for review as a new application.



## § ##.25 - DECISION CRITERIA

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Special land uses shall be approved, or approved with conditions, if the Planning Commission finds all of the following applicable criteria to be true:

- (A) **Master Plan:** The special land use shall be compatible with the goals, objectives, and future land use map of the Master Plan;
- (B) **Zoning District:** The special land use shall be consistent with the intent of the zoning district in which it is located.
- (C) **Compatibility:** The special land use shall not be detrimental or disturbing to existing or reasonably anticipated future uses in the general vicinity and shall not significantly alter the existing or intended character of the general vicinity;
- (D) **Services:** The special land use shall be adequately served by essential public facilities and services, including, but not limited to: streets, police, fire protection, drainage, solid waste disposal, water and sewage, and schools;
- (E) **Health, Safety, and Welfare Impacts:** The special land use shall not involve any activities, processes, or materials that are detrimental to the natural environment or public health, safety, or welfare because of an excessive increase of traffic, noise, vibration, smoke, fumes, odors, glare, or other such nuisances;
- (F) **Mitigation:** The special land use shall provide mitigation to minimize or prevent negative impacts; and
- (G) **Applicable Ordinances and Laws:** The special land use shall comply with the provisions of this Ordinance, other Township Ordinances, and all applicable county, state, and federal laws;

## § ##.30 - REHEARING & REAPPLICATION

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- (A) **Rehearing:** A rehearing shall be processed in the same manner as the original application, including a new fee, unless initiated by the Planning Commission or Township Board. A request for rehearing shall be made within thirty (30) days of the decision becoming final. The only grounds upon which a rehearing of a previously-denied special shall be granted is if the approving authority, upon inspection, finds one (1) or more of the following to be true:
  - (1) **New Evidence:** Newly-discovered evidence is available;
  - (2) **Inaccurate Evidence:** Evidence previously relied upon is found to be inaccurate; or
  - (3) **Procedures:** Proper procedures were not followed.
- (B) **Reapplication:** A special land use application that has been denied shall not be resubmitted for reconsideration for a period of one (1) year from the date the decision became final, unless:
  - (1) **Changed Conditions:** The Planning Commission, upon inspection, finds proof of changed conditions that contributed to the denial; or
  - (2) **Changes to Special Land Use:** Substantial changes have been made to the special land use that addresses the reasons for denial.

## § ##.35 - REVOCATION & SUSPENSION

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An approved special land use may be revoked or suspended as outlined in this Section.

(A) **Revocation:** An approved special land use may be revoked by the Planning Commission, as outlined below.

- (1) *Notice:* Notice shall be sent to the applicant of the possible revocation, including the time and place the revocation will be considered and the reason for the revocation.
- (2) *Public Hearing:* The revocation shall be heard at a public hearing.
- (3) *Decision Criteria:* In order to revoke an approved special land use, the Planning Commission shall find any one (1) of the following to be true:
  - a. *Ordinance Standard:* The execution or use of a Zoning Permit/ Preliminary Certificate of Zoning Compliance related to the approved special land use is not consistent with a standard of this Ordinance as it existed at the time of approval;
  - b. *Special Land Use and Conditions:* The execution or use of the special land use or a Zoning Permit/Preliminary Certificate of Zoning Compliance related to the approved special land use is not consistent with the approved special land use, any condition of approval, or any written commitment; or
  - c. *Fraud:* The special land use approval was a result of fraud or misrepresentation of facts.
- (4) *Effect:* Upon revocation of a special land use, all activity shall cease immediately, except for work directly related to securing the site or correcting a violation, as authorized by the Director of Planning and Zoning; the approval shall become null and void; and the special land use shall extinguish. Special land uses that have been revoked shall be resubmitted for review as a new application.

(B) **Suspension:** An approved special land use may be suspended temporarily and immediately by the Planning Commission, as outlined below.

- (1) *Notice:* The applicant shall receive notice of the possible suspension, including the time and place the suspension will be considered and the reason for the suspension.
- (2) *Public Hearing:* A public hearing shall not be necessary for suspension of an approved special land use.
- (3) *Decision Criteria:* In order to suspend an approved special land use, the Planning Commission shall find all of the following to be true:
  - a. *Threat:* A severe and imminent threat exists to the health, safety, and welfare of neighboring persons or properties; and
  - b. *Delay:* The delay required for noticing would be detrimental to efforts to mitigate or respond to the threat.
- (4) *Effect:* Upon suspension of a special land use, all activity shall cease immediately, except for work directly related to securing the site or addressing the threat, as authorized by the Director of Planning and Zoning.

## § ##.40 - AMENDMENTS & EXPANSIONS

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An approved special land use may be amended or expanded as outlined in this Section.

**(A) *Minor Amendment or Expansion:*** A minor amendment or expansion of an approved special land use shall be reviewed and approved by the Director of Planning and Zoning.

- (1) *Limitations:* Minor amendments or expansions of an approved special land use are not likely to have an impact on the general vicinity and shall be limited to the following:
  - a. *Floor Area:* An increase of the useable floor area used by the special land use by twenty (20) percent or less from the originally-approved useable floor area;
  - b. *Parking Lot:* An expansion of the off-street parking lot area or number of parking spaces by twenty (20) percent or less from the originally-approval off-street parking lot area or number of parking spaces;
  - c. *Occupancy:* An increase of capacity or membership of the special land use by twenty (20) percent or less from the originally-approved capacity or membership;
  - d. *Land:* An increase in the land area dedicated to the special land use by twenty (20) percent or less from the originally-approved land area;
  - e. *Location:* Relocation of the special land use to another location on the site that is within twenty-five (25) feet of the originally-approved location.
- (2) *Process:* Minor amendments or expansions of an approved special land use shall be reviewed and approved by the Director of Planning and Zoning as part of an Administrative Site Plan.
- (3) *Decision Criteria:* A minor amendment or expansion of an approved special land use shall be approved, or approved with conditions, if the Director of Planning and Zoning finds all of the following applicable criteria to be true:
  - a. *Original Decision Criteria:* The minor amendment or expansion of the special land use shall not negatively affect any of the original decision criteria.
  - b. *Conditions:* The minor amendment or expansion of the special land use shall not conflict with any conditions of the original approval.
  - c. *Impact:* The minor amendment or expansion of the special land use shall not have a significant impact on the use, value, or enjoyment of the surrounding area or the Township in general or appropriate mitigation measures will be made.
- (4) *Conditions:* The Director of Planning and Zoning may impose reasonable conditions in granting approval of a minor amendment or expansion of an approved special land use, as outlined in this Article.

**(B) *Major Amendment or Expansion:*** A major amendment or expansion of an approved special land use shall be reviewed by the Planning Commission at a public hearing, as outlined in this Article.

- (1) *Types:* Major amendments or expansions of an approved special land use are likely to have an impact on the general vicinity.
- (2) *Public Hearing:* Major amendments or expansions of an approved site plan shall be reviewed by the Planning Commission at a public hearing, as outlined in this Article.

- (3) *Decision Criteria:* A major amendment or expansion of an approved special land use shall be approved, or approved with conditions, if the Planning Commission finds all of the following applicable criteria to be true:
- a. *Original Decision Criteria:* The major amendment or expansion of the special land use shall not negatively affect any of the original decision criteria.
  - b. *Conditions:* The major amendment or expansion of the special land use shall not conflict with any conditions of the original approval.
  - c. *Impact:* The major amendment or expansion of the special land use shall not have a significant impact on the use, value, or enjoyment of the surrounding area or the Township in general or appropriate mitigation measures will be made.
- (4) *Conditions:* The Planning Commission may impose reasonable conditions in granting approval of a major amendment or expansion of an approved special land use, as outlined in this Article.

#### § ##.45 - CHANGE OF SPECIAL LAND USE

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Change of an approved special land use to another special land use shall require a separate review of that new special land use and shall be processed in the same manner as a new application.

*End of Article xx.*

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