

ARTICLE 21
SPECIAL LAND USE APPROVAL

50.2100 [Special Land Use Approval Requirements.] For all special land uses, a Site Plan shall be submitted to the Planning Commission and conform to the requirements of procedures for Site Plan review as described in Section 50.2000. If the plans meet the required standards of this Chapter, Article and applicable Section and indicate no adverse effects which in the opinion of the Planning Commission could cause injury to the residents, users or adjoining property, or the City as a whole, the Planning Commission shall approve the use. The Planning Commission shall have sole power to approve or disapprove all special land uses. In consideration of all applications for special approval use, the Planning Commission shall review each case individually as to its applicability and must review each of the following standards of the proposed special land use if it is to be approved. Such uses shall be subject to conditions, restrictions and safeguards deemed necessary within the scope of the law as set forth above.

(1) The proposed special land use shall be of such location, size and character that it will be in harmony with the appropriate and orderly development of the surrounding neighborhood and/or vicinity and applicable regulations of the zoning district in which it is to be located.

(2) The proposed use shall be of a nature that will make vehicular and pedestrian traffic no more hazardous or congested 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-vehicular interfacing in residential districts.

(3) The proposed use shall be designed as to the location, size, intensity, site layout and periods of operation of any such proposed use to

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.

(4) The proposed use shall be 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 or unreasonably affect their value.

(5) The proposed use shall relate harmoniously with the physical and economic aspects of adjacent land uses as regards prevailing shopping habits, convenience of access by prospective patrons, continuity of development, and need for particular services and facilities in specific areas of the City.

(6) The proposed use shall be so designated, located, planned and be operated that the public health, safety and welfare will be protected.

(7) The proposed use shall not cause substantial injury to the value of other property in the neighborhood in which it is to be located and will not be detrimental to existing and/or other permitted land uses in the zoning district.

50.2101 [Cluster Zoning Option.] The primary objective of the cluster zoning option is to preserve open space or specific geologic features for the common use and enjoyment of property owners by the clustering or grouping together of housing units. This option shall not increase the number of dwelling units otherwise permitted on a parcel of property. (See Section 50.301(12), Maximum Density, Residential.)

If an applicant requests special land use approval of a cluster zoning option, the Planning Commission shall consider the following, in addition to the review criteria found in Section 50.2100 above:

After notice and hearing as required by MCLA 125.584(b); MSA 5.29(2), as amended, the Planning Commission may approve cluster zoning for a development project in those districts where cluster developments are permitted, subject to the conditions hereinafter set forth.

The cluster option is only available to innovative developments, or those substantially affected by unique geographic, topographic, or natural or manmade features that may otherwise be lost in a normal development process. No increase in density of use of a site is permitted. The development must justify permitting the alteration of use, area, height, bulk or placement requirements. It must be determined that the cluster development is compatible with the overall character of the district in which it is proposed and will not be injurious to adjoining property. Cluster approval is limited to single family, duplex and multiplex buildings on a minimum lot size of one (1) acre. The Planning Commission shall review any application for cluster development and determine whether or not the proposed development best serves the intent of this ordinance, and the public health, safety and welfare.

In reviewing an application for a cluster zoning option, the following must be considered:

- Location
- Density
- Adequacy of Schools, Parks and Other Public Facilities
- Traffic Volume and Circulation
 - Pedestrian Circulation
- Compatibility with Existing Area Development
 - Adequate Provision for Light and Air
 - Accessibility for Fire and Police Protection

Before a vote on whether to approve cluster zoning, the Planning Commission must consider each of the following standards:

(1) Is the proposed plan innovative, or is it a plan substantially affected by unique

geographic, topographic or natural or manmade features?

(2) Is the public health, safety and welfare better served by this proposal than other legal alternatives?

(3) Is the proposal compatible with objectives of the Master Plan?

(4) Have adequate provisions been made for streets/driveways and parks/open space?

(5) If applicable, are exceptions from district regulations within reason to this Chapter?"³⁰

50.2102 Decision by Commission. After the Planning Commission has reviewed all seven (7) standards in Section 50.2100, and all five (5) standards in Section 50.2101 when applicable, it may then give final consideration to the proposed special land use. Approval of the proposed special land use, or approval with conditions will require a minimum of six (6) affirmative votes of the Planning Commission. In the event six (6) affirmative votes on a motion to approve a proposal are not received, the proposal will be deemed to have been denied.

Approval or denial of special land uses shall be governed by the following:

(1) **Approval.** If the Planning Commission determines that the particular special land use(s) should be allowed, it shall endorse its approval thereof on the written application and clearly set forth in writing thereon the particular use(s) which has been allowed. Thereafter, the enforcing officer may issue a building permit in conformity with the particular special approval use so approved. In all cases where a particular special land has been granted as provided herein, application for a building permit in pursuance thereof must be made and received by the City not later than one hundred eighty (180) days thereafter, or such approval shall automatically be revoked; provided, however, the Planning

Commission may grant an extension thereof of good cause shown under such terms and conditions and for such period of time not to exceed six (6) months as it shall determine to be necessary and appropriate.

(2) Denial. If the Planning Commission shall determine that the particular special land use(s) requested does not meet the standards of this Chapter or otherwise will tend to be injurious to the public health, safety, welfare or orderly development of the City, it shall deny the application by a written endorsement thereon which clearly sets forth the reason for such denial.

(3) Record. The decision on a special land use shall be incorporated in a statement of conclusions relative to the special land use under consideration. The decision shall specify the basis for the decision and any conditions imposed. The Planning Commission may impose such conditions or limitations in granting approval as may be permitted by State law or this Chapter which it deems necessary to fulfill the spirit and purpose of this Chapter. The conditions may include: conditions necessary to insure that public services and facilities affected by a proposed land use of activity will be capable of accommodating increased service and facility loads caused by the land use of activity; to protect the natural environment and conserve natural resources and energy; to insure compatibility with adjacent uses of land; and to promote the use of land in a socially and economically desirable manner.

Conditions imposed shall do all the following:

(a) Be designated to protect natural resources, the health, safety and welfare, as well as 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.

(b) Be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity.

(c) Be necessary to meet the intent and purpose of the zoning regulations; be related to the standards established in this Chapter for the land use or activity under consideration; and be necessary to insure compliance with those standards.

(d) 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 approving authority and the landowner. The Planning Commission shall maintain a record of changes granted in conditions.

50.2103 Appeal. A proposal which has been denied by the Planning Commission under this Article may not be appealed to the Zoning Board of Appeals.”^{16, 21}

[ARTICLE 22 DELETED]^{16, 20}