

Section 5-105 Special Use Permits

SECTION 5-105. SPECIAL USE PERMITS.

- A. **Purpose.** The purpose of special use permits is to enable the Village to approve those uses which are generally compatible with other land uses permitted in a zoning district, but which require individual review of their location, design and configuration and which may require the imposition of conditions in order to ensure the appropriateness of the use at a particular location. The special use for a planned development is designed to encourage flexible application of zoning regulations in order to promote creative or imaginative design.
(Ord. 3281 - 8/16/99)
- B. **Authority.** ~~The Director of Community Development may, in accordance with the procedures, standards and limitations of this Section and subject to such rights of appeal as are provided, approve applications for minor special use permits.~~ The Plan Commission may in accordance with the procedures and standards of this Section recommend approval of major special use permits to the Board of Trustees.
- C. **Authorized Special Uses.** Only those uses which are authorized in Article 6, or in the zoning districts currently in effect, or those nonconforming uses which are damaged or destroyed and are permitted to be re-established in Section 8-101, may be approved as special uses. The designation of a use in a zoning district does not constitute an authorization or an assurance that such use will be approved; rather, each proposed special use shall be evaluated by ~~the Director of Community Development or the Plan Commission~~ and Board of Trustees for compliance with the standards and conditions set forth in this Section and for each zoning district. Wherever a use existing on the effective date of these regulations is terminated or demolished, subsequent use of the property upon which the use was located shall be permitted only as a major special use. Whenever the property underlying a special use changes ownership and the ~~Department of Community Development~~ **Services Department** is notified of such change, the Department shall determine whether the potential impacts of such new ownership or other changed condition merit renewed special use review and approval. If the ~~Department of Community Development~~ **Services Department** determines that the impacts of the use will be significantly altered by virtue of the new ownership, the Department shall notify the new owner that he or she must initiate an application for a special use permit. Conversely, if the ~~Department of Community Development~~ **Services Department** determines that the impacts of the land use will not be significantly altered and that such other changed conditions will not occur, no additional special use approval shall be required. However, such a determination shall not eliminate the need for the new owner to obtain any other types of approvals or permits that may be required by these regulations due to the change of ownership.
- D. **Initiation.** An application for a special use permit may be submitted by the owner, an agent authorized in writing to act on the owner's behalf, or other person having a written contractual interest in the parcel of land proposed for development under a special use permit.
- E. **Standards Applicable to All Special Uses.** When considering an application for a special use permit, the decision making body shall consider the extent to which:

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1. The special use will be consistent with the purposes, goals, objectives and standards of the Comprehensive Plan, any adopted overlay plan and these regulations;
2. The special use will be consistent with the community character of the immediate vicinity of the parcel proposed for development;
3. The design of the proposed use will minimize adverse effects, including visual impacts on adjacent properties;
4. The proposed use will have an adverse effect on the value of adjacent property;
5. The applicant has demonstrated that public facilities and services, including but not limited to roadways, park facilities, police and fire protection, hospital and medical services, drainage systems, refuse disposal, water and sewers, and schools will be capable of serving the special use at an adequate level of service;
6. The applicant has made adequate legal provision to guarantee the provision and development of any open space and other improvements associated with the proposed development;
7. The development will adversely affect a known archaeological, historical or cultural resource; and
8. The proposed use will comply with all additional standards imposed on it by the particular provision of these regulations authorizing such use and by all other applicable requirements of the ordinances of the Village.

F. **Special Use Permits and Bulk Regulations.** ~~The Director of Community Development or the Board of Trustees may approve a special use permit that modifies or waives the minimum development requirements set out in Article 6 of these regulations provided that the Director or the Board expressly finds that the modification or waiver will enhance the ability of the proposed special use to meet the general standards set out in Section 5-105(E) for all special uses.~~

G. ~~**Conditions.** The Board of Trustees may attach and the Director of Community Development or the Plan Commission may recommend the attachment of such conditions to a major special use permit and the Director of Community Department may attach such conditions to a minor special use permit as are necessary to carry out the purposes of the Comprehensive Plan and to prevent or minimize adverse effects upon other property in the neighborhood, including, but not limited to: limitations on size, bulk and location; requirements for landscaping and lighting; provision of adequate ingress and egress and off-site but project-related improvements; and other conditions such as the duration of the permit, hours of operation, and mitigation of environmental impacts.~~

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H. ~~Minor Special Uses.~~

1. ~~**Application.** An application for a minor special use permit shall be submitted to the Planning Division. If an application for a minor special use permit includes a site plan or major special use, then the minor special use shall be considered along with the site plan review and major special use in accordance with applicable provisions outlined in Chapter 5 of the Land Development Code. (Ord. 4161—8/7/06)~~
2. ~~**Review Process.** The Village shall consider the minor special use in accordance with the standards for special uses and other applicable provisions of these regulations. Following administrative review and recommendation to grant, grant with conditions, or deny the proposal, all applications for minor special use permits shall be placed on a consent agenda at one of the next two (2) regularly scheduled Village Board meetings. If the applicant, an adjacent property owner, or an aggrieved person requests removal of the decision from the consent agenda or if at least two (2) members of the Village Board votes to remove the decision from the consent agenda, the Village Board shall consider the proposed minor special use as an individual agenda item. If the minor special use is not removed from the consent agenda, then the special use shall be approved, approved with conditions, or denied along with other items on the consent agenda in accordance with Village Board procedures. (Ord. 4161—8/7/06)~~
3. ~~**Action by the Village Board.** If a minor special use permit is removed from the consent agenda, the Village Board shall consider the minor special use in accordance with the standards for special uses and other applicable provisions of these regulations, or they may refer it to the Plan Commission for review or for a public hearing in accordance with the procedures of Section 5-101 (E) and recommendation to the Board for action on the minor special use. (Ord. 4161—8/7/06)~~

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~~Diagram - Major Special Use Permits~~
FOR VIEWING IN THE CLERK'S OFFICE

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G. Major Special Uses.

1. **Applications.** An application for a major special use permit, including applications for all planned developments, shall be submitted to the ~~Director of Community Development~~ **Services Department** in a form provided by the ~~Director of Community Development~~ **Services Department**. All applications for a major special use permit for a planned development of 1,000 acres or more in the Large Scale Planned Development District must also submit, at the same time, an application for concept plan approval to the Director of Community Development on a form provided by the Director of Community Development. Applicants for all other major special use permits need not apply for concept plan approval. Applicants for major special use permits for development of 1,000 acres or more must also apply for rezoning to the Large Scale Planned Development District. (Ord. 2514 - 1/17/94) **Petitions or applications for special uses must move through the public hearing process as outlined in Section 5-101 of these regulations.**
2. **Concept Plan Approval.** ~~The concept plan review application shall include sufficient supporting data, plans, or information to indicate the extent and nature of the planned development. An application for concept plan review shall be reviewed by the Development Review Committee. Within fifteen (15) working days after receipt of a completed application, the Development Review Committee shall forward a report and recommendation on the application for concept plan review to the Director of Community Development. Within five (5) working days after receiving the report and recommendation of the Development Review Committee, the Director of Community Development shall forward this report and recommendation on the concept plan review to a Committee of the Board of Trustees and to the Plan Commission. (Ord. 2514 - 1/17/94)~~
3. **Review by the Development Review Committee.** ~~Application for a major special use permit, concept plan, and/or rezoning shall be reviewed by the Development Review Committee. Within fifteen (15) working days after receipt of a complete application, the Development Review Committee shall forward a report and recommendation to the Director of Community Development. Within five (5) working days after receiving the report and recommendation of the Development Review Committee, the Director of Community Development shall forward this report and recommendation to a Committee of the Board of Trustees and to the Plan Commission. (Ord. 2514 - 1/17/94)~~
4. **Committee Review.** ~~The Committee of the Board of Trustees shall review the application for a major special use, concept plan, and/or rezoning prior to the public hearing by the Plan Commission.~~
5. **Public Hearing.** ~~The Plan Commission shall hold a public hearing in accordance with the provisions of Section 5-101(E) on the application for a major special use permit, concept plan, and/or rezoning and shall within thirty (30) working days of the completion of the public hearing recommend approval, with or without conditions, or disapproval to the Board of Trustees. The development shall be a major special use, concept plan, and rezoning. (Ord. 2514 - 1/17/94)~~

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6. **Board Action.** ~~Upon receipt of the recommendation of the Plan Commission and the report and recommendation of the Director of Community Development, the Board of Trustees shall consider the major special use, concept plan, and/or rezoning and shall grant, grant with conditions, or deny the special use, concept plan, and or rezoning. (Ord. 2514 - 1/17/94)~~

7. **Board Intent.** ~~The granting of the concept plan approval portion of the planned development by the President and Board of Trustees shall constitute an acceptance of the specific content of the conceptual plan and shall indicate the general acceptance of the Board of Trustees to approve a preliminary plan that carries out, refines, and implements the concepts expressed in the concept plan approval. (Ord. 2514 - 1/17/94)~~

H. Effect of Issuance of a Special Use Permit. Issuance of a permit for a special use shall be deemed to authorize only the particular use for which it is issued. Such permit shall not automatically expire upon the transfer of the property to a subsequent owner. Procedures should be followed in accordance with the provisions of Section 5-105 (C). (Ord. 2462 - 10/18/93)

I. Development Under an Approved Special Use Permit.

1. Unless otherwise specified in the approved special use permit, application for a building permit(s) shall be made within six (6) months of the date of the approval of the special use permit, and final building inspection approval shall be obtained within two (2) years of the date of issuance of the initial building permit. Permitted time frames do not change with successive owners. An extension of time may be granted only by the Board of Trustees for a period not to exceed one year and only within the original period of validity.

2. Development of the use shall not be carried out until the applicant has secured all other permits and approvals required by these regulations, the Village, or regional, state and federal agencies and until the approved special use is recorded in accordance with Section **5-105.H.** ~~5-105(J).~~

J. Inspection During Development Under a Special Use Permit.

1. Following issuance of a special use permit, the ~~Director of Community Development~~ **Services Department** shall review on a quarterly basis until the completion of the development, all permits issued and construction undertaken, shall compare actual development with approved plans and permits for development and the approved development schedule, if any, and shall report his or her findings in writing to the Village Manager and the Plan Commission.

2. If at any time during the construction of the development approved by the special use permit, the ~~Director of Community Development or the Building~~ **Development Services** Department

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determines that development is not proceeding in accordance with the special use permit as approved, then the ~~Building~~ Department may issue a stop work order and immediately notify the Village Manager. Within thirty (30) days of the issuance of the stop work order, if the violation is not corrected, the Board of Trustees shall schedule a meeting to consider the violation, conduct a full investigation into the facts and circumstances surrounding the alleged violation, and either revoke the approved special use permit or amend the special use permit in accordance with the provisions of Subsection ~~N or O~~ **L or M** below.

K. Approval of Minor Deviations. If the ~~Director of Community Development~~ **Services Department** finds that minor deviations from the approved plans and schedule are necessary or desirable, the ~~Director~~ **Department** may approve the deviations and amend the special use permit. Minor deviations which may be authorized ~~are those that appear necessary in light of technical or engineering considerations first discovered during actual development and not reasonably anticipated during the initial approval process,~~ and shall be limited to the following:

1. Alteration of the location of any road or walkway by not more than five feet (5');
2. Reduction of the total amount of open space by not more than five percent (5%) or reduction of the setback area or open space associated with any single structure by not more than five percent (5%), provided that such reduction does not permit the required open space to be less than that required by Section 6-302;
3. Alteration of the location, type or quality of required landscaping elements of the special use permit as long as the alteration does not change the overall effect of the landscaping; and
4. Minor alterations in building siting and parking.

L. Other Amendments or Adjustments. Any other adjustments or changes not specified in subsection N above shall be considered amendments to the special use permit and shall be granted only in accordance with procedures for original approval of a special use permit, as set forth in this Section.

M. Inspections After Development.

1. **Inspections by the Community Development Services Department.** Following completion of the development of a special use, the ~~Community Development~~ **Services Department** shall review the development for compliance with the use as approved. If it is determined that the special use has been developed in accordance with the approval, then a Certificate of Occupancy shall be issued in accordance with Section 5-103. If the ~~Director of Community Development~~ **Services Department** finds that the development, as completed, fails in any respect to comply with the use as approved, ~~he the~~ **Department** shall immediately notify the ~~Building Department,~~ and the applicant of such fact. The ~~Director of Building~~ **Development Services**

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Department shall not issue a Certificate of Occupancy pursuant to Section 5-103 until the Plan Commission has acted on the ~~Director of Community Development's~~ **Department's** notification of non-compliance.

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2. **Action by the Plan Commission.** Within thirty (30) working days following notification by the ~~Director of Community Development~~ **Services Department**, the Commission shall:
 - a. Recommend that the finding of the ~~Director of Community Development~~ **Services Department** be overruled; or
 - b. Recommend to the applicant modifications in the development to bring it into accord with the terms and provisions of the special use permit approval; or
 - c. Recommend to the Board of Trustees that the special use permit be terminated in accordance with the provisions of Subsection ~~Q~~ **N** below.

N. Termination of Special Use Permits. If construction of a special use permit has not been completed in accordance with the provisions of Subsection ~~J~~ **(L)** above, or the Plan Commission has determined that construction has not been completed in accordance with the provisions of the approved permit, the Board of Trustees shall conduct a public hearing in accordance with the provisions of Section 5-101~~(E)~~. Upon the conclusion of the public hearing, the Board of Trustees may terminate or modify the special use permit. In making such a decision, the Board shall consider whether there are substantial and legitimate reasons why construction of the special use was either not timely or in compliance with the original approval and whether the termination of such permit will advance the goals and objectives of the Comprehensive Plan and the standards applicable to the original approval. Special use permits shall expire one year after the date of approval by the Board of Trustees if the applicant has not started the approved work unless extended pursuant to Section 5-105.~~I~~ **K**. (Ord. 3354 – 4/17/00) **Special use permits shall also expire if they are not utilized for one year unless an extension is granted by the Village Board of Trustees.**

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