

ARTICLE 6

SPECIAL LAND USE REVIEW

SECTION 601 INTENT AND PURPOSE

- A. It is the intent of this Article to provide a set of procedures and standards for the review of specific uses of land or structures for the protection of the health, safety and general welfare of the inhabitants of Fulton Township (“Township”) in the review and approval of certain specified types of land use activities that because of their particular and unique characteristics require special consideration in relation to the welfare of adjacent properties and to the community as a whole. Such uses, on account of their peculiar characteristics or the nature of use and services offered can not be reasonably considered as a permitted use and therefore are subject to certain standards, specific requirements and reasonable conditions associated with the characteristics and nature of the use.
- B. Use of land and/or structures possessing these characteristics may be authorized within certain zoning districts by the issuance of a special land use approval. The Township Board upon recommendation of the Planning Commission shall have the authority to grant special land use approvals.
- C. By such a procedure, the Planning Commission and Township Board shall have additional criteria in which to review the specific use as well as the opportunity to review the circumstance of the use in relation to surrounding properties and retain the ability to impose conditions and safeguards upon each use that are deemed necessary for the protection of the public welfare.
- D. Uses requiring special land use approval are specifically cited as such under the districts outlined in Article 4. Certain uses have additional provisions for their review and implementation outlined in Article 6 of this Ordinance.
 - 1. These additional provisions were created in response to the particular and unique characteristics of the use to mitigate impact and protect the continued viability and personal enjoyment of adjacent properties and their use.
 - 2. Some uses listed under the districts do not have additional provisions provided for in Article 6. These uses are still eligible for review and approval as a special land use using the basic standards and provisions of the Ordinance.

SECTION 602 APPLICATION

- A. Any person with a legal interest in a property may apply for special land use review and approval. An application and required information shall be submitted to the

Zoning Administrator and must contain the following to be accepted for review by the Planning Commission and Township Board:

1. A completed application signed by the owner; if the owner is a corporation, a corporate officer must sign the application; if the owner is a partnership, a general partner must sign the application; if the owner is an individual, each individual owner must sign the application. If the owner(s) is not the applicant, the applicant must provide a statement from the owner that the applicant has permission to proceed. Such statement shall include a detailed description of the proposal.
 2. Payment of review fees as adopted and published by the Township.
 3. Ten (10) copies of a site plan showing information as required under Section 504. A narrative report shall accompany the site plan providing a description of the project, discussing the concept and feasibility of the project. Additional copies may be requested by the Zoning Administrator as necessary.
 4. It shall be incumbent upon the applicant to also furnish adequate evidence in support of the proposed special land use complying with the provisions of this Ordinance. It shall be the obligation of the applicant to furnish sufficient evidence, or proof, of present and future compliance with the provisions of the Ordinance.
- B. Upon receipt of a petition for special land use approval, the Zoning Administrator and/or their assigns shall review the application for completeness. An application that does not contain the information required by this Ordinance shall be returned to the applicant and shall not constitute an official application for special land use approval.
1. An application that contains the information required by this Ordinance shall be scheduled for a public hearing before the Planning Commission. The application must be submitted no less than thirty (30) days before the next available Planning Commission meeting to be considered for placement on the agenda.
 2. Upon notification of a complete application from the Zoning Administrator, the Clerk shall provide public notice for the public hearing at which the application for special land use approval and a site plan will be heard. The Clerk shall provide public notice under Section 206.A & B.
 3. By submission of a petition for special land use review and approval, the applicant grants permission to the Zoning Administrator, members of the Planning Commission and Township Board the right to enter and access property under petition to review condition and situation of the property in order to make informed decisions.

- C. Until a petition for special land use, as prescribed herein, has been approved and until proper zoning and building permits have been granted pursuant to the special land use approval, there shall be no excavation of land, construction of structure or infrastructure, or shall there be made any use of land related to the petition for the special land use.

SECTION 603 PROCEDURE FOR REVIEW AND DECISION

- A. The Planning Commission shall conduct a public hearing regarding the petitioned special land use. Following the public hearing, the Planning Commission shall review the petitioned special land use and a site plan and shall take one of the following actions:
 - 1. Recommendation of Approval - Upon finding that the site plan meets the criteria and standards set forth in Sections 504 and 506, the provisions specific to the use being petitioned for as found in Article 7, and the petitioned special land use meets the basis of determination provisions under Section 604.A, the Planning Commission shall recommend approval (with or without conditions) of the special land use and site plan to the Township Board.
 - a. The Planning Commission shall make findings based on the particular facts of the petition and the analysis of conformance and compliance with the provisions of this Ordinance. These findings shall be described in a statement of conclusions formulating the basis for the decision.
 - b. If conditions are determined to be necessary to the approval of the special land use petition, the conditions shall be determined based upon the provisions of Section 604.C.
 - 2. Postponement - Upon finding that the petition for special land use approval does not meet the criteria and standards set forth in in Sections 504 and 506, the provisions specific to the use being petitioned for as found in Article 7, and the petition does not meet the basis of determination provisions under Section 604.A, but the petition could meet such criteria if revised, the Planning Commission may postpone action until requested revisions are submitted. If revisions are not submitted within three (3) months of the action to postpone by the Planning Commission, the petition shall automatically be null and void.
 - 3. Recommendation of Denial - Upon finding that the petition for special land use approval and site plan do not and cannot meet the criteria and standards set forth in Sections 504, 506, 604.A and specific provisions set forth in Article 7, the Planning Commission shall recommend denial of the petition to

the Township Board. In doing so, the Planning Commission shall define its rationale in a statement of conclusions formulating the basis for the decision.

- B. Upon receiving a recommendation from the Planning Commission, the Township Board shall review the petition for special land use, including the site plan, and the recommended conditions and revisions forwarded by the Planning Commission. Taking into consideration the recommendations of the Planning Commission and the criteria and standards set forth in Section 604.A, the Township Board may accept, modify or reject the recommendation of the Planning Commission and shall approve, approve with conditions, deny, or postpone the petition for special land use approval. The Township Board may also refer the petition back to the Planning Commission for additional consideration.
- C. If the petition for special land use is approved (with or without conditions) a final site plan must be approved pursuant to the provisions of Article 5 prior to commencement of use of land or structure for which the special land use was approved.

SECTION 604 BASIS OF DETERMINATION AND CONDITIONS

- A. The Planning Commission and Township Board shall review the particular circumstances of a petition for special land use review and approval in terms of the following standards, and shall grant its recommendation of approval or approval only upon a finding of compliance with each of the following standards (including applied conditions) as well as applicable standards established elsewhere in this Ordinance.
 - 1. The proposed use, activities, processes, materials, equipment and conditions of operation will not be detrimental to the public welfare, persons or property by reason of excessive noise, fumes, dust, glare, traffic or objectionable odors.
 - 2. Essential public facilities and services such as roads, fire and police protection, drainage facilities, refuse disposal, schools are adequate for the proposed use or are capable of being adequately provided for.
 - 3. Requirements for additional public services and facilities that will be created by the proposed use will not be detrimental to the economic welfare of the community.
 - 4. All standards set forth in this Ordinance will be complied with, including any standards set forth in this Ordinance for a particular use.
 - 5. All administrative requirements pertaining to the issuance of a special land use approval have or will be complied with.

6. The proposed use, activities, processes, materials and equipment and conditions of operations shall be consistent with the goals, objectives and policies of the Master Plan.
 7. The proposed land use or activity is compatible with the adjacent uses of land and natural environment.
- B. The Planning Commission has the ability to recommend conditions necessary to insure compliance with the preceding standards and other provisions of this Ordinance. Such conditions shall be enforced by the Zoning Administrator and shall be recorded in the record of the approval of the special land use. The Township Board shall have the ability to remove or add conditions without referral of the application back to the Planning Commission for additional review and recommendation.
- C. Conditions applied to a special land use approval shall adhere to the following standards and criteria:
1. Ensure that public services and facilities affected by a proposed use or activity will be capable of accommodating increased service and facility requirements.
 2. Promote and ensure compatibility with adjacent uses of land and to protect through screening and buffering.
 3. Protect and conserve natural resources and energy and to protect the environment and health, safety and welfare of the residents and future residents of the community.
 4. Promote the use of land in a socially and economically desirable manner and to protect the social and economic well-being of those who will use the land or activity, residents and property owners immediately adjacent to the proposed land use or activity, and the community as a whole.
 5. Be related to the valid exercise of the police power, and to the proposed use or activity.
 6. Meet the intent and purpose of this Ordinance and provisions outlined herein; be related to standards established in the Ordinance for the land use or activity under consideration; and be necessary to ensure compliance with the standards outlined as the basis for determination.

SECTION 605 PERFORMANCE GUARANTEE

- A. In reviewing a petition for special land use, the Planning Commission may recommend and the Township Board may require that a cash deposit, certified check,

irrevocable bank letter of credit, or surety bond be furnished by the applicant and/or property owner to ensure compliance with an approved special land use, including conditions ultimately approved. Such guarantee shall be deposited with the Township Clerk prior to issuance of any zoning or building permits.

- B. In fixing the amount of such performance guarantee, the Township Board shall limit it to reasonable improvements required to meet the standards of this Ordinance and to protect the natural resources or the health, safety and welfare of the residents of the community. Items included under the performance guarantee include, but not limited to roadways, lighting, utilities, sidewalks, screening and drainage. The term "improvements" does not include the entire project that is the subject of zoning approval nor to improvements for which a performance guarantee, or some other form of surety, is required pursuant to State law.

SECTION 606 SPECIAL LAND USE EFFECTIVE DATE AND EXPIRATION

- A. The approved special land use shall become effective upon determination of compliance with the final site plan.
 - 1. Land subject to a special land use approval may not be used or occupied for petitioned purposes until after a zoning permit for same has been issued pursuant to this Ordinance.
 - 2. No zoning or building permit shall be issued until compliance with the Township Board's approval of the special land use has been substantiated on the final site plan.
- B. A special land use shall be valid for as long as the use, permitted development and conditions continue in accordance with the recorded terms stated therein.
 - 1. For property under an approved special land use, the provisions set forth in Section 504 regarding commencement of construction must be met. If the permit holder fails to meet the provisions of Section 504, the special land use approval shall expire and shall be of no further force and effect.
 - 2. The Township Board shall assess, at the request of the owner of property affected by the special land use, if an extension is warranted due to unique or unusual circumstances that are beyond the control of the applicant and make recommendation to the Township Board.

SECTION 607 COMPLIANCE WITH SPECIAL LAND USE

- A. It shall be the duty and obligation of the party responsible for the special land use to at all times be in compliance with the requirements of this Ordinance and the

stipulations of the special land use approval under which their particular use is governed.

- B. The development, of which the site plan and use are governed by the special land use approval, is subject to inspection by the Zoning Administrator to verify compliance with the approval and this Ordinance.
- C. Failure to maintain compliance shall constitute a violation of this Ordinance and be subject to the penalties and remedies provided in Section 207 as a nuisance per se.

Page Intentionally Left Blank