

SPECIAL USE PROCEDURE

Introduction

The State of Michigan's Zoning Enabling Act No. 110 of the Public Acts of 2006, provides cities with the right to zone land within their boundary limits. The Act states that the legislative body of a city may establish districts or zones within which the use of land and structures may be restricted and regulated. These regulations are imposed in order to promote the health, safety and welfare of the city and its citizens. The City of Southfield's Zoning Ordinance describes the City's individual zoning classifications and lists the principal uses permitted within each district. These permitted uses represent the manner in which one's property may be utilized subject to the normal restrictions and regulations of the zoning district itself. However, these descriptions of permitted uses are not exclusive for many zoning classifications. Where other uses might be appropriate for a zoning district, but only under certain conditions, the Zoning Ordinance provides a process whereby these uses may be approved. The Zoning Ordinance specifies the allowable conditional uses, termed "special uses," for each zoning district, where applicable and prescribed the conditions which must be met in order to be acceptable. Permission for a special use is granted only by action of the City Council upon recommendation from the Planning Commission.

Special Use Principles

The majority of conditions which must be complied with under any special use classification are subjective in nature. Accordingly, the petitioner must insure that a strong and well-reasoned, persuasive case is presented in support of the request. Careful consideration of the following questions will aid in this respect.

- (1) Does the proposed special use have advantages over normal development as allowed by the Zoning Ordinance?

As an example, a cluster housing development might present advantages over single family units where it would allow increased open space as insulation from adjacent freeways or avoid the destruction of the area's natural features such as trees or a habitat for wildlife.

- (2) Is the proposed use compatible with its surrounding area:

In order to receive favorable consideration, a special use must be of such size and character so as to be in harmony with the surrounding community,

- (3) Is the proposed special use of specific value to the community?

The proposed use should satisfy the needs of the surrounding community. If one wishes to construct a senior citizens housing project in a Regional Center (RC) district, it should be demonstrated that a substantial number of elderly people live in the area and that the necessary services are available to accommodate an elderly development.

- (4) Would the proposed use be in accordance with the spirit and purpose of the Zoning Ordinance?

The special use should be consistent with the objectives of the specific zoning classification and in accordance with the principles of sound planning.

- (5) How will the proposed special use alter the traffic situation in the area:

Would the proposed use cause traffic generation such that it would have an adverse effect on surrounding land uses or adjacent roadways? Excessive road congestion, as a result of the use may be grounds for denial.

- (6) May the proposed special use be perceived as a public nuisance?

The location, dimensions, intensity, and hours of operation of the proposed use must be designed so as to eliminate any possible nuisance to the surrounding area.

- (7) Would the activity of the proposed use cause any by-products detrimental to the immediate area?

This would include excess noise, dust, dirt, glare, fumes and/or odors.

- (8) Would approval of the proposed special use request entail requirements not normally applied to that use?

Inherent in the approval of a special use for some districts is an alteration of requirements in relation to the development of a special use. These requirements could include increased setbacks, screening, landscaping, signing, location of driveways, etc., which may be necessary to insure compatibility with the surrounding district and uses.

Deciding which conditional uses are appropriate is done on a case-by-case basis. Generally, the Zoning Ordinance states that conditional uses should not be detrimental to the surrounding area and should be consistent with the intent of the ordinance. In order to assure this, specifications or conditions of approval may be made when special uses are granted.

The Participants in the Special Use Process

There are five (5) major participants in the special use process. These include: (1) Petitioner, (2) Planning Department, (3) Planning Commission, (4) City Council, and (5) Public.

Petitioner -- It is the responsibility of the petitioner to present the case and justify its location and approval as a special use in the respective zone.

Planning Department -- Staff will review the application and formulate a series of facts relative to the request and its compliance with ordinance requirements.

Planning Commission -- A seven (7) member advisory board will conduct a public hearing on the request and submit a recommendation to the City Council.

City Council -- The seven (7) member elected body will conduct a public hearing on the request and render a final decision in reference to the request.

The Special Use Process

- Step 1: Obtain the special use application from the Southfield Planning Department.
- Step 2: File the special use application and required copies of the site plan to the Southfield Planning Department with filing fee.
- Step 3: The Planning Department will review the request to determine its compliance with the special use requirements.
- Step 4: The Planning Commission will study the request and schedule a public hearing. The regular meetings of the Planning Commission are normally held on the fourth Wednesday of each month at 6:30 p.m.

Notification of the public hearing is published in the City's official newspaper not less than fifteen (15) days prior to its scheduled date. In addition, notification of this meeting is sent to the petitioner, the property owner, the owners of property within 350 feet of the requested special use, residents or occupants of structures within 350 feet, utility companies, and to any registered civic associations in the area of the special use request.

- Step 5: The Planning Commission will conduct a public hearing and make a recommendation to the City Council.

The City Planner will present the special use request using a videotape which includes maps, drawings and photographs, and the Planning Department's findings of fact and recommendation.

The petitioner then has an opportunity to make a presentation to the Planning Commission following which the hearing will be opened to the public. The public may present their views in support of, or against the petition and ask any questions regarding the petition.

After the public has had a reasonable opportunity to be heard, the Chairperson will close the hearing to the public. The Commission may then have discussion after which they will make a recommendation to approve or deny the request.

- Step 6: The Planning Commission's recommendation is forwarded to the City Council for their consideration. At this time, additional copies of the site plan will be required for the City Council. The Council will schedule a public hearing for one of their regular meetings.

Regular meetings of the City Council are normally held on the second and fourth Monday of each month at 7:00 p.m.

Notices will be sent to the petitioner, the property owner and owners of property within 350 feet of the requested special use regarding the time and date of the Council meeting.

In addition, a legal notice will be placed in the City's official newspaper not less than fifteen (15) days prior to the hearing.

Step 7: The City Council will conduct a public hearing and render a decision. The public hearing before the City Council will follow the same format as the Planning Commission hearing. At the conclusion of the hearing, the City Council will vote and either approve or deny the requested special use.

In approving the special use, the City Council may attach conditions regarding the location, character and other features of the proposed use as they deem reasonable. The Council's decision becomes effective immediately.

Special use approval becomes void after eighteen (18) months for the Office-Service (O-S) District. If construction has not been initiated, extensions of this time period may be granted if a written request is made to the City Council. Extensions are for a period of twelve (12) months.

Fees

Title V, Zoning and Planning, Chapter 45, Zoning, of the Code of the City of Southfield provides that:

5.144 Fees

The City Council may, from time to time, prescribe and amend by resolution a reasonable schedule of fees to be charged to petitioners for amendments to this Chapter and for the review of site plans in accordance with the provisions of this Chapter.

The following represents the fee required by the Planning Department of the City of Southfield during the special use review process:

Application fee	\$600
Items withdrawn by petitioner prior to public notification	25% of original filing fee
