§ 156.077 SPECIAL USES.

(A) There are occasions where following the strict letter of this code is not feasible or desired. This section provides remedy for those instances, by allowing owners of property to receive a special use permit which authorizes a use or uses in a zoning classification in which the uses are not permitted uses, after public hearing by the Advisory Board of Zoning Appeals and review by the Common Council. The establishment of any of the following uses shall require a special use permit:

(1) Any public building erected and used by any public agency;

(2) The extraction of raw materials such as rock, gravel, sand, clay and the like;

(3) Hospitals, clinics, clubs and institutions; provided, however, that the buildings or uses will be located upon a lot of sufficient area and shall be of a character that they will not have any serious and depreciating effects upon the value of the surrounding area; and provided, further, that the required building setback shall be established as a condition of the special use permit;

(4) Recreation field;

(5) Heliport or landing field for aircraft;

(6) Greenhouses; provided that any structures shall not be less than 75 feet from all property lines;

(7) Riding stables;

(8) Temporary and seasonal uses, including roadside stands and recreational and amusement uses;

(9) Structures with drive-through facilities;

(10) Public storage facilities;

(11) Towers and/or other facilities for wireless communication, not associated with a principal use;

(12) Waste transfer station;

(13) Trucking company;

(14) Storage of slag, stone, cinder, coal, explosives, fireworks, toxic materials and/or hazardous materials;

(15) Nonresidential uses in residential zoning classifications, other than permitted uses;

(16) Handling, processing, and/or manufacture of acid, cement, lime, gypsum or plaster of paris, explosives, fireworks, and ammunition, toxic materials and/or hazardous materials;

(17) Packing plants and/or slaughter yards;

(18) Crushing or pulverizing of slag, stone, cider, coal or similar materials;

(19) All steel pickling processes and other pickling processes of any nature;

(20) (a) Floodplain (FP) District and Floodway (FW) District. The following special uses may be permitted in the Floodplain District or Floodway District only after all required permitting by other agencies with floodplain or flood way jurisdiction have been obtained. Any special use permit issued shall include all terms and conditions imposed by other permitting agencies, and additional restrictions may be imposed. All buildings, structures and additions to existing buildings and structures shall have flood protection grades not less than two feet above the regulatory flood profile.

1. Water management and use facilities, such as dams, docks, Dolphins, channel improvements, dikes, jetties, groins, marinas, piers, wharves, levees, seawalls, flood walls, weirs and irrigation facilities;

2. Transportation facilities, such as streets, bridges, roadways, fords, airports, heliports, pipe lines, railroad and utility transmissions facilities;

3. Temporary or seasonal floodplain occupancy;

4. Water-related urban uses, such as wastewater treatment facilities, storm sewers, electric generating and transmission facilities and water treatment facilities;

5. Other flood tolerant or open space urban uses such as flood proofed buildings, race tracks, tennis courts, park facilities, outdoor theaters, fills, truck freight terminals, radio, television or wireless communication towers, parking lots and mineral extractions; and

0. Residential structures constructed on the building site so as to minimize obstruction to the flow of floodgates.

(b) Flood proofing of nonresidential structures, if proposed, must be in accordance with the definition of a flood proofed building as set forth in this municipal code and must be so certified by a professional engineer or a registered architect licensed to practice in the state.

(21) Planned unit development (PUD). PUDs are special uses. In addition to review of the above-stated criteria, PUDs must have;

(a) Minimum site area of one acre;

(b) Uniform control, either by ownership or written agreement, of all uses and activities within the PUD;

(c) An approved concept plan set which includes a site plan, engineering plan, landscape plan and architectural plans which depict the intent of the proposal. The plans shall be drawn at a scale as approved by the City Planner and shall identify proposed uses, buildings and structures, roadways, parking, pedestrian circulation, common open spaces and landscape areas; and shall identify the means by which the proposal will be constructed and serviced;

(d) A written description accompanying the concept site plan outlining the intent of the site plan, including a phasing plan if applicable;

(e) A written estimate of construction costs for all buildings and site improvements, with subtotals for major development features;

(f) Declarations and covenants, and restrictions proposed; and

(g) Additional information as required by the Plan Commission.

(22) Tattoo and body piercing establishments;

(23) Boardinghouses and lodging houses;

(24) Landfills;

(25) Tank farms also known as oil depots or oil terminals, defined as one or more tanks constructed or erected to store crude oil and/or petroleum products;

(26) Outdoor storage of vehicles as principal use.

(B) Upon petition to the Advisory Board of Zoning Appeals (BZA) for a special use, the BZA shall hold a public hearing in conformance with Indiana Code and BZA Rules of Procedure. The BZA shall make findings of fact determining whether the proposed special use:

(1) Promotes the public interest;

(2) Promotes the public health, safety and welfare;

(3) Promotes public convenience;

(4) Does not adversely affect property values in the surrounding area;

(5) Conforms to the purpose, intent and spirit of the zoning regulations;

(6) Is compatible with the surrounding area;

(7) Is not detrimental or injurious to the surrounding area; and

(8) Does not create excessive nuisance in the surrounding area.

(C) The BZA shall forward the petition with the BZA recommendation, if any shall be made, to the Common Council of the city. The Common Council may, after review of the petition and findings of fact, issue a special use permit. The special use permit may be issued for a particular period of time, set a time for review of the use, and/or have conditions attached thereto. (Ord. 0-00-0016, passed 6-15-2000; Ord. 0-09-0015, passed 7-13-2009; Ord. 0-11-0009, passed 6-27-2011) Penalty, see § 156.999