

SPECIAL USE PERMITS (INCLUDING PLANNED UNIT DEVELOPMENT) Aug. 2003 **How to Participate in the Zoning Process**

This flyer is to help you to be effective in making your views known on a proposed special use permit. You may have received this flyer because you are within 300 feet of the proposal location. You can be involved in the review of the proposal. This flyer is to help you prepare for a hearing or meeting on the proposed permit at your planning commission/zoning board.

Material you present should focus on "Standards." The standards, found in the zoning ordinance, are the basis for which a proposed special use permit is granted or denied. In Michigan, if all the standards are met; then the planning commission/zoning board must approve the proposed special use permit.

Educate Yourself on the Proposed Permit.

Before the public hearing, or meeting on the proposed special use permit request a full copy of the special use permit application and a copy of all the standards in the zoning ordinance for special uses. (You might consider obtaining a copy of the entire zoning ordinance.)

Next, review the application against the standards. Standards are found in up to four places in a zoning ordinance, (1) in the article on special uses; (2) in the article on the respective zoning district (setbacks (front, rear, side, waterfront), parcel size, parcel width, building size, etcetera); (3) in the article on general provisions (regulations that apply everywhere such as parking, screening, groundwater protection, etcetera); (4) sometimes there will also be specific standards for a specific type of special use (such as mining, mobile home parks, heavy industry, etcetera). If you do not like the standards in the zoning ordinance, because they are too strict or not strict enough, then seek to amend the zoning ordinance to change the standards for future cases.

Then, prepare a submission for the hearing/meeting. This can be oral or written. In the submission you should focus on the facts, and on the standards. In your testimony answer the questions "Does the proposed special use meet the standards?" and "Does the proposed special use fail to meet one or more standards?" For example many zoning ordinances have a standard that is about the proposed special use being

"Thirty seven million acres is all the Michigan we will ever have."

*Former Governor
William G. Milliken*

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compatible with neighborhood. This is a discretionary standard and residents in the area may have a large influence. Another example is a standard that speaks to being within capacity of infrastructure (water, sewer, public roads, etc.). This is also a discretionary standard and people in a neighborhood, and government agencies can provide facts to help decide this.

Attend the Public Hearing/Meeting

Provide each member of the planning commission/zoning board, recording secretary, and planning staff, a copy of your submission in writing. Everyone who wishes to speak will be given a chance to do so. When at the hearing/meeting always wait for the chair of the meeting to acknowledge you before speaking. Always speak to, or address, the chair. Begin by stating your name and where you live, if pertinent. Orally summarize the major points in your written submission. In order that everyone has a chance to be heard, there may be a time limit for each person and other rules. Be sure to stay within the time limit (if any).

Protect your Credibility

Your credibility is your most important commodity. Make sure statements made are true and can be verified. Do not be emotional, but focus on the facts. Cite your sources (use footnotes or attach a copy or summary).

When doing research do not use just any "study." There are good and bad research/studies. It is important to know the four standards of good research:

1. Was the data "double blind?" (The subject of the study did not know which side of the question they represented.)
2. Was the study peer-reviewed? (Published in a research journal, at a university.)
3. Can the study be repeated and get similar results? (Is there multiple studies with similar results)
4. The researcher does not have a stake in the outcome.

Finally, remember that planning staff working for government should remain "professional." That means it is okay to seek help from the zoning administrator and/or staff planner and/or consulting planner. But remember what these people say or do should reflect their legal obligation or the views and wishes of who they work for. It does not necessarily reflect their personal view. You should not criticize staff at a personal level. Focus your comments on the issue, not the person.

File an Appeal

If one is not happy with the outcome, an option exists to file an appeal. Most communities do not allow for an appeal of a special use permit decision with the local zoning appeals board. In those communities the appeal is to circuit court. But an appeal to the appeals board can be made on issues concerning the site plan review, finding of facts, and any decision made by the zoning administrator.

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Zoning is and is not

Zoning is supposed to be about the use of land, the impact on land and adjacent land uses.

Zoning is not:

- a. to promote/oppose economic, racial, or religious views.
- b. enforcement of private deed restrictions.
- c. a solution for neighborhood feuds or personal quarrels.
- d. a promoter of development (it merely permits it).
- e. a tool for the political arena (to reward/punish others).
- f. a public popularity contest – zoning decisions are to be based on facts, not majority of votes.

Zoning cannot regulate

As a general rule zoning cannot totally prohibit anything. (Must have a place for it somewhere when a need is demonstrated...); must allow continued use of nonconforming (grandfathered) land uses. Zoning can not regulate hazardous waste; solid waste facilities (landfills); utility lines; certain pipelines; prisons; oil and gas wells; surface coal mining; water pollution; non-point source pollution; fertilizer; Mackinac Island Park Authority activity; certain trails; State Police radio communication system; armories; nuclear power facilities; military facilities; Native American (Indian) tribe activity on tribal land/in "Indian country"; public schools; certain colleges and universities; county buildings; the municipality which adopted the zoning ordinance. There is limited zoning jurisdiction for interior design of mobile home parks; United States Government; "open space"/"cluster" development; mobile homes; "state licensed residential facilities"; craft/fine art home occupations; day-care in a county or township; manure, pesticide nutrient, care of farm animals, cranberry production, site selection and odor control of livestock production on a farm; and billboards under county zoning. Zoning can regulate, but not prohibit religious activities/land uses; adult entertainment/sexually oriented businesses; satellite dishes; cellular telephone towers; shooting ranges.