

## Article 9

# Special Use Permit Procedures

**9.01 Purpose:** In order to provide for uses that require particular consideration in each case because of the nature of the use and its effect on its surroundings or the County, the following procedures are established.

**9.02 Special Use Permit Procedure:**

- A. Purpose: Special uses are those types of uses which are considered by the County to be essentially desirable, necessary, or convenient to the community, but which by their nature or in their operation, have (1) a tendency to generate excessive traffic, (2) a potential for attracting a large number of persons to the area of the use, thus creating noise or other pollutants, (3) a detrimental effect upon the value or potential development of surrounding properties, or (4) a potential for creating an otherwise public nuisance.
- B. Procedures: A Special Use Permit may be initiated by a verified application of one (1) or more of the owners of record or owners under contract of a lot or tract of land, or their authorized representatives, or by the Hearing Officer or by the Board. Procedures for application, review, and approval of a Special Use Permit shall be as follows:
  - 1. Preapplication Conference: Prior to filing any application for a Special Use Permit, the prospective applicant shall request a pre-application conference with the Zoning Administrator. The prospective applicant shall be prepared to discuss the general nature, location and potential impact of the proposed land use on the surrounding area.
  - 2. Application: Application for a Special Use Permit for a specific tract of land shall be filed with the Zoning Administrator. The application shall be filed on forms prescribed for that purpose and be accompanied by the following:
    - a. Filing fee per requirements of the County.
    - b. Legal description of the property.
    - c. Outboundary plat of the property.
    - d. Site Plan: Any of the following may be required:
      - 1. Approximate location and designated uses of buildings and other structures as well as parking and open areas shall be indicated.
      - 2. Existing and proposed contours at vertical intervals of not more than five (5) feet referred to sea level datum.
      - 3. Flood plain areas shall be delineated.
      - 4. Approximate location of all isolated trees having a trunk diameter of six (6) inches or more, all tree masses and proposed landscaping.
      - 5. Two (2) cross section profiles through the site showing preliminary building form, existing natural grade and proposed final grade.
      - 6. Proposed ingress and egress to the site, including adjacent streets.
      - 7. Preliminary plan for provision of sanitation and drainage facilities.
      - 8. Other such pertinent information as may be required by the Zoning Administrator.
  - 3. Burden of Proof: In presenting any application for a Special Use Permit, the burden of proof shall rest with the applicant to clearly establish that the proposed special use shall meet the following criteria:
    - a. The proposed special use complies with all applicable provisions of the applicable district regulations.
    - b. The proposed special use will not be unreasonably detrimental to the value of other property in the neighborhood in which it is to be located or the public welfare at large.
    - c. The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the special use will not dominate the immediate neighborhood so as to prevent development and use of neighboring

property in accordance with the applicable zoning district regulations. In determining whether the special use will so dominate the immediate neighborhood, consideration shall be given to:

1. The location, nature and height of buildings, structures, walls, and fences on the site; and
  2. The nature and extent of proposed landscaping and screening on the proposed site.
- d. Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations.
  - e. Adequate utility, drainage, and other such necessary facilities have been or will be provided.
  - f. The proposed uses, where such developments and uses are deemed consistent with good planning practice, or can be operated in a manner that is not detrimental to the permitted developments and uses in the district; can be developed and operated in a manner that is visually compatible with the permitted uses in the surrounding area; shall in all other respects conform to the applicable regulations of the district in which it is located; and are deemed essential or desirable to preserve and promote the public health, safety, and general welfare of DeKalb County.
4. Review Procedures:
- a. Upon receipt of a completed application, the Zoning Administrator shall institute an administrative review of the application and site plan by all affected County departments. The results of this review shall be reported to the Hearing Officer for his consideration. The Hearing Officer shall hold a Public Hearing on the application not later than the second regular meeting after all required documents are filed. The Hearing Officer shall recommend approval with specified conditions or denial of the application and shall file its report and recommendation with the Board.
  - b. An application must also be made to the DeKalb County Soil and Water Conservation District for a natural resources report and a land evaluation and site assessment review for any land to be converted from an agricultural use to a nonagricultural use. These applications shall be filed no less than thirty (30) days prior to the date of the zoning hearing. All data generated by the natural resources report and the land evaluation and site assessment review will become part of the public record, and selected portions will be forwarded to the Hearing Officer and the County Board as a part of the Planning Department's land use review.
  - c. The Hearing Officer shall hold a Public Hearing on the application after all required documents are filed. The Hearing Officer shall recommend approval with specified conditions or denial of the application and shall file its report and recommendation with the Planning and Zoning Committee.
  - d. Notice of the time and place of such hearing shall be published in a newspaper of general circulation in the County not less than fifteen (15) days before such hearing. A copy of such notice shall be mailed to the clerk of each municipality, the corporate limits of which lie within one and one-half (1-1/2) miles of the land proposed to be reclassified. Supplemental or additional notices may be published or distributed as the Hearing Officer may, by rule, prescribe from time to time. Additionally, a copy of such notice shall be mailed to owner(s) of record of all properties adjacent to the parcel(s) included in the application.
5. Decisions: The DeKalb County Board decides Special Use Permit applications. After consideration by the Planning and Zoning Committee, the recommendation and findings of the Hearing Officer shall be forwarded to the County Board. The County Board, without further public hearing may then grant or deny any proposed special use permit, or may refer it back to the Hearing Officer for further consideration.
6. Permit Effective: The permit shall become effective upon approval by the Board. In the event that a Special Use Permit is filed in conjunction with a change of zoning, the permit shall not become effective until the date of enactment of the ordinance authorizing the zoning change. In the event that some additional approval is required by some other governmental

- authority or agency, the permit shall not become effective until that approval is received.
7. Time Limit of Special Use Permits: Special Use Permits shall be valid for an unlimited period subject to the requirements of Article 9, Section 9.01.B.8. unless a lesser period shall be provided in a particular permit. Prior to the expiration of the time limit specified in a particular permit, the property owner may request that the Special Use Permit be reviewed by the Board, which may extend it for an unlimited period or for a specified additional period of years.
  8. Failure to Commence Construction or Operation: Unless otherwise stated in the conditions of a particular Special Use Permit, substantial work, construction, or operation of the special use where construction is not required, shall commence within one (1) year of the effective date of the permit unless such time period is extended through appeal to and approval by the Committee. If no appeal is made, or no extension of time is received or granted, the permit shall immediately terminate upon expiration of the one (1) year period.
  9. Discontinuance of Activity. Upon a determination of the Zoning Administrator that all activities as permitted pursuant to an approved Special Use Permit have ceased for a period of one (1) year or more, the permit shall be considered to be expired. In the event that the County Board did not approve a Special Use by adoption of an ordinance, the Special Use Permit shall automatically terminate upon a determination of the Zoning Administrator that the activity(s) has ceased for a period of one (1) year or more. Further, a Special Use Permit shall terminate upon receipt by the County of a letter or affidavit from the entity to who a Special Use Permit has been granted or who operates a Special Use, asserting that the use will not be commenced or will halt.
  10. Revocation of Special Use Permit: Upon a determination of the Zoning Administrator that an approved Special Use Permit will or has become unsuitable or incompatible in its location as a result of any nuisance or activity generated by the use, the Board shall have the authority to revoke the permit after affording the permittee the right to be heard.
  11. Transferability: All Special Use Permits shall be approved for a specific location, and may not be transferred to any other location by the applicant or successor property owners.
  12. Special Change on Property Governed by a Special Use Permit: Whenever a property owner or occupant of property, which contains a use of type that requires a special use permit and for which such a permit has been approved, desires to make a change to a building or structure located on the property, then such change may be acted upon by the Zoning Officer by means of an application for a zoning clearance and without the necessity of obtaining a modification of the special use permit for the property, provided the proposed change complies with all of the following:
    - a. The result of the proposed change shall be that the property will still be in substantial compliance with the previously approved plot plan, and none of the conditions previously imposed at the time of approval of the special use permit by County Board will be negated or changed.
    - b. The proposed change will, in the opinion of the Zoning Officer, result in a better utilization of the property or a more efficient and desirable use of the land.
    - c. The proposed addition, enlargement, or change of any building or structure on the property will not infringe upon or extend into any required building setback, off-street parking or loading space, or distance between building area.
    - d. The amount of land to be covered by the proposed addition, enlargement, or change will not be more than ten (10) percent of the amount of land covered by all existing buildings or structures on the property; and the floor area added because of the proposed addition, enlargement, or change shall be not more than ten (10) percent of the total floor area of all existing buildings on the property.
    - e. If the proposed addition, enlargement, or change will result in a requirement for additional off-street parking or loading spaces, then such spaces shall be provided as required by the applicable zoning ordinance provisions.
    - f. The proposed addition, enlargement, or change shall not result in a violation of any previously imposed condition, nor shall it result in an enlargement or increase of any previously approved variation.
    - g. The type of land use shall remain the same as was approved by means of the special

use permit approved for the property.