

Special Exceptions

Overview

The Citizens Zoning Review Committee (CZRC) met on April 24th, 2003 to discuss the Special Exception theme. The CZRC discussed all of the current Special Exception uses as well as the role of the Planning Commission, and the Board of Appeals with regards to approvals.



Discussion Points and Recommendations

A. Specific Criteria for Special Exception Uses

Under this theme the CZRC considered several questions: specific criteria, lighting, signage, road standards for access, design guideline criteria and specific conditions for Special Exception Uses.

- Members of the Committee supported relaxing the more rigid conditions utilizing the performance standards, specifically noting lighting, signage and road standards for access, use of design guideline criteria and specific conditions for all Special Exception categories.
- The Committee recommends that specific standards for lighting and screening from adjoining properties be developed that allows the Board of Appeals some flexibility. It was noted that the application and definition of a "Glare" provision is difficult with a rigid standard, intent should be on how it impacts an adjoining property.
- There was consensus that signage requirements should be based on the zoning district and not the specific use within a zoning district, to allow for flexibility rather than the more restrictive signage provisions in each Special Exception. The Board of Appeals and the Planning Commission could deal with signage on a case by case basis. The Committee noted that the specific use is what is being considered for a special exception and the allowed signage should not be any less than what would normally be permitted.
- The Committee voiced a preference that road access and road standards should be more general, standardized and tied to a specific use and these provisions should be less subjective.
- The Committee also recommends that hours of operation should be considered as part of the performance standards.

B. Specific Conditions for Special Exception Uses

The CZRC reviewed individually the specific conditions of approval as outlined in Section



1-19-376 to 410 for the various uses. The Committee submits the following for consideration relating to the question of Special Exception uses:

Commercial Greenhouses or Nurseries in the RC and A districts

- The CZRC notes that the signage provision is adequate as written.

Travel Trailer Parks in the A and HS districts

- The CZRC supports consulting other jurisdictions and recommends reviewing the current density standards used to determine intensity of use.

Tent Campground in RC districts

- The County should consult other jurisdictions, noting that the density appears to be too low. A more practicable standard, which would compare to the Travel Trailer density provisions should be established.

Antique, Artisan and Craft Shop in RC districts

- The CZRC submits that no changes be made to this section.

Aircraft Landing and Storage Areas in A, LI and GI districts

- The CZRC noted a preference for adding provisions for helicopters in the LI and GI districts rather than only the fixed wing regulations for private airports.
- The Committee discussed limiting the number of takeoffs as a way to limit the commercial use, and look at other jurisdictions and how they have planned for such uses with the possibility of using a floating zone or other type of optional method of development mechanism.

Farm Equipment Sales or Service, Feed or Grain Mills in the A district or Agricultural Wholesaling or Processing in A and RC districts

- The CZRC recommends that no changes be made to this section.

Professional Offices in R-5, R-8, R-12, and R-16

- The CZRC submits that no changes be made to this section.

Auto Repair Body and Fender Shops in VC district

- The CZRC advises that sound standards, in this section be reviewed.

Kennels, Animal Hospitals or Veterinary Clinics in A, VC, GC districts and Kennels in the RC district

- The CZRC supports placing a limit on the maximum number of animals permitted, this is related to the noise issue.

Tennis Clubs in R-3, R-5, R-8, R-12, and R-16 districts

- The CZRC submits that no changes be made to this section.

Camps or Retreats in RC and A districts

- The CZRC recommend that other municipalities be consulted and that the density be reviewed, along with road standards, and adding Clubs with outdoor activities which should have more restrictive standards.



Child Care Centers or Nursery School in A, R-1, R-3, R-5, R-8, and LI districts

- The CZRC proposes that noise abatement provisions, appropriateness of current standards and that the Code of Maryland rules should be reviewed and used as a reference.

Nongovernmental Utility in RC, A, R-1, R-3, R-5, R-8, R-12, R-16, and VC districts

- The CZRC submits that there be a distinction between public utilities and non regulated utilities.

Trap, Skeet, Rifle, and Archery Ranges, and Hunting, Fishing and Gun Clubs in the RC and A districts.

- The CZRC recommends that the noise abatement provisions be strengthened, BOA standards be considered, and accepted noise measuring standards as established by the State, or nationally recognized standards be used.
- The Committee notes that current State law specifically for Frederick County exempts certain uses in this category.

Private Schools in the RC, A, R-1, R-3, R-5, R-8, R-12, R-16, VC, and LI districts

- The Committee supports review of current density standards of other jurisdictions and that arbitrary standards for public schools should not be applied across the board to the private schools.

Communication Towers in RC and A districts

- Since the current section was recently updated the CZRC voiced a preference for no changes.

Country Inns in RC and A districts

- The CZRC advises that new structures should be allowed rather than limiting this to existing structures built with an arbitrary date, adjusting the date to allow more recently built structures, and adding a clear definition of Country Inns.

Schools in the RC district

- The CZRC proposes to remove schools completely from the RC district, therefore the conditions would not apply.

Gasoline Storage Tanks in A and Residential districts, except farm lots

- The CZRC voiced support for referencing State and Federal regulations, requiring all storage tanks to be above-ground, and reducing the capacity of the tanks.

Nursing Homes in A district

- The CZRC preference is to eliminate this use from the A district.

Storage of Flammable Liquids in the GC and HS districts

- The CZRC noted the need for referencing State and Federal regulations, that all storage tanks should be above ground , that tank farms should be allowed in the GI zone with standards.



Horse, Tack and Saddlery Shop in the A district

- The CZRC submits that no changes should be made to this section.

Automobile Repair Shop in A and LI districts

- The Committee recommends that measurable noise standards be added, also noting that the LI provisions seem too restrictive.

Truck Stops in the HS district

- The CZRC advises a need for further review to see if standards are current.

Storage of Explosive Material in A district

- The Committee voiced a preference for eliminating this use in the RC district and referencing the updated National Fire Protection Code.

Golf Driving Range in A district

- The CZRC supports making "hours of operation" a general standard for Special Exceptions and deleting this requirement from the specific criteria.
- The Committee recommends adding a requirement to prevent glare onto roadways from artificial lighting, and delete the duplicate requirement for Comprehensive Plan consistency that is already covered in the general criteria.

Solid Waste Operations in A and GI districts

- The CZRC prefer that minimum size provisions be reviewed and changed. Review County Government Solid Waste Transfer Stations being permitted in the VC district.

Accessory Apartments in all districts

- The CZRC noted that the use of compatibility requirements, that are definitive and enforceable, should be included, and the 600 square foot size requirement should be reviewed for possibly increasing the square footage but a maximum size still needs to be in place.

Chip and Putt Golf Courses in the LI district

- The CZRC submits that Chip and Putt Courses should not be changed.

Public Buildings and Properties in the RC district

- The CZRC advises that no changes be made.

Boarding House and Tourist Home in the RC district

- The Committee recommends that new structures should be allowed to provide for this use rather than limiting this to existing structures built with an arbitrary date, adjusting the date to allow more recently built structures, and adding a clear definition of Boarding House and Tourist Home.

Riding Stable, Commercial or Club in the RC district

- The CZRC supports adding clubs in the Agriculture zone as a Special Exception although this is in RC zone. Look at adding these uses in the AG zone, and treat them the same in both zones.



Place of Worship in the RC district

- The Committee supports more rigid conditions using the performance standards for road standards and access, based on the scale of the use.

Spring Water Harvesting in the RC district

- The CZRC prefers to let the State handle the regulation of this use unless the amount of water withdrawn is under the State limits, then our Special Exceptions provisions would apply.

Cemetery/Memorial Gardens in the RC district

- The CZRC proposes removing this from the RC district in the fringe area of a floodplain and not allowing in forested areas, but allowing in an area that is already cleared.

School Bus Parking in the RC, A and VC districts

- The CZRC recommends moving this use to the Automobile and Related Services category.

Rodeos in the A district

- The CZRC voiced a preference for no changes to this use.

Sports Training Facilities in the A district

- The CZRC noted that no changes should be made.

General Comments

- The Committee supports changing the designation/terminology of the uses from Special Exception to "Conditional Uses" in order that the term is better understood by the public. This would clarify the term with the understanding that the uses are legislatively permitted upon compliance with the conditions as set forth in the ordinance and are not really an "exception" to the regulations.
- The CZRC voiced a preference to keep the role that the Planning Commission currently plays in the special exception approval process the same. Although not a consensus item, some members would like to consider options for all special exceptions to come before the Planning Commission for recommendation with regards to a finding of consistency with the Comprehensive Plan. The only exception to this is Communication Towers and the Committee voiced a preference that they should come to the Planning Commission for a recommendation prior to the Board of Appeals determination with respect to site layout.
- The Committee also proposes using more of a performance approach for special exceptions but continuing the current process where the BOA adds conditions on a property for approval, with the intent of providing for flexibility in reviewing requests on a case-by-case basis.
- Finally, the CZRC noted that conditions that are made as part of a site plan approval should be enforceable.