

ARTICLE 1322

USES GRANTED UNDER SPECIAL CONDITIONS

1322.01 Purpose

This Article requires that the issuance of any zoning-building permit for any building or use of land requiring review by the City Planning Commission, as listed elsewhere in this Ordinance or below, shall be subject to site plan review and approval or disapproval by the City Planning Commission. This provision is set forth because of the considerable aesthetic, traffic, and overall land use impact that these land uses make on a community. The following requirements shall be adhered to in carrying out the purpose of this Article.

1322.02 Procedure

- (a) The site plan review procedure set forth in Section 1321.02 shall be followed.

1322.03 Court Appeals

Any person or persons, jointly or severally, aggrieved by any decision of the City Planning Commission may present to the Court of Common Pleas of Lehigh County and Northampton County, a petition duly verified, setting forth that such decision is illegal in whole or in part and specifying the grounds of the illegality. Such petition must be presented to the Court within thirty (30) days after the decision by the City Planning Commission.

1322.04 Special Conditions for Conditional Uses

The City Planning Commission shall approve any conditional use proposed if it finds adequate evidence that the use meets all the applicable requirements indicated below, complies with the Site Plan Review Criteria set forth in Section 1321.03 and complies with other applicable provisions of this Ordinance.

- (a) Airport. All airport construction shall be subject to review and approval by appropriate Federal and State agencies.
- (b) Community Center. The following minimum requirements shall be met:
 - (1) There shall be a one (1) acre minimum lot size.
 - (2) The Community Center shall be located on a major street and primary vehicular access shall be taken onto a major street from the Community Center.

- (3) A ten (10) foot buffer yard, in accordance with the provisions of Section 1318.23, shall be provided along the side and rear lot lines.
- (c) Department Store. The provisions of Section 1321, Site Plan Review Criteria, and Section 1318, shall be met.
- (d) Hospital, Nursing or Convalescent Home. The following minimum requirements shall be met:
 - (1) Lot area shall be not less than two (2) acres.
 - (2) Yards shall be at least twice the distance of the largest required yard space for the district in which it is located.
- (e) Industrial Park. In addition to the other regulations for this District, the following requirements shall apply:
 - (1) Each building shall be designed, insofar as practicable, so as to harmonize with, and not detract from the character of the surrounding area. The area surrounding each building shall be suitable and attractively landscaped. Particular emphasis shall be given to screening, parking and loading area.
 - (2) Each permitted use, other than a parking lot or an off-street parking facility, shall be conducted within a completely enclosed building. Any outdoor storage shall be enclosed by a dense planting, solid wall or fence so designed and constructed to be in architectural harmony with the main building. Said screen shall be not less than four (4) feet high and shall, in all cases, be of greater height than anything stored inside said screen. No storage area shall extend into any required yard nor be placed on that side of a building facing a street. The area of all outdoor storage shall be considered as floor area in computing lot coverage.
 - (3) Buffer yards, as required in Section 1318.23, shall be at least twenty (20) feet in width.
 - (4) Satisfactory provisions shall be made for storm drainage, sanitary sewerage, domestic water supply and for power and telephone services, the latter to be provided for by utility easements along rear and side lot lines and not along lot frontages.
 - (5) Vehicular access to a highway or street shall be controlled to maximize public safety and to avoid traffic congestion. vehicular access shall be limited to interior streets of the P-I District and not connect directly with expressways or arterial highways unless approved by the Planning Commission due to exceptional circumstances. Except for a lot or parcel

comprising two (2) or more lots which occupy a combined frontage on all abutting streets of over five hundred (500) feet, there shall be not more than two (2) access points serving any one (1) industry or ownership; one (1) additional access road shall be allowed for each additional five hundred (500) feet. No access road, excluding the entrance radius, shall be located at its intersection with the property line, less than one hundred (100) feet from the curb line extended paralleling such access road.

- (f) Multiple Family Dwellings. The following minimum requirements shall be met:
- (1) Minimum horizontal distance between facing walls of any two (2) buildings or one (1) building with facing walls shall be fifty (50) feet where two (2) facing walls both contain a window or windows and twenty-five (25) feet between two (2) facing walls only one (1) of which contains a window or windows. No two (2) buildings shall be closer than twenty (20) feet to one another.
 - (2) The proposed development shall be served by a public sanitary sewer system.
 - (3) The proposed use shall be designed as a single architectural project with approved landscaping as determined by the City Forester's Office and shall not materially detract from the character of the neighborhood.
 - (4) No building shall exceed one hundred sixty (160) feet in length, except in R-M Districts, where the maximum length permitted shall be one hundred eighty (180) feet, measured at ground level or any floor level, whether on one frontage, or on the combined frontages of the main frontage and that of any wings of the same building.
 - (5) In addition to the off-street parking provisions of Article 1319, the following additional requirements shall be required:
 - (I) All parking spaces and access drives shall be at least fifteen (15) feet from any multiple family dwelling on the lot.
 - (II) No one area for off-street parking of motor vehicles shall exceed forty (40) cars in capacity. Separate parking areas on a parcel shall be physically separated from one another by a six (6) foot wide planting strip.
 - (6) In multiple dwellings two and one-half (2 1/2) stories or less in height, maximum building size shall be restricted to not more than sixteen (16) dwelling units in one (1) continuous structure and no portion of the building below the first story or above the second story shall be used for dwelling purposes.
 - (7) In multiple dwellings over two and one-half (2-1/2) stories in height, the following additional minimum requirements shall be met:

- (I) Front Yard - No building shall be closer to any street line than twice the depth of the required front yard for the respective residential district in which such buildings is located, and such front yard shall be increased by not less

than one (1) foot for each one (1) foot in height of the building over thirty-five (35) feet, except that in R-M Districts such front yard shall be increased by not less than one (1) foot for each six (6) feet or portion thereof in height of the building over thirty-five (35) feet.

- (II) Side and Rear Yards - In all districts except R-M Districts, side and rear yards shall not be less than twice the required minimum for the respective residential district in which such building is located and for each one (1) foot in height of the building over thirty-five (35) feet, side and rear yards shall be increased by not less than one-half (1/2) foot. In R-M Districts, side and rear yards shall not be less than fifteen (15) feet and for each six (6) feet or portion thereof in height of the building over thirty-five (35) feet, side and rear yards shall be increased by not less than one (1) foot.

- (III) The distance at the closest point in all districts except R-M Districts between any two (2) buildings of a group of elevator-type multiple dwellings, shall not be less than thirty-five (35) feet and for each two (2) feet such height is increased beyond a height of thirty-five (35) feet the distance between such buildings shall be increased by not less than one (1) foot. In R-M Districts, the distance at the closest point between any two (2) buildings of a group of elevator-type multiple dwellings shall not be less than twenty-five (25) feet and for each two (2) feet such height is increased beyond a height of the building over thirty-five (35) feet the distance between such buildings shall be increased by not less than one (1) foot.

- (IV) Local shopping facilities to serve the residents of the building may be provided only on the ground floor and basement, provided the total floor area of the uses does not exceed ten (10) percent of the total area of the principal building.

- (g) Planned Office Development. The following minimum requirements shall be met:
 - (1) Area and height regulations may be waived for any Planned Office Development which involves not less than ten (10) acres of land in a single tract, or in a tract in which adjacent owners agree to pool their land for mutually advantageous development, and which is to be developed within a reasonable period of time, as a single project or related projects.

- (2) Planned Office Development shall be integrally planned and designed for a single occupant or as a single primary use facility with numerous tenants in the Office Research District. The permitted uses shall be limited to commercial and business uses and such ancillary uses as may be required by the primary commercial and business uses. A minimum setback of fifty (50) feet shall be required around the entire tract.
- (h) Planned Unit Development. The provisions of Section 1318.24 shall be met.
- (i) Shopping Center. In addition to the other regulations of this District, the following requirements shall apply:
 - (1) The development shall be consistent with the Comprehensive Plan upon which this Ordinance is based.
 - (2) The development shall consist of a harmonious selection of uses, and groupings of buildings, service and parking area, circulation and open spaces, planned and designed as an integrated unit in such manner as to constitute a safe, efficient and convenient retail shopping center or related planned business development.
 - (3) The appropriate use of property adjacent to the shopping center or planned business development shall be safeguarded. Along each side or rear property line which directly abuts a Residential or Institutional District boundary line, a twenty (20) foot buffer yard shall be required which shall include a suitable and uninterrupted coniferous planting screen not less than four (4) feet in height nor fifteen (15) feet in width along each street line which directly abuts a Residential or an Institutional District boundary line. A strip of the required front yard area not less than ten (10) feet in width, measured from the street line, shall be suitably landscaped except for necessary sidewalks and accessways and may include a wall not more than four (4) feet in height.
 - (4) No storage of materials, equipment or goods shall be permitted outside a building, and no merchandise shall be displayed on the exterior of a building, except in conformance with the following regulations.
 - (1) Only merchandise intended for immediate sale shall be displayed on the sidewalk in front of any store. At least eight (8) feet of sidewalk shall remain unobstructed for pedestrian use between the merchandise or display and the curb.

- (II) Any other area of a shopping center property proposed for storage or display purposes shall be subject to site plan approval by the City Planning Commission. All such areas shall be enclosed in a suitable fence or plant screen, located adjacent to the main building in such a manner as to prevent a view of the stored items from any adjacent property at ground level, and placed in such a manner as to control pedestrian and vehicular movement in the area.
- (5) Adequate provisions shall be made for safe and efficient pedestrian and vehicular traffic circulation within the boundaries of the center or planned business development. Such provisions shall include raised curbs or medial walkways which shall prohibit vehicles from straying from their designated circulation routes. Also, these walkways shall be suitably planted to help reinforce the proper routing of traffic and add to the overall appearance of the shopping center.
- (6) All access roads, parking area, service and other areas for vehicular use shall be paved with bituminous or other concrete material to specifications determined by the City Engineer.
- (7) The proposed development shall be served by public sewer and water facilities.
- (8) Each multiple family development permitted in conjunction with planned business development shall comply with the provisions of Article 1308.
- (9) If the development of the center or planned business development is to be carried out in progressive stages, each stage shall be so planned that the foregoing requirements and the intent of this Ordinance shall be fully complied with at the completion of any stage. The initial stage of development shall comprise a minimum total ground floor area of 7,500 square feet, or a minimum of six (6) permitted main uses.
- (10) After the final development plan has been approved and when, in the course of carrying out this plan, adjustments or rearrangement of buildings, parking areas, entrances, heights or yards are requested by the proponents, and such requests conform to the standards established by the approved final development plan for the area to be covered by buildings, parking spaces, entrances, height setback and lot area requirements, such adjustments may be approved

by the Planning Commission upon application which shall be accompanied by a plan of the entire development with the proposed changes indicated.

(11) Every applicant for development, when approved by the City, either as submitted originally or as submitted or resubmitted in modified form, shall constitute an agreement by the applicant that (1) such installation shall be made, completed and operated as shown on the plan as part of the project in accordance with the provisions of this Article, and (2) the City Council may at its discretion, rezone the area to its former zoning classification in any of the following events:

(I) If construction of approved buildings and improvements shall not be substantially undertaken within eighteen (18) months of approval of the application, or within such additional time as may be authorized by the City.

(II) If there shall be a failure to complete construction, or to comply, or to continue to comply with the requirements of this Article, or with conditions imposed by the City hereunder in the zoning or development of the area.

(III) If, as a result of voluntary sale or conveyance or any other transfer of ownership whatsoever, the area shall cease to be held, in its entirety, in single or common ownership.

(j) Commercial Recreation District.

(1) All buildings and active recreation areas shall be set back from adjacent residentially-zoned properties a minimum of twenty-five (25) feet.

(2) All methods to be used for outdoor lighting shall be shown on the development plan. Such lighting shall not intrude on the privacy of adjacent residentially-zoned properties.

(3) The location, height and size of all free-standing signs shall be shown on the development plan.

(4) Buffer yards shall contain screening materials which, in the opinion of the Planning Commission, are of adequate type, height, and width to properly buffer adjacent residentially-zoned properties from the structures inside or any excessive light or noise created by the C-R Development.

(5) The hours of operation for all outside activities and outdoor lighting shall be subject to approval or disapproval by the City Planning Commission.

- (6) Parking requirements for uses not specified in Section 1319.01 shall be determined by the Planning Commission during the Commercial Recreation Plan review.
 - (7) In order to minimize impervious surfaces and encourage use of existing parking areas during off-peak periods while ensuring adequate parking, the Planning Commission may permit a portion of the number of required parking spaces to be provided off the site for commercial recreation facilities such as convention halls, stadiums, and sports arenas. Applications for a reduction must document to the satisfaction of the Planning Commission that (1) the use of the recreation facility will be for short duration events such as concerts, athletic contests, and similar activities; (2) the hours or days of the peak parking needed for the events are different from the hours or days of peak parking at the existing off-site parking facilities to be used; (3) the applicant has permission from the owners for the use of those off-site parking facilities which are privately owned; (4) the total number of parking spaces at the commercial recreation facility and at the remote parking areas is equal to or greater than the parking requirements set forth elsewhere in this Ordinance; and (5) the applicant has an acceptable plan for transportation of the spectators from the remote parking areas to the commercial recreation facilities when distance exceeds 2,000 yards from the closest perimeter of the site.
- (k) Residential Retirement Complex.
- (1) All buildings and active recreation areas shall be set back from adjacent residentially-zoned properties a minimum of fifty (50) feet.
 - (2) All methods to be used for outdoor lighting shall be shown on the development plan. Such lighting shall not intrude on the privacy of adjacent residentially-zoned properties.
 - (3) Buffer yards shall contain screening materials which, in the opinion of the Planning Commission, are of adequate type, height, and width to properly buffer adjacent residentially-zoned properties from any parking areas or structures within the development.
 - (4) Starting five (5) years after the completion of construction, all health care and community building facilities shall be designed and maintained solely for the use of the complex residents.
 - (l) The health care facility shall be limited to a clinic which may also provide nursing care and supervision

for extended periods of time. This facility shall not be considered a hospital.

- (II) Sales items shall be limited to foods, drugs, gifts, toiletries and periodicals within an area of no greater than five hundred (500) square feet.
- (5) The provisions contained in Subsection (f)(6) of this Section 1322.04 shall not be applicable to Residential Retirement Complexes.
- (I) Single Family Detached Dwellings Fronting only on a Common Private Driveway. Single family detached dwellings fronting only on a common private driveway shall be permitted when the following conditions exist:
- (1) The minimum standards of the R-R District shall be met.
 - (2) The lot shall be at least 43,560 square feet in area.
 - (3) The lot shall be shown on a Subdivision Plan approved by the City Planning Commission.
 - (4) A subdivision of land into new lots of this nature will only be approved by the City Planning Commission, if the City Planning Commission finds that:
 - (I) The average slope and configuration of the tract to be subdivided is such that in the opinion of the City Engineer a standard city street, which meets the street grade requirements of the City Subdivision and the Development Ordinance, could not be built to allow normal development of the property.
 - (II) The subdivision plan and associated proposed supporting documents and protective agreements provide notice to future lot owners of the rights and responsibilities associated with owning land within the subdivision tract.
 - (5) In addition, any subdivision proposed with lots fronting only on a common private driveway shall be presented to the City with plans, supporting documents, and protective agreements, meeting and demonstrating the following special requirements:
 - (I) Each common driveway shall be specially laid out on the plan with a metes and bounds description of its location and designed to meet the following specifications:

- (i) The paved cartway width shall be a minimum of eighteen (18) feet. A two (2) foot shoulder shall be provided on both sides of the cartway. This shoulder area shall be kept clear of all vegetation and other obstructions and shall be paved with materials suitable to the City Engineer.
- (ii) Easement width thirty (30) foot total, centered around the cartway.
- (iii) Serve no more than ten (10) nor less than three (3) individual building lots.

- (iv) Extend no more than thirteen hundred (1,300) feet in length from a public road right-of-way to the center of a turn-around cul-de-sac, or extend no more than twenty-six hundred (2,600) feet in total length from a public road right-of-way, to a public road right-of-way.
 - (v) Horizontal curves shall have a minimum centerline radius of one hundred fifty (150) feet. Horizontal curves may be reduced, subject to approval of the City Engineer, to a minimum centerline radius of one hundred (100) feet if the width of the cartway is increased to twenty-two (22) feet for the curved area including a transition area.
 - (vi) Maximum slope shall be fifteen (15) percent.
 - (vii) Cul-de-sac turn-around areas shall be designated with a minimum easement radius of fifty-five (55) feet and a minimum outside edge of a cartway radius of forty-five (45) feet. The center of the cul-de-sac can remain in vegetation, but if it does, the cartway around the circle must be at least twenty (20) feet wide.
 - (viii) The cartway paving shall consist of the same materials as a standard fifty (50) foot City street.
 - (ix) The design of the common driveway, any associated utilities, including fire hydrants and storm drainage facilities shall be subject to the review and approval of the City Engineer.
 - (x) The design, including horizontal and vertical alignment, of the intersection of the driveway with the public street must be approved by the City Engineer to assure safety of access and operation.
- (II) An acceptable storm water management plan for the entire tract shall be submitted to and approved by the City Engineer prior to subdivision approval by the City Planning Commission.
- (III) The subdivision plan shall contain notations indicating that:

- (i) All common utilities and driveways outside of a City-owned public right-of-way shall always be the responsibility of and maintained by a Homeowner's Association which must be created by the applicant.

- (ii) The City shall not accept any responsibility for the present or future ownership or maintenance of any driveway or utility outside of the existing public right-of-way. It shall be the responsibility of the Homeowner's Association to effectively maintain the private streets in reasonably good condition, and to carry out all snow removal and other operations related to providing access to these streets.
 - (iii) The City or its agents have the right to enter upon the common private driveway area or any common private easement area for official business.
 - (iv) Each landowner shall belong to the Homeowner's Association and the land in the subdivision shall be subject to a separate agreement of record, which agreement further describes the rights and responsibilities of the landowners within the subdivision.
- (IV) An Easement Agreement shall be provided, which Agreement shall be subject to the City Solicitor's review and approval, and shall provide the following features:
- (i) It shall be in recordable form for recording prior to any lot sales.
 - (ii) The City shall be a party.
 - (iii) It shall delineate the rights and responsibility of the owners with regard to driveway and utility maintenance.
 - (iv) It shall specifically state that the driveways will not be publicly maintained.
 - (v) It shall grant the City or its agents the right to enter upon the common private driveways or common private easement areas, for official business.