

Sec. 34. Conditional zoning.

The township recognizes that in certain instances, it may be advantageous to the township and to property owners to review amendments to the zoning map subject to certain conditions. Accordingly, it is the intent of this section to implement the provisions of Michigan Zoning Enabling Act (Public Act 110 of 2006, as amended), authorizing an owner to voluntarily offer and a township to approve, certain use and development of land as a condition to the rezoning of such land ("conditional rezoning"). It is the intent of the township that a petition for conditional rezoning be considered only in the event that the conditions offered by the petitioner are voluntary, and are adequate, in the opinion of the township, to address any potentially negative effects of the rezoning on the health, safety, general welfare, and comfort of the residents of the surrounding property, neighborhood and township.

Definitions. For purposes of this section, these terms shall be defined as follows:

- (a) **Conditional rezoning petition (offer).** A written offer with specific terms and conditions, voluntarily submitted by the property owner, for certain use and development, as a condition to a rezoning of land or an amendment to the official zoning map.
- (b) **Conditional rezoning plan.** A plan for re-zoning of a property, subject to certain conditions proposed by the property owner, including legal descriptions, drawings and narrative descriptions of the proposed development, and a timetable, as set forth below.

Eligibility. The following conditions of eligibility shall apply to a petition for conditional rezoning:

- (a) A petition (offer) may be submitted only by the titleholder of the land proposed for rezoning or a potential owner contingent on approval of the rezoning. A potential owner must provide documentation such as a purchase agreement signed by both parties. The applicant shall attest to his authority to subject the land to the conditions offered, by execution and recordation of such conditions, covenants, and restrictions as may be required to legally and permanently bind the owner, its heirs, assigns, and successors in interest.
- (b) A petition (offer) may be considered for land in any zoning district, for rezoning to any other zoning district, provided such rezoning shall meet or exceed the minimum standards set forth below.

- (c) A petition (offer) shall propose a rezoning of the land to a new zoning classification, and shall, as part of such proposal, include certain voluntary site-specific development and/or use conditions materially restricting the development and/or uses otherwise allowable under the proposed new zoning classification. The petition shall not propose any development and/or use not otherwise allowable under the proposed new zoning classification.
- (d) A conditional rezoning plan shall be considered by the township board only in conjunction with approval, on recommendation of the planning commission, of a corresponding conditional rezoning petition and subject to such site plan, special land use, plat, and/or condominium approvals as may be required.

Minimum standards. A petition shall be considered for approval only when it is determined by the township, in its sole discretion, that the conditional rezoning meets or exceeds the following minimum standards:

- (a) The proposed rezoning will benefit the public interest, such that the expected benefits of the rezoning, subject to the conditions offered, clearly outweigh any reasonably foreseeable detriment.
- (b) The proposed rezoning shall include conditions sufficient to assure the integration of the proposed development and use with the surrounding land uses and to protect the public health, safety, and welfare.
- (c) The specific uses proposed in conjunction with the rezoning do not adversely affect the public utility or traffic systems, drainage or the environment.

Permitted conditions and limitations. The following conditions of use and/or development of the land proposed for rezoning may be included in the petition for conditional rezoning, provided such conditions are voluntarily proposed by the petitioner; are in response to, and roughly proportionate to, the impacts of the proposed development and use of the property; and otherwise satisfy the conditions and standards set forth above:

- (a) Conditions detailing the permitted uses of the development.
- (b) Conditions on the location, size, height, or other physical characteristics of any structures or improvements proposed for development on the land.
- (c) Conditions limiting the density of development or the intensity of the use, including but not limited to the specific types of uses and hours of operation, of the land proposed for rezoning.

- (d) Conditions related to drainage, water and sewer capacity and quality, and adequacy and effect on other public utilities in the area.
- (e) Conditions related to traffic volume, flow, and management affected by the proposed development and use.
- (f) Conditions related to the preservation of natural features, resources, open space, and buffers located on, or impacted by development of the land proposed for rezoning, including provisions to assure permanent maintenance of the same.
- (g) Such other conditions as may be deemed important to the development and to the protection of public interests.

Conditional rezoning petition and review process. Subject to the criteria for eligibility and standards set forth above, a Petition may, at the sole election of the petitioner, voluntarily offer *any* conditions and/or limitations on the development and/or use of the land proposed for rezoning, as set forth above. Such petition shall be entitled a petition for conditional rezoning, and shall be subject to the review procedures, requirements, and approvals set forth herein.

- (a) ***Petition requirements.*** The petition for conditional rezoning shall contain or be accompanied by:
 - (1) If changes to the property site are part of the conditional rezoning petition, a site plan for development and use drafted by an architect or engineer, which plan shall include drawings and descriptions in sufficient detail for the planning commission to identify areas of potential concern in the proposed development and use of the land and to preliminarily evaluate the adequacy of the proposed conditions to address those concerns. The conditional rezoning petition shall not replace the requirement for site plan, special land use, subdivision, or condominium approval as applicable, but shall, generally, contain those provisions required by article VIII of this chapter.
 - (2) A narrative description of the proposed development and use, and all proposed conditions and limitations thereon.
 - (3) A narrative analysis of the anticipated impact of the proposed development and use on the community, as well as the relationship of proposed conditions and limitations to these anticipated impacts. Such analysis shall include a review of surrounding zoning classifications,

adequacy of existing and proposed infrastructure, utilities, and services, traffic volume and flow, access management, air quality, noise levels, and other related factors affecting the health, safety and welfare of the community.

(4) A proposed timetable for completion of the development.

(5) A legal description of the land to which it pertains.

- (b) **Fees.** The petition shall also be accompanied by the fees set forth in the Egelston Township Fee Schedule, which fees shall be sufficient to defray the costs of the review of the petition by the planning commission, and the expenses incurred by the township for consultant review, drafting, publication, hearings, recordation, and other related expenses.
- (c) **Preliminary conference.** On receipt of a petition that meets the requirements of this ordinance, the planning/zoning administrator shall schedule a preliminary conference with the petitioner and the township supervisor to determine the eligibility of the petition and the validity of the conditions for rezoning.
- (d) **Optional preliminary review.** Following a determination of eligibility, the petition may be forwarded for preliminary review by the planning commission. If requested by the petitioner, the planning commission shall review the petition and informally address any concerns relative to the development or use proposed in the petition. No opinion expressed by the planning commission shall be construed as an approval, or guarantee of approval, of the rezoning.
- (e) **Formal planning commission review.** Upon completion of the preliminary conference and optional preliminary review, if elected, a petition meeting the petition and eligibility requirements shall be submitted to the planning commission for formal consideration pursuant to this ordinance. Following notice and a hearing in accordance with M.C.L. § 125.3103 et. seq., the planning commission shall complete its review of the petition, and shall report its findings of fact along with its recommendations to the township board.
- (f) **Township board review.** Upon receipt of the planning commission's recommendations to the township board, the petition for rezoning shall be scheduled for consideration by the township board. Based on the findings of

fact reported by the planning commission, the township board may, in its sole discretion, and based upon the standards set forth in herein, approve or deny the petition. The township board shall state its decision along with the basis for the decision on the record.

(g) **Implementation and enforcement.** Following approval of a conditional rezoning by the township board, the township shall implement and enforce the rezoning pursuant to the terms of the zoning ordinance, and shall also provide notice and monitor compliance as follows:

- (1) **Zoning map.** The zoning map shall be amended to indicate the new zoning, along with a notation that the zoning is "conditional." The new zoning classification shall govern development and use of the land, subject to all terms and conditions contained in the approved petition,
- (2) **Enforcement.** The planning/zoning administrator shall review all development and use of the property for compliance with the new zoning classification, subject to the terms and conditions of the approved petition. Any development or use of the land in violation of the terms and conditions of the approved petition, or of the new zoning classification, shall, in the sole discretion of the township board, result in reversion to the zoning classification applicable just prior to the conditional rezoning. Reversion shall be accomplished in accordance with this section except that the findings of fact necessary to support reversion shall be limited to those evidencing a breach of the approved petition. Upon rezoning following a breach of the approved petition, the property shall be returned to a state of compliance with the zoning classification and ordinance provisions then applicable.