

## ZONING STANDARDS OF REVIEW

The following are examples of standards of review for various zoning decisions. These are not the only standards that can be used; they are merely intended to show the range and general subjects that may be covered as part of the appropriate zoning review process. With the exception of rezoning, the standards that will be used to make decisions on zoning reviews must be included in the Zoning Ordinance.

**NOTE:** If an application conforms to each of the standards described in the Ordinance, as well as all other applicable ordinances and laws, it *must* be approved.

### Rezoning Evaluations

Rezoning standards are not typically included in the Zoning Ordinance. Since changing the Zoning Ordinance is a legislative act, the Ordinance normally does not limit the review of rezoning decisions to a given set of standards. However, the following list provides some valid points to be addressed when considering rezoning.

1. *Is the proposed district and all of its potential uses consistent with the uses called for in the Master Plan for that property?*

This will mean consulting the Future Land Use map and the appropriate text in the Master Plan. If the district and its uses do not match the Master Plan designation, you may either find that this standard is not met; or you may reconsider the Master Plan designation for the property. Having a current, valid Master Plan is a necessity when applying this standard. If it has been more than five years since the adoption or last major amendment of the Plan, the Planning Commission may wish to consider the appropriateness of the Master Plan's designation for the property.

On the other hand, it may be that circumstances have changed significantly in the area of the proposed rezoning, even if the Plan was recently adopted. For instance, a new, large industrial use may influence other land uses in an area, to the extent that reconsideration for the Future Land Use map may be necessary.

2. *Is the proposed district and all of its uses compatible with the surrounding area?*

The central principle behind this question is that rezoning is not intended for a single use, but for an entire district. In other words, regardless of what the applicant may claim as his/her intended use for the property, a rezoning permits *all* of the uses allowed within the new district. Therefore, when evaluating a request for rezoning, it is important to consider each and every use allowed within that district, and be prepared to accept any of those uses on the property in question.

Compatibility may take many forms. Architectural and aesthetic considerations most often come to mind when compatibility is considered. Making judgments solely on this basis, however, can be problematic. Instead, compatibility should be determined through similarities

in use. Many communities do not care to mix commercial and industrial uses, for example, since their traffic and size characteristics are usually very different. Do the uses generate similar amounts of traffic? Are they generally for the use of the public, or are they occupied only by the employees?

Compatibility may also be addressed in terms of density. Density considerations include such issues as privacy, noise, open space, views, odors, etc. Without substantial buffers, some higher density housing developments may not be suitable in a lower density, rural setting.

3. *Is the property capable of being developed for a use already permitted within the existing district?*

Apart from the other factors already mentioned, it is important that the property under consideration be able to be used for one or more of the uses allowed under the existing zoning. If the nature of the property is such that it is not practicable for use as zoned, then a rezoning may well be appropriate. However, if it is possible to use the property as it is currently zoned, then rezoning may not be necessary, particularly if the answers to the two questions above do not favorably indicate rezoning.

### **Special Land Use Evaluations**

Special Land Uses may have two types of standards by which they may be judged. The first set of standards are those that apply to all special land uses, regardless of the district in which they are located. These are commonly known as the *general standards*. General standards are broadly worded and usually address the need for public services, the potential for adverse impact on the environment or on the surrounding neighborhood.

The second set of standards is usually referred to as the *specific*, or *design standards*. These contain specific requirements that apply only to the individual use specified. For example, the specific standard for an auto service may require that the driveways be placed at some minimum distance from an intersection or another driveway.

#### ***Special Land Use – General Standards***

*Each application shall be reviewed for the purpose of determining that the proposed special land use meets the following standards, and in addition, that each use of the proposed site will:*

1. *Be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity, and that such a use will not change the essential character of the area in which it is proposed.*
2. *Be served adequately by essential public facilities and services, such as highways, streets, police, fire protection, drainage structures, refuse disposal, water, and sewage facilities.*

3. *Not create excessive additional requirements at public cost for public facilities and services, and*
4. *Not involve uses, activities, processes, materials, equipment, or conditions of operation that will be detrimental to any persons, property, or the general welfare, by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.*

### ***Special Uses – Specific Standards: Retail Building Supplies***

1. *Minimum lot width shall be two hundred (200) feet.*
2. *The Planning Commission may require a six (6) foot fence or wall to be constructed along the rear and/or sides of the lot to keep trash, paper, and other debris from blowing off the premises.*
3. *Ingress and egress shall be provided as far as practicable from two (2) intersecting streets, and shall be at least one hundred (100) feet from any intersection.*
4. *All lighting shall be shielded from adjacent Residential Districts or uses.*
5. *The storage or materials display areas shall meet all the yard setback requirements applicable to any principal building in the district.*

### **Planned Unit Development Review Standards**

The review of PUD's will typically include at least three levels of review:

- Objectives
- Qualifying Conditions
- Review Standards

#### *Objectives:*

The PUD provisions may list separate objectives that a PUD is designed to achieve. If a community goal is preservation of the environment, this may be reflected in the PUD objectives as an intended purpose of the regulations. Other objectives will tend to paraphrase the language of the Zoning Acts, which call for “innovation in land use and variety in design, layout, and type of structures constructed; economy and efficiency in the use of land, natural resources, energy, and the provision of public services and utilities, encourage useful open space; and provide better housing, employment, and shopping opportunities...”

#### *Qualifying Conditions:*

The Ordinance should list those characteristics that a site must possess in order to be considered as a PUD. These might include a minimum size, a requirement that the property be under a single ownership, or be jointly developed under multiple owners, a minimum open space requirement, and any other restrictions that relate to the objectives listed in the Ordinance.

#### *Review Standards*

Often the review standards for PUD's will closely mirror those for Special Land Uses. In addition, since PUD's are required to undergo site plan reviews, the standards applicable to that review process should be included here as well.

## **Site Plan Review Evaluations**

The Zoning Acts offer no specific guidance as to the standards that should be set for reviewing site plans. Below are some typical standards that may be used to address traffic, landscape preservation, public facilities, drainage, lighting, and other similar issues.

### ***Site Plan Review Standards***

*The Planning Commission shall utilize the following standards in the review of all site plans. These standards are intended to provide a frame of reference for the applicant in the preparation of site plans, as well as for the reviewing authority in making judgments concerning them. These standards shall not be regarded as inflexible requirements. They are not intended to discourage creativity, invention, or innovation.*

- 1. The uses proposed shall not adversely affect the public health, safety, or welfare. Uses and structures located on the site shall take into account topography, size of the property, the uses on adjacent properties, and the relationship of the size of the building(s) to the site. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding properties for uses permitted in this Ordinance.*
- 2. Safe, convenient, and well-designed vehicular and pedestrian circulation shall be provided for ingress and egress points, and within the site. Driveways, streets, and other circulation routes shall be designed to promote the safe and efficient flow of traffic within the site as well as at ingress/egress points.*
- 3. The arrangement of public or private vehicular and pedestrian connections to existing or planned streets in the area shall be planned to provide a safe and efficient circulation system for traffic within the community.*
- 4. Removal or alteration of significant natural features shall be restricted to those areas that are reasonably necessary to develop the site in accordance with the requirements for this Ordinance. The Planning Commission may require that landscaping, buffers, and or greenbelts be preserved and or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.*
- 5. Areas of natural drainage, such as swales, wetlands, ponds, or swamps shall be protected and preserved insofar as practical in their natural state to provide areas for natural habitat, preserve drainage patterns, and maintain the natural characteristics of the land.*

6. *The site plan shall provide reasonable visual and sound privacy for all dwelling units located therein and adjacent thereto. Fences, walls, barriers, and landscaping shall be used, as appropriate, to accomplish these purposes.*
7. *All buildings and groups of buildings shall be arranged so as to permit necessary emergency vehicle access as requested by the Fire Department.*
8. *All streets and driveways shall be developed in accordance with the community's Land Division Ordinance, the County Road Commission requirements, or the Michigan Department of Transportation's specifications, as appropriate, unless developed as a private road in accordance with the requirements for private roads in this Ordinance. In addition, sidewalks may be required if determined to be necessary or appropriate for pedestrians and non-motorized vehicles.*
9. *Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties or the public storm drainage system. Provisions shall be made to accommodate stormwater, prevent erosion, and prevent the formulation of dust. The use of detention/retention ponds may be required. Surface water on all paved areas shall be collected at intervals so that it will not obstruct the flow of vehicular or pedestrian traffic or create puddles in paved areas. Catch basins may be required to contain oil filters or traps to prevent contaminants from being discharged into the natural drainage system.*
10. *Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not interfere with the vision of motorists along adjacent streets. Lighting of buildings or structures shall be minimized to prevent light pollution.*
11. *All loading and unloading areas and outside storage areas, including areas for the storage of trash, which face or are visible from Residential Districts or public streets, shall be screened by a vertical screen consisting of structural or plant materials no less than six (6) feet in height. The finished side of any wall, fence, or other screen shall face adjacent property.*
12. *Entrances and exits shall be provided at appropriate locations so as to maximize the convenience and safety for persons entering or leaving the site. The number of entrances to and exits from the site shall be determined with reference to the number of dwelling units or other land uses within the site, the nature and location of the surrounding streets, the effect of traffic in the area, nearby topography, and other factors.*
13. *Site plans shall conform to all applicable requirements of County, State, Federal and local statutes and ordinances. Approval may be conditioned on the applicant receiving necessary local, County, State, or Federal permits before final site plan approval or an occupancy permit is granted.*

14. *The Planning Commission may require appropriate fencing around the boundaries of the development, if deemed necessary to minimize or prevent trespassing or other adverse effects on adjacent lands.*
15. *The general purposes and spirit of this Ordinance and the Master Plan of the community shall be maintained.*

### **Variance Evaluations**

There are two types of variances: nonuse/dimensional, and use variances.

#### ***Nonuse/Dimensional Variance Standards of Review:***

*To obtain a nonuse or dimensional variance, the applicant must show practical difficulty by demonstrating that **all** of the following conditions exist:*

1. *That there are exceptional or extraordinary circumstances or conditions applying to the property in question or to the intended use of the property that do not apply generally to other properties or classes of uses in the same zoning district; exceptional or extraordinary circumstances or conditions generally include:*
  - a. *exceptional narrowness, shallowness, or shape of a specific parcel of land on the effective date of this chapter of this Ordinance,*
  - b. *exceptional topographic conditions or other extraordinary situation of the land, building, or structure, or*
  - c. *use or development of the property immediately adjacent to the property in question;*
2. *That such a variance is necessary for the preservation and enjoyment of a substantial property right possessed by other properties in the same zoning district and in the vicinity;*
3. *That the authorizing of such a variance will not be a substantial detriment to adjacent properties and will not materially impair the purposes of this Ordinance or the public interest; and*
4. *That the need for the variance was not created by the actions of the applicant.*

#### ***Use Variance Standards of Review:***

*To obtain a use variance, the applicant must show that an unnecessary hardship exists. This requires the demonstration that all of the following conditions exist:*

1. *That the building, structure or land cannot yield a reasonable return if required to be used for a use allowed in the zoning district in which it is located;*
2. *That there are unnecessary hardships in the way of carrying out the strict letter of these regulations which are caused by exceptional or extraordinary circumstances or conditions applying to the property in question, or to the intended use of the property, which do not generally apply to other properties or uses in the vicinity in the same zoning district. Exceptional or extraordinary circumstances or conditions generally include:*
  - a. *exceptional narrowness, shallowness, or shape of a specific parcel of land on the effective date of this chapter of this Ordinance,*
  - b. *exceptional topographic conditions or other extraordinary situation of the land, building, or structure, or*
  - c. *use or development of the property immediately adjacent to the property in question;*
3. *That the proposed use will not alter the essential character of the neighborhood; and*
4. *That the variance is not necessitated as a result of any action or inaction of the applicant.*

**Note:** Prior to the Board of Appeals hearing a request for a use variance, the Board may request that the Planning Commission consider the request and forward a report. The Planning Commission should address whether or not the property may reasonably be used for a permitted use under the existing zoning classification, and whether or not the request may alter the essential character of the neighborhood. For this report, the Planning Commission should consider the Master Plan, the ability of the property owner to use the property for a use already permitted, and the effect of the request on the essential character of the neighborhood.