



**Michigan Association of Planning
A Chapter of the American Planning Association**

Excerpted from the MSPO Community Planning Handbook

Rezoning

Description

Rezoning is the term applied to changing the zoning district classification of a specific geographic area on the zoning map. A rezoning may address single parcels, multiple parcels, or portions of an existing parcel. Though typically initiated by a landowner, legislative bodies and planning commissions can start the process since landowners have no vested right in a zoning classification. A rezoning request follows the same amendment process as a text change including: formal application, public hearing, planning commission considerations and recommendations, and final action by the legislative body. If a rezoning request is approved, the official zoning map is amended and the future use and development of the rezoned area must comply with the provisions of the new zoning district.

Planning Considerations

Rezoning, though a frequently used planning technique, often happens to be one of the more controversial techniques as well. The controversial nature of rezoning is primarily a result of one of two recurring issues. First, the majority of rezoning requests are aimed at increasing the intensity of use of a parcel. Nearby residents and landowners often resist such rezonings due to a wide variety of concerns (justified or not) about the negative impacts the proposed rezoning may have upon their quality of life. Second, communities frequently face legal action by landowners and developers due to the lack of worthy, consistent criteria and legal administrative practices upon which rezoning requests are judged and processed.

There are a number of key planning considerations which can be employed to assure rezoning requests are acted upon within a framework of fairness, community stability, and legal validity.

The most fundamental question which must be asked regarding a rezoning request is whether the area proposed to be rezoned is an appropriate area for the proposed zone. If rezoned, any use permitted in the new zone could be established on the property, not simply a proposed use.

Another principal consideration must be the relationship between the rezoning request and the community's comprehensive plan. Does the rezoning request comply with the land use and associated policies embodied in the comprehensive plan, and is the comprehensive plan current to the point where it provides the guidance for which it is intended? Comprehensive plans must be up-to-date to effectively assist with reviewing rezoning requests. Similarly, should a community desire to approve a zoning request that is inconsistent with the plan, then the comprehensive plan should be amended concurrently with the rezoning amendment, if not beforehand. This is paramount, as the comprehensive plan embodies the principles and policies upon which zoning (and amendments) are based. Factors typically considered in rezoning requests are listed below:

- Would the rezoning be consistent with other zoning and land uses in the area?
- Is it consistent with development trends in the area?
- Are uses in the proposed zone equally or better suited to the area than the current uses?
- Is the proposed rezoning consistent with both the policies and the uses proposed for that area in the comprehensive plan? If not, is the plan current and reasonable, or does it need to be updated?

Communities must be particularly careful when addressing downzoning requests. These are rezoning requests which are aimed at reclassifying land into a district less intensive than the current classification. Such requests are more often initiated by the community's planning commission or legislative body than a particular landowner. As the flexibility to use one's land (in terms of allowable intensity and uses) becomes more limited with a downzoning, the issue of a "taking" may arise. This is particularly true where investment-backed expectations may be rooted in previously-announced public infrastructure plans, or comprehensive plans which anticipated more intensive use in an area. Consult with legal counsel before proceeding.

Rezoning requests must be reviewed comprehensively to determine their appropriateness. Indiscriminate approval of rezoning requests or lack of adequate or consistent standards upon which to judge such requests can result in accusations of spot zoning. Spot zoning is typically ruled invalid if challenged in court. The four basic characteristics of spot zoning are listed below:

- Typically a single parcel zoned for uses that are quite dissimilar from the zoning of land around it.
- Typically a small area.
- Typically grants a right to use land that is not enjoyed by similarly situated adjacent parcels.

- Typically inconsistent with the future land use plan and the policies of the comprehensive plan.

Advantages

- Provides for the reclassification of land to accommodate changing land use, implement the community's master plan, or correct mistakes in the original zoning.

Disadvantages

- Can be abused, resulting in erratic zoning and neighborhood disruption.
- Can result in spot zoning if not done right.

Limitations

- Relates to the class of uses permitted in the existing and proposed district, rather than to a specific land use.