

SECTION 23.3 REZONING STANDARDS

(Annotation: Section added by Amendment 18-002, effective November 2, 2018)

In reviewing an application for the rezoning of land, whether the application is made with or without an offer of conditions, **factors that should be considered by the Planning Commission and the Township Board include, but are not limited to, the following:**

A. The proposed rezoning is consistent with the surrounding uses.

1. The surrounding uses are as follows:
 - South: Vacant Parcel - Rural Residential Zoning – planned for single family dwelling. (9.97 acre parcel)
 - Further South: Former PDM Lumber being redeveloped as commercial.
 - Southwest: Single-Family/Storage Bldg. – recently rezoned to Commercial in 2020. (5.01 acre parcel)
 - West: Vacant Parcel – Rural Residential Zoning – owned by Consumers Energy, who has indicated that they intend to use this parcel for a future electrical substation. (5.01 acre parcel)
 - North: MSU Horticultural Research Station – Active Agricultural Farm – Agricultural Zoning. (80 acre parcel)
 - East: Single Family Residence + agriculture, Rural Residential Zoning, (10 acre parcel)
 - Southeast: Single Family Residence + agriculture, Rural Residential Zoning, (10 acre parcel)
2. On September 7, 2017, as part of a broader proposal to expand the commercial zoning district on Bingham Road, including this Subject Property, the BTPC made a finding that the broader proposal was consistent with surrounding uses, however, the broader proposal was ultimately not passed by the Planning Commission.
3. The Application notes that the subject parcel is adjacent to the commercial corridor in Bingham Township.
4. A letter was received from an adjacent property owner, Jeff Sobeck, supporting the proposal.
5. Potential Uses in the Rural Residential Zoning District include single family, farming, farm markets, Child Care & Adult Care homes, duplexes, bed & breakfast, etc. Wineries & Cideries requires a 10 acre parcel.
6. Potential Uses by Right in the Commercial Zoning District include single family, duplex, bed & breakfast, Child Care & Adult Care homes, retail, services, professional/offices, etc.
Potential Special Uses include multi-family, restaurant, hotel, motor vehicle related business, or commercial storage – with a Special Use Permit.

It should be noted that any use with a building over 3000 square feet or 10 or more parking spaces requires a Special Use Permit
It should also be noted that, according to Section 16.4, any “change of use” to commercial will require Major Site Plan Review by the Planning Commission.

The BTPC finds that the proposed rezoning (is/is not) consistent with the surrounding uses.

B. There is no adverse physical impact on the surrounding properties.

1. The Application states: “No adverse physical impacts on the surrounding parcels will occur. The rezoning of this parcel will, in fact, be more harmonious with the surrounding area, as most parcels are already zoned or used as Commercial. The other rural residential and agricultural parcels adjacent are buffered by vacant land and forest/vegetation, significantly screened from anything that may be developed on this parcel.”
2. A letter was received from an adjacent property owner, Jeff Sobeck, supporting the proposal.
3. As noted above, if a rezoning was approved, any change in use of the subject property to commercial would require Site Plan Review, and potentially a Special Land Use Permit. The PC would review the road, traffic, impacts and buffering at that time.
4. In his August 17, 2017 letter, the Township Attorney mentioned that rezoning of properties to commercial could have a physical impact on residential properties.
5. On September 7, 2017, as part of a broader proposal to expand the commercial zoning district on Bingham Road, including this Subject Property, the BTPC made a finding that this standard was not applicable at that time.

The BTPC finds that the proposed rezoning (would/would not) have an adverse physical impact on the surrounding properties.

C. There is no adverse effect on property values in the adjacent area.

1. The Application states “No - As it stands right now, as this is only one of the two Rural Residentially zoned parcels on this drive, the property value to this parcel is detrimentally affected. To rezone to Commercial, fitting in with the adjacent uses, will bring the value of this parcel and the others equally and consistent for this commercial corridor.

2. No evidence was submitted regarding any adverse impact on property values.
3. On September 7, 2017, as part of a broader proposal to expand the commercial zoning district on Bingham Road, including this Subject Property, the BTPC made the following finding: “The Planning Commission finds that it does not have an adverse effect on property values in the adjacent area, depends on what is built.” This broader proposal was ultimately not passed by the Planning Commission.

The BTPC finds that the proposed rezoning (would/would not) have an adverse effect on property values in the adjacent area.

D. There have been changes in land use or other conditions in the immediate area or in the community which justify the rezoning.

1. The Application states “ YES. This commercial corridor has expanded within the recent years. Directly to the west, the Consumers Energy Company parcel has been utilized for high-voltage power lines and has indicated the proposed use of the land as a sub-station and/or other electrical transmission infrastructure. Parcel 001-030-021-07 was rezoned Commercial zoning in 2019. The remaining parcels along E. Bingham Road, already zoned commercial, have expanded their commercial uses in the recent years, with further expansion of uses proposed (AB& E parcel)”
2. In the 2020 neighboring property rezoning, the following finding was made: “*The BTPC finds that the proposed rezoning meets this standard, considering the future electrical substation.*”
3. On September 7, 2017, as part of a broader proposal to expand the commercial zoning district on Bingham Road, including this Subject Property, the BTPC made the following finding: “The Planning Commission finds that there have been changes in land use or other conditions in the immediate area or in the community which justify the rezoning.”

The BTPC finds

E. Rezoning will not create a deterrent to the improvement or development of the adjacent properties in accordance with existing regulations.

1. The Application states “NO. On the contrary, as most parcels on this road area already of Commercial use, it would be more of a deterrent to use this parcel as it's currently zoned, Rural Residential. Proposed commercial uses will be subject to Site

Plan Review and the Zoning Ordinance regulations for the Commercial District, in order to keep any improvements within zoning compliance.”

2. In the 2020 neighboring property rezoning, the following finding was made: “*The BTPC finds that the proposed rezoning meets this standard considering any commercial use will be required to go through Site Plan Review.*”
3. On September 7, 2017, as part of a broader proposal to expand the commercial zoning district on Bingham Road, including this Subject Property, the BTPC made the following finding: “*The Planning Commission finds that the rezoning will not create a deterrent to the improvement or development of the adjacent properties in accordance with existing regulations.*”

The BTPC finds.....

F. Rezoning will not grant a special privilege to an individual property owner when contrasted with other property owners in the area or the general public.

1. The Application states “NO, most adjacent properties are being used for or are zoned as commercial; this area is part of the Bingham Commercial Zone Corridor.”
2. In the 2020 neighboring property rezoning, the following finding was made: “*The BTPC finds that the proposed rezoning meets this standard. It was noted that the other two property owners on this private road could also apply for a zoning change.*”
3. On September 7, 2017, as part of a broader proposal to expand the commercial zoning district on Bingham Road, including this Subject Property, the BTPC made the following finding: “*The Planning Commission finds that rezoning will not grant a special privilege to an individual property owner when contrasted with other property owners in the area or the general public.*”

The BTPC finds.....

G. There are substantial reasons why the property cannot be used in accordance with its present zoning classification.

1. The Application states “YES. Surrounding parcels are being used or are zoned Commercial. The ability to use this parcel in it's present zoning classification (residential) is completely unnatural and unreasonable for the area.”

2. In the 2020 neighboring property rezoning, the following finding was made:
“The BTPC finds that the proposed rezoning meets the standard considering the following:
 1. *The subject property could be used as residential, however the future substation on the adjacent property is not compatible with residential use.*
 2. *The commercial uses on the adjacent properties to the south can be a detriment to residential use.*
 3. *The subject property is more conducive to Commercial than Residential.”*
3. On September 7, 2017, as part of a broader proposal to expand the commercial zoning district on Bingham Road, including this Subject Property, the BTPC made the following finding: *“The Planning Commission finds that there are substantial reasons why the property cannot be used in accordance with its present zoning classification.”*

The BTPC finds.....

H. The rezoning is not in conflict with the planned use for the property as reflected in the master plan.

1. Master Plan Map: The area of the subject parcel is indicated as Rural Residential.
2. 1999 Master Plan states that there is enough commercial area.
3. Page 6-9 of the Bingham Township Comprehensive Plan adopted in 1999 and re-adopted in August 2015 states “Areas on the Map designated as “Rural Residential” are considered to be transition zones between the residential and the agricultural areas of the Township.”
4. The Application states: “NO, the property directly abuts several properties that are zoned as commercial. See note below regarding Master Plan.

This area has been contemplated to be rezoned Commercial in the past. In the letter from Running Wise and Ford, dated August 17, 2017, it states: "In my view, it would be preferable if the landowners initiated the rezoning. That way the application would be more focused, but I am not aware of a reason why the Planning Commission could not initiate a rezoning, particularly where multiple parcels are involved".

Also "...Michigan courts have further clarified that the Master Plan may be disregarded where conditions have developed on the ground that are inconsistent with

the Master Plan. See *Kremers v Alpine Township*, 355 Mich 563,570 {1959}." Certainly, it is evident that conditions on the ground are quite inconsistent with the current zoning and Master Plan for this area.

This same letter notes several times that due to the current existence of uses on this stretch (North side of Bingham Road), consideration should be given to rezoning to Commercial.

4. In the 2020 neighboring property rezoning, the following findings were made:
 - *There have been significant changes in the area since the Master Plan; the former PDM Lumber property changes and the future Consumers Energy electrical substation.*
 - *The subject parcel is directly adjacent to the current commercial zoning district and existing commercial uses.*
 - *It was noted that, while the Bingham Township Comprehensive Plan was first completed in 1999 and has been reviewed every five years thereafter, it is now in need of another review and probable update.*
 - *The BTPC finds that, while the subject parcel is not indicated on the Future Land Use Map as Commercial, the reasons listed above are adequate to deviate from the map.*

5. The 2017 discussion did not include a finding on this standard.

The BTPC finds....

I. If rezoned, the site will be served by adequate public facilities.

1. The Application states: "YES. Public facilities should not be impacted by this rezoning request. Utilities (phone, electric, etc) are already installed. The site will be responsible for its own sewer and water. The parcels are already accessed by private road easement.

2. In the 2020 neighboring property rezoning, the following finding was made:
 - Improvements to the Private Road would be reviewed during Site Plan Review of any proposed commercial uses.
 - The BTPC finds that the proposed rezoning meets this standard.

3. On September 7, 2017, as part of a broader proposal to expand the commercial zoning district on Bingham Road, including this Subject Property, the BTPC made the following finding: *“The Planning Commission finds that the properties, if rezoned will be served by adequate public facilities.”*

The BTPC finds.....

J. There are no sites nearby that are already properly zoned and that can be used for the intended purposes.

1. The Application states: “NO”.
2. In the 2020 neighboring property rezoning, the following finding was made: *“The BTPC finds that this standard is not applicable for this particular request.”*
3. On September 7, 2017, as part of a broader proposal to expand the commercial zoning district on Bingham Road, including this Subject Property, the BTPC made the following finding: *“The Planning Commission finds that there are not site (sic) nearby that are already properly zoned and that can be used for the intended purposes”.*

The BTPC finds

Motion to recommend (approval/disapproval) of a request from Eric G. Harding Trust to rezone the subject property (property no. 45-001-030-021-06) from Rural Residential to Commercial Zoning, based upon the Application, Rezoning Standards, and the Public Hearing.

Property Description:

COM S 1/4 COR SEC 30 T29N R11W TH N 0 DEG 01'59" W 1334.34 FT TH S 89 DEG 47'36" E 668.91 FT TO POB TH CONT S 89 DEG 47' 36" E 662.40 FT TH S 0 DEG 08'58" E 400.22 FT TH N 89 DEG 47'36" W 865.32 FT TH N 26 DEG 48'36" E 447.60 FT TO POB. 7.01 A M/L. SUBJ TO & TOG W/ 30 FT W ING/EGR/UTILITY ESMT OF RECD & OTHER ESMTS & RESTS OF RECD IF ANY.