

CHARTER TOWNSHIP OF FENTON
Ordinance No. 663
Adopted: July 10, 2006

An ordinance to amend Article 14 of Fenton Township Zoning Ordinance No. 594 to add Section 14.03 to provide for conditional rezoning of property.

THE CHARTER TOWNSHIP OF FENTON, GENESEE COUNTY, MICHIGAN,
ORDAINS:

ARTICLE I. Article 14 (Amendments) of Zoning Ordinance No. 594 is hereby amended to add Section 14.03 as follows:

SECTION 14.03 Conditional Rezoning

A. Intent

It is recognized that there are certain instances where it would be in the best interest of the Township, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for rezoning. It is the intent of this Section to provide a process consistent with the provisions of Section 405 of the Michigan Zoning Enabling Act (MCL 125.3405) by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

B. Application and Offer of Conditions

1. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a rezoning is requested. This offer may be made either at the time the application for rezoning is filed or at a later time during the rezoning process.
2. The required application and process for considering a rezoning request with conditions shall be the same as that for considering rezoning requests made without any offer of conditions, except as modified by the requirements of this Section.
3. The owner's offer of conditions may not authorize uses or developments not permitted in the requested new zoning district.
4. Approval of a conditional rezoning does not guarantee approval of any special use permit which may be required as part of the conditional rezoning project, and review of the special use permit must follow the procedures outlined in Article 9 before development can begin.
5. Approval of a conditional rezoning does not guarantee approval of any variance which may be required as part of the conditional rezoning project, and review of the variance must follow the procedures outlined in Article 13 before development can begin.
6. Approval of a conditional rezoning does not guarantee approval of any site plan which may be required as part of the conditional rezoning project, and review of

the site plan must follow the procedures outlined in Article 8 before development can begin.

7. The offer of conditions may be amended during the process of rezoning, provided that any amended or additional conditions are offered voluntarily by the owner. An owner may withdraw all or part of its offer of conditions any time prior to final rezoning action of the Township Board provided that, if such withdrawal occurs after the Planning Commission's public hearing on the original rezoning request, then the rezoning application shall be referred to the Planning Commission for a new public hearing and a new recommendation, with notice as required by this article.

C. Planning Commission Review

After public hearing and consideration of the factors for rezoning set forth in Section 14 of this Ordinance, the Planning Commission may:

1. Recommend approval of the conditional rezoning
2. Recommend approval of the conditional rezoning with changes
3. Recommend denial of the conditional rezoning

Provided, however, that any recommended changes to the offer of conditions are acceptable to and offered by the owner.

D. Township Board Review

After receiving the Planning Commission's recommendation, the Township Board shall deliberate upon the requested rezoning and may approve or deny the conditional rezoning request. The Township Board's deliberations shall consider the factors for rezoning set forth in Section 14 of this Ordinance. Should the Township Board propose amendments to the proposed conditional rezoning, and the amendments are acceptable to and offered by the owner, then the rezoning application shall be referred back to the Planning Commission for a new public hearing and a new recommendation, with notice as required by this article.

E. Approval

1. If the Township Board finds the owner's rezoning request and offer of conditions acceptable, the offered conditions shall be incorporated into a formal written Statement of Conditions provided said conditions conform to this section. The Statement of Conditions shall be incorporated into the ordinance adopted by the Township Board.
2. The Statement of Conditions shall:
 - a. Be prepared as a notarized Affidavit signed by the owner.
 - b. Contain a legal description of the land being rezoned.
 - c. Acknowledge that the Statement of Conditions runs with the land and is binding upon successor owners of the land unless otherwise specified by this section.
 - d. Include any diagram, plans or other documents submitted that are necessary to illustrate the implementation of the Statement of Conditions.
 - e. Include the notarized signatures of all owners of the subject land, state they voluntarily offer and consent to the provisions contained within the Statement of Conditions.

3. Upon the rezoning taking effect, the Zoning Map shall be amended to reflect the new zoning classification along with a designation that the land was rezoned with a Statement of Conditions. The zoning map shall also include a listing of all lands rezoned with a Statement of Conditions.

F. Compliance with Conditions

1. Any person who establishes a development or commences a use upon land that has been rezoned with conditions shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in the Statement of Conditions. Any failure to comply with a condition contained within the Statement of Conditions shall be deemed a nuisance per se and shall constitute a violation of this Zoning Ordinance and be punishable accordingly.
2. No permit or approval shall be granted under this Ordinance for any use or development that is contrary to the Statement of Conditions.

G. Time Period for Establishing Development or Use

Unless another time period is specified in the Ordinance rezoning the subject land, the site plan for approved development shall be submitted within two (2) years after the rezoning took effect. In cases where a site plan is not required, the approved use of land or buildings must have commenced within one year unless another time period is specified in the ordinance rezoning the subject land. These time limitations may upon written request be extended by the Township Board if:

1. It is demonstrated to the Township Board's reasonable satisfaction that there is a strong likelihood that the development and/or use will commence within the period of extension and proceed diligently thereafter to completion and
2. The Township Board finds that there has not been a change in circumstances that would render the current zoning with Statement of Conditions incompatible with other zones and uses in the surrounding area or otherwise inconsistent with sound zoning policy.

All applicable project completion deadlines in this ordinance related to site plans, special use permits and variances shall apply.

H. Reversion of Zoning

If approved development and/or use of the rezoned land do not occur within the time frame specified under Subsection G above, then the land shall revert to its former zoning classification as set forth in MCL 125.3405. The reversion process shall be initiated by the Township Board requesting that the Planning Commission proceed with consideration of rezoning of the land to its former zoning classification. The procedure for considering and making this reversionary rezoning shall be the same as applies to all other rezoning requests.

I. Subsequent Rezoning of Land

When land that is rezoned with a Statement of Conditions is rezoned to a different zoning classification or to the same zoning classification but with a different or no Statement of Conditions, whether as a result of a reversion of zoning pursuant to Subsection H or otherwise, the Statement of Conditions imposed under the former zoning classification shall cease to be in effect. If a Statement of Conditions has been recorded, upon the owner's written request, the Township Clerk shall record with the Genesee County Register of Deeds a notice that the Statement of Conditions is no longer in effect.

J. Amendment of Conditions

1. During the time period for commencement of an approved development or use specified pursuant to Subsection G or during any extension granted by the Township Board, the Township shall not add to or alter the conditions in the Statement of Conditions.
2. The Statement of Conditions may be amended in the same manner as was prescribed for the original rezoning and Statement of Conditions.

K. Township Right to Rezone

Nothing in the Statement of Conditions or in the provisions of this Section shall be deemed to prohibit the Township from rezoning all or any portion of land that is subject to a Statement of Conditions to another zoning classification. Any rezoning shall be conducted in compliance with this Ordinance and the Michigan Zoning Enabling Act (MCL 125.3101, et seq.)

L. Failure to Offer Conditions

The Township shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect an owner's rights under this Ordinance.

ARTICLE II. This ordinance and its various articles, paragraphs and clauses thereof are hereby declared to be severable. If any article, paragraph or clause is adjudged unconstitutional or invalid, the remainder of this amendatory ordinance shall not be affected thereby.

ARTICLE III. All ordinances and provisions of ordinances of the Charter Township of Fenton in conflict herewith are hereby repealed.

ARTICLE IV. This amendatory ordinance shall be published as required by law and shall take effect 7 days after adoption and publication.

Enacted at a regular meeting of the Fenton Township Board held on the 10th day of July 2006.

Bonnie K. Mathis, Supervisor

Robert E. Krug, Clerk