

HOUSE BILL No. 6184

June 13, 2002, Introduced by Reps. Pappageorge, Gosselin and George and referred to the Committee on Local Government and Urban Policy.

A bill to amend 1943 PA 184, entitled "Township zoning act," by amending sections 16b, 16c, 23, and 40 (MCL 125.286b, 125.286c, 125.293, and 125.310), section 40 as amended by 2001 PA 177, and by adding section 24b.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 16b. (1) A township may provide in a zoning ordinance
2 for special land uses which shall be permitted in a zoning dis-
3 trict only after review and approval by either the zoning board,
4 an official charged with administering the ordinance, or the
5 township board, as specified in the ordinance. The ordinance
6 shall specify ALL OF THE FOLLOWING:

7 (a) The special land uses and activities eligible for
8 approval consideration and the body or official charged with
9 reviewing special land uses and granting approval.

1 (b) The requirements and standards upon which decisions on
2 requests for special land use approval shall be based.

3 (c) The procedures and supporting materials required for
4 application, review, and approval.

5 (2) Upon receipt of an application for a special land use
6 ~~which~~ THAT requires a decision on discretionary grounds, 1
7 notice that a request for special land use approval has been
8 received shall be published in a newspaper ~~which~~ THAT circu-
9 lates in the township, and sent by mail or personal delivery to
10 ~~the~~ ALL OF THE FOLLOWING:

11 (A) THE owners of property for which approval is being
12 considered. ~~, to all persons~~

13 (B) EACH PERSON to whom IS ASSESSED real property ~~is~~
14 ~~assessed~~ within 300 feet of the boundary of the property ~~in~~
15 ~~question, and to the~~ THAT IS THE SUBJECT OF THE REQUEST.

16 (C) THE occupants of all structures within 300 feet OF THE
17 BOUNDARY OF THE PROPERTY THAT IS THE SUBJECT OF THE REQUEST.

18 (D) IF THE REQUEST CONCERNS A SIGN OR SIGN STRUCTURE, TO
19 BOTH OF THE FOLLOWING:

20 (i) THE LEGISLATIVE BODY OF ANY OTHER TOWNSHIP, OR OF A CITY
21 OR VILLAGE, WITH A BOUNDARY WITHIN 1,500 FEET OF THE BOUNDARY OF
22 THE PROPERTY THAT IS THE SUBJECT OF THE REQUEST.

23 (ii) THE COUNTY BOARD OF COMMISSIONERS OF EACH COUNTY WHERE
24 A TOWNSHIP, CITY, OR VILLAGE DESCRIBED IN SUBPARAGRAPH (i) IS
25 LOCATED.

26 (3) The notice PROVIDED FOR IN SUBSECTION (2) shall be given
27 not less than 5 nor more than 15 days before the date the

1 application will be considered. If the name of the occupant is
2 not known, the term "occupant" may be used in making
3 notification. Notification need not be given to more than 1
4 occupant of a structure, except that if a structure contains more
5 than 1 dwelling unit or spatial area owned or leased by different
6 individuals, partnerships, businesses, or organizations, 1 occu-
7 pant of each unit or spatial area shall receive notice. In the
8 case of a single structure containing more than 4 dwelling units
9 or other distinct spatial areas owned or leased by different
10 individuals, partnerships, businesses, or organizations, notice
11 may be given to the manager or owner of the structure, who shall
12 be requested to post the notice at the primary entrance to the
13 structure. The notice shall DO ALL OF THE FOLLOWING:

14 (a) Describe the nature of the special land use request.

15 (b) Indicate the property ~~which~~ THAT is the subject of the
16 special land use request.

17 (c) State when and where the special land use request will
18 be considered.

19 (d) Indicate when and where written comments will be
20 received concerning the request.

21 (e) Indicate that a public hearing on the special land use
22 request may be requested by ~~any property owner~~ EITHER OF THE
23 FOLLOWING, AS APPLICABLE:

24 (i) AN OWNER OF PROPERTY or the occupant of ~~any~~ A struc-
25 ture located within 300 feet of the boundary of the property
26 ~~being considered for a special use~~ THAT IS THE SUBJECT OF THE
27 REQUEST.

1 (ii) IF THE REQUEST CONCERNS A SIGN OR SIGN STRUCTURE, AN
2 ENTITY LISTED IN SUBSECTION (2)(D).

3 (4) ~~-(3)-~~ At the initiative of the body or official respon-
4 sible for approving special land uses, or upon the request of the
5 applicant for special land use authorization or a ~~property owner~~
6 ~~or the occupant of a structure located within 300 feet of the~~
7 ~~boundary of the property being considered for a special land use~~
8 PERSON DESCRIBED IN SUBSECTION (3)(E), a public hearing ~~with~~
9 ~~notification as required for a notice of a request for special~~
10 ~~land use approval, as provided in subsection (2),~~ shall be held
11 before a decision is made on the special land use request which
12 is based on discretionary grounds. NOTICE OF THE PUBLIC HEARING
13 SHALL BE GIVEN IN THE SAME MANNER AS REQUIRED FOR NOTICE OF A
14 REQUEST FOR SPECIAL LAND USE APPROVAL UNDER SUBSECTIONS (2) AND
15 (3). If the applicant or the body or official responsible for
16 approving special land uses requests a public hearing, only noti-
17 fication of the public hearing need be made.

18 (5) A decision on a special land use ~~which~~ THAT is based
19 on discretionary grounds, shall not be made unless notification
20 of the request for special land use approval, or notification of
21 a public hearing on a special land use request has been made as
22 required by this section.

23 (6) ~~-(4)-~~ The body or official designated in the zoning
24 ordinance to review and approve special land uses may deny,
25 approve, or approve with conditions, a request for special land
26 use approval. The decision on a special land use shall be
27 incorporated in a statement containing the conclusions relative

1 to the special land use under consideration. ~~which specifies~~
2 THE STATEMENT SHALL SPECIFY the basis for the decision ~~,~~ and
3 any conditions imposed.

4 Sec. 16c. ~~(1) As used in this section, "planned unit~~
5 ~~development" includes such terms as cluster zoning, planned~~
6 ~~development, community unit plan, planned residential develop-~~
7 ~~ment, and other terminology denoting zoning requirements designed~~
8 ~~to accomplish the objectives of the zoning ordinance through a~~
9 ~~land development project review process based on the application~~
10 ~~of site planning criteria to achieve integration of the proposed~~
11 ~~land development project with the characteristics of the project~~
12 ~~area.~~

13 (1) ~~(2)~~ A township ZONING ORDINANCE may INCLUDE planned
14 unit development requirements ~~in a zoning ordinance which~~ THAT
15 permit flexibility in the regulation of land development; encour-
16 age innovation in land use and variety in design, layout, and
17 type of structures constructed; achieve economy and efficiency in
18 the use of land, natural resources, energy, and the provision of
19 public services and utilities; encourage useful open space; and
20 provide better housing, employment, and shopping opportunities
21 particularly suited to the needs of the residents of this state.
22 The review and approval of planned unit developments shall be by
23 either the zoning board, an official charged with administration
24 of the ordinance, or the township board, as specified in the
25 ZONING ordinance.

26 (2) ~~(3)~~ Within a land development project designated as a
27 planned unit development, regulations relating to the use of

1 land, including, BUT NOT LIMITED TO, permitted uses, lot sizes,
2 setbacks, height limits, required facilities, buffers, open space
3 areas, and land use density, shall be determined ~~in accordance~~
4 ~~with~~ UNDER the planned unit development regulations specified in
5 the zoning ordinance. The planned unit development regulations
6 need not be uniform with regard to each type of land use if equi-
7 table procedures recognizing due process principles and avoiding
8 arbitrary decisions ~~have been~~ ARE followed in making regulatory
9 decisions.

10 (3) ~~(4)~~ The planned unit development regulations
11 ~~established~~ ADOPTED by a township shall specify ALL OF THE
12 FOLLOWING:

13 (a) The body or official ~~which will~~ WHO SHALL review and
14 approve planned unit development requests.

15 (b) The conditions ~~which~~ THAT create planned unit develop-
16 ment eligibility, the participants in the review process, and the
17 requirements and standards upon which applications ~~will~~ SHALL
18 be judged and approval granted.

19 (c) The procedures required for application, review, and
20 approval.

21 (4) ~~(5)~~ Following receipt of a request to approve a
22 planned unit development, the body or official charged in the
23 ordinance with review and approval of planned unit developments
24 shall hold at least 1 public hearing on the request. An ordi-
25 nance may provide for preapplication conferences before submis-
26 sion of a planned unit development request, and FOR the
27 submission of preliminary site plans before the public hearing.

1 Notification of the public hearing shall be given in the same
2 manner as required by section ~~16b(3) for public hearings on~~
3 16B(2) AND (3) FOR REQUESTS FOR special land uses. Within a rea-
4 sonable time following the public hearing, the body or official
5 responsible for approving planned unit developments shall meet
6 for final consideration of the request, and deny, approve, or
7 approve with conditions, the request. The body or official shall
8 prepare a report stating its conclusions on the request for a
9 planned unit development, the basis for its decision, the deci-
10 sion, and any conditions relating to an affirmative decision.
11 THE DECISION OF THAT BODY OR OFFICIAL IS FINAL UNLESS THE ZONING
12 ORDINANCE REQUIRES THAT THE TOWNSHIP BOARD AMEND THE ZONING ORDI-
13 NANCE TO APPROVE OR APPROVE WITH CONDITIONS THE PLANNED UNIT
14 DEVELOPMENT REQUEST. If the ordinance requires that the township
15 board ~~amends~~ AMEND the ordinance to ~~act on~~ APPROVE OR APPROVE
16 WITH CONDITIONS the planned unit development request, ~~the~~ BOTH
17 OF THE FOLLOWING APPLY:

18 (A) THE zoning board shall hold the hearing as required by
19 section 9, and the report and the documents related to the
20 planned unit development request shall be transmitted to the
21 township board for consideration in making a final decision. ~~If~~
22 ~~amendment of a zoning ordinance is required by the planned unit~~
23 ~~development regulations of a township zoning ordinance, the~~

24 (B) THE requirements of this act for amendment of a zoning
25 ordinance shall be followed, except that the hearing and notice
26 required by this subsection ~~shall be regarded as fulfilling~~
27 FULFILL the public hearing and notice requirement of section 9.

1 ~~(6) If the planned unit development regulations of a~~
2 ~~township zoning ordinance do not require amendment of the ordi-~~
3 ~~nance to authorize a planned unit development, the body or offi-~~
4 ~~cial charged in the zoning ordinance with review and approval of~~
5 ~~planned unit developments may approve, approve with conditions,~~
6 ~~or deny a request.~~

7 (5) ~~(7)~~ Final approvals may be granted on each phase of a
8 multiphased planned unit development if each phase contains the
9 necessary components to ~~insure~~ ENSURE protection of natural
10 resources and the health, safety, and welfare of the users of the
11 planned unit development and the residents of the surrounding
12 area.

13 (6) ~~(8)~~ In establishing planned unit development require-
14 ments, a township may ~~, when available and applicable,~~ incor-
15 porate by reference other APPLICABLE ordinances or statutes
16 ~~which~~ THAT regulate land development. The planned unit devel-
17 opment regulations contained in zoning ordinances shall encourage
18 complementary relationships between zoning regulations and other
19 regulations affecting the development of land.

20 Sec. 23. (1) The township board of appeals shall fix a rea-
21 sonable time for the hearing of ~~the appeal, give due notice~~
22 ~~thereof to the parties,~~ AN APPEAL UNDER SECTION 20 and decide
23 the appeal within a reasonable time. THE BOARD OF APPEALS SHALL
24 GIVE NOTICE OF THE APPEAL TO BOTH OF THE FOLLOWING, AS
25 APPLICABLE:

26 (A) THE PARTIES.

1 (B) IF THE APPEAL IS FROM A DECISION ON A SPECIAL LAND USE
2 REQUEST CONCERNING A SIGN OR SIGN STRUCTURE, BOTH OF THE
3 FOLLOWING:

4 (i) THE LEGISLATIVE BODY OF ANY OTHER TOWNSHIP, OR OF A CITY
5 OR VILLAGE, WITH A BOUNDARY WITHIN 1,500 FEET OF THE BOUNDARY OF
6 THE PROPERTY THAT IS THE SUBJECT OF THE APPEAL.

7 (ii) THE COUNTY BOARD OF COMMISSIONERS OF EACH COUNTY WHERE
8 A TOWNSHIP, CITY, OR VILLAGE DESCRIBED IN SUBPARAGRAPH (i) IS
9 LOCATED.

10 (2) At the hearing, a party may appear in person or by agent
11 or by attorney.

12 (3) The board of appeals may reverse or affirm, wholly or
13 partly, or may modify the order, requirement, decision, or deter-
14 mination ~~as in its opinion ought to be made in the premises, and~~
15 ~~to that end shall have~~ APPEALED FROM. FOR THAT PURPOSE, THE
16 BOARD HAS all the powers of the officer or body from whom the
17 appeal was taken and may issue or direct the issuance of a
18 permit. ~~where~~

19 (4) IF there are practical difficulties or unnecessary hard-
20 ship in the way of carrying out the strict letter of the zoning
21 ordinance, the board of appeals in passing upon appeals may vary
22 or modify any of its rules or provisions so that the spirit of
23 the ordinance is observed, public safety secured, and substantial
24 justice done. The board of appeals may impose conditions with an
25 affirmative decision pursuant to section 16d(2).

26 SEC. 24B. IF A TOWNSHIP IS A PARTY IN A JUDICIAL ACTION
27 ARISING FROM ITS DECISION ON A SPECIAL LAND USE REQUEST

1 CONCERNING A SIGN OR SIGN STRUCTURE, ANY OF THE FOLLOWING MAY
2 INTERVENE IN THE ACTION WITH THE APPROVAL OF THE TOWNSHIP BOARD
3 OF THAT TOWNSHIP OR UNDER ANY OTHER CIRCUMSTANCES PROVIDED BY LAW
4 OR THE MICHIGAN COURT RULES:

5 (A) ANY OTHER TOWNSHIP, OR CITY OR VILLAGE, WITH A BOUNDARY
6 WITHIN 1,500 FEET OF THE BOUNDARY OF THE PROPERTY THAT IS THE
7 SUBJECT OF THE ACTION.

8 (B) THE COUNTY BOARD OF COMMISSIONERS OF EACH COUNTY WHERE A
9 TOWNSHIP, CITY, OR VILLAGE DESCRIBED IN SUBDIVISION (A) IS
10 LOCATED.

11 Sec. 40. (1) As used in this act:

12 (a) "Agricultural land" means substantially undeveloped land
13 devoted to the production of plants and animals useful to humans,
14 including forage and sod crops; grains, feed crops, and field
15 crops; dairy products; poultry and poultry products; livestock,
16 including breeding and grazing of cattle, swine, and similar ani-
17 mals; berries; herbs; flowers; seeds; grasses; nursery stock;
18 fruits; vegetables; Christmas trees; and other similar uses and
19 activities.

20 (b) "Airport" means an airport licensed by the Michigan
21 department of transportation, bureau of aeronautics under section
22 86 of the aeronautics code of the state of Michigan, 1945 PA 327,
23 MCL 259.86.

24 (c) "Airport approach plan" means a plan, or an amendment to
25 a plan, adopted under section 12 of the airport zoning act, 1950
26 (Ex Sess) PA 23, MCL 259.442, and filed with the township zoning

1 board under section 151 of the aeronautics code of the state of
2 Michigan, 1945 PA 327, MCL 259.151.

3 (d) "Airport layout plan" means a plan, or an amendment to a
4 plan, that shows current or proposed layout of an airport, that
5 is approved by the Michigan aeronautics commission, and that is
6 filed with the township zoning board under section 151 of the
7 aeronautics code of the state of Michigan, 1945 PA 327,
8 MCL 259.151.

9 (e) "Airport manager" means that term as defined in section
10 ~~10~~ 2 of the aeronautics code of the state of Michigan, 1945
11 PA 327, MCL ~~259.10~~ 259.2.

12 (f) "Airport zoning regulations" means airport zoning regu-
13 lations under the airport zoning act, 1950 (Ex Sess) PA 23,
14 MCL 259.431 to 259.465, for an airport hazard area that lies in
15 whole or part in the area affected by a zoning ordinance under
16 this act.

17 (g) "Conservation easement" means that term as defined in
18 section 2140 of the natural resources and environmental protec-
19 tion act, 1994 PA 451, MCL 324.2140.

20 (h) "Development rights" means the rights to develop land to
21 the maximum intensity of development authorized by law.

22 (i) "Development rights ordinance" means an ordinance, which
23 may comprise part of a zoning ordinance, adopted under
24 section 31.

25 (j) "Greenway" means a contiguous or linear open space,
26 including habitats, wildlife corridors, and trails, that link

1 parks, nature reserves, cultural features, or historic sites with
2 each other, for recreation and conservation purposes.

3 (k) "Intensity of development" means the height, bulk, area,
4 density, setback, use, and other similar characteristics of
5 development.

6 (l) "Other eligible land" means land that has a common prop-
7 erty line with agricultural land from which development rights
8 have been purchased and that is not divided from that agricul-
9 tural land by a state or federal limited access highway.

10 (m) "PDR program" means a program under section 32 for the
11 purchase of development rights by a township.

12 (N) "PLANNED UNIT DEVELOPMENT" INCLUDES CLUSTER ZONING,
13 PLANNED DEVELOPMENT, COMMUNITY UNIT PLAN, PLANNED RESIDENTIAL
14 DEVELOPMENT, AND OTHER TERMINOLOGY DENOTING ZONING REQUIREMENTS
15 DESIGNED TO ACCOMPLISH THE OBJECTIVES OF THE ZONING ORDINANCE
16 THROUGH A LAND DEVELOPMENT PROJECT REVIEW PROCESS BASED ON THE
17 APPLICATION OF SITE PLANNING CRITERIA TO ACHIEVE INTEGRATION OF A
18 PROPOSED LAND DEVELOPMENT PROJECT WITH THE CHARACTERISTICS OF THE
19 PROJECT AREA.

20 (O) ~~(n)~~ "Population of" a specified number means the popu-
21 lation according to the most recent federal decennial census or
22 according to a special census conducted pursuant to section 7 of
23 the Glenn Steil state revenue sharing act of 1971, 1971 PA 140,
24 MCL 141.907, whichever is the more recent.

25 (P) "SIGN" AND "SIGN STRUCTURE" MEAN THOSE TERMS AS DEFINED
26 IN SECTION 2 OF THE HIGHWAY ADVERTISING ACT OF 1972, 1972 PA 106,
27 MCL 252.302.

1 (Q) ~~(o)~~ "Undeveloped state" means a natural state
2 preserving natural resources, natural features, or scenic or
3 wooded conditions; agricultural use; open space; or a similar use
4 or condition. Land in an undeveloped state does not include a
5 golf course but may include a recreational trail, picnic area,
6 children's play area, greenway, or linear park. Land in an unde-
7 veloped state may be, but is not required to be, dedicated to the
8 use of the public.

9 (2) This act shall be known and may be cited as the
10 "township zoning act".