

HOUSE BILL No. 4266

February 25, 2003, Introduced by Reps. Pappageorge, Meyer, Rocca, Daniels, LaSata, Garfield, Vagnozzi, Vander Veen, Bieda, Woodward, Caul and Stahl 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
3 district only after review and approval by either the zoning
4 board, an official charged with administering the ordinance, or
5 the 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**
9 circulates in the township, and sent by mail or personal delivery
10 to ~~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
7 occupant of each unit or spatial area shall receive notice. In
8 the case of a single structure containing more than 4 dwelling
9 units or other distinct spatial areas owned or leased by
10 different individuals, partnerships, businesses, or
11 organizations, notice may be given to the manager or owner of the
12 structure, who shall be requested to post the notice at the
13 primary entrance to the structure. The notice shall **do all of**
14 **the following:**

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

16 (b) Indicate the property ~~which~~ **that** is the subject of the
17 special land use request.

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

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

22 (e) Indicate that a public hearing on the special land use
23 request may be requested by ~~any property owner~~ **either of the**
24 **following, as applicable:**

25 (i) **An owner of property** or the occupant of ~~any~~ **a**
26 structure located within 300 feet of the boundary of the property
27 ~~being considered for a special use~~ **that is the subject of the**

1 request.

2 (ii) If the request concerns a sign or sign structure, an
3 entity listed in subsection (2)(d).

4 (4) ~~(3)~~ At the initiative of the body or official
5 responsible for approving special land uses, or upon the request
6 of the applicant for special land use authorization or a
7 ~~property owner or the occupant of a structure located within 300~~
8 ~~feet of the boundary of the property being considered for a~~
9 ~~special land use~~ **person described in subsection (3)(e)**, a public
10 hearing ~~with notification as required for a notice of a request~~
11 ~~for special land use approval, as provided in subsection (2),~~
12 shall be held before a decision is made on the special land use
13 request which is based on discretionary grounds. **Notice of the**
14 **public hearing shall be given in the same manner as required for**
15 **notice of a request for special land use approval under**
16 **subsections (2) and (3).** If the applicant or the body or official
17 responsible for approving special land uses requests a public
18 hearing, only notification of the public hearing need be made.

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

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

1 incorporated in a statement containing the conclusions relative
 2 to the special land use under consideration. ~~which specifies~~
 3 **The statement shall specify** the basis for the decision ~~—~~ and
 4 any conditions imposed.

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

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

27 **(2)** ~~(3)~~ Within a land development project designated as a

1 planned unit development, regulations relating to the use of
2 land, including, **but not limited to**, permitted uses, lot sizes,
3 setbacks, height limits, required facilities, buffers, open space
4 areas, and land use density, shall be determined ~~in accordance~~
5 ~~with~~ **under** the planned unit development regulations specified in
6 the zoning ordinance. The planned unit development regulations
7 need not be uniform with regard to each type of land use if
8 equitable procedures recognizing due process principles and
9 avoiding arbitrary decisions ~~have been~~ **are** followed in making
10 regulatory decisions.

11 (3) ~~(4)~~ The planned unit development regulations
12 ~~established~~ **adopted** by a township shall specify **all of the**
13 **following**:

14 (a) The body or official ~~which will~~ **who shall** review and
15 approve planned unit development requests.

16 (b) The conditions ~~which~~ **that** create planned unit
17 development eligibility, the participants in the review process,
18 and the requirements and standards upon which applications ~~will~~
19 **shall** be judged and approval granted.

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

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

1 submission of preliminary site plans before the public hearing.
2 Notification of the public hearing shall be given in the same
3 manner as required by section ~~16b(3) for public hearings on~~
4 **16b(2) and (3) for requests for** special land uses. Within a
5 reasonable time following the public hearing, the body or
6 official responsible for approving planned unit developments
7 shall meet for final consideration of the request, and deny,
8 approve, or approve with conditions, the request. The body or
9 official shall prepare a report stating its conclusions on the
10 request for a planned unit development, the basis for its
11 decision, the decision, and any conditions relating to an
12 affirmative decision. **The decision of that body or official is**
13 **final unless the zoning ordinance requires that the township**
14 **board amend the zoning ordinance to approve or approve with**
15 **conditions the planned unit development request.** If the ordinance
16 requires that the township board ~~amends~~ **amend** the ordinance to
17 ~~act on~~ **approve or approve with conditions** the planned unit
18 development request, ~~the~~ **both of the following apply:**

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

25 **(b) The** requirements of this act for amendment of a zoning
26 ordinance shall be followed, except that the hearing and notice
27 required by this subsection ~~shall be regarded as fulfilling~~

1 **fulfill** the public hearing and notice requirement of section 9.

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

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

14 (6) ~~(8)~~ In establishing planned unit development
 15 requirements, a township may ~~, when available and applicable,~~
 16 incorporate by reference other **applicable** ordinances or statutes
 17 ~~which~~ **that** regulate land development. The planned unit
 18 development regulations contained in zoning ordinances shall
 19 encourage complementary relationships between zoning regulations
 20 and other regulations affecting the development of land.

21 Sec. 23. (1) The township board of appeals shall fix a
 22 reasonable time for the hearing of ~~the appeal, give due notice~~
 23 ~~thereof to the parties,~~ **an appeal under section 20** and decide
 24 the appeal within a reasonable time. **The board of appeals shall**
 25 **give notice of the appeal to both of the following, as**
 26 **applicable:**

27 (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
14 determination ~~as in its opinion ought to be made in the~~
15 ~~premises, and to that end shall have~~ **appealed from. For that**
16 **purpose, the board has** all the powers of the officer or body from
17 whom the appeal was taken and may issue or direct the issuance of
18 a permit. ~~Where~~

19 (4) **If** there are practical difficulties or unnecessary
20 hardship in the way of carrying out the strict letter of the
21 zoning ordinance, the board of appeals in passing upon appeals
22 may vary or modify any of its rules or provisions so that the
23 spirit of the ordinance is observed, public safety secured, and
24 substantial justice done. The board of appeals may impose
25 conditions with an affirmative decision pursuant to section
26 16d(2).

27 **Sec. 24b. If a township is a party in a judicial action**

1 arising from its decision on a special land use request
2 concerning a sign or sign structure, any of the following may
3 intervene in the action with the approval of the township board
4 of that township or under any other circumstances provided by law
5 or the Michigan court rules:

6 (a) Any other township, or city or village, with a boundary
7 within 1,500 feet of the boundary of the property that is the
8 subject of the action.

9 (b) The county board of commissioners of each county where a
10 township, city, or village described in subdivision (a) is
11 located.

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

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

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

25 (c) "Airport approach plan" means a plan, or an amendment to
26 a plan, adopted under section 12 of the airport zoning act, 1950
27 (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
13 regulations 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
19 protection 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
27 parks, nature reserves, cultural features, or historic sites with

1 each other, for recreation and conservation purposes.

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

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

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

11 (n) **"Planned unit development" includes cluster zoning,
12 planned development, community unit plan, planned residential
13 development, and other terminology denoting zoning requirements
14 designed to accomplish the objectives of the zoning ordinance
15 through a land development project review process based on the
16 application of site planning criteria to achieve integration of a
17 proposed land development project with the characteristics of the
18 project area.**

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

24 (p) **"Sign" and "sign structure" mean those terms as defined
25 in section 2 of the highway advertising act of 1972, 1972 PA 106,
26 MCL 252.302.**

27 (q) ~~(o)~~ "Undeveloped state" means a natural state

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

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