

Chapter 11

Implementation

The completion of this Future Land Use Plan is but one part of the community planning process. Realization or implementation of the recommendations of the Plan can only be achieved over an extended period of time and only through the cooperative efforts of both the public and private sectors. Implementation of the Plan may be realized by actively:

- Assure community wide knowledge, understanding, support, and approval of planning activities;
- Audit, analysis, revision, and adoption of existing and new Township ordinances or regulations pertaining to continued development and redevelopment within the area, including but not limited to, zoning controls, subdivision regulations, building and housing codes, and farmland and open space preservation practices;
- Support and ensure enforcement and consistent administration of in-place policies, ordinances and regulations; and,
- Provide a program of capital improvements and adequate, economical public services to encourage continued community growth.

Public Support of the Master Plan

Citizen participation and understanding of the general planning process and policies of the Plan are critical to the success of the Township's planning program. Kimball Township should develop a methodology that makes its citizens more aware of the planning process, and the day-to-day decision making which affects implementation of this Master Plan. Lack of citizen understanding and support could have serious implications for the eventual implementation of planning proposals. Failure of the public to understand and back possible bond issues, as well as taxation concerns, special assessments, zoning decisions, and development proposals are some of the results of public misunderstanding and rejection of longrange plans. On-going programs of discussion, education and participation will, therefore, facilitate the Township's efforts with regard to Plan implementation.

Towards this end, Kimball Township must again emphasize the necessity of, and reasons for, instituting the planning program. Accordingly, the Township Planning Act (Act 168 of 1959 as amended), Section 10 states that the Township Planning Commission "shall promote public understanding of an interest in the Plan and shall publish and distribute copies of the Plan and of any report, and may employ such other means of publicity and education as it determines necessary."

The Township may wish to prepare a Plan summary brochure for public distribution upon its adoption as a strategy to implement this goal. In addition, the development of a handout which contains the Goals and Objectives, as well as the Future Land Use Map and associated text is a beneficial tool for the Township. Residents and applicants tend to be more concerned with these sections of the Plan as they have a more direct bearing on their interests and property within the Township.

Land Development Codes

Zoning Ordinance

Zoning regulations are adopted under the local police power granted by the State for the purpose of promoting community health, safety, and general welfare. Such regulations have been strongly supported by the Michigan courts, as well as by the U.S. Supreme Court. Zoning consists of dividing the community into districts, for the purpose of establishing density of population and regulating the use of land and buildings, their height and bulk, and the proportion of a lot that may be occupied by them. Regulations with the various zoning districts may be different. However, regulations within the same district must be consistent throughout the community.

Zoning is employed as a means of protecting property values and other public and private investments. The intent of zoning is to support a community's Master Plan to help ensure the orderly development of land. It is an effective tool not only for the implementation of the Plan, but it also benefits individual property owners. Zoning protects homes and investments against the potential harmful intrusion of business and industry into residential neighborhoods or agricultural areas; requires the spacing of buildings far enough apart to assure adequate light and air; prevents the overcrowding of land; facilitates the economical provision of essential public facilities; and aids in conservation of essential natural resources.

A stable, knowledgeable Planning Commission is critical to the success of the zoning process. The Commission's responsibilities not only include long-range plan formulation but the drafting of appropriate, reasonable zoning ordinance regulations designed to implement Plan goals and objectives. Adoption of a zoning ordinance by the legislative body then provides the legal basis for enforcement of zoning ordinance provisions. The ultimate effectiveness of the various ordinance requirements, however, is dependent upon the overall quality of ordinance administration and enforcement. If administrative procedures are lax, or if enforcement of regulations is handled in an inconsistent, sporadic manner, the result will be unsatisfactory at best.

There are a variety of zoning approaches and techniques which may be employed to help assure that Kimball Township remains an attractive community in which to live, work, and play. These techniques acknowledge the critical role of both Township officials and staff in enforcing the provisions of the local zoning ordinance. Three key tools available to Township officials seeking to assure quality development are special approval use procedures, performance guarantee provisions, and zoning agreements (commonly referred to as contract zoning) as established by PA 577 of 2004.

Special Approval Uses

Some land uses are of such a nature that permission to locate them in a given district should not be granted outright but should only be approved after assurances that the use will meet certain specified conditions. These types of land uses are called special approval, conditional approval, and/or special exception uses. The Township currently uses this flexible zoning process to permit uses of land by following special procedures, including a public hearing and site plan review, to ensure the compatibility of the use within the vicinity in which it is to be located. This technique is based upon discretionary review and approval of special land uses. The site development requirements and standards upon which these decisions are made are specified in the ordinance as required by State law. However, the Township may wish to consider a review of these conditions to ensure that they are meeting the needs of the community. Additional reasonable conditions may be attached, including provisions that would conserve natural resources and measures designed to promote the use of land in an environmentally, socially, and economically desirable manner.

Performance Guarantee

To ensure compliance with a zoning ordinance and any conditions imposed under the ordinance, a community may require that a performance guarantee, cash deposit, certified check, irrevocable bank letter of credit, or surety bond, acceptable to the Township and covering the estimated cost of improvements on the parcel for which site plan approval is sought, be deposited with the Clerk. This performance guarantee protects the Township by assuring the faithful completion of the improvements. The community must establish procedures under which rebate of cash deposits will be made, in reasonable proportion to the ratio of work completed on the required improvements, as work progresses.

Conditional Zoning

As a third means of affecting the development process, Kimball Township should investigate and consider the addition and potential use of zoning agreements as specified in PA 577 of 2004. This Act provides for specific action on the part of the applicant within the rezoning process, specifically:

- (1) *An owner of land may voluntarily offer in writing, and the Township may approve, certain use and development of the land as a condition to a rezoning of the land or an amendment to a zoning map.*
- (2) *In approving the conditions under subsection (1), the Township may establish a time period during which the conditions apply to the land. Except for an extension under subsection (4), if the conditions are not satisfied within the time specified under this subsection, the land shall revert to its former zoning classification.*

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- (3) *The Township shall not add to or alter the conditions approved under subsection (1) during the time period specified under subsection (2).*
 - (4) *The time period specified under subsection (2) may be extended upon the application of the landowner and approval of the Township.*
 - (5) *A Township shall not require a landowner to offer conditions as a requirement for rezoning. The lack of an offer under subsection (1) shall not otherwise affect a landowner's rights under this act, the ordinances of the Township, or any other laws of this state.*

Due to the recent nature of this Act, no case law exists to understand how the courts will react to this type of development. While traditional zoning has been strongly supported by the Michigan courts, as well as by the U.S. Supreme Court, conditional zoning is too new. Still, this is a land development tool available to the Township and its use should be considered when presented by a land owner. However, great care should be taken to ensure the zoning contract meets the needs of the Township and that it can be supported by the Master Plan and local ordinances.

Review of Existing Zoning Code

Zoning Ordinances are not static documents and thus must be strategically amended to reflect changes in community needs, conditions and/or Township policy. Unfortunately, isolated text amendments often are made without fully assessing their relationship to other critical portions of the text. The end result is troublesome regulatory gaps, or worse, conflicting regulations.

After a cursory review of the current Kimball Township Zoning Ordinance, there suggests a need to address the following issues:

- Review of existing residential zoning classifications to evaluate pertinent differences between and among districts; specifically with regard to overall definitions, lot sizes and development densities.
- Give consideration to the addition of some new districts and to the possible refinement of others, specifically:
 - ◆ Review possible amendments to Agricultural District and how they can support the Agricultural and Rural Estate Districts outlined in the Plan;
 - ◆ Review possible amendments to the Single-Family Districts to ensure their locations on the Zoning Map correspond with the desired growth pattern of the Township; and,
 - ◆ Review possible inclusion of a new commercial districts that will support the three distinct Commercial Districts within the Plan.
- Review of existing development standards such as signage, landscaping, screening, building materials, lighting, parking, etc., to ensure the ordinance language is still meeting the needs of the Township.

Subdivision Regulations

To date, a fully developed sewer and water system is not available in the Township. These services are predominately found in the eastern portion of the Township, east of Wadhams Road. Therefore, the construction of large subdivisions is not prevalent throughout most of the Township. However, with the advent of private sewer and water systems that can support this type of development, sizeable subdivisions are not outside the realm of possibility. Therefore, it is important for the Township to plan for this type of use. When a developer proposes to subdivide land, he or she is, in effect, planning a portion of the Township. The Future Land Use Map outlines some specific areas within the Township where more dense single-family developments are desired.

Several direct benefits accrue from the regulation of subdivisions by a local unit of government. By requiring the subdivider to install adequate utilities and improved streets, purchasers of the lots are not later burdened with unexpected added expenses. A subdivision without adequate physical improvements is detrimental not only to itself, but it also reduces the opportunity for reasonable development of adjacent parcels. In addition, long-range economy in government can be realized only when adequate improvements are provided by the subdivider.

As a part of its review of proposed subdivisions, the Planning Commission will need to focus on such features as the arrangement and width of streets, the grading and surfacing of streets; the width and depth of lots; the adequate provision of open space; and the location of easements for utility installations. The Planning Commission's role within the subdivision review process is to ensure the protection and implementation of the goals and policies outlined in the Master Plan.

Farmland and Open Space Preservation

Kimball Township, through its Goals and Objectives, has demonstrated a commitment to the promotion and conservation of local agricultural resources, and the continuation of farming activities and related agricultural uses. So as to more concretely affirm and instill these practices, the Township may wish to employ, on its own or in joint partnerships, any single, part, or all of the following measures:

- Land trusts - A nonprofit organization that, as all or part of its mission, works with the Township to conserve land by undertaking or assisting direct land transactions-primarily the purchase or acceptance of donations of land or conservation easements.
- Purchase of Development Rights (PDR) – A program under which a governmental agency buys “development rights,” or a conservation easement that permits it to prohibit practices, uses and development of the land in violation of the terms of the development right document. The program does not give the government agency the right to develop the land. It simply permits it to extinguish those rights in return for appropriate compensation. Land owners retain full ownership and control of their land (AFT Farmland Information Library, 1996).
- Conservation easements - A conservation easement is a voluntary agreement that allows a landowner to limit the type or amount of development on their property while retaining private ownership of the land. The easement is signed by the landowner, who is the easement donor, and the Conservancy, who is the party receiving the easement. The conservancy accepts the easement with understanding that it must enforce the terms of the easement in perpetuity. After the easement is signed, it is recorded with the County Register of Deeds and applies to all future owners of the land.
- State of Michigan's farmland protection program (specifically Farmland Development Rights Agreements) - A temporary restriction on the land between the State and a landowner, voluntarily entered into by a landowner, preserving their land for agriculture in exchange for certain tax benefits and exemptions for various special assessments.(commonly known as PA 116).

(State) Purchase of Development Rights: A permanent restriction on the land between the State and a landowner voluntarily entered into by a landowner, preserving their land for agriculture in exchange for a cash payment for those rights.

Agricultural Preservation Fund: A fund established to assist local units of government in implementing a local purchase of development rights program.

Local Open Space Easement: A temporary restriction on the land between the local government and a landowner voluntarily entered into by a landowner, preserving their land as open space in exchange for certain tax benefits and exemptions for various special assessments.

Designated Open Space Easement: A temporary restriction on specially designated lands between the State and a landowner voluntarily entered into by a landowner, preserving their land as open space in exchange for certain tax benefits and exemptions for various special assessments.

Enforcement

The ultimate effectiveness of the zoning, subdivision, and other regulations depends on the effective administration and enforcement by the community. If administrative procedures are lax, or if enforcement of regulations is handled in an inconsistent sporadic manner, the result will be unsatisfactory at best. The Building Inspector is often responsible for carrying out zoning/development related functions, including building inspections, ordinance administration, and community/developer liaison. Each of these functions requires a substantial investment of time. If sufficient time is not made available to carry out these critical functions, they may only be accomplished in a cursory manner. Therefore, the Township should continue its in-place review and administration procedures so that these essential day-to-day functions will receive the professional attention they require.

Capital Improvements Program

The term “capital improvements” is generally intended to embrace large-scale projects of a fixed nature, the implementation of which results in new or expanded public facilities and services. Such items as public building construction, park development, sewer installation, waterworks improvements, street construction, land acquisition, and the acquisition of certain large-scale pieces of equipment (graders, sweepers, trucks, etc.) are included in the Capital Improvements Budget.

Few communities are fortunate enough to have available at any given time sufficient revenues to satisfy all demands for new or improved public facilities and services. Consequently, most are faced with the necessity of determining the relative priority of specific projects and establishing a program schedule for their initiation and completion. The orderly programming of public improvements is to be accomplished in conjunction with long-range planning.

In essence, the Capital Improvements Program is simply a schedule for implementing public capital improvements, which acknowledges current and anticipated demands and which recognizes present and potential financial resources available to the community. The Capital Improvements Program is a major planning tool for assuring that these projects proceed to completion in an efficient manner. The Capital Improvements Program is not intended to encourage the spending of additional public monies but is simply a means by which an impartial evaluation of needs may be made. The program is a schedule established to expedite the implementation of authorized or contemplated projects.

Long-range programming of public improvements is based upon three fundamental considerations:

1. The proposed projects must be selected on the basis of community need;
2. The program must be developed within the community's financial constraints and must be based upon a sound financial plan; and,
3. Program flexibility must be maintained through the annual review and approval of the capital budget.

The strict observance of these conditions requires periodic analysis of various community development factors, as well as a thorough and continuing evaluation of all proposed improvements and related expenditures. It is essential that, in the process of preparing and developing the program, the Planning Commission be assigned a role in reviewing project proposals to assure conformity with Kimball Township's Master Plan and to make recommendations regarding priority projects and appropriate methods of financing.

Planning Education

Planning Commissioners should be encouraged to attend planning and zoning seminars to keep themselves informed of current planning issues and learn how to better carry out their duties and responsibilities as a Planning Commissioner. These seminars are regularly sponsored by the Michigan Association of Planners (formerly the Michigan Society of Planning), Michigan Township Association, and the Michigan State University Extension Service and are valuable resources to the Planning Commissions in the State.

Revisions to the Plan

The Plan should be updated periodically. Any extension, addition, revision, or other amendment to a basic Plan shall be adopted under the same procedure as a Plan or a successive part of a Plan under the procedures stated in Michigan Public Act 263 (2002). However, for an amendment other than a revision of the Plan, both of the following apply:

1. The 65-day comment period otherwise provided for a planning commission, regional, planning commission, or public utility shall be 40 days.
2. The 75- to 95-day period otherwise provided for county planning commission or a county board of commissioners shall be 55 to 75 days.

At least every five years after adoption of the Plan, the Planning Commission, under the Public Act, is required to review the Plan and determine whether to commence the procedure to amend the Plan or adopt a new Plan. These reviews are necessary in order to be responsive to changes in growth trends and current community attitudes on growth and development within the Township.