

FINDINGS OF FACT REZONING REPORT 3-25-2024



Applicant: Daniel and Lynn Kubisiak

Address: 2403 Wilber Road

Review Date: November, 2023; Revised February 2024; Revised 3-25-2024

District: Agricultural Residential District (AR)

Description of Project: The applicant has requested a Conditional Rezoning with a 40-acre parcel split into one 38-acre parcel and the remaining 2-acre parcel is being requested to be rezoned to MDR.

A Conditional Rezoning is allowed per the Michigan Zoning Enabling Act (MCL 125.3405) which states that a property owner may voluntarily offer, in writing, and the local unit of government may approve, certain use and development of land as a condition to rezoning of the land. In other words, it allows rezoning a piece of land based on one particular use that is being proposed there (rather than all uses allowed in that district). The Township may establish a time period for which the conditions shall be established. The Wilber Township Zoning Ordinance Section 10.04 establishes procedures for this process.

The applicant wishes to split the lot into two parcels. Specifically, the existing dwelling would be split off into a 2-acre parcel. However, the minimum lot size of the AR District is 10 acres. The 2-acre would not meet this and would not be permitted under a standard lot split because it would not meet the minimum lot size. However, if the 2-acre parcel were zoned MDR, which has a minimum lot size

of 1 acre, then the splitting off of the 2-acre parcel would be allowable. Without using the Conditional Rezoning option, this would be considered a spot zone.

In order to be considered a Conditional Rezoning, the applicant has to voluntarily offer conditions for the rezoned area. The applicant has asked for a rezoning of 2 acres to MDR with the condition that the 2 acres only be used for single-family residential use (no other allowable use in the MDR District shall be allowed on this parcel – it shall be restricted to single-family residential as per the offered condition).

Section 10.03 Standards for Amendments

Standards for Map Amendments (Rezoning).

In considering any petition for an amendment to the official zoning map (rezoning), the Planning Commission shall and the Township Board may consider the following criteria in making its findings, recommendations, and decision:

- A. Are all of the allowable uses in the proposed district reasonably consistent with surrounding uses in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure, and potential influence on property values?

Findings:

- 1. The proposed district (MDR) actually allows fewer types of uses than the existing district (AR). Therefore, MDR is a more restrictive district in terms of land use. However, the condition is for the property to only allow single-family residential.
- 2. A single-family dwelling is not expected to create a negative impact on the environment.
- 3. A single-family dwelling will not impact traffic in the area.
- 4. Aesthetics will not be impacted due to the fact that the dwelling is existing.
- 5. Property values will not be impacted due to the fact that the dwelling is existing.
- 6. The density of the MDR District is higher than the AR District.

This standard has been met X YES NO N/A

- B. Will there be an adverse physical impact on surrounding properties?

Findings:

- 1. No adverse physical impact on surrounding properties is expected due to the fact that the dwelling is existing.

This standard has been met X YES NO N/A

- C. Will rezoning create a deterrent to the improvement or development of adjacent property in accordance with existing regulations?

Findings:

1. Rezoning one property to MDR will not create a deterrent to the improvement or development of adjacent property due to the fact that the dwelling is existing – no additional density will result.

This standard has been met YES NO N/A

- D. Is the proposed rezoning consistent with the goals and objectives of the Township Master Plan, including any subarea or corridor studies? If conditions have changed since the Master Plan was adopted, is the proposed rezoning consistent with recent development trends in the area?

Findings:

1. The Master Plan Section D (Future Land Use) has a goal of retaining the rural and small-town character by keeping higher intensity uses limited and located properly.
2. The Master Plan Section D (Future Land Use) has a goal of retaining the high quality of the township’s natural resources with a strategy of keeping higher-density uses away from valuable natural resources.
3. The Master Plan Section D (Future Land Use) states that the Medium Density Residential District has been established primarily for single-family residential lots historically located along lakes and streams in the northwest and southwest of the township. The Future Land Use Map shows MDR located only in these areas. Therefore, due to the fact that the Future Land Use Map does not plan for areas zoned Medium Density Residential District in the area of the proposed conditional rezoning, this standard has not been met.
4. Conditions in the Township have not changed since the Master Plan was adopted.
5. The proposed rezoning is not consistent with recent development trends in the area. There have been no other rezonings to MDR in the AR District.
6. See note at end of the report.

This standard has been met YES NO N/A

- E. Are the physical, geological, hydrological, and other environmental features of the site compatible with the potential uses allowed in the proposed zoning district?

Findings:

1. The natural physical features of the site are compatible with a single-family dwelling.

This standard has been met YES NO N/A

- F. Is the capacity of infrastructure and services sufficient to accommodate the uses permitted in the requested district without compromising the "health, safety, and welfare" of Township residents?

Findings:

1. Public-provided infrastructure (roads and public safety) is sufficient to accommodate a single-family dwelling.

2. Privately-provided infrastructure such as electricity and fuel are assumed to be sufficient, but this issue is not regulated by the Township.
3. The District Health Department oversees potable water and the provision of sufficient septic services.

G. Will rezoning grant a special privilege to an individual property owner when contrasted with other property owners in the area or the general public (i.e. will rezoning result in spot zoning)?

Findings:

1. This standard is not relevant per section 10.04.C of the Wilber Township Zoning Ordinance which eliminates this standard in consideration of a Conditional Rezoning.

This standard has been met YES NO N/A

Where a rezoning is reasonable given the above criteria, a determination shall be made that the requested zoning district is more appropriate than another district or amending the list of permitted or special land uses within a district.

All standards have been met YES NO N/A

NOTE: It appears that splitting off 10 acres (which includes the residence) might be technically possible and still comply with the Land Division Act. A 10-acre split would comply with the AR District (there is no minimum width in the AR District). The split would result in a parcel that is not rectangular, however, this split would comply with the AR District and would not necessitate a rezoning. An example is shown below. It should be noted that the placement of the side lot line might result in the creation of a nonconforming building, so that should be carefully looked at.



EXAMPLE MOTIONS

OPTIONS:

1. Motion to approve the proposed Conditional Rezoning of 2 acres of property at 2403 Wilber Road containing a single-family dwelling to the MDR District based on the findings of fact contained in Report #3-25-2024 and the conditions voluntarily offered by the applicant.

2. Motion to deny the proposed Conditional Rezoning of 2 acres of property at 2403 Wilber Road containing a single-family dwelling to the MDR District based on the findings of fact contained in Report #3-25-2024.