

CRIB SHEET FLOW CHART FOR CONSIDERATION OF A RE-ZONING REQUEST

GENERAL

Applicant comes before the PB with request to rezone Property. (§136-59) superseded by (§255-56)



PB reviews Applicant's proposal for rezoning. (§136-64) superseded by (§255-61)



PB must determine whether the Applicant's proposal should be favorably recommended to the Township Committee. (§136-64) superseded by (§255-61)



PB must make specific detailed findings of fact and conclusions of law concerning the applicant's proposal (§136-64) superseded by (§255-61)



The specific detailed findings of fact and conclusions of law concerning the applicant's proposal must be related to the stated review standards. (§136-67) superseded by (§255-64)



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REVIEW STANDARDS

PB is permitted to recommend Rezoning; if PB concludes that one or the other or both primary standards (§136-67D) superseded by (§255-64D) stated below have been proven; if the PB determines that the primary standards have been met, the PB must consider and determine whether the stated secondary standards. (§136-67B) superseded by (§255-64B), (§136-67E) superseded by (§225-64E) stated below have been met.



First and foremost, the Applicant has the burden of proof; which means that, PB must find that the Applicant presented sufficient credible evidence that would permit PB to make appropriate findings, conclusions and recommendations. (§136-64) superseded by (§255-61)



Reviewing the Applicant's proposed request for rezoning, the PB must consider the following two Primary standards (§136-67D) superseded by (§255-64D):

- (1) absent a rezoning, is there is a substantial likelihood that the zoning regulations currently in existence will zone the property into inutility; or
- (2) rezoning proposed by the applicant will substantially and meaningfully benefit the municipality and further the purposes of the Municipal Land Use Law as set forth in N.J.S.A. 40:55D-2.

After reviewing the Primary standards, the PB must consider the applicable Secondary standards (§136-67B) superseded by (§255-64B), (§136-67E) superseded by (§225-64E):

- (1) under both Primary standards, the PB must determine whether the proposed rezoning is consistent or inconsistent with the Master Plan; and if the proposed rezoning is inconsistent with the Master Plan, the PB must include with its recommendation whether it is in the best interest of the Township to amend the Master Plan; and
- (2) under the substantial and meaningful benefit Primary standard, the PB must determine whether the applicant has demonstrated that the proposed rezoning will not unduly burden the planned and orderly development of the Township or place an undue burden upon municipal services and facilities, including traffic impact, fiscal impact and the like.

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“JURY CHARGE” FOR PB DELIBERATION

FIRST REVIEW STANDARD:

1.

Consider (ask and answer) the following question:

Has the applicant met its burden of demonstrating through the presentation of sufficient credible evidence that it is more likely than not that, absent a rezoning, there is a substantial likelihood that the zoning regulations currently in existence will zone the property into inutility? (Inutility means uselessness or having no practical use.)

Explain why you find that the applicant has or has not met its burden and include in your explanation the evidence or lack of evidence relied upon by you in making your finding.

2.

If the answer to No. 1 is: “**No**” then you have concluded that rezoning **IS NOT** warranted based upon economic inutility, and you may vote to **NOT** recommend the rezoning.

Proceed to question No. 8.

3.

If the answer to No. 1 is “**Yes**” then You must ask and answer the following two questions:

(1) What rezoning should be recommended to the Township Committee so that the Property is not zoned into economic inutility?

(2) Is the recommended rezoning consistent or inconsistent with the current master plan?

Explain why you find that the rezoning is warranted so that the property is not zoned into inutility. Also, explain why you find that the recommended rezoning is either consistent or inconsistent with the current Master Plan.

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4.

If the answer to No. 3 is that the recommended rezoning is “**consistent**” with the current Master Plan, then You have concluded that rezoning **is warranted** on the basis of inutility, and you may vote to recommend in it whole or in part as necessary to eliminate the inutility.

Proceed to question No. 8.

5.

If the answer to No. 3 is **YES**, rezoning **is** recommended; **BUT IT IS NOT** consistent with the current Master Plan; you must ask and answer the following question:

Is it in the best interests of the Township to amend the Master Plan to make it consistent with the proposed rezoning?

Explain why you find that it is or is not in the best interests of the Township to amend the Master Plan to make it consistent with the recommended rezoning.

6.

If the answer to questions No. 5 is **YES** (that it **is** in the best interest of the Township to amend the Master Plan to make it consistent with the recommended rezoning), You have **concluded that rezoning is warranted on inutility grounds**, and you may vote to recommend it in whole or in part, as necessary, to eliminate the inutility.

Proceed to question No. 8.

7.

If the answer to questions No. 5 is: **IT IS NOT** in the best interest of the Township to amend the Master Plan, you have concluded that rezoning **IS NOT** warranted on inutility grounds, and you may vote to **NOT** recommend the rezoning.

Proceed to questions No. 8.

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SECOND REVIEW STANDARD:

8.

Consider (ask and answer) the following question:

Has the Applicant met its burden of demonstrating through the presentation of sufficient credible evidence that the rezoning proposed by the Applicant will substantially and meaningfully benefit the Township and further the purposes of the Municipal Land Use Law (MLUL)?

(The purposes of the MLUL are found in N.J.S.A. 40:55D-2. You may consider substantial and meaningful benefit furthering the purposes of the MLUL to include the promotion of the general welfare pursuant to N.J.S.A. 40:55D-2a and providing sufficient space in appropriate locations for a variety of residential uses to meet the needs of all New Jersey citizens pursuant to N.J.S.A. 40:55D-2g. These two purposes of the MLUL would encompass providing affordable housing to meet the Township's constitutional Mt. Laurel fair share obligation.)

Explain why you find that the applicant has or has not met its burden of proving that the rezoning proposed by the Applicant will substantially and meaningfully benefit the Township and further the purposes of the MLUL and include in your explanation the evidence or lack of evidence you relied upon in making your finding.

9.

If Your answer to No. 8 is “**No**” then You have concluded that the proposed rezoning **IS NOT** warranted on the bases of providing substantial and meaningful benefit to the Township and furthering the purposes of the MLUL, and you may vote to **NOT** recommend the rezoning.

You may conclude your deliberations, there are no further questions to answer.

10.

If Your answer to No. 8 is “**YES**,” then You must ask and answer the following question:

Has the Applicant met its burden of demonstrating through the presentation of sufficient credible evidence that the proposed rezoning will **NOT** unduly burden the planned and orderly development of the Township, or place an undue burden upon community services and facilities (which may include traffic, fiscal impacts, services and other negative impacts)?

Explain why you find that the applicant has or has not met its burden and include in your explanation the evidence or lack of evidence that You relied upon in making your finding.

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11.

If Your answer to No. 10 is: Applicant's proposed rezoning **WILL UNDULY BURDEN** the Township, then You have concluded that the proposed rezoning **IS NOT** warranted on the basis that the proposed rezoning will provide a substantial and meaningful benefit; you may vote to **NOT** recommend the rezoning request.

You may conclude your deliberations, there are no further questions to answer.

12.

If Your answer to No. 10 is "**Yes**" (the applicant's proposed rezoning **WILL** provide a substantial and meaningful benefit **AND** the proposed request for rezoning **WILL NOT** unduly burden the Township), then you must ask and answer the following question:

Is the proposed rezoning consistent, or inconsistent with the current Master Plan?

Explain why you find that proposed rezoning is either consistent or inconsistent with the current Master Plan.

13.

If the answer to No. 12 is that the proposed rezoning **is** "consistent" with the current Master Plan, then You have concluded that the Applicant's proposed rezoning **is warranted** on the basis of proving a substantial and meaningful benefit; you may vote to recommend rezoning in whole or in part as necessary to provide for the substantial and meaningful benefit.

You may conclude your deliberations; there are no further questions to answer.

14.

If the answer to No. 12 is that the proposed rezoning **is not** "consistent" with the current master plan, you must ask and answer the following question:

Is it in the best interests of the Township to amend the master plan to make it consistent with the proposed rezoning?

Explain why you find that it is or is not in the best interests of the Township to amend the Master Plan to make it consistent with the recommended rezoning.

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15.

If the answer to No. 14 is “**Yes**” (that it **is** in the best interest of the Township to amend the master plan to make it consistent with the proposed rezoning, then you have concluded that the proposed rezoning **is warranted** on the basis of providing a substantial and meaningful benefit and you may vote to recommend rezoning in whole or in part, as necessary, to provide the substantial and meaningful benefit.

You may conclude your deliberations; there are no further questions to answer.

16.

If the answer to No. 14 is “**No**” (that it is **NOT** in the best interest of the Township to amend the Master Plan to make it consistent with the proposed rezoning), then you have concluded that the proposed rezoning **IS NOT** warranted on the basis of providing a substantial and meaningful benefit; you may vote to **NOT** recommend the rezoning request.

You may conclude your deliberations; there are no further questions to answer.