

**LIVINGSTON COUNTY PLANNING
COMMISSION MEETING MINUTES**

January 18, 2023

6:30 p.m.

Hybrid In-Person and Virtual Zoom Meeting

**Zoom Virtual Meeting Room Meeting ID: 399-700-0062 / Password: LCBOC
<https://zoom.us/j/3997000062?pwd=SUdLYVFFcmozWnFxbm0vcHRjWkVIZz09>**

PLANNING COMMISSION			
COMMISSIONERS PRESENT:	<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; border: none;"> BILL ANDERSON MATT IKLE DENNIS BOWDOIN </td> <td style="width: 50%; border: none;"> BRIAN PROKUDA PAUL FUNK JASON SCHROCK </td> </tr> </table>	BILL ANDERSON MATT IKLE DENNIS BOWDOIN	BRIAN PROKUDA PAUL FUNK JASON SCHROCK
BILL ANDERSON MATT IKLE DENNIS BOWDOIN	BRIAN PROKUDA PAUL FUNK JASON SCHROCK		
COMMISSIONERS ABSENT:	BILL CALL		
STAFF PRESENT:	ROB STANFORD SCOTT BARB		
OTHERS PRESENT:	BRUCE POWELLSON – MARION TWP SIGN IN SHEET (CONWAY AND COHOCTAH TOWNSHIP RESIDENTS) WAYNE PERRY - DESIGN, INC.,		

1. **CALL TO ORDER:** Meeting was called to order by Planning Commissioner Anderson at 6:30 PM.
2. **PLEDGE OF ALLEGIANCE TO THE FLAG**
3. **ROLL AND INTRODUCTION OF GUESTS:** None.
4. **APPROVAL OF AGENDA**

Commissioner Action: IT WAS MOVED BY COMMISSIONER PROKUDA TO APPROVE THE AGENDA, DATED JANUARY 18, 2023, SECONDED BY COMMISSIONER FUNK.

All in favor, motion passed

5. **APPROVAL OF PLANNING COMMISSION MEETING MINUTES**

Commissioner Action: IT WAS MOVED BY COMMISSIONER IKLE TO APPROVE THE MINUTES, DATED DECEMBER 21, 2022, SECONDED BY COMMISSIONER BOWDOIN.

All in favor, motion passed.

6. **CALL TO THE PUBLIC:** None.

7. ZONING REVIEWS:

A. **Z-01-23. GREEN OAK CHARTER TOWNSHIP. AMENDMENTS TO THE ZONING ORDINANCE: ARTICLE IX SIGNS.**

The Green Oak Township Planning Commission is proposing to amend the Township Ordinance by modifying Article IX Signs to ensure compliance with content neutrality standards that resulted from the *Reed v Gilbert* Supreme Court case.

Township Planning Commission Recommendation: Approval. The proposed amendments were **Approved** at the September 1, 2022, public hearing with no public comments noted in the minutes.

Staff Recommendation: Approval. The proposed amendments are a reasonable addition to the Township Ordinance.

Commission Discussion: None.

Public Comment: None.

Commission Action:

Commissioner Action: IT WAS MOVED BY COMMISSIONER FUNK TO RECOMMEND APPROVAL, SECONDED BY COMMISSIONER IKLE.

Motion passed: 6-0

B. **Z-02-23 PUTNAM TOWNSHIP, REZONING PUD PLANNED UNIT DEVELOPMENT TO A-O AGRICULTURAL/OPEN SPACE DISTRICT IN SECTION 14.**

Current Zoning: PUD Planned Unit Development

Proposed Zoning: A-O Agricultural/Open Space District
Section 14

Township Master Plan:

The Putnam Township Master Plan Future Land Use Map (DRAFT 2019) designates the subject parcels as Agricultural Preservation. The Township Master Plan states the following regarding the Agricultural Preservation future land use classification:

AP designated areas are characterized by large land parcels that accommodate agricultural uses, including farming and animal keeping, and in particular equestrian activities, both at larger scales and on smaller, individual sites. In addition, low density residential development is allowed that is compatible with agricultural and farming use. Farm fields, orchards and pastures, some of which are separated by hedgerows, dominate roadside views. Homes, barns, and stables are generally set back from roads, or they may assume a traditional farm setting with structures having a lesser setback. Individual homes that are not associated with agricultural activities have gracious setbacks with intervening fields, or woodlots to screen views.

A prominent component of this future land use description is the opportunity to allow more uses with generally larger lot requirements than the current PUD zoning. The anticipated lot divisions that would take place on the property would be significantly more in line with the preservation of natural features and agricultural lands in the township rather than a more intensely used PUD with potential commercial uses. The proposed density of the project will be a minimum of 10 acres per lot which is consistent with adjacent areas of the Township that are zoned Agricultural Preservation and Low Density Residential. We do believe that the proposed rezoning will offer recognizable benefits to the Township by remaining in compliance with the already well-established Agricultural Preservation designation as stated on the DRAFT 2019 Putnam Township Future Land Use Map and is compatible with both the Putnam Township Master Plan and the 2018 Livingston County Master Plan.

County Comprehensive Plan:

The 2018 Livingston County Master Plan does not direct future land use patterns, or development within Livingston County. Alternatively, it offers a county-wide land use perspective when reviewing potential rezoning amendments. The Land Use & Growth Management chapter of the plan includes decision-making recommendations regarding potential land use conflicts and promoting good land governance.

Township Planning Commission Recommendation: Approval. The proposed rezoning was **Approved** at the December 14, 2022, public hearing. There were no major comments indicated in the draft meeting minutes of the November 15, 2022, Putnam Township Planning Commission on the proposed rezoning.

Staff Recommendation: Approval. The proposed rezoning from PUD (Planned Unit Development) to A-O (Agricultural Residential) is compatible with both the Putnam Township Master Plan and the Livingston County Master Plan.

Commission Discussion: Commissioner Ikle asked if there are low areas on the site. Wayne Perry from Desine, Inc., stated that the parcels are impacted by a variety of lowlands and wetland areas – approximately 360 acres. Mr. Perry further explained the project and reasons for the zoning request change. Density of the project would remain the same. Commissioner Funk asked if EGLE is aware of the request to rezone to agricultural zoning. Mr. Perry explained that rezoning the property to AO does not require any EGLE permits.

Public Comment: None.

Commission Action:

Commissioner Action: IT WAS MOVED BY COMMISSIONER PROKUDA TO RECOMMEND APPROVAL, SECONDED BY COMMISSIONER IKLE.

Motion passed: 6-0

C. Z-03-23. MARION TOWNSHIP. AMENDMENTS TO THE ZONING ORDINANCE: ARTICLE XIV OFF-STREET PARKING AND LOADING, SECTIONS 14.01-14.04.

The Marion Township Planning Commission proposes to revise current provisions related to off-street parking and loading of commercial vehicles to better clarify the intent of the ordinance.

Township Planning Commission Recommendation: Approval The Marion Township Planning Commission recommended **Approval** of this zoning amendment at its December 20, 2022. There were no public comments noted in the minutes.

Staff Recommendation: Approval. The proposed amendments appear to be reasonable and appropriate. They appear to pose no undue hardship on anyone involved. The regulations as proposed helps clarify the intent of the regulations and will hopefully rectify and totally eliminate an on-going undesirable issue taking place fairly quickly in the township going forward.

Commission Discussion: Commissioner Prokuda asked what the impetus was for the changes? Bob Hanvey, Supervisor, Marion Township, stated that the original intent of the ordinance was unclear, and it will only apply to commercial vehicles. The ordinance was perceived by residents in a different manner.

Public Comment: None

Commission Action:

Commissioner Action: IT WAS MOVED BY COMMISSIONER BOWDOIN TO RECOMMEND APPROVAL, SECONDED BY COMMISSIONER SCHROCK.

Motion passed: 6-0

**D. Z-04-23. MARION TOWNSHIP. AMENDMENTS TO THE ZONING ORDINANCE:
ARTICLE III DEFINITIONS, ARTICLE VI GENERAL PROVISIONS, ARTICLE XVII
STANDARDS FOR SPECIFIC LAND USES.**

The Marion Township Planning Commission proposes to revise several current provisions in various section of the Township Zoning Ordinance related to kennels. Since the 2020 new Livingston County Animal Control ordinance was not coordinated with municipalities, the township has been working since then to get their ordinance in line with that of the county. The township is eliminating the hobby kennel special use, changing the commercial kennel special use, and updating some of the corresponding language. This change was needed to align with the Livingston County Animal Control Ordinance.

Township Planning Commission Recommendation: Approval. The Marion Township Planning Commission recommended Approval of this zoning amendment at its December 20, 2022. There were no public comments noted in the minutes.

Staff Recommendation: Approval. The proposed amendments for both issues appear to be reasonable and appropriate. The regulations as proposed for kennels are consistent with those found in most other local county municipalities that regulate these uses, as well as it more importantly brings the township ordinance in much closer compliance with the new Livingston County Animal Control Ordinance of 2020.

Commission Discussion: Commissioner Prokuda asked if having more than five (5) dogs makes this a commercial venture. Bob Hanvey of Marion Twp stated that residents would need permits for more than five (5) dogs would need a kennel permit. **NOTE: The Township needs to correct the typographical error in the definition of “Kennels” (i.e., “four six (46 months)”, should be “four to six (4 to 6) months...”).**

Public Comment: None.

Commission Action:

Commissioner Action: IT WAS MOVED BY COMMISSIONER IKLE TO RECOMMEND APPROVAL. SECONDED BY COMMISSIONER PROKUDA.

Motion passed: 6-0

**E. Z-05-23 HANDY TOWNSHIP, REZONING
AC-ANCILLARY COMMERCIAL TO AR-AGRICULTURAL RESIDENTIAL IN SECTION
22.**

**Current Zoning: AC Ancillary Commercial
Proposed Zoning: AR Agricultural Residential
Section 22**

Township Master Plan:

The Handy Township Master Plan (2018) designates the subject parcel as Mixed Use. The Township Master Plan states the following regarding the Mixed-Use future land use classification:

The mixed-use category is intended to allow a compatible mix of uses that rely on public services primarily in the form of water and sewer. Development within these areas should be primarily residential, commercial, and office uses that complement each other in regard to pedestrian activity, landscaping, and design. These areas are primarily planned along County Road corridors with an anticipated right-of-way one hundred (100) feet. Planned Unit developments are preferred in these areas allowing for a relaxation of standards to provide more innovative design and protection of natural features.

The proposed zoning designation AR (Agricultural Residential) is compatible with the proposed future land use plans for this area of the Township. As stated in the master plan description of the mixed-use category, development within this category is able to accommodate a variety of uses including residential.

While the petitioner is requesting a semi-residential zoning designation, the property offers potential for a variety of uses in the residential, commercial, and office land use category.

County Comprehensive Plan:

The 2018 Livingston County Master Plan does not direct future land use patterns, or development within Livingston County. Alternatively, it offers a county-wide land use perspective when reviewing potential rezoning amendments. The Land Use & Growth Management chapter of the plan includes decision-making recommendations regarding potential land use conflicts and promoting good land governance.

Township Planning Commission Recommendation: Approval. The proposed rezoning was **Approved** at the December 15, 2022, public hearing. There were no major comments indicated in the draft meeting minutes of the December 15, 2022, Handy Township Planning Commission on the proposed rezoning.

Staff Recommendation: Approval. The proposed rezoning from AC (Ancillary Commercial) to AR (Agricultural Residential) is compatible with both the Handy Township Master Plan and the 2018 Livingston County Master Plan.

Commission Discussion: Commissioner Ikle requested clarification on the future land use designation of the property and questioned if it went against the master plan classification of mixed use. Principal Planner Barb stated that the rezoning allowed the owner to utilize the property to their advantage while promoting a change if future owners desired.

Public Comment: None.

Commission Action:

Commissioner Action: IT WAS MOVED BY COMMISSIONER FUNK TO RECOMMEND APPROVAL, SECONDED BY COMMISSIONER BOWDOIN.

Motion passed: 6-0

F. Z-06-23. COHOCTAH TOWNSHIP. AMENDMENTS TO THE ZONING ORDINANCE: VARIOUS ARTICLES AND SECTIONS SOLAR FARMS AND SOLAR ENERGY SYSTEMS AND MORATORIUM.

During the November 16, 2022, Livingston County Planning Commission meeting, the Commission heard, reviewed and made recommendation on Livingston County Zoning Case #Z-37-22 (Recommendation: Take No Action, Encourage Further Review). With this set of amendments the township proposed to do the following:

- The township proposed to remove the definition of “Solar Farm” from Section 2.02.
- The township proposed to replace references to “Solar farms” to “Utility scale solar energy systems” in Sections 4.03(M), 5.03(L), 6.03(K), 7.03(H), 10.03(G), 11.03(X), and 16.58(C).
- The township proposed to delete Section 13.17 regarding Solar Buildings.
- The township proposed to replace existing section 13.27 in its entirety and revise it with new regulations throughout.

While it was felt by County Planning Staff that the proposed amendments were very comprehensive and many of them sufficiently addressed many of the elements related to proper planning and zoning related to the issue according to the current establish set of unofficial guidelines developed by the Michigan State University Extension and University of Michigan-Graham Institute of Sustainability entitled: “Planning & Zoning for Solar Energy Systems: A Guide for Michigan Local Governments”¹, there were many undefined, unclear and vague areas through the proposed amendments that the County Planning Commission recommended that the Township take back the amendments to reevaluate and continue to better clarify these areas of deficiencies in the proposal and perhaps repropose to the County Planning Commission at a near future date a cleaner more refined set of amendments.

¹(Source: available at:

<https://www.canr.msu.edu/planning/uploads/files/SES-Sample-Ordinance-final-20211011-single.pdf>)

Subsequent to this action, the Cohoctah Township Planning Commission received the recommendation of the County Planning Commission and has decided to take this current action. In addition, the township has decided to retain new legal counsel specifically to aid and assist in the further

development of the township's solar and wind energy ordinance. The proposed amendments as presented in this review are a result of advice provided by the township's new legal counsel.

In conversations and public meetings attended by Staff with township planning commissioners, board members and legal counsel, Staff has come to the understanding that the township had indeed implemented a similar moratorium over the past year or so previous, which concluded on or around November-December of 2022. Because of the uncertainty and level of necessary additional work that is required to revise the previously proposed set of amendments (see case #Z-37-22) as well as the new ground swell of concern and activity by the township residents, the Township Planning Commission has decided to initiate this new course of action under the proposed moratorium.

Township Planning Commission Recommendation: Approval. The Cohoctah Township Planning Commission recommended **Approval** of this zoning amendment at its January 6, 2023, public hearing. There were several public comments regarding this amendment noted in the minutes.

Staff Recommendation: Approval With Conditions. Following the November 2022 County Planning Commission meeting, the Planning Commission recommended "Take No Action, Encourage Further Review", on Livingston County Zoning Case #Z-37-22, as there were many areas of concern with the amendments as proposed and a great deal of increased effort was seen as needed by Cohoctah Township to properly address these concerns and greatly improve the set of regulations going forward.

This, coupled with the fact that the township has retained new legal counsel in its efforts to reassess the current situation and move forward in this planning process under their guidance may necessitate an additional previously unforeseen time commitment in order to effectively and efficiently develop a set of guidelines regulating utility-scale solar that best addresses the health, safety and well-being of the residents of the community and best serves the community as a whole.

Therefore, it is recommended that the township continue to remain diligent in finding a well-conceived and reasonable final resolution to this land use issue as expeditiously as possible, including repeal of regulations as proposed if the township feels this is necessary, relying on the advice of its legal counsel as it progresses through this new course of action. However, the recommendation would also be that these steps are taken without implementation of the moratorium as proposed by the amendments, which constitute the conditions of this Approval.

It is believed that undertaking a further continuation of a previous moratorium period is an unnecessary step and that the tasks necessary to improve the previously proposed set of regulations (as provided in the Staff review for the case) can be completed through the normal course of action utilized in the past by the township whenever any further revisions or refinements that are suggested or recommended to proposed amendments by the County Planning Commission are subsequently implemented by the township.

Commission Discussion: Commissioner Schrock asked about extension of moratoriums within the Township. Principal Planner Stanford stated the original moratorium was past due and hence the need to act at this time. Commissioner Prokuda asked if the repeal constitutes a void of ordinance regulations. Commissioner Anderson asked if they were using the moratorium as a new start to the regulations. Commissioner Bowdoin asked if a moratorium is challenged in court if it would leave no ordinance in effect. Principal Planner Stanford stated that the current proposal being done in conjunction with the repeal of all solar related language throughout the zoning ordinance essentially leaves the Township temporarily without a solar ordinance to regulate with. Commissioner Funk further explained his concerns about the moratorium at this time and believes they are dangerous, but not pursuing the moratorium is more dangerous.

Commissioner Prokuda clarified with Mark Fosdick, Cohoctah Township Supervisor, that a new ordinance will be forthcoming from the township and would encourage the Planning Commission to support the moratorium. Commissioner Schrock stated he will not support taking no action as the township needs direction on this issue at this time. Principal Planner Stanford clarified staff's position that there is support for the repeal if that is the path the township is choosing to take in response and

subsequent to the County Planning Commission's previous recommendation of Take No Action, Encourage Further Review (re: Z-37-22), but that there is no Staff support for continuing with additional moratoriums.

Public Comment: Joanne Hauss, Fleming Road, stated she will have a substation and panels all around her and is vehemently against the proposed development. Property values, MSDS sheets, pollution, water, and wildlife, radiation, noise from converters and substations, and drain issues were many of her concerns. Clint Beach, Cohoctah Road, stated his support for a moratorium. Susan Nichols, Fairways Drive, stated her concerns about how solar development will impact farms and farming and the potential fire and cadmium issues from the solar panels. Andrea Bedwell, Owosso Road, stated she would be facing solar panels daily and is concerned about how the proposed development will impact her home and future. Her concerns are noted as property values, her children's future, and her desire to stay in Livingston County and how difficult it is to see these impacts and how they may change due to the proposed solar development. Rhonda Beach, Owosso Road, is concerned about the placement of panels on prime farmland within the township. Mark Fosdick, Cohoctah Township Supervisor, stated that there will be an ordinance very soon that will be coming to the County Planning Commission that will address wind and solar and will also address the issues that have been brought out before during other reviews. Jenn (online) stated that solar power needs a vast amount of land and displaces wildlife and has concerns about what happens if this development is allowed to move forward.

Commission Action:

Commissioner Action: IT WAS MOVED BY COMMISSIONER IKLE TO RECOMMEND NO ACTION, ENCOURAGE FURTHER REVIEW. SECONDED BY COMMISSIONER BOWDOIN.

Motion passed: 6-0

8. OLD BUSINESS:

A. 2023-2027 Parks & Open Space Plan: Plan was adopted December 27, 2022, by the Livingston County Board of Commissioners and has been filed with the Michigan Department of Natural Resources. The plan is good through 2027.

9. NEW BUSINESS:

A. Update on Planning Director position: No report at this time.

10. REPORTS: None.

11. COMMISSIONERS HEARD AND CALL TO THE PUBLIC: Commissioner Bowdoin informed the commission about alert from the State of Michigan regarding fishing and quantity recommended for consumption. Andrea Bedwell, Conway Township, spoke again regarding solar concerns and her available options for making changes and having her voice heard at the local level.

12. ADJOURNMENT:

Commissioner Action: IT WAS MOVED BY COMMISSIONER PROKUDA TO ADJOURN THE MEETING AT 8:34 P.M., SECONDED BY COMMISSIONER IKLE.

Motion passed: 6-0