

**LIVINGSTON COUNTY PLANNING COMMISSION  
MEETING MINUTES**

**February 19, 2020**

**6:30 p.m.**

**304 E. Grand River Ave., Howell, Michigan**

<b>PLANNING COMMISSION</b>		
<b>COMMISSIONERS PRESENT:</b>	<b>BRIAN PROKUDA</b> <b>MATT IKLE</b> <b>LAURA ABRAMSON</b>	<b>DENNIS BOWDOIN</b> <b>BILL CALL</b>
<b>COMMISSIONERS ABSENT:</b>	<b>BILL ANDERSON</b> <b>JEANNE CLUM</b>	
<b>STAFF PRESENT:</b>	<b>KATHLEEN KLINE-HUDSON</b> <b>ROB STANFORD</b> <b>SCOTT BARB</b>	
<b>OTHERS PRESENT:</b>	<b>BRUCE POWELSON, MARION TOWNSHIP PLANNING COMMISSION</b> <b>MARK MEISEL, TYRONE TOWNSHIP PLANNING COMMISSION CHAIR</b> <b>BRENT LAVANWAY, BOSS ENGINEERING</b> <b>STEVE MORGAN, BOSS ENGINEERING</b>	

1. **CALL TO ORDER:** Meeting was called to order by Commissioner Prokuda 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 IKLE TO APPROVE THE AGENDA DATED FEBRUARY 19, 2020, SECONDED BY COMMISSIONER BOWDOIN.**

**All in favor, motion passed.**

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

**Commissioner Action: IT WAS MOVED BY COMMISSIONER BOWDOIN TO APPROVE THE MINUTES OF THE PLANNING COMMISSION MEETING DATED JANUARY 15, 2020, SECONDED BY COMMISSIONER ABRAMSON.**

**All in favor, motion passed.**

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

## 7. ZONING REVIEWS:

### A. Z-04-20: HARTLAND TOWNSHIP – REZONING

**Current Zoning: GC: General Commercial**  
**Proposed Zoning: LI: Light Industrial**  
**Section / Proponents: Section 28 / Hartland Township**

#### **Township Master Plan:**

The Hartland Township Comprehensive Plan (2015) designates the site as Planned Industrial / Research and Development. The master plan defines this future land use category as follows:

*The word “Planned” in this designation’s name is intended to convey the Township’s intentions to partner with private developers or public entities in the creation of planned developments consistent with the provisions of the Michigan Zoning Act and the Township’s Zoning Ordinance. In anticipation of population growth and the resulting demand such growth will place upon Township services, additional nonresidential land use areas will be required. These uses will help stimulate the local economy, provide jobs, and contribute to a diverse tax base in order to facilitate Township growth and allow it to continue to provide the quality of service its residents have grown to expect.*

**General Location.** On the Future Land Use Map, PIRD has been planned for approximately 627 acres of the Township. Two distinct areas have been designated for future Planned Industrial Research and Development. These areas are the Clyde Road and US-23 interchange and the Old US-23 corridor, south of M-59.

#### **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:**

The Hartland Township Planning Commission tabled the rezoning at their October 10, 2019 meeting after the public hearing of this rezoning amendment. There were no comments from the public at the public hearing. At the subsequent January 9, 2020 meeting, the Hartland Township Planning Commission recommended Approval of the rezoning amendment.

**Staff Recommendation: Approval.** The proposed rezoning to LI Light Industrial will help Hartland Township achieve an area of more consistent industrial zoning along the east side of Old US-23. LI zoning is consistent with the existing industrial land use of this area and the Planned Industrial/Research Development (PIRD) master plan designation.

**Commission Discussion:** Commissioner Abramson requested clarification on whether the use of the property will remain a nonconformity. Director Kline-Hudson stated that it will remain a nonconforming use and there will not be an opportunity for expansion of this use.

#### **Commission Action:**

**Commissioner Action: IT WAS MOVED BY COMMISSIONER CALL TO RECOMMEND APPROVAL. SECONDED BY COMMISSIONER ABRAMSON.**

**Motion passed: 5-0**

**B. Z-05-20: TYRONE TOWNSHIP – CONDITIONAL REZONING**

**Current Zoning: FR: Farming Residential**

**Proposed Zoning: Conditional RE: Rural Estates with Open Space Preservation (OSP) Option and Cluster Development Option (CDO)**

**Section / Proponents: Section 21 / Tyrone Four, LLC**

**Township Master Plan:**

The Future Land Use plan and map of Tyrone Township designates the site as Low Density Single Family Detached Residential per the future land use map. The Township Master Plan describes this area in the following manner (pg. 92):

*Low Density Single Family Detached Residential. This category will permit single family residential development at a density of 1.5 to 3 acres per dwelling unit. This designation can be found in portions of the southeast part of the Township, where residential uses are appropriate but higher densities are not advisable due to infrastructure concerns.*

Additionally, the Master Plan describes Open Space Preservation in the following manner (pg. 91):

*The Township continues to be dedicated to preservation of open space, particularly in accordance with its program that has been pursued since 1997. The Planning Commission also recognizes the obligation in the Zoning Enabling Act to provide open space in cluster development for all residential land zoned for development at 2 or fewer dwellings per acre where no public sanitary sewers exist and 3 or fewer dwellings per acre with public sewers. As required by the State of Michigan, the Zoning Ordinance provides a cluster option for residential development, if open space is preserved equal to at least 50% of the total land area that is developed. Maintenance of the open space must be established in perpetuity.*

**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.

Conditional rezonings are beginning to be a recent trend in Livingston County (four proposed in 2019). If petitioners see this tool as simply a means to get around existing zoning standards to get what they want, this is not the intent of the provision, most importantly at the State statute level. Therefore it is vitally important that petitioners clearly understand the intent of the conditional rezoning tool as well as townships standing firm within the prescribed rules and regulations of their local zoning ordinance and provisions of their Master Plan, in order to make sure they are getting the best and most desired development possible that is a benefit to the entire local community in the end.

**Township Planning Commission Recommendation:**

The Tyrone Township Planning Commission recommended **DISAPPROVAL / DENIAL** of this Conditional Rezoning at its December 10, 2019 Public Hearing, as follows:

*While the proposed plan may have merit if it were a concept plan and appropriate revisions were made to comply with our Zoning Ordinance and State statute prior to final site plan approval, this is a request for a conditional rezoning – therefore the site plan submitted is the only plan that may be considered. The Planning Commission finds the deviations requested from the township’s zoning requirements are not justified by the offsetting concessions offered and do not comply with the requested underlying zoning district requirements (RE). Further, the plan as currently proposed cannot comply with the statutory requirement for at least 50% perpetually undeveloped open space left in its natural state.*

In its motion, the Planning Commission chose to focus on its duty to not recommend or approve developments that violate state law, in this case specifically the Planned Unit Development Option requirements set forth in PA 110 of 2006 (Michigan Zoning Enabling Act –MZEA – MCL125.3503), the Open Space Preservation Option – MCL125.3506). A motion was passed 5-2 to recommend Denial of the Conditional Rezoning offer because the Planning Commission believes the proposed development does not comply with the planned unit development and open space requirements set forth by the MZEA as well as when utilizing the Township’s Cluster Development Option (CDO) in reference to Township Ordinance Section 21.51 (C) with regard to the provision’s application of allowable open space in the rear yard setback.

**Staff Recommendation: Disapproval.**

The proposed conditional rezoning is not consistent with the Master Plan for the subject parcel and would generally not be compatible with the rural residential nature of the surrounding area.

There also appears to be sufficient evidence provided by the Tyrone Township Planning Commission to demonstrate that the proposed conditional rezoning does not comply with either the intent of the Michigan Zoning Enabling Act (MZEA) Public Act 110 of 2006 (MCL 125.3101 to 125.3702), nor the intent of the Tyrone Township Zoning Ordinance Article 8 Open Space Preservation (OSP) Option (Section 8.02 Cluster Development Option (CDO), and Open Space Design Requirements (Section 21.51), nor does it completely satisfy the required provisions of Tyrone Township Zoning Ordinance Section 25.05.E.1., Elements of a Conditional Rezoning.

**Commission Discussion:** Mark Meisel, Chair, Tyrone Township Planning Commission provided the township’s perspective as to how the proposed conditional rezoning does not completely comply with the open space option at both the state and township levels as well as non-compliance with several sections of the township zoning ordinance regarding the proposed underlying zoning district.

Steve Morgan, Boss Engineering, presented the history of the proposed development, the density allowed under different zoning districts and with open space planning. He also discussed how the proposal met the guidelines of the MZEA, but does not meet the requirements of the Tyrone Township Zoning Ordinance.

Commissioner Call requested clarification on how the proposed conditional rezoning was initiated. Steve Morgan, Boss Engineering, explained that discussions between the township and the applicant’s legal representatives led them to apply for the conditional rezoning and to pursue the proposed open space option as designated by the Michigan Zoning Enabling Act. Planning Commissioners briefly discussed spot zoning and whether it applied to this site. Commissioner Abramson noted that the County Planning Commission does not normally review site plan issues, but that a conditional rezoning requires this review as a part of the decision-making process.

County Planning Commissioners discussed the regulated versus unregulated wetlands located on-site and that the petitioner did not present any State of Michigan Department of EGLE delineation of the wetlands. Commissioner Bowdoin expressed that with a conditional rezoning the site plan is set, and he is uncomfortable with the fact that the petitioner has not had EGLE sign-off on wetland delineation. Commissioner Ikle stated that the Township does not have the tools available for a good open space option for this property. Commissioner Abramson expressed concern that if the Planning Commission approved this proposal, the site plan is set and no further changes can be made. She said that Tyrone Township has some work to do on their ordinance language. Commissioner Prokuda summarized the concerns of the County Planning Commission regarding the Township’s lack of development tools such as a residential PUD, the site plan being set as part of a conditional rezoning, and an open space plan that does not work well on this site.

**Commission Action:**

**Commissioner Action:** IT WAS MOVED BY COMMISSIONER IKLE TO RECOMMEND **DISAPPROVAL** BASED ON STAFF REVIEW. SECONDED BY COMMISSIONER BOWDOIN.

**Motion passed: 5-0**

**8. OLD BUSINESS:**

- A. Progress on Planning Department Visits:** During the month of January, Handy (Commissioner Call, Principal Planner Barb) and Marion Townships (Commissioner Prokuda) were visited by staff and commissioners. Upcoming visits to Green Oak, Unadilla and Cohoctah Townships were scheduled with staff and commissioners.
- B. January 29, 2020 MSU Extension Training:** Director Kline-Hudson initiated discussion regarding the January PC training that was led by MSU Extension. She stated that thirty-three persons were in attendance and they represented twelve local planning commissions. Commissioners had positive comments about the experience and thought it was helpful. Commissioners would like to continue to discuss next steps at the March 18 Planning Commission meeting.

**9. NEW BUSINESS:** None.

**10. REPORTS:**

- A. January 22 Trail Summit** - Director Kline-Hudson reported that over 50 persons were present at the trail summit, including a number of bicycle enthusiasts. She said that the summit included three (3) prioritization exercises, most important of which was a mapping exercise on maps that showed existing trails and asked participants to show which trails they would most like to see connected and the route they would recommend. She stated that staff has a follow-up phone conference with the trails consultant on 2/20 to go over the results of these exercises.
- B. Park Resolutions** - Kline-Hudson reported that four (4) parks resolutions have been presented to the Board of Commissioners this week at the Public Safety/Infrastructure & Development Committee and Finance Committee. The resolutions regard the honorary naming of Fillmore County Park features, the submittal of an Urban Night Sky Place designation application for Lutz County Park, and revised park rules for both county parks. The final decision on these resolutions will be at the Board of Commissioners meeting on Monday, February 24.
- C. Master Plan Survey** - The Master Plan Implementation Survey on Survey Monkey has been closed due to low response.
- D. New Department Responsibilities** - Kline-Hudson spoke briefly about some new administrative responsibilities that County Planning has been assigned including a grant for a new Meals on Wheels facility.
- E. Planning Department Move** - The Finance and Planning Department office spaces have been rearranged. The last week of January was moving week for County Planning. The department is now located in the former County Administration office area.

**11. COMMISSIONERS HEARD AND CALL TO THE PUBLIC:** Mark Meisel, Tyrone Township Planning Commission, spoke briefly about open space planning zoning legislation.

**12. ADJOURNMENT:**

**Commissioner Action:** IT WAS MOVED BY COMMISSIONER IKLE TO ADJOURN THE MEETING AT 8:35 P.M., SECONDED BY COMMISSIONER BOWDOIN.

**Motion passed: 5-0**