



Livingston County Department of Planning

LIVINGSTON COUNTY PLANNING COMMISSION MEETING

Wednesday, December 21, 2022 – 6:30 p.m.

Administration Building, Board of Commissioners Chambers
304 East Grand River, Howell, MI 48843

Please note that this is a hybrid meeting with County Planning Commissioners and staff meeting in-person. Audience participants are welcome to attend in-person or via Zoom by using the meeting link at the bottom of the agenda

Kathleen J. Kline-Hudson
AICP, PEM
Director

Robert A. Stanford
AICP, PEM
Principal Planner

Scott Barb
AICP, PEM
Principal Planner

Agenda

1. Call to Order
2. Pledge of Allegiance to the Flag
3. Roll and Introduction of Guests
4. Approval of Agenda – December 21, 2022
5. Approval of Meeting Minutes – November 16, 2022
6. Call to the Public
7. Zoning Reviews
 - A. Z-40-22 Hamburg Township, Text Amendment, Article VI District Regulations, Section 36-187 Additional district regulations (3) Raising and keeping of poultry
8. Old Business
 - A. Fall 2022 Citizen Planner Educational Series
 - B. 2023-2027 Parks & Open Space Plan
 - C. Submittal of Michigan Spark Grant
9. New Business
 - A. Update on Planning Director position
10. Reports
11. Commissioners Heard and Call to the Public
12. Adjournment

Department Information

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Web Site
co.livingston.mi.us

Via Zoom (on-line meetings):

<https://zoom.us/j/3997000062?pwd=SUdLYVFFcmozWnFxbm0vcHRjWkVIZz09>

Via the Zoom app

Join a meeting, with meeting number: **399 700 0062**

Enter the password: **LCBOC** (ensure there are no spaces before or after the password)

Meeting ID: **399 700 0062**

Password: **886752**

Meeting recordings may be made using a personal computer or laptop, after requesting ability from the meeting host.

**LIVINGSTON COUNTY PLANNING
COMMISSION MEETING MINUTES**

November 16, 2022

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;"> BRIAN PROKUDA BILL ANDERSON PAUL FUNK JASON SCHROCK </td> <td style="width: 50%; border: none;"> BILL CALL DENNIS BOWDOIN MATT IKLE </td> </tr> </table>	BRIAN PROKUDA BILL ANDERSON PAUL FUNK JASON SCHROCK	BILL CALL DENNIS BOWDOIN MATT IKLE
BRIAN PROKUDA BILL ANDERSON PAUL FUNK JASON SCHROCK	BILL CALL DENNIS BOWDOIN MATT IKLE		
COMMISSIONERS ABSENT:	NONE		
STAFF PRESENT:	KATHLEEN KLINE-HUDSON ROB STANFORD SCOTT BARB		
OTHERS PRESENT:	BOB HANVEY, MARION TOWNSHIP SUPERVISOR BRUCE POWELSON, MARION TOWNSHIP PLANNING COMMISSIONER MARK FOSDICK, COHOCTAH TOWNSHIP SUPERVISOR MARK CICAN, COHOCTAH TOWNSHIP PLANNING COMMISSIONER JESSICA BUTTERMORE, COHOCTAH TOWNSHIP PLANNING COMMISSIONER NUMEROUS PUBLIC – SIGN IN SHEET NATALIE HUNT (PROVIDING SCRIBE SERVICES)		

1. **CALL TO ORDER:** Meeting was called to order by Planning 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 ANDERSON TO APPROVE THE AGENDA, DATED NOVEMBER 16, 2022, SECONDED BY COMMISSIONER FUNK.
All in favor, motion passed**

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

**Commissioner Action: IT WAS MOVED BY COMMISSIONER BOWDOIN TO APPROVE THE MINUTES, DATED OCTOBER 19, 2022, SECONDED BY COMMISSIONER FUNK.
All in favor, motion passed.**

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

7. **ZONING REVIEWS:**

A. **Z-37-22 COHOCTAH TOWNSHIP, TEXT AMENDMENT**

ARTICLE 13: SPECIAL USES, SECTION 13.27: UTILITY SCALE SOLAR ENERGY SYSTEMS

The Cohoctah Township Planning Commission proposes a completely new set of regulations for the Township Zoning Ordinance, as Section 13.27, to regulate utility scale solar energy systems. Also included as part of this update are amendments to Sections 2.02, 4.03, 6.03, 7.03, 10.003, 11.03, 16.58, and otherwise necessary to replace reference of solar farms to utility scale solar energy systems.

Township Planning Commission Recommendation: Approval. The Cohoctah Township Planning Commission recommended Approval of this zoning amendment at its October 6, 2022. There were several public comments regarding this amendment.

Staff Recommendation: The proposed amendments appear to be reasonable and appropriate. The township has done a very admirable job of attempting to address all facets of this land use activity to ensure the desired form of development takes place and to preserve the community's rural character to the best extent possible in the process. To County Planning Staff's knowledge, Cohoctah Township leadership utilized an educated and reasoned approach to the best of its abilities throughout this process. The proposed ordinance should serve Cohoctah Township and its residents well as the demand for utility scale solar energy systems begins in the very near-future.

Township Representative Comments: The Township Representative, Mark Fosdick, stated that the recommendations by the County Planning Department are agreeable and the Township Board plans to address concerns of the staff and residents.

Commission Discussion: Commissioner Bowdoin questioned the wildlife corridor amendments and considers it a negative aspect due to humans also being able to access the utility scale solar energy systems. Commissioner Schrock asked if security measures are standard as part of a solar farm approval process. Commissioner Anderson asked if the minimum lot size requirements of the Light Industrial zoning district are also too small like the RR and NSC zoning districts. Commissioner Schrock asked who sets the minimum acreage for the use? Commissioner Ikle questioned why the bond would be returned after construction – bond should remain open for landscaping and maintenance. Commissioner Funk stated that he has no issue with tabling the proposed amendments since the Township will be substantially amending the solar energy zoning regulations. He questioned whether Cohoctah Township had considered an overlay district. Commissioner Call stated that the decommissioning statement is very good, and this is not always included in regulations of this type. He also questioned the bond issue within the proposed amendments. Commissioner Prokuda had several questions and concerns regarding the amendments and they included the following: energy storage (not included in definitions), the definition of abandonment does not include the timing of what abandonment is, setbacks from property lines, approval process for emergency vehicles access, maintenance plans for access roads (including winter maintenance), whether or not the Township has a lighting ordinance because the lighting measures in the regulations need to be further detailed with specifics such as lumens, site restoration should include more specifics, whether the IEEE standard is the correct reference, more clarification is needed for the phases of development, and the density locations are not correct based on the size of the township. Commissioner Ikle suggested that the notification of amendments be set as 300 feet per the standard for property owner notification. Commissioners would like the Township to address all comments made in the review by County Planning Staff and Dr. Sarah Mills.

The Livingston County Planning Commissioners commended everyone for their participation in the meeting and stated that they were heard.

In addition, during Commission discussion, the following specific items were also identified by the Planning Commission as needing further review:

- Section 13.27 (A). Re-assess allowing USSES in the following districts as they appear to be incompatible with regards to their district intent statements: RD, WRD, RR, and NSC.
- Section 13.27 (B). The amendments do not speak anywhere about the consideration of energy storage.
- Section 13.27 (D.4). Isn't the normal distance for public notices 300'-0", not 150'-0"?
- Section 13.27 (D.14). Consider access maintenance for Emergency Service vehicles.
- Section 13.27 (D.16). Consider maintenance for access during winter months.
- Section 13.27 (H). Abbreviation for Electronic Testing Laboratories should be changed to "ETL" in the paragraph.
- Section 13.27 (N.2.c.). Consider utilizing an "open bond" to make sure everything is properly and adequately covered/insured.
- Section 13.27 (R). Need more details. Is there an existing lighting ordinance that could define conformance with this provision better (i.e. how many lumens, etc.)?
- Section 13.27 (Z). Does this mean the entire complex or just the section that is affected?
- Section 13.27 (BB). Please reevaluate the density/location ratio determination factor. It's very difficult to understand. Perhaps include a small diagram with the explanation.
- Once the value of the decommissioning is determined, it should be updated on a periodic basis of not less than three (3) years.

Public Comment: The following individuals provided comments in disagreement of allowing utility solar scale energy systems in Cohoctah Township: Drew Beach, 11388 Owosso Rd., Cohoctah Twp.; Kelly Ralko, 11935 Daisey Lane, - provided photos to Commissioners; Conway Township; Cynthia Malmquist, 10618 Owosso Rd.; Joann Haas, 10785 Fleming Rd., Fowlerville; Steve Barron, Fleming Rd, Fowlerville; Jim Dannemiller, 6425 Chase Lake Rd, Conway Twp.; Ellie Steyskal 8875 Owosso Rd., Conway Twp; Roy Steyskal 8875 Owosso Rd., Conway Twp; Andrea Bedwell, 11109 Owosso Rd., Fowlerville; Drew Beach, 11388 Owosso Rd. – submitted documents for the record; Cohoctah Twp.; Jennifer Davis, 8058 Fleming Rd., Fowlerville.

Commission Action:

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

Motion passed: 7-0

Chairman Prokuda recessed the meeting at 8:05 p.m. for a five-minute break.
The meeting was reconvened by Chairman Prokuda at 8:14 p.m.

- B. Z-38-22 AMENDMENTS TO ZONING ORDINANCE ARTICLES -**
ARTICLE III: DEFINITIONS, ARTICLE VI: GENERAL PROVISIONS: SECTION 6.31
PRIVATE SOLAR ENERGY SYSTEMS, ARTICLE VII: ZONING DISTRICTS AND MAPS;
SECTION 7.01 ESTABLISHMENT OF DISTRICTS, ARTICLE XII: SOLAR FARM
OVERLAY DISTRICT; SECTION 12.01 SFO SOLAR FARM OVERLAY DISTRICT,
ARTICLE XVII: STANDARDS FOR SPECIFIC SPECIAL USES; SECTION 17.34: UTILITY
SOLAR ENERGY FACILITIES

The Marion Township Planning Commission proposes a completely new set of standards and regulations and associated ordinance amendments for the Township Zoning Ordinance, as referenced above, to regulate utility scale solar systems and private solar energy systems.

Township Planning Commission Recommendation: Approval. The Marion Township Planning Commission recommended Approval of this zoning amendment at its October 25, 2022. There were few public comments regarding this amendment.

Staff Recommendation: The proposed amendments appear to be reasonable and appropriate. The township has done a very admirable job of attempting to address all facets of this land use activity to ensure the desired form of development tasks place and to preserve the community's rural character to the best extent possible in the process. To County Planning Staff's knowledge, Marion Township leadership utilized an educated and reasoned approach to the best of its abilities throughout this process. The proposed ordinance should serve Marion Township and its residents well as the demand for utility scale solar energy systems begins in the very near-future.

Township Representative Comments: Marion Township Supervisor Hanvey provided additional explanation regarding the Overlay District map, and how the district was determined.

Commission Discussion: Commissioner Bowdoin had concerns regarding the opaque material used for the wildlife crossings, and the use of cement because of the difficulty of reclaiming the land. He also stated the Township should be named as an additional insurer. Commissioner Ikle stated he doesn't believe that the landscaping should be spaced with wide distances between plants, bonding should not be up to the operator in case the operator changes, he likes the 3-year review, and the timing for repair of solar panels is 7 days for commercial systems and just in a 'timely manner' for private systems which he believes is unfair. Commissioner Funk questioned the overlay districts and wondered if property owners had a say in whether their property should be included in the overlay district. Commissioner Prokuda asked about lighting standards and fire suppression plans for emergency personnel. He also stated that decommissioning would require storage to disassemble the panels quickly.

In addition, during Commission discussion the following specific items were identified by the Planning Commission as needing further review:

- Section 17.34 (F.3). Consider utilizing the Township as "Additional Named Insured".
- Section 17.34 (F.11). Who is the responsible party required to pay for the fire training?
- Section 17.34 (F.12.c). Refer to a lighting standard and provide more requirement details.
- Section 6.31 (G). This provision should be exactly the same as Utility Scale. "Timely manner" is too ambiguous.

Public Comment: Joanne Haas, 10785 Fleming Rd., Cohoctah Twp.; questioned if property owners were asked if they wanted to be included in the overlay district.

Commission Action:

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

Motion passed: 7-0

C. Z-39-22. AMENDMENTS TO THE ZONING ORDINANCE: CHAPTER 1 DEFINITIONS; CHAPTER 9 NEIGHBORHOOD SERVICE COMMERCIAL DISTRICTS; CHAPTER 10 ANCILLARY COMMERCIAL DISTRICTS; CHAPTER 16.6 SPECIAL USE SPECIFIC DESIGN STANDARDS.

The Handy Township Planning Commission is proposing to amend the Township Ordinance by amending several sections of the Township Ordinance to allow organized event buildings as a special use in the NSC and AC Districts.

Township Planning Commission Recommendation: Approval The proposed amendments were approved at the October 27, 2022 public hearing with no public comments noted in the minutes.

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

Commission Discussion: Commissioner Funk noted that the time frame mentioned in Article 16, item 12. incorrectly notes the ending time as 12:00 p.m. instead of 12:00 a.m. He asked about tents being used for special uses. Principal Planner Barb noted that organized event buildings must have at least four walls and a roof.

Public Comment: None.

Commission Action:

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

Motion passed: 6-1

NAY: FUNK

8. OLD BUSINESS:

- A. **Fall 2022 Citizen Planner Educational Series:** The educational series is now halfway complete and will continue December 1st. Commissioner Schrock stated that this has been a good opportunity. Commissioner Ikle agreed that it has been a beneficial series and he will be taking the Master Citizen Planner test at the end of the course.
- B. **2023-2027 Parks & Open Space Plan:** Currently out for public comment, available online or in the County's Planning Department. A public hearing on the plan will take place at the Courts, Public Safety, Infrastructure & Development Committee meeting on the evening of December 19, 2022.

9. NEW BUSINESS: None.

10. REPORTS:

- A. Michigan Spark Grant: efforts are currently underway to apply for this grant to help with development of Fillmore County Park.

11. COMMISSIONERS HEARD AND CALL TO THE PUBLIC:

Roy and Ellie Steyskal, 8875 Owosso Rd. spoke regarding the Conway Twp. solar energy ordinance language. Kelly Ralko, 11935 Daisey Lane, spoke about her concerns regarding solar energy farms in the County.

12. ADJOURNMENT:

Commissioner Action: IT WAS MOVED BY COMMISSIONER IKLE TO ADJOURN THE MEETING AT 9:30 P.M., SECONDED BY COMMISSIONER BOWDOIN .

Motion passed: 7-0



Livingston County Department of Planning

MEMORANDUM

Kathleen J. Kline-Hudson
AICP, PEM
Director

Robert A. Stanford
AICP, PEM
Principal Planner

Scott Barb
AICP, PEM
Principal Planner

TO: Livingston County Planning Commissioners and the
Hamburg Township Board of Trustees

FROM: Kathleen Kline-Hudson, Director

DATE: December 12, 2022

SUBJECT: Z-40-22

Section 36-187 Additional district regulations, (3) Raising and keeping
of poultry

Background: In the summer of 2022 Hamburg Township began enforcement action against properties across the Township for violation of a specific provision in Section 36-187 of the ordinance which states “*In the Waterfront Residential (WFR) or Natural River (NR) zoning districts the raising and keeping of poultry shall only be permitted on lots greater than 2.0 acres.*”

When residents receive notice of violation warnings, they may challenge the enforcement action in court, bring the property into compliance, or seek to amend the exiting ordinance regulations. One resident decided to pursue a text amendment to the current regulations of the section, which would allow them and other property owners in the district to raise poultry on their property without being in violation of the ordinance.

A summary of the proposed amendments by the Hamburg Township resident are contained in this review. Proposed additions to existing text are noted in **bold red underline**, deletions in bold ~~strikethrough~~, and staff comments are noted in ***bold, italic underline***.

Department Information

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Section 36-187

3. Raising and keeping of poultry shall be subject to the following conditions:

- a. ~~In the Waterfront Residential (WFR) or Natural River (NR) zoning districts the raising and keeping of poultry shall only be permitted on lots greater than 2.0 acres.~~
- b. Animals must be kept within a fenced area which shall be located no nearer than **100 25** feet from any water body. This requirement shall not apply to a water body which is located entirely within the subject property and is not connected to any water body off the subject property.
- c. On parcels two acres or less, a maximum of eight poultry animals are permitted.



- d. On parcels greater than two acres, 16 poultry animals are permitted. For each additional one acre over two acre, 16 additional poultry animals are permitted.
- e. Roosters shall only be permitted on parcels greater than two acres.
- f. Poultry must be located within the required rear yard in an enclosed structure.
- ~~g. The setback standard per section 36-293 shall apply to all districts.~~
- ~~h. Animals shall be maintained and accommodated in a manner so as not to pose a nuisance to adjoining property or a hazard to water quality and public health, safety, and welfare. Where necessary to protect water quality and public health, safety and welfare, the zoning administrator may require additional setbacks or buffer strips from property lines or adjacent water bodies.~~
- i. Poultry must be kept and cared for under sanitary conditions; poultry shall not become excessively noisy, odorous, dangerous, or in any way disruptive to the character of the area in which they are kept, or otherwise become a public nuisance.
- j. On lots over ten acres additional poultry may be permitted with approval of a special use permit per section 36-36.
- k. Private restrictions on the use of property shall remain enforceable and take precedence over these additional district regulations. Private restrictions include, but are not limited to deed restrictions, condominium master deed restrictions, neighborhood association bylaws, and covenant deeds. The interpretation of private regulations is the sole responsibility of the private parties involved.

County Planning Staff Comments: In addition to the proposed language revisions above, the resident applicant submitted an article entitled “The 6 Silliest Arguments Against Backyard Chickens” which addressed smell, noise, solid waste, predators, property values, and property location (country vs. non-country).

The Hamburg Township Planning Commission held a public hearing on October 16, 2022, to consider this zoning text amendment. At that time the Planning Commission directed Hamburg Township planning staff to research and create regulations that would lessen the restrictions on poultry in the WFR and NR zoning districts, but still protect neighboring property from any potential impacts and preserve the environmentally sensitive nature of the properties.

Hamburg Township staff reviewed the zoning regulations of adjacent townships and found that Hamburg Township’s regulations were generally less restrictive than most of the surrounding townships. Staff also examined the three properties in the Township that currently have code enforcement violations and found these commonalities: all three parcels are under 2 acres in size, abut a waterbody, and have some portion of the property within a wetland, flood plain or flood way. The area in which chickens were being raised was also noted on maps of each property.



County Planning Staff Comments (continued):

Building upon this research, Hamburg Township planning staff drafted two different versions of the zoning ordinance language. For instance, the first draft (Exhibit A) contained some of the following alternative regulations:

- Allowing poultry on properties in the WFR and NR zoning districts with no lot size restrictions
- Requiring the poultry areas to be fenced and have setback requirements for the coop location
- Allowing poultry keeping areas to be located in the front yard of properties that abut a water body

The second draft (Exhibit B) contained some of the following alternative regulations:

- Allowing poultry on properties in the WFR and NR zoning districts that abut a waterbody if the property meets the minimum lot size requirement of the zoning district
- Requirements for a fenced area that includes an enclosed structure (coop)

Township Planning Commission Recommendation: Denial. The Hamburg Township Planning Commission recommended Denial of the zoning ordinance text amendments to Section 36-187 Additional district regulations, (3) Raising and keeping of poultry.

The October 22, 2022, Planning Commission meeting minutes were not available at the time of review. Hamburg Township Planning Staff indicated to County Planning Staff some of the reasons provided by the Hamburg Township Planning Commission for denial of the proposed amendments, they included:

- environmental concerns with allowing farm animals to be located on properties in close proximity of a waterbody or abutting a waterbody
- the number of small properties in the WFR and NR zoning districts, and allowing poultry on these lots would have a greater impact of the neighboring sites

Staff Recommendation: Denial. Extensive research and drafting of alternative zoning ordinance language went into the consideration of this resident-proposed zoning ordinance text amendment, and ultimately Hamburg Township found that the current zoning ordinance language regarding the raising and keeping of poultry is not unduly restrictive, and these regulations are in place to protect the environmental integrity of water bodies and potential impacts on neighboring property owners.