

**LIVINGSTON COUNTY PLANNING COMMISSION  
MEETING MINUTES**

**APPROVED – March 20, 2019**

**6:30 p.m.**

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

<b>PLANNING COMMISSION</b>		
<b>COMMISSIONERS PRESENT:</b>	<b>BRIAN PROKUDA</b> <b>JEANNE CLUM</b> <b>JAMES SPARKS</b>	<b>LAURA ABRAMSON</b> <b>BILL ANDERSON</b> <b>MATT IKLE</b>
<b>COMMISSIONERS ABSENT:</b>	<b>CLAIRE STEVENS</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</b> <b>TOWNSHIP PLANNING COMMISSION</b> <b>CURT SHINABARKER, DEERFIELD</b> <b>CINDY SHINABARKER, DEERFIELD</b> <b>DAN CALLAN, DEERFIELD</b> <b>KATHI FRASIER, DEERFIELD</b> <b>RALPH FRASIER, DEERFIELD</b> <b>ALEX REUTER, COOPER &amp;</b> <b>REISTERER, PLLC ATTORNEYS AT</b> <b>LAW</b>	<b>KURT KOROW, DEERFIELD</b> <b>KYMM KOROW, DEERFIELD</b> <b>DON DOUIE, DEERFIELD</b> <b>DICK LOBBESTAEL, DEERFIELD</b> <b>JANE LOBBESTAEL, DEERFIELD</b> <b>ED WICKMAN, DEERFIELD</b> <b>CAMILLE WICKMAN, DEERFIELD</b> <b>KERRY MORGAN, MILL CREEK</b> <b>CENTER, LLP</b> <b>MICHAEL ROSS, DEERFIELD</b>

1. **CALL TO ORDER:** Meeting was called to order by Commissioner Prokuda at 6:54 PM.
2. **ROLL AND INTRODUCTION OF GUESTS:** None.
3. **APPROVAL OF AGENDA**

**Commissioner Action: IT WAS MOVED BY COMMISSIONER ANDERSON TO APPROVE THE AGENDA DATED MARCH 20, 2019, SECONDED BY COMMISSIONER IKLE.**

**All in favor, motion passed.**

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

**Commissioner Action: IT WAS MOVED BY COMMISSIONER ANDERSON TO APPROVE THE MINUTES OF THE PLANNING COMMISSION MEETING DATED FEBRUARY 20, 2019, SECONDED BY COMMISSIONER IKLE.**

**All in favor, motion passed.**

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

6. **ZONING REVIEWS:**

A. **Z-10-19: PUTNAM TOWNSHIP – REZONING**

**Current Zoning:** AO: Agricultural/Open Space

**Proposed Zoning:** RS-2: Single Family Residential (3-acre minimum) and RR: Rural Residential (10-acre minimum)

**Section / Proponents:** Section 15 / Mark Tipword

**Township Master Plan:**

Putnam Township last updated their master plan and future land use map in 2012 and designates the subject parcel as **Low Density Residential (3 to <5 acres)** and **Rural Preservation (5 to 10 acres)**. The 2012 master plan update states on pages 44 and 45:

*The RP classification accommodates low density single family development in a rural environment, while preserving and protecting visual character and natural features such as wetlands, stream corridors, steep slopes, and woodlots. This designation is supportive of agricultural areas and farm settings.*

*The LDR classification accommodates single family development at relatively low to moderate suburban densities in area located near existing residential development and the Village of Pinckney. These are semi-rural areas not significantly affected by environmental constraints. LDR development patterns respond to and help preserve rural visual character by maintaining adequate setbacks and by minimizing the number of lots onto existing public streets and roads.*

The rezoning request is consistent with the Future Land Use Map. Both future land use designations support the rezoning as low density rural development is desired under these designations. LDR has a proposed density of 3 to 5 acres with the RP designation having a proposed density of 5 to 10 acres. Both future land use classifications are compatible with the zoning designations – RS-2 zoning with LDR and RR zoning is compatible with the RP future land use classification.

**County Comprehensive Plan:**

The 2018 Livingston County Master Plan does not direct future land use patterns or dictate development within the Township or surrounding area, but focuses on a more comprehensive approach to master planning by identifying current trends and best management practices that can help achieve orderly growth by utilizing best land management strategies.

Following these best land management and growth policies found in the county plan, the parcel that is under consideration is located at the junction of Bentley Lake Road and Cedar Lake Road in Putnam Township. Current zoning of the area indicates that RS-2 and RR zoning are already present in the immediate area with low and medium density residential master planned for the subject parcels. The proposed rezoning builds on the continuity of low density residential in this area and is compatible with the 2018 Livingston County Master Plan's policies and objectives.

**Township Planning Commission Recommendation:**

The Putnam Township Planning Commission recommended **Approval** of this request at its February 13, 2019 public hearing. There were no comments at the public hearing on the proposed rezoning.

**Staff Recommendation: Approval.** The request to rezone from Agricultural Open Space (AO) to Single Family Residential (RS-2) and Rural Residential (RR) is compatible with the Putnam Township Master Plan and the 2018 Livingston County Master Plan.

**Commission Discussion:** None.

**Commission Action:**

**Commissioner Action:** IT WAS MOVED BY COMMISSIONER SPARKS TO RECOMMEND APPROVAL. SECONDED BY COMMISSIONER ANDERSON.

**Motion passed: 6-0**

**B. Z-11-19: DEERFIELD TOWNSHIP – REZONING**

**Current Zoning: A-1: General Agriculture**

**Proposed Zoning: A-4 Small Farm (2-acre minimum)**

**Section / Proponents: Section 33 / Kerry Morgan/Mill Creek Center, LLP**

**Township Master Plan:**

The Future Land Use Map for Deerfield Township designates the subject parcel as Agricultural/Rural Residential. The master plan for the Township is summarized on page 3-2 with the following description:

*The Agricultural/Rural Residential area is comprised nearly entirely of farmland and farm operations, along with scattered large-lot residential properties typically ranging from 2 to 10 acres in area, along with open space areas including wetlands and woodlands. The intent of the Agricultural/Rural Residential area is to provide opportunities for farming and encourage the preservation of farmland resources and the long term viability of local farming, while also providing opportunities for rural residential home sites.*

The Township Master Plan also details on page 3-3 key policies that should be considered when rezoning from one agricultural district to another. Three factors should be evaluated when consideration of a rezoning request in these instances and include the following points: prevailing lot sizes and densities in the immediate area, prevailing land use patterns including the presence of agricultural operations and the relative size of such operations, and the extent that areas of the township exhibit conditions that are supportive of economically viable farmland.

The Township's Master Plan lends ample support to the proposed rezoning from A-1 to A-4. The range of proposed densities for residential properties in the Agricultural/Rural Residential land use classification ranges from as little as 2 acres to as high as 10 acres. While this would eliminate a large tract of agricultural land, lot sizes in the immediate area are already established at 2 acres at the corner of Allen and Mack Roads, 5 acre parcels to the west of the subject site, and 2 acre parcels to the north across Fausett Lake. We believe that the proposal to rezone is supported by and compatible with the Deerfield Township Master Plan.

**County Comprehensive Plan:**

The 2018 Livingston County Master Plan does not direct future land use patterns or dictate development within the Township or surrounding area, but focuses on a more comprehensive approach to master planning by identifying current trends and best management practices that can help achieve orderly growth by utilizing best land management strategies.

Based on these strategies, the consistency of rezoning one agricultural designation to another is compatible with the Livingston County Master Plan. While smaller lots will be utilized with the proposed rezoning, the parcels will remain agrarian in nature.

**Township Planning Commission Recommendation:**

The Deerfield Township Planning Commission tabled the proposed rezoning at the November 16, 2017 public hearing. After the initial hearing was closed, the petitioner was directed to resolve issues of proper ownership of the property prior to moving the application forward. The February 21, 2019 meeting was a continuation of discussion of the subject property and it was at this meeting that the Deerfield Township Planning Commission recommended **Disapproval** of the proposed rezoning application.

**Staff Recommendation: Approval.** Planning staff is recommending approval of the proposed rezoning from A-1 General Agriculture to A-4 Small Farms with a 2-acre minimum. The rezoning of the property is in alignment with the general policies of the Deerfield Township Master Plan.

**Commission Discussion:** Planning Commissioner Abramson asked Planning Staff if there were any safety concerns from the fire authority? Principal Planner Barb stated that the information provided was extraneous to the rezoning. Planning Commissioner Sparks asked what percentage of the parcel would be consumed in two acre lots? Principal Planner Barb said that some of the parcel is constrained by wetland areas and areas identified as Resource Conservation on the Deerfield Township Zoning Map, however most of the parcel is comprised of upland and can be split. Planning Commissioner Prokuda asked if the parcel has access? Principal Planner Barb stated that it has access from a private road.

**Public Comment:**

- 1.) Kerry Morgan, petitioner, Mill Creek Center, LLP: Mr. Morgan stated that he purchased the property in 2015. He explained that he delivered a packet of information to County Planning and these bound materials were also distributed to Deerfield Township residents. He stated that he had a pre-planning meeting with the Township, and that he also attended the Township Master Plan meetings. He feels that this lake area is not agricultural in character; it is residential. He said that he is attempting to do everything by the rules. Mr. Morgan stated that he owns 1,000 feet on the lake and that everything below the private driveway is wetlands leaving approximately 14-15 acres of usable land in the center of the parcel. He desires five parcels from this upland. He provided a letter from the Township Attorney, Mr. Johnson, and stated that the public hearings at the Deerfield Township Planning Commission meetings were attended by many residents in opposition of his rezoning. Mr. Morgan stated that he has met with the fire marshal twice regarding ingress and egress. He said that he will put a circle drive on his property to access the lots. The wetlands should not be affected. Mr. Morgan presented a letter from his attorney, Matt Haggerty. He stated that Deerfield Township Planning Commissioners had said that this rezoning would open a "Pandora's Box" which will require them to allow more small lots if the rezoning is approved. Mr. Morgan stated that there are 37 non-conforming parcels in this section and the zoning precedent was already set with two other A-4 rezonings in this area of the Township that resulted in 11 parcels on the lake. He said that the Township Attorney stated that this rezoning is reasonable. Mr. Morgan said that he does care about the environment and he wants to create a good development and preserve the land as much as possible. Mr. Morgan stated that he is presenting a reasonable use of his property and the property could have been purchased by the neighbors who oppose this rezoning, but they didn't purchase it. He said that he is in favor of a lake association and has been trying to work with the residents.
- 2.) Ed Wickman: Mr. Wickman stated that he owns the parcel to the west of Mr. Morgan's parcel. He showed a parcel map and said that there are no lots on the lake that are less than 3 acres in size; they may be zoned A-4, but they are not parceled as such. He believes there are 11 lots possible on this parcel. He said that he cooperated with Mr. Morgan during this process but he has no desire for this A-4 rezoning.
- 3.) Camille Wickman, owner west of Mr. Morgan's parcel: Mrs. Wickman stated that Deerfield Township is a gem and that they bought their land as a retirement investment knowing that it was zoned A-1. She said that she and her husband created an exclusive shared drive that connects to Waterwood Way Road and it is a known fact that Waterwood Way will support only 4 parcels. She said that with the development of a sub, she is no better off on Waterwood Way than she was when living on a large lake

- in Oakland County. She stated that the south side of the lake is different than the rest of the lake and she is concerned about the safety of the lake with additional boats. Mrs. Wickman stated that Mack Road is not in good shape and it cannot handle additional traffic.
- 4.) Kymm Korow, property owner to east of Mr. Morgan: Mrs. Korow handed out a letter and petition to County Planning Commissioners. She stated that Mr. Morgan has limited access to his parcel and he also has issues with the Resource Conservation Areas that are master planned. She stated that Waterwood Way cannot be extended; the 245 foot proposed extension of Waterwood Way is not advisable. She mentioned that new shared driveway language in the Zoning Ordinance was recently approved. Mrs. Korow cited the Deerfield Township Master Plan Land Use chapter and the references to rural character. She stated that rural character will be destroyed with this rezoning; it is a very unique area. She explained that Fausett Lake is an all-sports lake that is a shallow 18-19 feet deep, and cannot safely accommodate 2 boats at the same time; residents have to take turns on the lake. She asked that the Livingston County Planning Commission uphold the decision of the Township. She said that she doesn't know of any other place in Livingston County where you can have 20 acres on a lake; it has unique character with only 9 homes on the lake.
  - 5.) Kurt Korow, property owner to east of Mr. Morgan: Mr. Korow stated that the lake is manmade, it is small with 39 acres, and there are only 2 properties left on the lake; Mr. Morgan's property and one other. He said that Mr. Gimarcco split this area into large parcels to preserve the rural character of the area. He said that the houses are spaced around the lake and there is no clustering.
  - 6.) Cindy Shinabaker: Mrs. Shinabaker stated that this rezoning would be setting a precedent for A-4. She said that Waterwood Way bisects her property and that if the load on the road were increased, it would decrease her property value. She stated that if the rezoning were approved, there would be a 94% increase in land owners on Waterwood Way.
  - 7.) Curt Shinabaker: Mr. Shinabaker stated that A-1 zoning is predominant in this area, the character of the lake is different from the north side to the south side, and homes are evenly scattered around the lake. He said that everyone bought lots around the lake knowing that the zoning was A-1. He had never heard Mr. Morgan mention 5 lots until this evening. He explained that Wickman's private drive and Mr. Morgan's proposed access would go off of Waterwood Way and there is not enough room for a 66 ft. wide easement for the access road. Mr. Shinabaker cited several pages from the Master Plan that refer to 'rural character.' He said that his enjoyment of his property will be reduced with this rezoning and it will set a precedent.
  - 8.) Dan Callan, realtor and area property owner: Mr. Callan questioned why the property was being rezoned without proper access. Mr. Morgan responded by saying that the Township directs the order of the process and it is: 1.) rezoning 2.) parcel split 3.) driveway access. Mr. Callan stated that the developed parcels will be clustered and will probably all have lake access. He asked how this is not spot-zoning because there are no transitions in zoning. He stated that many splits were done before the new Master Plan. He said that the dam and the lake don't need any more development pressure.
  - 9.) Kathi Frasier, resident on Mack Road: Mrs. Frasier stated that keyholing on Fausett Lake will turn it to mud. She said that Mack Road does not have good access and it is easily torn up; it can't handle any more traffic.
  - 10.) Alex Reuter, Attorney for several Fausett Lake property owners: Mr. Reuter stated that we must recognize the desires of the master plan and the residents. He stated that this property is in an Agricultural and Rural planning area which encourages farming, farming preservation and rural residential development; the master plan states that development densities are to be low with limited residential development on small parcels. He said the master plan directs zoning and this parcel is surrounded by A-1. Mr. Reuter stated that Mr. Morgan's parcel is vacant and the Deerfield Township Planning Consultant said that the parcel has 11 buildable acres. He mentioned a lack of detail in the Deerfield Township Planning Commission minutes and that they do not provide a complete picture, however, the Township overwhelmingly recommended Disapproval.
  - 11.) Kerry Morgan, petitioner, Mill Creek Center, LLP: Mr. Morgan stated that the contiguous A-4 zoned parcel was rezoned in 2004. He stated that 5 lots on his 29 acre parcel would result in lots of 5.8 acres, and this is reasonable for the area because right next door are lots of less than 5 acres. He said that he is not trying to do anything less than what is already there.

12.) Michael Ross, area resident: He mentioned some corrections and/or omissions to the County Planning Staff review. Mr. Ross stated that Deerfield Township listened to them and did understand what ‘surround’ means.

**Commission Discussion:** Planning Commissioner Ikle asked for a reading of the Deerfield Township Planning Commission motion. Planning Director Kline-Hudson read the February 21, 2019 motion from the Deerfield Township Planning Commission draft minutes. Planning Commissioner Prokuda asked how to consider the lake issues from a planning standpoint. Principal Planner Barb stated that the Master Plan does not prohibit rezoning nor does the Zoning Ordinance. He said that the A-2, A-3 and A-4 zoning districts are now lumped together as Small Farms in the Deerfield Township Zoning Ordinance and on their new zoning map; it is not spot zoning. Principal Planner Barb said many issues are extraneous to the County Planning Commission’s decision and the Deerfield Township legal counsel and planning consultant both recommended approval. Planning Commissioners discussed the parcel maps provided by the residents. Planning Director Kline-Hudson stated that the parcel maps may be out of date and the legally adopted maps of the Township should be the maps considered in this review: the Deerfield Township Zoning Map and the Deerfield Township Future Land Use Map. Planning Commissioner Anderson asked how 5 acre parcels were within an A-1, 20 acre minimum zoning district? Planning Director Kline-Hudson suggested that they may have been grandfathered in after the A-1 zoning was put in place, and they are now non-conforming lots. Planning Commissioner Abramson questioned whether a recommendation of A-4 zoning was also an endorsement of the site plan for this parcel? Principal Planner Barb said it was not an endorsement of the site plan. Planning Commissioner Sparks recalled how Mr. Fausett was very proud of the lake he created and he made a comment to Mr. Sparks that “it was a nice little lake and it would be ruined when they put lots of houses on it.” Planning Commissioner Clum said that she appreciates all of the documentation on this rezoning, and that both sides of the issue were well represented.

**Commissioner Action:**

**Commissioner Action:** IT WAS MOVED BY COMMISSIONER SPARKS TO RECOMMEND DISAPPROVAL. MOTION DIED DUE TO LACK OF SUPPORT.

**Commissioner Action:** IT WAS MOVED BY COMMISSIONER CLUM TO RECOMMEND APPROVAL. SECONDED BY COMMISSIONER ANDERSON.

**Motion passed: 4-2 (PROKUDA AND SPARKS NAY)**

**7. OLD BUSINESS**

**A. Progress on visits to local Planning Commission meetings:** Planning Commission Chair Prokuda stressed the importance of these local visits and said that township representatives have indicated that they want the visits to continue. He suggested that the Planning Commission do their best to divide up the visits amongst Planning Commission members, so that they are attending with staff. He stressed the importance of attending the meetings they sign up for. Planning Director Kline-Hudson added that she only wants Planning Commissioners to attend these meetings if they see it as an important venture; staff has discussed these visits and they will continue to schedule them even if they will be visiting without a County Planning Commission member.

**B. Schedule of Visits:** Staff and Planning Commissioners agreed to visit the following April 2019 meetings: Village of Pinckney, April 1- Stanford and Ikle; Cohoctah Township, April 4- Stanford and Clum (tentative); Iosco Township, April 9- Kline-Hudson and Prokuda.

**8. NEW BUSINESS:** None.

## 9. REPORTS

**A. Staff Report:** Principal Planner Stanford explained the two American Planning Association award applications that the County Planning Department is submitting to the Michigan Association of Planning for the 2018 Livingston County Master Plan.

**10. COMMISSIONERS HEARD AND CALL TO THE PUBLIC:** Planning Commission Ikle stressed how important it is to have local representation at the County Planning Commission meetings, so that Planning Commissioners know the intent of the local community. He also said that the Townships should have more details in their motions.

Bruce Powelson, Marion Township: Mr. Powelson offered brief comments on the proposed A-4 rezoning in Deerfield Township.

## 11. ADJOURNMENT

**Commissioner Action:** IT WAS MOVED BY COMMISSIONER SPARKS TO ADJOURN THE MEETING AT 8:47 P.M., SECONDED BY COMMISSIONER CLUM.

**All in favor, motion passed.**