

**APPROVED
LIVINGSTON COUNTY
PLANNING COMMISSION
MEETING MINUTES**

February 21, 2024

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>**

*Due to technical difficulties, participation via Zoom was not available for this meeting.

PLANNING COMMISSION			
COMMISSIONERS PRESENT:	<table style="width: 100%; border: none;"> <tr> <td style="width: 50%; vertical-align: top;"> Bill Anderson Matt Ikle Dennis Bowdoin Margaret Burkholder </td> <td style="width: 50%; vertical-align: top;"> Jason Schrock Bill Call Paul Funk </td> </tr> </table>	Bill Anderson Matt Ikle Dennis Bowdoin Margaret Burkholder	Jason Schrock Bill Call Paul Funk
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COMMISSIONERS ABSENT:			
STAFF PRESENT:	Scott Barb Rob Stanford Martha Haglund		
OTHERS PRESENT:	Bruce Powellson, Marion Township; Clint Beach, Cohoctah Township; Sara Porter, Conway Township; Mike Brown, Conway Township; Tim Boal, Howell Township; Michael Stock, Conway Township.		

1. **CALL TO ORDER:** Meeting was called to order by Planning Commissioner Anderson at 6:28 PM.
2. **PLEDGE OF ALLEGIANCE TO THE FLAG**
3. **ROLL AND INTRODUCTION OF GUESTS:** None.
4. **APPROVAL OF AGENDA:**

After discussion with Commissioner Funk, the Planning Commission Chair, Bill Anderson amended the agenda to include 10 D Reports: Petition for Local Control of Solar Siting and Zoning.

Commissioner Action: IT WAS MOVED BY COMMISSIONER IKLE TO APPROVE THE AMENDED AGENDA, DATED FEBRUARY 21, 2024, SECONDED BY COMMISSIONER SCHROCK.

All in favor, motion passed 7-0.

5. APPROVAL OF PLANNING COMMISSION MEETING MINUTES

Commissioner Action: IT WAS MOVED BY COMMISSIONER CALL TO APPROVE THE MINUTES, DATED JANUARY 17, 2024, SECONDED BY COMMISSIONER IKLE.

All in favor, motion passed 6-0-1

(Commissioner Funk Abstained – Absent for the meeting)

6. CALL TO THE PUBLIC: None

7. ZONING REVIEWS:

A. Z-04-24: MARION TOWNSHIP AMENDMENTS TO THE ZONING ORDINANCE: ARTICLE 3: DEFINITIONS, ARTICLE 6: GENERAL PROVISIONS, ARTICLE 12A: WELLHEAD PROTECTION OVERLAY DISTRICT.

The Marion Township Planning Commission proposes amendments to Article 3: Definitions, Article 6: General Provisions, and Article 12A: Wellhead Protection Overlay District of the Marion Township Zoning Ordinance, related to the establishment of a wellhead protection overlay district, and establish procedures and enforcement for wellhead protection.

Township Recommendation: Approval. The Marion Township Planning Commission recommended Approval of this zoning amendment at its November 28, 2023, public hearing. There were no public comments noted in the minutes.

Staff Recommendation: Approval With Conditions. The proposed amendments related to the establishment of a wellhead protection overlay district, and the establish of procedures and enforcement for wellhead protection in Marion Township appear to be suitable and reasonable. It is recommended that as Conditions of Approval, the township is encouraged to consider making the revisions identified in the Staff review prior to taking any final approval and adoption.

Commission Discussion: Commissioner Burkholder inquired about Use by Right. Commissioner Ikle questioned the repair, replacement, and capacity of the treatment plants in the proposed ordinance. Performance standards are noted as having different timetables in the ordinance. Commissioner Call noted that all the inspections appear to be self-reporting in nature and who is responsible for such inspections needs to be clarified.

Public Comment: None.

Commission Action:

Commissioner Action: IT WAS MOVED BY COMMISSIONER IKLE TO RECOMMEND APPROVAL WITH CONDITIONS, SECONDED BY COMMISSIONER BOWDOIN.

Motion passed: 7-0

B. Z-05-24: CONWAY TOWNSHIP AMENDMENTS TO THE ZONING ORDINANCE: ARTICLE 2: DEFINITIONS, SECTION 6.01: ESTABLISHMENT OF DISTRICTS, SECTION 6.24: WIND ENERGY SYSTEMS AND ARTICLE 21: WIND ENERGY SYSTEM OVERLY DISTRICT.

The Conway Township Planning Commission proposes amendments to Article 2: Definitions, Section 6.01: Establishment of Districts, Section 6.24: Wind Energy Systems and a new Article 21: Wind Energy System Overly District of the Conway Township Zoning Ordinance, related to the establishment of a wind energy system overlay district, and to establish procedures and enforcement regulations for such district.

Township Planning Commission Recommendation: Approval. The Conway Township Planning Commission recommended Approval of this zoning amendment at its January 8, 2024, public hearing. There was one public comment noted in the minutes.

Staff Recommendation: Take No Action, Encourage Further Review. There are a few proposed amendments that, in general, do not appear to be suitable, nor compatible with Public Act 233 of 2023. As noted, Vertical Axis Wind Turbines (VAWT) are not used in utility-scale wind energy facilities. They do not provide the necessary inherent power generating capacity needed for large, utility-scale power generation systems (kWh generation for VAWT-style turbines versus MWh generation for horizontal axis-style turbines). Additionally, restricting the height of permitted VAWT to an overall height of 200 feet is not compliant with current technology, and virtually eliminates any assemblage of a reasonable, reliable, and applicable utility-scale wind energy system that is currently in place or being used as a standard utility-scale wind energy system by any major utility or energy generation entity operating in the State.

In general, the voluminous nature of the ordinance and its complexity regarding the vast amount of additional required elements contained within also could pose unintended regulatory hurdles to the township in its ability to rely on this as a “reasonable”, “workable”, or even enforceable ordinance in a practical sense of the terms. This remains to be seen, if and when a wind energy applicant / developer approaches the township in the future. Administering, overseeing, and most importantly, enforcing compliance with an ordinance, especially one of such magnitude, will be an extraordinarily challenging task for any township zoning official to manage efficiently and effectively. The ability to enforce a local ordinance practically and effectively is the most important aspect of land use regulation, regardless of an ordinance’s scale and context.

Therefore, it is recommended that the township conduct a comprehensive final review and assessment of the issues highlighted in the review prior to any final approval by the Township Board, to ensure that this level of detail and complexity is truly the desired direction for the township regarding wind energy system regulation. Staff would also recommend that the Township consult its lead/primary township legal counsel in this endeavor as well.

Regulating this land use activity continues to be new and challenging territory for many local communities. It remains to be seen if the provisions of this proposed ordinance amendment will adequately and effectively govern the use to the complete satisfaction of state law, the township, and its residents in the future. County Planning Staff encourages townships to continue to explore adopting compatible renewable energy ordinances (CREO) as well as exploring avenues to reasonably retain some form of workable local control. The township should also consider the level of risk and reward it is willing to accept in including a such large quantity of additional requirements beyond those in the law and CREO compliancy, and to think creatively about using host community agreements to protect local regulatory control and township residents. As the situation currently appears, adopting a CREO is the only option to guarantee that the developer must first go through the local zoning process.

Commission Discussion: Commissioner Burkholder inquired about the MDARD livestock registry and how it affects the proposed ordinance. Commissioner Ikle stated that the proposed ordinance does not indicate who determines the value for security deposits on (page 15 of the PC Review); Commissioner Ikle suggested it should be similar to the decommissioning requirements on (page 33 in the PC Review); that a 3rd party be responsible for determining the value. It was also noted that a 30-day inform period should be indicated by an insurer to the insured party. Commissioner Ikle would like to include these issues in the Township letter.

Public Comment: Sarah Porter inquired about availability of PC review materials to the public prior to the meeting date. Mike Brown, Conway Township Planning Commissioner, verified that they are using the area near Maple Grove Airport to stunt potential wind turbine height requirements regarding the overlay district.

Commission Action:

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

Motion passed: 7-0

**C. Z-06-24 HARTLAND TOWNSHIP AMENDMENTSTO THE ZONING ORDINANCE:
ARTICLE 3: PRINCIPAL PERMITTED USES: PHARMACIES IN GC, NSC, & LC DISTRICT.**

Hartland Township Planning Commission is proposing to amend the Zoning Ordinance to Permit Pharmacies as a Principal Permitted Use in the General Commercial, Neighborhood Service Commercial, and Limited Commercial Districts.

Township Planning Commission Recommendation: Approval. The Hartland Township received a request to establish a pharmacy within an existing multi-tenant building in the GC (General Commercial District). Pharmacies are not permitted uses in the GC District. The Township Ordinance Committee reviewed this matter and recommended approving a zoning amendment to include pharmacies as a permitted use within the General Commercial District. The Hartland Planning Commission initiated the above text amendments during their work session on December 14, 2023. Additionally, the Township Planner recommended to include pharmacies as a permitted use with size limitation within the NSC (Neighborhood Service Commercial) and LC (Limited Commercial. The size limitation is the same as the existing language permitting pharmacies (less than 2000 sq ft) within OS (Office Service). A Public Hearing was held on January 25, 2024. There were no public comments heard.

Staff Recommendation: Approval. The additional permitted use of pharmacies within the General Commercial, Limited Commercial, and Neighborhood Service Commercial to the Hartland Township Zoning Ordinance is appropriate and consistent with other permitted uses within these zoning districts.

Commission Discussion: Commissioner Funk asked if Hartland was getting an onslaught of pharmacies and what the reasons are for addressing the zoning at this time? Commissioner Burkholder inquired about the definition of what a pharmacy is within the Township Ordinance.

Public Comment: None.

Commission Action:

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

Motion passed: 7-0

8. OLD BUSINESS: None.

9. NEW BUSINESS: None.

10. REPORTS:

- A. 2025 Livingston County Master Plan** – Commissioners were asked to complete a survey indicating their participation in the 2025 Master Plan process.
- B. Annual Capital Improvements Plan Overview** – Principal Planner Stanford gave an overview of the process with an April 12, 2024, deadline for submissions into the CIP.
- C. Housing Catalysts/Planning Sample ADU Ordinance** – Staff gave a brief presentation on our involvement with the Housing Catalyst organization and the sample rural/urban ADU ordinances that are being worked on.
- D. Petition for Local Control of Solar Siting and Zoning** – Commissioner Funk gave an overview of the petition to maintain local control over solar siting and zoning in Michigan rather than having the MPSC control the issue with local governments.

11. CALL TO THE PUBLIC: Clint Beach, Cohoctah Township, spoke in favor of local zoning control.

12. ADJOURNMENT:

Commissioner Action: IT WAS MOVED BY COMMISSIONER IKLE TO ADJOURN THE MEETING AT 8:10 PM., SECONDED BY COMMISSIONER SHROCK.

Motion passed: 7-0