

Chairperson
Peter Psarouthakis
Vice-Chairperson
Margaret Sayles
Secretary
Jan Motz

Members
Dawn Levey
Kim Wieber
Michael O'Bryant
Val Vail-Shirey (BOC Ex Officio)



Clinton County
Planning Commission

Community Development Dept.
Director

Planning & Permit Technician
Jessica Bolt

Clinton County Courthouse
100 East State Street, Suite 1300
St. Johns, Michigan 48879-1571
(989) 227-6591

PLANNING COMMISSION AGENDA
Meeting of April 18, 2024 – 6:30 P.M.

Clinton County Commissioners' Chambers, 2nd floor

1. **Call to Order and Roll Call –**
2. **Pledge of Allegiance –**
3. **Approval of Agenda –**
4. **Approval of Planning Commission Meeting Minutes –**
 - April 11, 2024
5. **Communications –**
6. **Public Comments –**
7. **Old Business –**
 - A. Zoning Ordinance Amendments Review Discussion
8. **New Business –**
 - A. Zoning Ordinance Discussion – Battery Storage
Staff / County Legal Counsel
 - B. Zoning Ordinance Amendments – Meeting Schedule
Consideration of additional meetings.
9. **Other Business –**
10. **Community Development Director's Report –**
11. **Planning Commissioner Comments –**
12. **Adjournment –**

MINUTES

APRIL 11, 2024

PLANNING COMMISSION MEETING

Chairperson
Peter Psarouthakis
Vice-Chairperson
Margaret Sayles

Secretary
Jan Motz

Members
Dawn Levey
Kim Wieber
Michael O'Bryant
Val Vail-Shirey (BOC Rep.)



Clinton County Planning Commission

Community Development Dept.
Director
Raphael Kasen
Planning & Permit Technician
Jessica Bolt

Clinton County Courthouse
100 East State Street, Suite 1300
St. Johns, Michigan 48879-1571
(989) 227-6591

MEETING MINUTES

APRIL 11, 2024

- CALL TO ORDER** The Clinton County Planning Commission (PC) met on Thursday, April 11, 2024 at 6:30 p.m. with Chairperson Psarouthakis calling the meeting to order.
- ROLL CALL** Dawn Levey – *absent with notification*
Jan Motz
Kim Wieber
Margaret Sayles
Michael O'Bryant
Peter Psarouthakis
Val Vail-Shirey
- STAFF PRESENT** Jessica Bolt, Planning & Permit Technician
John Fuentes, County Administrator
Raphael Kasen, Community Development Director
Todd Campbell, Deputy County Administrator
- VISITORS** Andrew Hunt, 4701 Findlay Road
Dani Hunt, 4701 Findlay Road
Diane Zammaron, 4801 Findlay Road
Glen Miller, Miller Brothers Excavating, Inc., 3150 S. Lowell Road
Hank Zammaron, 4801 Findlay Road
James Goble, Quiet Waters Farm, LLC, Findlay Road
John Chickering, 5823 W. Paxton Road
Kathleen George, Essex Township Treasurer
Pat Twietmeyer, St. Johns
Paul Hunt, 4701 Findlay Road
Spencer Miller, 9011 Krepps Road
Theresa Owen, 5261 N. Williams Road
- PLEDGE OF ALLEGIANCE** The Pledge of Allegiance was given to the flag of the United States of America.
- AGENDA**
- *The agenda was presented for review and approval.*
 - Chairperson Psarouthakis requested the PC consider the following additions to the agenda:
 - Other Business A: *Zoning Ordinance Amendments Review Discussion*
 - Other Business B: *Communications to the Townships*
 - Val Vail-Shirey requested the PC consider the following additions to the agenda:
 - New Business B: *Battery Storage Ordinance Discussion*

PLANNING COMMISSION ACTION: Margaret Sayles moved, supported by Jan Motz to approve the agenda as amended. Motion carried.

APPROVAL OF
PLANNING
COMMISSION
MEETING MINUTES

PLANNING COMMISSION ACTION: Margaret Sayles moved, supported by Jan Motz, to approve the March 21, 2024 Special PC Meeting Minutes as presented. Voting on the motion by roll call vote, motion carried unanimously. [Vote of 6-0, all in favor, none opposed.]

COMMUNICATIONS

- Raphael Kasen briefly reviewed (A) Eagle Township's Notice of Adoption (Zoning).
- *The PC discussed statutory noticing requirements with Mr. Kasen in these regards.*
- Raphael Kasen briefly reviewed (B) Danby Township's Notice of Master Plan Update.

PLANNING COMMISSION ACTION: Jan Motz moved, supported by Val Vail-Shirey, to receive Communication Items A and B and place them on file. Voting on the motion by roll call vote, motion carried unanimously. [Vote of 6-0, all in favor, none opposed.]

PUBLIC COMMENTS

- Chairperson Psarouthakis called for public comments.
- Kathleen George, Essex Township Treasurer, spoke on behalf of the Township regarding case PC-07-24 SP:
 - Has heard that the applicant is a nice person, but the township is concerned about noise impacts to neighboring properties.
 - Requested the PC limit their hours of operation; specifically, 8 a.m. – 6 p.m. and no Saturdays.
- John Chickering expressed that he is concerned about hours of operation, noise, dust, and potential impacts to his well regarding case PC-07-24 SP.
 - Has lived in this location for 30 years.
- Chairperson Psarouthakis called for additional public comments.
 - *There were no public comments.*

OLD BUSINESS

None

NEW BUSINESS
PC-07-24 SP

- *Chairperson Psarouthakis summarized the request before the PC, as detailed in the agenda.*
- Raphael Kasen reviewed **PC-07-24 SP – Request for Site Plan Approval** as detailed in the Staff Report (which includes the Site Plan criteria to be reviewed by the PC).
- Jan Motz asked for clarification of the setbacks to the homes on the eastern and western sides of the subject property.
- Raphael Kasen determined the eastern boundary would be setback 422 feet; the western boundary would be setback 180 feet; and the northern boundary would be setback a minimum 355 feet from the property lines.
 - *Continued with the Staff Report.*
- Margaret Sayles asked when this property was last mined?
- Raphael Kasen estimated, in the 1970's.
- Margaret Sayles questioned if there have been many homes built in the subject area since that time?
- Raphael Kasen confirmed that there has.
- Chairperson Psarouthakis noted that the Spicer Group Engineering Report states that they do not recommend the installation of monitoring wells as long as the operations do not include any pumping or dewatering operations.

- Asked Mr. Kasen if he was aware of this?
- Raphael Kasen confirmed.
 - Noted that he has also verified this with the applicant.
 - In his experience, he has found that dewatering is a decreasingly used practice in this part of Michigan.
- Chairperson Psarouthakis asked for clarification, since there is no proposed dewatering, that would alleviate any concern for impacts to wells?
- Raphael Kasen confirmed.
- Margaret Sayles asked Mr. Kasen if dewatering is the only type of process that could cause impacts to wells?
 - Concerns of leaching into wells?
- Raphael Kasen explained that he is not an expert but understands that to be the case.
 - Offered that the applicant could speak to that concern.
- Chairperson Psarouthakis called on the applicant.
- James Goble, Quiet Waters Farm, LLC, thanked the PC for hearing his case.
 - This property has been previously mined, and the topsoil stripped.
 - Referred to a report from the Clinton Conservation District that declared the existence of invasive species on the subject property.
 - Purchased the property with the intention of improving it.
 - Is mindful and wants to be respectful of the neighboring properties.
 - Noted that he has heard many complaints from the community about the equipment that was left on the property from previous mining operations.
 - Ensured the removal of that equipment.
 - The end goal is for the property to look much nicer than it does now.
 - The plans to remain 150 (+) feet from the property lines is to be considerate and create a buffer greater than required by the Ordinance.
 - The wash plant will be approximately ¼ mile from the nearest home.
 - Is a proponent of outdoor recreation and has the goal of improving the property for outdoor activities.
 - Has planted many trees on the subject property.
 - Also has intentions of possibly building a home there one day.
 - If he were after money solely, he would be asking to mine the virgin farm ground to the east, having the best gravel, but that is not the goal.
 - Has no plans to use that land for anything other than leasing for farming.
- Chairperson Psarouthakis asked for information regarding the reclamation plan?
- James Goble explained that he intends to dig the pond; berm it according to the County's regulations; plant native grass around the whole site and turn it into a place to build a home.
- Chairperson Psarouthakis inquired how long the mining is anticipated to last?
- James Goble explained that it will be determined by how long it takes to dig the pond.
 - Noted, he is not motivated to mine everything from the property.
 - The plan currently is for 8 years but hopes it will take less time.
 - Dependent on the demand for gravel.

- Jan Motz asked if everything to the east is farmed?
- James Goble confirmed.
- Margaret Sayles expressed concerns about the property having not been reclaimed previously.
 - Hopes that enforcement of reclamation and clearing up these sites is not an issue in the future.
- Raphael Kasen stated that he hopes the zoning ordinance amendments review helps with ensuring enforceability of this ordinance.
- Chairperson Psarouthakis noted that he suspects in the 1970's, when it was first mined, there were no bonds or penalties in place?
- Raphael Kasen explained that he isn't aware of the history of the previous mining operation in these regards.
- Margaret Sayles asked, from the business point of view, how Essex Township's request to restrict operations on Saturdays would impact the overall anticipated timeline?
- James Goble explained that it would really hurt their productivity and timeline, including restricting the hours of operation to 8 a.m. – 6 p.m.
 - Not everybody can take deliveries on weekdays.
 - Saturdays are the only options for some.
 - The site will not be undergoing actual mining every day or every Saturday.
 - Saturdays will also be used for maintenance of machinery.
- Margaret Sayles stated that she is concerned about starting at 6 a.m.
- Jan Motz commented that she is concerned about restricting the hours of operation for the applicant.
 - To start work at 8 a.m. is really late for some businesses.
- Chairperson Psarouthakis inquired, if approved, when the applicant would plan to begin work?
- Glen Miller, Miller Brothers Excavating Inc., explained that it depends on the results tonight, and subsequent required permitting, but possibly within a month.
- Chairperson Psarouthakis, addressing Essex Township's concerns, inquired about how the Clinton County Road Commission's (CCRC) work on Anderson Road will affect the haul route?
- Glen Miller stated that the CCRC did an inspection.
 - Claimed that was once a haul route for the prior operations.
 - It is adequate for farm equipment – which would equate well to excavating equipment.
- Chairperson Psarouthakis, addressing Essex Township's concerns, asked how the water flowing north will affect the properties in that direction?
- Glen Miller explained that they will not be mining the entirety of the property.
 - Operations will be setback from property lines.
 - The back of the property slopes upward.
 - There will be no runoff water other than what is on the ground.
 - The wash plant recycles water from the pond back to the pond.
- Chairperson Psarouthakis asked for confirmation that pumps will not be installed in the ground affecting the water table?
- Glen Miller confirmed.
 - The only pump will be located in the pond.
- Kathleen George expressed concerns regarding how replacing the road culvert may be affected.
- Raphael Kasen noted that may be a conversation that the applicant, Township and CCRC need to have to work out any potential issues.

- Val Vail-Shirey, citing that the CCRC's noticing response was signed April 2nd, asked Ms. George if that improvement was agreed to after that?
- Kathleen George explained that she was unsure.
- Chairperson Psarouthakis recommended all parties involved collaborate on this item.
 - Noted that he drove around the area – it is a beautiful area.
 - Spoke to several neighboring property owners and generally heard that they do not want this in their backyards.
 - However, also heard expressions of understanding since the property has been zoned this way for a long time.
 - Hope it ends quickly.
 - Relayed comments from the Essex Township Supervisor, Carla Wardin that this is a non-issue.
- Jan Motz cited the hydrology report from Spicer Group, which indicates there will be no impact to wells because they are not using dewatering.
- Margaret Sayles asked Mr. Miller if he had ever come across issues with impacts to wells despite not using dewatering methods?
- Glen Miller responded that he has not.
- John Chickering expressed concerns regarding leaching into wells.
 - Requested a provision to protect the neighboring properties' wells if they decreased in quality or became damaged.
- Glen Miller stated that the depth will not be deep enough to cause adverse impacts.
- Chairperson Psarouthakis clarified to Mr. Chickering that his request is beyond the purview of the PC.
- Val Vail-Shirey asked Staff to confirm that this would be re-reviewed by the PC in 5 years.
- Raphael Kasen confirmed.
- Margaret Sayles noted that the Ordinance also says there will be annual inspections.
 - Asked Mr. Kasen if those will happen?
- Raphael Kasen assured her that they would.
- Chairperson Psarouthakis encouraged the constituents to call the operators or Community Development Office if there are issues.
 - Asked for any additional comments or questions from the PC.
 - Hearing none, Chairperson Psarouthakis called for a motion to open the public hearing.

PLANNING COMMISSION ACTION: Jan Motz moved, supported by Margaret Sayles, to approve PC-07-24 SP, Quiet Waters Farm, LLC, application for site plan approval for a mining operation in Section 26 of Essex Township based on the following reasoning and subject to the following conditions:

- Reasoning: **(1)** The standards set forth under Sections 6.1 (Site plan review), and Section 3.11 (Permit to mine in the MR Mineral Resource Extraction district) as detailed in the staff report have been or can be met subject to the conditions set forth below.
- Conditions: **(1)** Compliance shall be maintained with the Clinton County Zoning Ordinance, including those provisions set forth under Section 3.11. At the conclusion of operations, the applicant shall submit a letter/certification from a Michigan Licensed Engineer or Surveyor that the rehabilitation requirements of the Zoning Ordinance have been achieved. **(2)** A financial guarantee shall be submitted to the Community Development Department prior to the commencement of operations as required by Section 3.11.G of the Zoning Ordinance. **(3)** Under the terms

of Section 3.11.K of the Zoning Ordinance, the initial permit (Site Plan approval) is valid for five (5) years. Prior to the expiration of the initial five year period, the applicant shall submit a request (and operational update) to the Planning Commission for an extension of the site plan approval for another five (5) year period. **(4)** The applicant shall comply with the rules/conditions and permitting requirements of the CCDC, CCRC, MMDHD and MI Dept. of EGLE as applicable. Any substantive change to the site plan or operational characteristics as a result of these requirements, as determined by the Community Development Department, shall be resubmitted to the Planning Commission for their review and approval.

[Vote of 6-0, all in favor, none opposed.]

- Chairperson Psarouthakis asked the applicants to please work very hard at being good neighbors.
- Val Vail-Shirey noted to the attendees that the PC is currently in the process of reviewing potential ordinance amendments, including gravel pits.
 - Encouraged attendance of these special meetings.
- Raphael Kasen noted that there is public comment at every PC meeting.
- *Val Vail-Shirey introduced the topic of battery storage to the PC.*
 - Reported she attempted to have a preliminary discussion with Mr. Kasen prior to the PC meeting to discuss the battery storage issue, but that did not occur as a result of Mr. Kasen not responding to her email requests.
- *The PC discussed lack of regulation in the current Count Ordinance; potential for regulating under a different ordinance; current utility scale solar ordinance regulations; relation of battery storage to solar farms; definition and purpose of battery storage; secondary containment/best practices; environmental concerns; dangers/life safety; the Walker Road solar farm; current land leases; implementation of a moratorium; potential development of an ordinance; potential addendum to the Ordinance; and noticing requirements with Staff.*
 - In agreement to tend to this matter promptly.
 - Requested Staff to consult County Legal Counsel and to provide information to the PC on this topic for their review at their upcoming meeting on April 18, 2024.

BATTERY STORAGE
ORDINANCE
DISCUSSION

OTHER BUSINESS
(A) ZONING
ORDINANCE
AMENDMENTS
REVIEW DISCUSSION

- *Chairperson Psarouthakis introduced reconsideration of the zoning ordinance amendments discussion to the PC.*
- *The PC discussed changing the dates of the special meetings; time constraints on Staff; ordinances that have already been discussed; the potential to disregard some ordinances on the list; conversations with the consultant (Giffels Webster); accomplishments of the meetings so far; concerns regarding over-regulation; and scheduling work sessions with Staff.*
 - Requested Staff to address issues with Giffels Webster.
 - In agreement to have a limited work session with Staff to “regroup” and determine direction.

(B)
COMMUNICATIONS
TO THE TOWNSHIPS

- Chairperson Psarouthakis explained that he had the opportunity to meet/speak with a lot of the township supervisors within the County and feels that there is a disconnect between the townships and the County regarding what is going on.
 - Suggested the townships be provided with quarterly updates.

- Margaret Sayles noted that most of the PC is new.
 - Feels establishing communication lines with the townships is a good idea.
- Kim Wieber expressed that she would favor an in-depth letter regarding current issues and specific details to the townships.
- Chairperson Psarouthakis offered that he could initiate regular emails to the townships.
- Val Vail-Shirey agreed that this tone needs to be changed.
 - Feels a variety of letters would be beneficial.

COMMUNITY
DEVELOPMENT
DIRECTOR'S REPORT

- Raphael Kasen provided a brief update:
 - The PC will retain the special meeting date of April 18th.
 - Recommends the PC vote at the next meeting when to schedule additional special meetings/bring Giffels Webster back into this process.
- Kim Wieber asked what the Giffels Webster health audit is and what is it part of?
- Raphael Kasen explained that Giffels Webster provided a health audit to determine items within the ordinance that needed updating according to law.
 - The current zoning ordinance amendment list was a combination of audit results and Staff recommendations.
- *John Fuentes clarified the evolution of the zoning ordinance amendment list.*
 - Noted, several items have delayed this project.
- *The PC requested Mrs. Bolt to send the Giffels Webster health audit to them.*

PLANNING
COMMISSIONER
COMMENTS

- *Val Vail-Shirey introduced the topic of anaerobic digesters to the PC.*
 - Reported she attempted to have a preliminary discussion with Mr. Kasen prior to the PC meeting to discuss the anaerobic digesters issue, but that did not occur as a result of Mr. Kasen not responding to her email requests.
- *The PC discussed an anaerobic digester that is currently operating in Clinton County and history of its approval; purpose of; utility-scale use of; environmental/other negative impacts; other examples, including one used by Michigan State University (MSU); how the technology has changed; and regulation of with Staff.*
 - In agreement to address utility-scale uses of this technology.
- Jan Motz provided an update as the liaison to the Parks and Green Space Commission:
 - There will be a soft opening for the county park on Pratt Road on May 11th at 10 a.m.
- Chairperson Psarouthakis provided an update as the liaison to the Zoning Board of Appeals (ZBA):
 - The ZBA will be hearing a variance case next week.

ADJOURNMENT

PLANNING COMMISSION ACTION: With no further business to come before the Commission, Jan Motz moved, supported by Margaret Sayles, to adjourn the meeting at 8:10 p.m. Voting on the motion by roll call vote, motion carried unanimously. [Vote of 6-0, all in favor, none opposed.]

Jessica Bolt, Planning & Permit Technician

NOTE: These minutes are subject to approval at the next regularly scheduled Planning Commission Meeting.

OLD BUSINESS A

ZONING ORDINANCE AMENDMENTS REVIEW DISCUSSION

- Memo from 10/13/2022 PC Meeting Packet
- 10/13/2022 PC Minutes
- Memo from 12/8/2022 PC Meeting Packet
- 7/13/2023 PC Minutes
- Text Amendments Contract

Doug Riley
Community Development
Director
rileyd@clinton-county.org

Clinton County Community Development
100 E. State Street, Ste. 1300
St. Johns, MI 48879
Planning & Zoning Department: (989) 224-5292

MEMO FROM
10/13/2022 PC
MEETING PACKET

MEMORANDUM

TO: Clinton County Planning Commission

FROM: Doug Riley, Community Development Director

SUBJECT: **DISCUSSION - POTENTIAL ZONING ORDINANCE AMENDMENTS**

DATE: October 5, 2022

Following our reformatting of the Zoning Ordinance and the completion of the Comprehensive Plan update (5-year review), staff would now like to have an **INITIAL** discussion with the Planning Commission regarding potential Zoning Ordinance amendments.

This type of preliminary discussion has proven invaluable in the past in order to obtain the Planning Commission's thoughts and prioritization of potential amendments (which can have significant policy ramifications) before we begin the more deliberate/formal amendment process. This initial discussion will also help to determine if staff can/should draft the amendment(s) or if a consultant should be hired (in which we have money budgeted for such consultant assistance).

Note: The last time we followed this initial discussion process was in 2019 where we discussed several possible amendments which ultimately resulted in a few amendments to the Zoning Ordinance, such as the current regulations governing the placement of solar panels at individual residences and businesses.

At the meeting, depending on the issue, either myself or the Zoning Administrator (Joel Haviland) will provide you with an overview of the issue **with a request for the Planning Commission's initial feedback.** This can certainly include that you believe that no amendment or change is warranted.

The following are issues that have been previously discussed/identified by the Planning Commission (PC), Board of County Commissioners (BOCC), Zoning Board of Appeals (ZBA), or are items that staff routinely deals with in the daily administration of the Zoning Ordinance:

- Event Centers (e.g., Wedding Barns) in the agricultural zoning districts – Need for more defined criteria/standards (PC item)
- Solar Farms - Agricultural lands balance - future cap? (BOCC item)
- Flag Lots – Potential for homes behind homes (PC and ZBA item)
- 4 to 1 – Parcel depth-to-width ratio limitation (ZBA item)
- Accessory structures on corner parcels (ZBA item)
- Sign Regulations – Zoning Consultant Audit Recommendation (PC/Staff item)
- Accessory (2nd) Dwelling Units on parcels Zoning Consultant Audit Recommendation (PC/Staff item)
- Landscaping Section/Standards – Zoning Consultant Audit Recommendation (PC/Staff item)

- Stormwater Management/Low Impact Development Standards – Zoning Consultant/Drain Commissioner Recommendation (PC/Staff item)
- Auto Repair as a Home-Based Business (Staff item)
- Shipping containers as an allowed accessory building (Staff item)
- Private (Home) Kennels – Number of dogs allowed (Staff item)
- Agricultural Structure Exemption – Need for qualifying criteria (Staff item)
- Accessory structure before home – Clarification in Ordinance (Staff item)
- Accessory Structures – Minimum side and rear property line setbacks (Staff item)
- Complaints (Enforcement) – Repeated complaints (Staff item)

(duplex) prior to occupancy approval of each unit. (6) The applicant shall obtain Mid-Michigan Health Department approval of the well and septic provisions for each unit, and/or if permitted or required by the Health Department, shall connect to the existing sanitary sewer force main that runs along the W. High Street frontage. Written approval of either provision shall be submitted prior to issuance of building permits for the units. (7) The applicant shall prepare and execute an easement for any of the shared elements between units (e.g., sidewalks, propane tank/access, etc.) that guarantees continued access and maintenance of any shared features in case the parcels or units are sold to separate parties. This easement shall be recorded with the County Register of Deeds office prior to occupancy approval of the initial unit construction. (8) The applicant shall submit the standard building (permit) and site plan package for each unit to the Community Development Department prior to beginning construction on the property. (9) The site will be subject to annual inspection by the Community Development Department as specified in Section 6.2.J.2 of the Zoning Ordinance. It shall be the duty and obligation of the owner(s) and/or operator(s) to at all times be in compliance with the use requirements of the Zoning Ordinance and the stipulations of the special use approval.

Voting on the motion by roll call vote, motion carried unanimously. [Vote of 6-0, all in favor, none opposed.]

OTHER BUSINESS
ITEM A

- Discussion Item – Potential Zoning Ordinance Amendments.

Doug Riley, Director indicated that following our reformatting of the Zoning Ordinance and completion of the Comprehensive Plan update (5-year review), staff would now like to have an initial discussion with the Planning Commission regarding potential Zoning Ordinance amendments. This initial discussion has proven invaluable in the past to get the Planning Commission's guidance and thoughts in order to guide any potential amendments and with prioritization. Any specific amendments would ultimately have to be prepared and reviewed through a later (formal) public hearing/adoption process.

The issues chosen for discussion have been previously discussed/identified by the Planning Commission, Board of County Commissioners, Zoning Board or Appeals or staff in the daily administration of the Zoning Ordinance over the past few years.

- Event Centers (e.g., Wedding Barns) in the agricultural zoning districts – Need for more defined criteria/standards.

Following discussion, the Planning Commission consensus was that it didn't make sense to tie this land use to a farmers market (current practice) but to create more clearly defined standards to allow as a stand-alone land use. The requirement for a Special Land Use Permit and public hearing, etc. should remain.

- Solar Farms- Agricultural lands balance – future cap?

Following discussion, the Planning Commission consensus was that no cap was currently warranted due to the limited solar farms (1) we currently have in the County and wanting to give farmers that option for their less productive ground. However, it should be monitored annually moving

forward for additional review/action if warranted. There are many factors that must be considered.

- Flag Lots – Potential for homes behind homes.

Following discussion, the Planning Commission consensus was that no new or additional regulations were warranted. Advised staff to continue to use common sense and advisements to homeowners when splitting property.

- 4 to 1 – Parcel depth-to-width ratio limitation.

Following discussion, the Planning Commission consensus was that it appears to make sense to pursue changing the requirement from a 40-acre exemption to a 20-acre exemption to reduce the number of variances that must be reviewed/approved. Keep a Zoning Board of Appeals review an option.

- Accessory structures on corner parcels.

Following discussion, the Planning Commission consensus was that it appears to make sense to amend the Ordinance to not penalize homeowners with corner lots (and 2 front yard setbacks) with the placement of accessory structures if regulations can be structured where they are architecturally compatible with the home and don't dominate the roadway, etc. This would reduce the number of variances the Zoning Board of Appeals would have to review/approve.

- Sign Regulations – Zoning Consultant Audit Recommendation.

Following discussion, the Planning Commission consensus was that this should be a high priority to make sure our regulations meet recent Supreme Court rulings regarding content, regulation of free speech, etc.

- Accessory (2nd) Dwelling Units on parcels – Zoning Consultant Audit Recommendation.

Following discussion, the Planning Commission consensus was that no changes were warranted due the nature of our County Zoning and limited on-site infrastructure to accommodate additional units (e.g., septic systems, wells, no on-street parking, etc.). This is more of an urban zoning/development issue where such additional density can be more easily absorbed with the character of such areas and the necessary supporting infrastructure.

Due to the later hour, the Planning Commission determined to wait on covering any more of these discussion items (potential amendments) until a future meeting.

COMMUNITY
DEVELOPMENT
DIRECTOR'S REPORT

- Doug Riley, Director provided a brief update:
 - All of the September Planning Commission cases were approved by the Board of County Commissioners as recommended.
 - Jan Motz was officially appointed to Parks and Greenspace and Willis Heisey to the Solid Waste Council by the Board of County Commissioners.

Doug Riley
Community Development
Director
rileyd@clinton-county.org

Clinton County Community Development
100 E. State Street, Ste. 1300
St. Johns, MI 48879
Planning & Zoning Department: (989) 224-5292

MEMO FROM
12/8/2022 PC
MEETING PACKET

MEMORANDUM

TO: Clinton County Planning Commission
FROM: Doug Riley, Community Development Director
SUBJECT: **DISCUSSION - POTENTIAL ZONING ORDINANCE AMENDMENTS**
DATE: October 5, 2022

Following our reformatting of the Zoning Ordinance and the completion of the Comprehensive Plan update (5-year review), staff would now like to have an **INITIAL** discussion with the Planning Commission regarding potential Zoning Ordinance amendments.

This type of preliminary discussion has proven invaluable in the past in order to obtain the Planning Commission's thoughts and prioritization of potential amendments (which can have significant policy ramifications) before we begin the more deliberate/formal amendment process. This initial discussion will also help to determine if staff can/should draft the amendment(s) or if a consultant should be hired (in which we have money budgeted for such consultant assistance).

Note: The last time we followed this initial discussion process was in 2019 where we discussed several possible amendments which ultimately resulted in a few amendments to the Zoning Ordinance, such as the current regulations governing the placement of solar panels at individual residences and businesses.

At the meeting, depending on the issue, either myself or the Zoning Administrator (Joel Haviland) will provide you with an overview of the issue **with a request for the Planning Commission's initial feedback.** This can certainly include that you believe that no amendment or change is warranted.

The following are issues that have been previously discussed/identified by the Planning Commission (PC), Board of County Commissioners (BOCC), Zoning Board of Appeals (ZBA), or are items that staff routinely deals with in the daily administration of the Zoning Ordinance:

- ✓ Event Centers (e.g., Wedding Barns) in the agricultural zoning districts – Need for more defined criteria/standards (PC item)
- ✓ Solar Farms - Agricultural lands balance - future cap? (BOCC item)
- ✓ Flag Lots – Potential for homes behind homes (PC and ZBA item)
- ✓ 4 to 1 – Parcel depth-to-width ratio limitation (ZBA item)
- ✓ Accessory structures on corner parcels (ZBA item)
- ✓ Sign Regulations – Zoning Consultant Audit Recommendation (PC/Staff item)
- ✓ Accessory (2nd) Dwelling Units on parcels Zoning Consultant Audit Recommendation (PC/Staff item)
- Landscaping Section/Standards – Zoning Consultant Audit Recommendation (PC/Staff item)

- Stormwater Management/Low Impact Development Standards – Zoning Consultant/Drain Commissioner Recommendation (PC/Staff item)
- Auto Repair as a Home-Based Business (Staff item)
- Shipping containers as an allowed accessory building (Staff item)
- Private (Home) Kennels – Number of dogs allowed (Staff item)
- Agricultural Structure Exemption – Need for qualifying criteria (Staff item)
- Accessory structure before home – Clarification in Ordinance (Staff item)
- Accessory Structures – Minimum side and rear property line setbacks (Staff item)
- Complaints (Enforcement) – Repeated complaints (Staff item)

- Noted, they have proposed “wet planning” on their site plan for the majority of the property – which does require some EGLE permitting.
 - Are currently in the process of obtaining the necessary permitting.
- Chairperson Christmas asked for any comments from the public.
 - Hearing none, Chairperson Christmas called for a motion.

PLANNING COMMISSION ACTION: Peter Psarouthakis moved, supported by Patti Schafer to approve PC-21-23 SP (EXT), StoneCo of Michigan, a five (5) year extension of the site plan for a mining operation in Section 36 of Greenbush Township based on the following reasoning and subject to the following conditions:

- Reasoning: **(1)** The standards set forth under the original site plan approval and Section 3.11 (permit to mine) have been or can continue to be met subject to the conditions set forth below.
- Conditions: **(1)** Compliance with the rules and requirements of the CCDC, CCRC, MMDHD and MDEQ. Any substantive change, as determined by the Community Development Department, shall be resubmitted to the Planning Commission for their review and approval. **(2)** Mining permit (extension) is valid for a five (5) year period. A mining permit shall be required until final reclamation is complete. Upon completion of reclamation and restoration as required by Section 3.11E, it shall be the responsibility of the permit holder to provide a final site plan to the Community Development Department to verify compliance with the Ordinance. The final site plan shall verify that all slopes are adequate, and that the property is stabilized for future use. **(3)** The operation shall remain in compliance with the originally approved site plan and all standards of Section 3.11 (Permit to Mine) of the Zoning Ordinance.

Voting on the motion by roll call vote, motion carried unanimously. [Vote of 5-0, all in favor, none opposed.]

**OTHER BUSINESS
DISCUSSION –
ORDINANCE
AMENDMENTS**

- Joel Haviland, Building Official/Zoning/SESC Administrator, reviewed the Memorandum (*Discussion – Potential Zoning Ordinance Amendments*) and discussion from the October, 2022 PC meeting.
 - Former Director, Doug Riley, initiated initial discussions with the PC last October regarding potential Zoning Ordinance amendments following the reformatting of the Zoning Ordinance and completion of the Comprehensive Plan update (5-year review).
 - The purpose of this discussion is for the PC to provide guidance and prioritization to Staff for any potential amendments.
 - The issues listed on the Memorandum have been previously discussed/identified by the PC, BOCC, Zoning Board or Appeals (ZBA) or staff in the daily administration of the Zoning Ordinance over the past few years.
 - Some of these items have already been discussed but could be reevaluated, if the PC is inclined, given the length of time since the initial discussion was held.
 - Any specific amendments would ultimately have to be prepared and reviewed through a later (formal) public hearing/adoption process.
 - The County is considering contracting with a consultant for this process.
- Peter Psarouthakis asked if the PC can add to this list?
- Joel Haviland confirmed that the PC can add to the list, if desired.
- Val Vail-Shirey commented on the importance of bringing applicable ordinances into to compliance with State law.

- Chairperson Christmas noted that the PC can make ordinances more restrictive than State law, but not less restrictive.
- **Event Centers (e.g., Wedding Barns) in the agricultural zoning districts – Need for more defined criteria/standards.**
Following discussion, the PC consensus was that it didn't make sense to tie this land use to a farmer's market (current practice) but to create more clearly defined standards to allow as a stand-alone land use. However, the PC should give additional consideration to the requirement that they need to be located on a paved road.
- **Solar Farms – Agricultural lands balance – future cap?**
The PC has formed an Advisory Committee to specifically address this item.
- **Flag Lots – Potential for homes behind homes.**
Following discussion, the PC consensus was that no new or additional regulations were warranted.
- **4 to 1 – Parcel depth-to-width ratio limitation.**
Following discussion, the PC consensus was that it appears to make sense to pursue changing the requirement from a 40-acre exemption to a 20-acre exemption to reduce the number of variances that must be reviewed/approved. Keep a Zoning Board of Appeals review an option.
- **Accessory structures on corner parcels.**
Following discussion, the PC consensus was that it appears to make sense to amend the Ordinance to not penalize homeowners with corner lots (and 2 front yard setbacks) with the placement of accessory structures.
- **Sign Regulations – Zoning Consultant Audit Recommendation.**
Following discussion, the PC consensus was that this should be a high priority to make sure our regulations meet recent Supreme Court rulings regarding content, regulation of free speech, etc. and comply with audit recommendations in these regards. *As this ordinance is not currently in compliance, it was recognized that illegal law is unenforceable.*
- **Accessory (2nd) Dwelling Units on parcels – Zoning Consultant Audit Recommendation.**
Following discussion, the PC consensus was to review this item further. There was split discussion to consider language to constructively accommodate the aging population while others expressed lingering concerns of potential rental properties and hinderances (or resulting variances) for future land divisions.
- **Landscaping Section/Standards – Zoning Consultant Audit Recommendation.**
Following discussion, the PC consensus was to review this item further.
- **Stormwater Management/Low Impact Development Standards.**
Following discussion, the PC consensus was to review this item further to accommodate the CCDC, if able.
- **Auto Repair as a Home-Based Business.**

Following discussion, the PC consensus was to review this item further, and perhaps allow some flexibility while having thoughtful regulation.

- **Shipping containers as an allowed accessory building.**
Following discussion, the PC consensus was to review this item further as a low-priority item.
- **Private (Home) Kennels – Number of dogs allowed.**
Following discussion, the PC consensus was to comply with/match State licensing laws and the Clinton County Animal Control.
- **Agricultural Structure Exemption – Need for qualifying criteria.**
Following discussion, the PC consensus was to review this item further to define clear qualifying criteria.
- **Accessory structure before home – Clarification in Ordinance.**
Following discussion, the PC consensus was to review this item further for clearer definitions/regulation.
- **Accessory Structures – Minimum side and rear property line setbacks.**
Following discussion, the PC consensus was to review this item further for clearer definitions/regulation.
- **Complaints (Enforcement) – Repeated complaints.**
Following discussion, the PC consensus was that it appears to make sense to seek an opinion from legal counsel in regards to this item.
- **10-acre Minimum Parcel/Lot Size.**
Following discussion, the PC consensus was to review this item further and potentially consider reducing this regulation.
- **Wireless Communications – Zoning Consultant Audit Recommendation.**
Following discussion, the PC consensus was that this should be a high priority to make sure our regulations comply with federal and state laws as indicated in the audit recommendations.
- **Private use solar panels in the front yard.**
Following discussion, the PC consensus was to review this item further and consider less restrictive language for this regulation.
- **Aggregates (Mining Operations).**
Following discussion, the PC consensus was to comply with/match State law in these regards.

COMMUNITY
DEVELOPMENT
DIRECTOR'S REPORT

- Jessica Bolt, Planning/Permit Technician provided a brief update:
 - There will be an August PC meeting.
 - There are currently 5 cases for review.

PLANNING
COMMISSIONER
COMMENTS

- Chairperson Christmas asked Val Vail-Shirey to give an update on the Advisory Committee.
- Val Vail-Shirey explained that the Committee has met twice and has been listening to general education presentations with upcoming wind and solar tours scheduled.

Clinton County Community Development
100 E. State Street, Ste. 1300
St. Johns, MI 48879
Planning & Zoning Department: (989) 224-5292

**TEXT
AMENDMENTS
CONTRACT**

MEMORANDUM

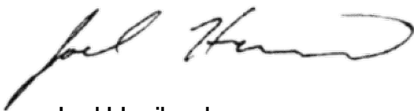
TO: Clinton County Board of Commissioners
FROM: Joel Haviland, Building Official, Zoning and Soil Erosion Administrator
SUBJECT: **ZONING ORDINANCE AMENDMENTS PROPOSAL**
DATE: August 23, 2023

Following the County's reformatting of the Zoning Ordinance and the completion of the Comprehensive Plan update (5-year review) in 2022, the Planning Commission and staff identified a list of potential amendments to the County's Zoning Ordinance. The initial discussion of proposed ordinance amendments began in October 2022. However, Planning Commission priorities were shifted to other priorities beginning in the fourth quarter of 2022, preventing further consideration of these potential amendments.

The Planning Commission discussed the proposed zoning ordinance amendments at their July 2023 meeting and it was determined that they would like to move forward with the project. Staff requested/received a cost estimate from giffels webster to assist the County on the project. The County budgeted \$10,000 annually in 2022 & 2023 and is currently proposed in the 2024 draft budget (totaling \$30,000). The proposal is for a not-to-exceed amount of \$31,625. The expected timeline would have the project kicking off in September 2023 and being completed by the end of the first quarter of 2024. Please contact staff with any questions.

Suggested Action: Recommend the Ways & Means Committee approve the proposal from giffels webster to conduct the zoning ordinance amendments project in the not-to-exceed amount of \$31,625 and to authorize the County Administrator to sign all necessary documents.

Thank you,



Joel Haviland

Proposal - Zoning Ordinance Amendments

Our understanding of the project: Based on our Zoning Audit for the County and findings of the Planning Commission and staff, the following potential zoning amendments have been identified as higher priority. Our team has provided an estimate of time associated with each item that includes some time for meetings. We anticipate five meetings with the Planning Commission and one with the County Board of Commissioners (adoption of the recommended amendments). Additional meetings may be required; we will review fees with staff prior to proceeding beyond this estimate. Estimates generally include minor graphics, as needed, with additional time for graphics noted for signs and landscaping. Cost is based on a blended rate of \$125/hour and is shown in [blue text](#) below.

Potential Zoning Ordinance Amendments

- **Event Centers (e.g., Wedding Barns) in the agricultural zoning districts – Need for more defined criteria/standards.**

Following discussion, the PC consensus was that it didn't make sense to tie this land use to a farmer's market (current practice) but to create more clearly defined standards to allow as a stand-alone land use. However, the PC should give additional consideration to the requirement that they need to be located on a paved road.

New ordinance to write.

Estimate: 8 hours - \$1,000

- **4 to 1 – Parcel depth-to-width ratio limitation.**

Following discussion, the PC consensus was that it appears to make sense to pursue changing the requirement from a 40-acre exemption to a 20-acre exemption to reduce the number of variances that must be reviewed/approved. Keep a Zoning Board of Appeals review an option.

Amendment to section 3.2.F.

Estimate: 2 hours - \$250

- **Accessory structures on corner parcels.**

Following discussion, the PC consensus was that it appears to make sense to amend the Ordinance to not penalize homeowners with corner lots (and 2 front yard setbacks) with the placement of accessory structures.

Amendment to section 4.1.F.2.

Estimate: 5 hours - \$625

- **Sign Regulations – Zoning Consultant Audit Recommendation.**

Following discussion, the PC consensus was that this should be a high priority to make sure our regulations meet recent Supreme Court rulings regarding content, regulation of free speech, etc. and comply with audit recommendations in these regards. *As this ordinance is not currently in compliance, it was recognized that illegal law is unenforceable.*

Amendment to section 5.7.

Estimate: 40 hours (includes time for graphics) - \$5,000

- **Accessory (2nd) Dwelling Units on parcels – Zoning Consultant Audit Recommendation.**

Following discussion, the PC consensus was to review this item further. There was split discussion to consider language to constructively accommodate the aging population while others expressed lingering concerns of potential rental properties and hinderances (or resulting variances) for future land divisions.

New ordinance to write.

Estimate: 15 hours - \$1,875

- **Landscaping Section/Standards – Zoning Consultant Audit Recommendation.**

Following discussion, the PC consensus was to review this item further.

Amendment to section 5.8.

Estimate: 40 hours (includes time for graphics) - \$5,000

- **Stormwater Management/Low Impact Development Standards.**

Following discussion, the PC consensus was to review this item further to accommodate the CCDC, if able.

New ordinance to write.

Estimate: 25 hours - \$3,125

- **Auto Repair as a Home-Based Business.**

Following discussion, the PC consensus was to review this item further, and perhaps allow some flexibility while having thoughtful regulation.

New ordinance to write.

Estimate: 12 hours - \$1,500

- **Shipping containers as an allowed accessory building.**

Following discussion, the PC consensus was to review this item further as a low-priority item.

Amendment to section 4.1.

Estimate: 14 hours - \$1,750

- **Private (Home) Kennels – Number of dogs allowed.**

Following discussion, the PC consensus was to comply with/match State licensing laws and the Clinton County Animal Control.

New ordinance to write and possible amendments to 4.46, Private and Commercial Kennel definitions, and section 4.26.

Estimate: 4 hours - \$500

- Agricultural Structure Exemption – Need for qualifying criteria.**

Following discussion, the PC consensus was to review this item further to define clear qualifying criteria.

New ordinance, definitions (Agricultural buildings/structures), and amendments 4.1.

Estimate: 14 hours - \$1,750
- Accessory structure before home – Clarification in Ordinance.**

Following discussion, the PC consensus was to review this item further for clearer definitions/regulation.

Amendment to section 4.1.B.

Estimate: 14 hours - \$1,750
- Accessory Structures – Minimum side and rear property line setbacks.**

Following discussion, the PC consensus was to review this item further for clearer definitions/regulation.

Amendment to section 4.1.C.

Estimate: 14 hours - \$1,750
- 10-acre Minimum Parcel/Lot Size.**

Following discussion, the PC consensus was to review this item further and potentially consider reducing this regulation.

Amendment to section 3.1.2-3.1.3.

Estimate: 14 hours - \$1,750
- Wireless Communications – Zoning Consultant Audit Recommendation.**

Following discussion, the PC consensus was that this should be a high priority to make sure our regulations comply with federal and state laws as indicated in the audit recommendations.

Amendment to section 4.33.

Estimate: 14 hours - \$1,750
- Private use solar panels in the front yard.**

Following discussion, the PC consensus was to review this item further and consider less restrictive language for this regulation.

Amendment to section 4.1.M.

Estimate: 8 hours - \$1,000

- **Aggregates (Mining Operations).**

Following discussion, the PC consensus was to comply with/match State law in these regards.

Amendment to section 3.1.12 and 4.40.

Estimate: 8 hours - \$1,000

- **To discuss or potentially amend the 20-acre requirement to 10-acres for Commercial Stable**

Amendment to Section 4.38.

Estimate: 2 hours - \$250

In total, the above work is estimated at a not-to-exceed 253 hours or \$31,625. We will submit monthly invoices to the County for actual hours spent and track progress to gauge remaining work. If we anticipate additional time is required, including additional meetings, we will discuss with staff prior to moving forward.

NEW BUSINESS A

ZONING ORDINANCE DISCUSSION

BATTERY STORAGE

- Memo
- Sample Ordinance: *Utility Scale Battery Energy Storage Systems*

John F. Fuentes
County Administrator/Controller

Todd J. Campbell
Deputy Administrator



Cindy Moser
Finance Director

100 E. State Street, Suite 2100
St. Johns, Michigan 48879
(989) 224-5120 • Fax: (989) 224-5102
www.clinton-county.org

To: Planning Commission Members

From:

A handwritten signature in dark ink, appearing to be "TJ Campbell", written over a horizontal line.

Todd J. Campbell, Deputy County Administrator

Subject: Sample Utility-Scale Battery Energy Storage Systems Ordinance Language

Date: April 16, 2024

Per the Planning Commission's request, staff has worked with County legal counsel to provide some sample ordinance language regulating utility-scale battery energy storage systems (please see the attached sample language for your review). There are specific areas that are highlighted in yellow that will need to be discussed in greater detail. **Note:** County legal counsel is not available to attend the April 18th special Planning Commission meeting, however, staff is working with legal counsel to be prepared to discuss the sample ordinance language, specifically information for the highlighted areas.

Additionally, per the Planning Commission's request, staff is working with County legal counsel regarding sample language for establishing a possible moratorium on utility-scale battery energy storage systems. Staff is planning on providing this sample language at the April 18th meeting for review and discussion. Please contact me with any questions.

CLINTON COUNTY

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE ZONING ORDINANCE
TO REGULATE UTILITY-SCALE BATTERY ENERGY STORAGE SYSTEMS

Clinton County ordains:

Section 1. Add Definitions to Chapter X.

The following definitions are added to Chapter X of the Zoning Ordinance, and will be placed in the Zoning Ordinance so that all definitions are in alphabetical order:

- A. *Battery management system*: An electronic regulator that manages a Utility-Scale Battery Energy Storage System by monitoring individual battery module voltages and temperatures, container temperature and humidity, off-gassing of combustible gas, fire, ground fault and DC surge, and door access and capable of shutting down the system before operating outside safe parameters.
- B. *Utility-scale battery energy storage facilities*: One or more devices, assembled together, capable of storing energy in order to supply electrical energy, including battery cells used for absorbing, storing, and discharging electrical energy in a Utility-Scale Battery Energy Storage System ("BESS") with a battery management system ("BMS").
- C. *Utility-scale battery energy storage system*: A physical container providing secondary containment to battery cells that is equipped with cooling, ventilation, fire suppression, and a battery management system.

Section 2. Add New Section XX, entitled “Utility-Scale Battery Energy Storage Systems”

Section XX, entitled “Utility-Scale Battery Energy Storage Systems,” is added to Chapter XX of the County’s Zoning Ordinance. The section reads in its entirety as follows:

Section XX. Utility-Scale Battery Energy Storage Systems.

- A. **General Provisions.** All Utility-Scale Battery Energy Storage Systems are subject to the following requirements:

- 1. All Utility-Scale Battery Energy Storage Systems must conform to the provisions of this Ordinance and all county, state, and federal regulations and safety requirements, including applicable building codes, applicable industry standards, and NFPA 855 “Standard for the Installation of Stationary Energy Storage Systems.”

- 2. The County Planning Commission may revoke any approvals for, and require the removal of, any Utility-Scale Battery Energy Storage System that does not comply with this Ordinance, in accordance with Section XX of the Zoning Ordinance.

3. Utility-Scale Battery Energy Storage Systems are permitted in the County as a special use in the following zoning districts:

a. [insert zoning district(s)]

B. Application Requirements. The applicant for a Utility-Scale Battery Energy Storage System must provide the County with all of the following:

1. Application fee in an amount set by resolution of the County Board.
2. A list of all parcel numbers that will be used by the Utility-Scale Battery Energy Storage System; documentation establishing ownership of each parcel; and any lease agreements, easements, or purchase agreements for the subject parcels.
3. An operations agreement setting forth the operations parameters, the name and contact information of the operator, the applicant's inspection protocol, emergency procedures (including fire safety procedures), and general safety documentation.
4. Current photographs of the subject property.
5. A site plan that includes all proposed structures and the location of all equipment, as well as all setbacks, the location of property lines, signage, fences, greenbelts and screening, drain tiles, easements, floodplains, bodies of water, proposed access routes, and road right of ways. The site plan must be drawn to scale and must indicate how the Utility-Scale Battery Energy Storage System will be connected to the power grid.
6. A copy of the applicant's power purchase agreement or other written agreement with an electric utility showing approval of an interconnection with the proposed Utility-Scale Battery Energy Storage System.
7. A written plan for maintaining the subject property, including a plan for maintaining and inspecting drain tiles and addressing stormwater management, which is subject to the County's review and approval.
8. A decommissioning and land reclamation plan describing the actions to be taken following the abandonment or discontinuation of the Utility-Scale Battery Energy Storage System, including evidence of proposed commitments with property owners to ensure proper final reclamation, repairs to roads, and other steps necessary to fully remove the Utility-Scale Battery Energy Storage System and restore the subject parcels, which is subject to the County's review and approval.
9. Financial security that meets the requirements of this Section, which is subject to the County's review and approval.
10. A plan for resolving complaints from the public or other property owners concerning the construction and operation of the Utility-Scale Battery Energy Storage System, which is subject to the County's review and approval.

11. A plan for managing any hazardous waste, which is subject to the County's review and approval.

12. A transportation plan for construction and operation phases, including any applicable agreements with the Clinton County Road Commission and Michigan Department of Transportation, which is subject to the County's review and approval.

13. An attestation that the applicant will indemnify and hold the County harmless from any costs or liability arising from the approval, installation, construction, maintenance, use, repair, or removal of the Utility-Scale Battery Energy Storage System, which is subject to the County's review and approval.

14. Proof of environmental compliance, including compliance with Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act; (MCL 324.3101 et. seq.; Part 91, Soil Erosion and Sedimentation Control (MCL 324.9101 et. seq.) and any corresponding County ordinances; Part 301, Inland Lakes and Streams, (MCL 324.30101 et. seq.); Part 303, Wetlands (MCL 324.30301 et. seq.); Part 365, Endangered Species Protection (MCL324.36501 et. seq.); and any other applicable laws and rules in force at the time the application is considered by the County.

15. Any additional information or documentation requested by the Planning Commission, County Board of Commissioners, or other County representative.

C. System and Location Requirements.

1. *Minimum Acreage.* Utility-Scale Battery Energy Storage Systems must be located on parcels of land [redacted] acres in size or larger.

2. *Lot Area Coverage.* No more than [redacted] % of the total lot area may be covered by a Utility-Scale Battery Energy Storage System.

3. *Setbacks.* Utility-Scale Battery Energy Storage Systems must be set back at least [redacted] feet from all [lot lines / occupied community buildings and dwellings on nonparticipating properties / public road rights-of-way]. If a single Utility-Scale Battery Energy Storage System is located on more than one lot, then the lot-line setbacks of this subsection do not apply to the lot lines shared by those lots.

4. *Screening.* Greenbelt screening is required around any Utility-Scale Battery Energy Storage System and around any equipment associated with the system to obscure, to the greatest extent possible, the Utility-Scale Battery Energy Storage System from any adjacent residences. The greenbelt must consist of shrubbery, trees, or other non-invasive plant species that provide a visual screen. In lieu of a planting greenbelt, a decorative fence that is at least 50% opaque and that meets the requirements of this Ordinance applicable to fences may be used if approved by the Planning Commission.

5. *Lighting.* Lighting of the Utility-Scale Battery Energy Storage System is limited to the minimum light necessary for safe operation. Illumination from any lighting must not extend beyond the perimeter of the lot(s) used for the Utility-Scale Battery Energy Storage System. The

Utility-Scale Battery Energy Storage System must not produce any glare that is visible to neighboring lots or to persons traveling on public or private roads.

6. *Security Fencing.* Security fencing must be installed around all electrical equipment related to the Utility-Scale Battery Energy Storage System. Appropriate warning signs must be posted at safe intervals at the entrance and around the perimeter of the Utility-Scale Battery Energy Storage System.

7. *Noise.* The noise generated by a Commercial Utility-Scale Battery Energy Storage System must not exceed [REDACTED] dBA Lmax / A-weighted scale, as measured at the property line of any adjacent parcel / nearest outer wall of the nearest dwelling located on an adjacent nonparticipating property.

8. *Underground Transmission.* All power transmission or other lines, wires, or conduits from a Utility-Scale Battery Energy Storage System to any building or other structure must be located underground at a depth that complies with current National Electrical Code standards, except for power switchyards or the area within a substation.

9. *Drain Tile Inspections.* The Utility-Scale Battery Energy Storage System must be maintained in working condition at all times while in operation. The applicant or operator must inspect all drain tile at least once every three years by means of robotic camera, with the first inspection occurring before the Utility-Scale Battery Energy Storage System is in operation. The applicant or operator must submit proof of the inspection to the County. The owner or operator must repair any damage or failure of the drain tile within sixty (60) days after discovery and submit proof of the repair to the County. The County is entitled, but not required, to have a representative present at each inspection or to conduct an independent inspection.

10. *Insurance.* The applicant or operator will maintain property/casualty insurance and general commercial liability insurance in an amount of at least \$5 million per occurrence.

11. *Permits.* All required county, state, and federal permits must be obtained before the Utility-Scale Battery Energy Storage System begins operating.

12. *Decommissioning.* If a Utility-Scale Battery Energy Storage System is abandoned or otherwise nonoperational for a period of one year, the property owner or the operator must notify the County and must remove the system within six (6) months after the date of abandonment. Removal requires receipt of a demolition permit from the Building Official and full restoration of the site to the satisfaction of the Zoning Administrator. The site must be filled and covered with top soil and restored to a state compatible with the surrounding vegetation. The requirements of this subsection also apply to a Utility-Scale Battery Energy Storage System that is never fully completed or operational if construction has been halted for a period of one (1) year.

13. *Financial Security.* To ensure proper decommissioning of a Commercial Utility-Scale Battery Energy Storage System upon abandonment, the applicant must post financial security in the form of a security bond, escrow payment, or irrevocable letter of credit in an amount equal to 125% of the total estimated cost of decommissioning, code enforcement, and reclamation, which cost estimate must be approved by the County. The operator and the County will review the amount of the financial security every two (2) years to ensure that the amount remains

adequate. This financial security must be posted within fifteen (15) business days after approval of the special use application.

14. *Extraordinary Events.* If the Utility-Scale Battery Energy Storage System experiences a failure, fire, leakage of hazardous materials, personal injury, or other extraordinary or catastrophic event, the applicant or operator must notify the County within 24 hours.

15. *Annual Report.* The applicant or operator must submit a report on or before January 1 of each year that includes all of the following:

- a. Current proof of insurance;
- b. Verification of financial security; and
- c. A summary of all complaints, complaint resolutions, and extraordinary events.

16. *Inspections.* The County may inspect a Utility-Scale Battery Energy Storage System at any time by providing 24 hours advance notice to the applicant or operator.

17. *Transferability.* A special use permit for a Utility-Scale Battery Energy Storage System is transferable to a new owner. The new owner must register its name and business address with the County and must comply with this Ordinance and all approvals and conditions issued by the County.

18. *Remedies.* If an applicant or operator fails to comply with this Ordinance, the County, in addition to any other remedy under this Ordinance, may revoke the special use permit and site plan approval after giving the applicant or operator notice and an opportunity to be heard. Additionally, the County may pursue any legal or equitable action to abate a violation and recover any and all costs, including the County's actual attorney fees and costs.

D. Utility-Scale Battery Energy Storage Systems under PA 233

On or after November 29, 2024, if PA 233 of 2023 is in effect, then the following provisions apply to Utility-Scale Battery Energy Storage Systems with a nameplate capacity of 50 megawatts or more and an energy discharge capability of 200 megawatt hours or more. To the extent these provisions conflict with the provisions in Sections A-C above, these provisions control as to such Utility-Scale Battery Energy Storage Systems. This subsection does not apply if PA 233 of 2023 does not take effect and does not apply to Battery Energy Storage Systems with a nameplate capacity of less than 50 megawatts. All provisions in subsections 1 through 18 above that do not conflict with this subsection remain in full force and effect.

1. *Setbacks.* Utility-Scale Battery Energy Storage Systems must comply with the following minimum setback requirements, with setback distances measured from the nearest edge of the perimeter fencing of the facility:

Setback Description	Setback Distance
Occupied community buildings and dwellings on nonparticipating properties	300 feet from the nearest point on the outer wall
Public road right-of-way	50 feet measured from the nearest edge of a public road right-of-way
Nonparticipating parties	50 feet measured from the nearest shared property line

2. *Installation.* The Utility-Scale Battery Energy Storage System must comply with the version of NFPA 855 “Standard for the Installation of Stationary Energy Storage Systems” in effect on the effective date of the amendatory act that added this section or any applicable successor standard.

3. *Noise.* The Utility-Scale Battery Energy Storage System must not generate a maximum sound in excess of 55 average hourly decibels as modeled at the nearest outer wall of the nearest dwelling located on an adjacent nonparticipating property. Decibel modeling shall use the A-weighted scale as designed by the American National Standards Institute.

4. *Lighting.* The Utility-Scale Battery Energy Storage System must implement dark sky-friendly lighting solutions.

5. *Environmental Regulations.* The Utility-Scale Battery Energy Storage System must comply with applicable state or federal environmental regulations.

6. *Host community agreement.* The applicant shall enter into a host community agreement with the County. The host community agreement shall require that, upon commencement of any operation, the Utility-Scale Battery Energy Storage System owner must pay the County \$2,000.00 per megawatt of nameplate capacity. The payment shall be used as determined by the County for police, fire, public safety, or other infrastructure, or for other projects as agreed to by the local unit and the applicant.

Section 3. Amend Section XX.

Section XX of the Zoning Ordinance is amended to add the following use permitted by special use permit:

- Utility-Scale Battery Energy Storage System

Section 4. Validity and Severability.

If any portion of this Ordinance is found invalid for any reason, such holding will not affect the validity of the remaining portions of this Ordinance.

Section 5. Repealer.

All other ordinances inconsistent with the provisions of this Ordinance are hereby repealed to the extent necessary to give this Ordinance full force and effect.

19950:00061:200463043-1

DRAFT

NEW BUSINESS B

ZONING ORDINANCE AMENDMENTS

MEETING SCHEDULE

discussion