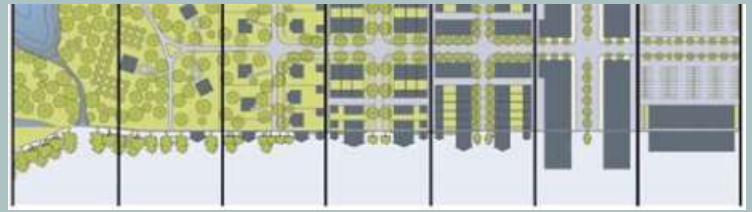


Planning News



Tuscola County Planning Commission

Special points of interest:

- The TCPC meets the first Wednesday of each month (holiday exceptions) at 5 PM. Purdy Building. (Documents for review should be received by the 15th)
- Resource: ENGL Zoning database. (Renewable Zoning) <https://www.michigan.gov/climateandenergy/0,4580,7-364-519951--,00.html>
- Resources: Tuscola County Building Codes are now administered by SAFE-built. 989.262.4546 <https://safebuilt.com/locations/tuscolaco>

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Back to Basics – Connecting Ordinances to the Master Plan

Many townships create a master plan, place it on a shelf and pull it out again during updating time. This approach ignores the power of the master plan and squanders the power inherent by strong and robust planning.

The master plan is the foundation document of every municipality. At its heart, it is a policy document, a guide to inform land use decisions and provide reasoning to support local ordinances. It should be an active and reflective document of the dreams and desires of the community it reflects.

The zoning plan portion of the master plan describes the desired future state of the municipality based upon the larger master plan goals.

The master/zoning plan pro-

vides goals, reasoning, support and direction for decision making and governance.

Zoning ordinances on the other hand are legal constructs followed by citizens. They regulate the use of the land (not public activity) and provide rules, requirements and regulations directing things such as building size, spacing, types of approved use, setbacks and so on. Violations of a zoning ordinance results in consequences such as fines, criminal charges, etc. They provide the mechanism for the master plan to reach the community goals.

For good governance, the master plan should always be developed first. This allows for clear direction and a solid understanding of the desired out-

come. Ordinances should follow and clearly reflect the master plans goals in the ordinance objectives.



Once a municipality has both a master plan and supporting ordinances, both should be reviewed periodically to reflect real world changes. Master plans are required to be revisited every 5 years. (MPEA). Ordinances should be periodically revisited to ensure they are performing as expected to further the master plan goals.

Do You Spot Zone?

Spot zoning is a difficult and pervasive problem faced by municipal governments. It is also one of the most misunderstood. Far more than a “one off” decision, this illegal practice often raises questions in the minds of constituents of fair application of zoning laws. In

Michigan there are 4 criteria to determine if a zoning decision is actually spot zoning. These are:

- Land use is inconsistent with allowed use
- The property is small in comparison with surrounding dis-

tricts

- A special benefit conveyed to property owner that similar owners do not receive
- Existence conflicts with the policies of the Master Plan and the Future Land Use map. (cont. pg. 3)

Protect your Township - Hemlock Woolly Adelgids



The Eastern Hemlock tree is a beautiful addition to Tuscola County. Now, these trees are under threat. The woolly adelgids, a tiny invasive insect, steals nutrients from hemlock trees. Left untreated, these insects can kill hemlock trees in four to 10 years.

Woolly Adelgids are considered an invasive, non-native species. They have been reported in four Michigan counties. DNR and ENGL are requesting individuals inspect their Hemlock trees and report infestations. A CISMA mapping survey is underway.

The state's plan is to map and tag Infested trees and the locations of any other eastern hemlocks. The tagged trees will be prioritized for summer treatment.

Winter is the optimum time to look for evidence of an infestation. Adelgids feed in colder temperatures and secrete white waxy ovisacs. These sacs indicate an infested trees."

To help, first identify Eastern Hemlock.

- Cone or egg-shaped trees up to 75 feet tall.

- Drooping or feathery branches.
- Flat needles growing individually from the sides of twigs.
- Needles that are dark green on top with two parallel, white stripes underneath.
- Papery cones about three-quarters of an inch long that hang downward from branches.

Then look for ovisacs. Up close, ovisacs look like balls of spun cotton and may appear alone or in clusters. They (cont. pg. 3)

Legal Notes - Drone Zoning Compliance

"a government entity seeking to conduct drone surveillance must obtain a warrant."

Long Lake Township v. Maxon. March 18, 2021

Local governments and planning commissions should keep track of court decisions and Attorney General (AG) opinions as this can affect or invalidate parts of your zoning. These decisions can also affect the conduct of township officials. Please read the complete decision and/or discuss with your attorney before acting.

The Michigan Court of Appeals (COA) has determined that

drones should not be used for zoning conformity without first satisfying the existing warrant requirement. Drones offer a easily used and cheap method for local municipalities to ensure compliance, but can fall afoul of public privacy rights.

At question was a township's use of a drone to document of an increasing amount of "junk" across eight years in violation of a township ordinance. The COA

determined that use of the drone amounted to the violation of the 4th amendment.

"Persons have a reasonable expectation of privacy in their property against drone surveillance and therefore a government entity seeking to conduct drone surveillance must obtain a warrant to satisfy a traditional exception to the warrant requirement."

Long Lake Twp v Todd Maxon. COA Lexis 1819, 2021, WL047366

Open Meeting Act – Website Posting of Meeting and Hearing Notices



Posting meeting and public hearing notices on the local municipality bulletin board is standard practice for Board of Trustees, Planning Commissions, Boards of Review and Zoning Boards of Appeals. It is an old and familiar requirement of Public Act 276 of 1976, the Open Meetings Act (OMA) Yet, if your municipality maintains a

website, you may be in violation of OMA.

MCL 15.263a (4) states :

"If a public body directly or indirectly maintains an official internet presence that includes monthly or more frequent updates of public meeting agendas or minutes, the public body shall, in addition to any other

notices that may be required under this act, post advance notice of a meeting held electronically under this section on a portion of the public body's website that is fully accessible to the public."

Municipalities are encourage to review the public meeting portion of their website to ensure OMA compliance.

Beyond Ordinances and Master Plans

Planning Commissions do more than just develop, promote and oversee a master plan, sub plans and their supporting ordinances. Planning Commissions are an important connector in the governing process.

Planning Commissions interface with not just their own local government unit but also cooperate with those of county, state and surrounding municipalities (MCL 125.3831).

Their role includes the review of developmental projects such as subdivisions and site plans (MCL 125.3871), and changes

in government physical infrastructure (MCL 125.3861). The resulting report or recommendation to the government body should highlight both benefits and concerns from a planning and zoning perspective. These inputs are then considered by the governing body as one part of the larger community picture.

Working with the Capital Improvement Plan (CIP) is another planning commission function (MCL 125.3865-71). This plan many or may not be managed by the planning commission but the planning commission

should provide input into the financial priorities of the governing unit. This critical partnership helps ensure that future needs and development are not forgotten for more immediate goals.

Planning commissions also manage or create studies to examine existing and future conditions (MCL 125.3831). They conduct surveys (MCL 125.3807), project future needs and examine growth patterns (MCL 125.3831). These products are critical for successful future planning.

“Planning commissions have a large job that includes coordination, intergovernmental cooperation, master plan, zoning administration, infrastructure, land division, subdivision reviews and capital improvement planning.”

Kurt H. Schindler

Woolly Adelgid (Cont.)

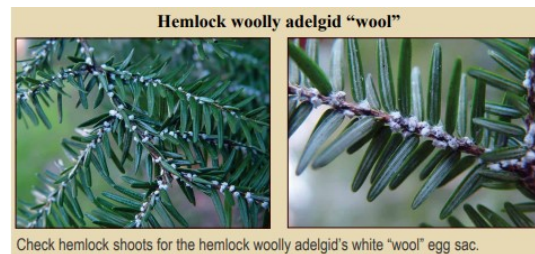
Tend to be on the underside of branches near the base of the needles.

Identify the location of infested trees and, whenever possible, take one or two pictures of infested branches to help confirm identification. To avoid spreading the insect, do not collect sample branches or twigs.

Report suspected hemlock woolly adelgid infestations through the Midwest Invasive Species Information Network (MISIN.MSU.edu), or through

one of the many communication methods. MISIN app (GPS!) email, MDA-Info@Michigan.gov or 800-292-3939.

If you find hemlock woolly adelgids on your property, know that certain insecticides are successful in treating the infestation if used correctly. Additional help is available through local cooperative invasive species management areas and guidance provided in the MSU Extension Bulletin "How to treat



hemlock trees for hemlock woolly adelgid."

Please report all infestations to help identify the spread of the insect.

Spot Zone (Cont.)

Legally, zoning decisions are usually upheld if the decision is supported by the Master Plan. Yet, this may not satisfy constituents. To avoid problems, the best strategy is to approach zoning decisions with spot zoning in mind and discuss.

Does the parcel have the characteristics of the any of the 4 "spot zone" criteria? If so, your decision might receive greater court scrutiny. You should be

prepared to answer:

- Is the requested use consistent with your master plan map? Does the plan's text present justifications for this use in this location? {Yes}
- In the absence of a master plan, does the requested use make sense in light of "the overall plan of zoning?" {Yes} There is a reasonable basis for that use in the requested loca-

tion and it can be accommodated through a special use permit or PUD.

- Would denying preclude the property's use for any purposes to which it is reasonably adapted? {No}

Numerous zoning change requests can indicate a review and update to your master plan/future land use may be in order.

SPOT ZONING

Taylor, G. (2004). Removing Spot zoning from the Fabric of Zoning Practice. Public Policy Brief.

Neumann, B. (2016) How to spot a spot zoning. Michigan State University Extension.



Tuscola County Planning Commission

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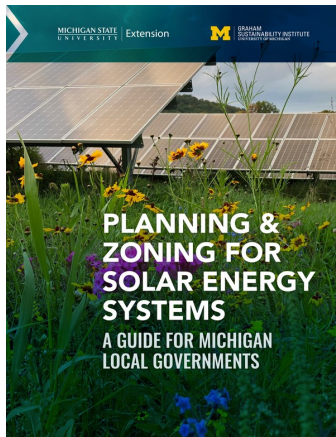
Rick Boylan
Cynthia Kapa
Lonnie Kester, Chair
Robert McKay
Albert Pearsall, Vice Chair
Heidi Stark
Ann Westover, Secretary

The Tuscola County Planning Commission (TCPC) is responsible for a wide range of county planning duties as defined by the MZEA and the MPEA. The commission reports to the Tuscola County Board of Commissioners.

Offering education, expertise, networking opportunities, and technical assistance, the TCPC provides township, village and city planning and zoning functions a valuable resources to enhance their local development.

The TCPC also provides a centralized knowledge center for planning and zoning across the county with a focus on future issues and factors that affects the future of Tuscola County.

In the Zone



Planning & Zoning for Solar Energy Systems. (2021) by Wayne Beyea, Harmony Fierke-Gmajej, M. Charles Gould, Bradley Neumann, Mary Reilly and Sarah Mills

New assistance has been published by the MSU Extension for those working toward viable

and productive solar ordinances.

The guide is fully downloadable from the MSU Extension in PDF format.

<https://www.canr.msu.edu/>

“The purpose of this guide is to help Michigan communities meet the challenge of becoming solar-ready by addressing solar energy systems (SES) within their planning policies and zoning regulations. This document illustrates how various scales and configurations of photovoltaic SES fit into landscape patterns ranging between rural, sub-urban, and urban.” PZSES

The plan also offers sample ordinances and considerations appropriate for agricultural and dual use areas.

REMINDERS



- Planning Commissions and Zoning Boards of Appeal are required to submit an annual report to their governing elected body.
- A schedule of regular meeting dates must be posted within 10 days of the first regular meeting of the year.
- Submissions to the TCPC (PA-115, ordinances, master plans and other topics for consideration) must be received by the 15th day of each month for inclusion to the TCPC agenda.