

Land Use Series

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Bringing
Knowledge
to Life!

How Governments Make Submissions on a Neighbor's or County's Proposed Plan.

In 2002 Michigan Planning Commissions received a new duty – to review the plans of neighboring governments and their county's plans, as well as the review of submissions made by others on your proposed plan or plan amendment. This should be considered one of the major responsibilities of a planning commission – equally as important as adopting/updating your plan, recommendation on adopting/amending your zoning ordinance, acting upon special use permits, planned unit developments, site plans, and the coordination function of the commission.

This publication will outline the duties and tasks associated with review of the plans of neighboring governments as well as plans of your county. Another *Land Use Series* publication, "How a Planning Commission Should Respond to Submissions," will outline what action a planning commission should take regarding submissions received in reference to a proposed plan.

*"Thirty seven million
acres is all the Michigan
we will ever have."*

Former Governor
William G. Milliken

The Review Duty

In 2001, three amendments were made to the state's planning enabling acts. PA 263 of 2001 amends the Township Planning Act,¹ PA 264 of 2001 amends the Municipal Planning Act,² and PA 265 of 2001 amends the County Planning Act.³ These acts became effective on January 9, 2002. Those amendments require notification be sent to all adjacent governments, as well as governments within the territory of a government for which a community is starting the planning process.

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The author would like to acknowledge the work of one of the first counties in Michigan to adopt a plan using the coordinated planning procedures; Wexford County Planning Commission, for trying various approaches in receiving and reviewing submissions. Their experience was used in the development of this flyer.

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<http://ntweb11a.ais.msu.edu/luaoe/index.asp>

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¹HB 5038, being P.A. 263 of 2001 which amends PA 168 of 1959, as amended, (the Township Planning Act, M.C.L. 125.321 *et. seq.*).

²HB 5267, being P.A. 264 of 2001 which amends PA 285 of 1931, as amended, (the Municipal (city, village, and some pre-1959 township planning) Planning Act, M.C.L. 125.31 *et. seq.*).

³HB 5252, being P.A. 265 of 2001 which amends PA 282 of 1945, as amended, (the County Planning Act, M.C.L. 125.101 *et. seq.*).

The statute or the respective *Land Use Series* “Checklist #_ For Adoption of a _ Plan in Michigan” should be consulted to determine the exact list of whom those notices should be sent to.

Your government will receive an occasional notice indicating your county, a neighboring county, or neighboring municipality will be starting to develop a plan or amend an existing plan. When a draft of the new plan or amendment to the existing plan is done, a copy of that draft is then required to be sent to the same list of adjacent governments.⁴ It is at this time your planning commission has a duty to review that draft and make comments on the draft, and then submit those comments. In this publication those comments are called “submissions.”

Timing: How Long Do You Have?

Review of plans, at this stage, are done by:

- A planning commission⁵ for a city, village, township, adjacent county, or regional planning agency (but **not** the county in which the city, village, or township with the draft plan or draft plan amendment is located within); or
- If you are conducting the review on behalf of a public utility, railroad, or other state, federal, Native American tribal government (owning 10 or more acres of land in the area covered by the proposed plan); or
- others who have been asked to conduct a review.

For the above, there is a 63 day time period (for

⁴Section 7b(3 and 4) of PA 168 of 1959, as amended, (the Township Planning Act, M.C.L. 125.327b(3 and 4)); Section 7b(3) of PA 285 of 1931, as amended, (the Municipal (city, village, and some pre-1959 township planning) Planning Act, M.C.L. 125.37b(3 and 4)); Section 4c(3 and 4) of PA 282 of 1945, as amended, (the County Planning Act, M.C.L. 125.104c(3 and 4)).

⁵If there is not a city, village, or township planning commission then the draft plan should be sent to the legislative body (village council, city council, township board of trustees) and the legislative body is responsible for conducting the review and sending submissions back.

city, village, township plans) and 65 days (for county plans) in which to review the draft of a new plan and prepare and send in submissions. The review period for an amendment to an existing plan is 40 days for all plans. Copies of your planning commission’s written submissions should be sent to the government which drafted the plan or plan amendment.

What to Review For

The draft plan should be reviewed for several things. First and foremost, the process is intended to increase coordination of planning between governments. Remember, the plan you are reviewing is from a neighboring government (city, village, township, county); a government that has territory within the boundaries of your government (city, village, township); is your county; you represent a public utility or railroad; or your agency owns over 10 acres of land within their government boundaries. Thus, there will likely be issues and infrastructure which you have in common with them, such as boundary line roads, trail systems, a lake or river, the same watershed, same economic labor market area, school district, parks, special or unique environments, and more.

Review and submissions on plans should focus on consistencies or inconsistencies with your government’s plan(s). Avoid temptation to advocate other editorial comments at this time. Save those for the 30 day public comment period and public hearing that comes later in the adoption process. The submissions made at this point are only advisory.

Part of the purpose of the review is to identify inconsistency between plans. This leads to the question of what inconsistency is. The Michigan Society of Planning’s “Guideline Number _; Draft Determining Whether a Proposed Plan Is *‘Inconsistent’*”⁶ reads:

⁶Law Committee of the Michigan Society of Planning Board of Directors; “Guideline Number _; Draft Determining Whether a Proposed Plan Is *‘Inconsistent’*”. Available at the Society’s web site at

“the following standard ... would have required “consistency” ... with adopted plans ...:

(d) The proposed plan shall be consistent. A proposed plan is consistent if both of the following apply:

(i) The goals, policies, and program of implementation for each element of the plan would further, or at least not interfere with, the goals, policy, and program of implementation of other elements of the same plan.

(ii) The goals, policy, and program of implementation of the plan and each element thereof would further, or at least not interfere with, the goals, policy, and program of implementation of a plan of the reviewing entity adopted under this act or under an enabling act in effect at the time of adoption of the reviewing entity's plan. Circumstances that violate the requirements of this subparagraph include, but are not limited to, all of the following:

(A) If the jurisdictional area of the reviewing planning commission and the jurisdictional area of the proposing planning commission are contiguous, land use intensity, land use density, or capital facilities in the jurisdictional area of the proposing planning commission and near the common border are incompatible with or would conflict with land use intensity, land use density, or capital facilities in the jurisdictional area of the reviewing planning commission and near the common border.

(B) If the reviewing entity is the planning commission of a local unit or a regional planning commission, the proposed plan would create 1 or more specific, verifiable threats to the health or safety of individuals within the local unit or region.

(C) If the reviewing entity is the planning commission of a local unit or a regional planning commission, cumulative effects of the proposed plan or element are likely to

reduce the existing or planned quality of life in the proposed local unit or region in reasonably identifiable and verifiable ways.’

By analogy, a plan is ‘inconsistent’ if it is not ‘consistent’ as described above.”

The Michigan Society of Planning’s “Guideline Number _; Draft What Should Local Comments on a Proposed Plan Consist of? and What Should a Local Government Do With Comments it Receives on a Proposed Plan?”⁷ presents more detail on what things your review of another community’s plan should cover. These topics of review are put forward on page 3 as the recommended best practice and reads:

“These categories are:

- Border issues
- Issues of greater than local concern
- Comparison with local plan contents
- Comparison with county/regional plan contents
- Comparison to other relevant adopted plans (such as an historic preservation plan, local wetland protection plan, TIF or brownfield redevelopment plan, etc.).
- Comparison to various implementation strategies.”

These categories are covered in even more detail with a “Checklist for Review of Proposed Plans or Plan Amendments”⁸ which can be

⁷Law Committee of the Michigan Society of Planning Board of Directors; “The Michigan Society of Planning’s “Guideline Number _; Draft What Should Local Comments on a Proposed Plan Consist of? and What Should a Local Government Do With Comments it Receives on a Proposed Plan?”. Available at the Society’s web site at <http://www.planningmi.org/resources/Implementation%20Guidelines.htm>, <http://www.planningmi.org/resources/plan%20comment%20guideline..DOC>.

⁸Law Committee of the Michigan Society of Planning Board of Directors; “Checklist for Review of Proposed Plans or Plan Amendments”. Available at the Society’s web site at <http://www.planningmi.org/resources/Implementation%20Guidelines.htm>, <http://www.planningmi.org/resources/JFMSPGuidelineChecklist3.doc>.

obtained from the Michigan Society of Planning web site. Once the review is done, then comes the job of preparing a submission to be sent to the other community (and a copy to the county).

The recommended best practice guideline⁹ suggests the letter include a thank you for the opportunity to review the plan, the title of the draft plan being reviewed, and the title of the plans used to determine consistency or inconsistency (also indicate the status of those plans, e.g., the date of the plans and if the plan(s) are up-to-date or about to be amended or updated), and other comparisons such as whether a particular issue warrants a personal contact or joint meeting. The identity of the submissions' preparer should also be included. See page 4 of the checklist for more detail. A "Response Form for Review of Proposed Plans or Plan Amendments"¹⁰ can also be used to prepare submissions. This form can also be obtained from the Michigan Society of Planning web site. Another approach is to write a letter that contains the submissions on the above points.

Examples of Submissions

The following are several examples of submissions on a draft plan.

⁹Law Committee of the Michigan Society of Planning Board of Directors; "The Michigan Society of Planning's "Guideline Number _; Draft What Should Local Comments on a Proposed Plan Consist of? and What Should a Local Government Do With Comments it Receives on a Proposed Plan?"; page 4. Available at the Society's web site at <http://www.planningmi.org/resources/Implementation%20Guidelines.htm>, <http://www.planningmi.org/resources/plan%20comment%20guideline..DOC>.

¹⁰Law Committee of the Michigan Society of Planning Board of Directors; "Response Form for Review of Proposed Plans or Plan Amendments". Available at the Society's web site at <http://www.planningmi.org/resources/Implementation%20Guidelines.htm>, <http://www.planningmi.org/resources/Comment%20Form,%20Jane%20F.DOC>.

Urban Issue Example; advocating a change:

Submission: "In general Urban Growth Area may be a good concept, but we have not liked the idea of an Urban Growth Boundary. Our planning commission feels such a Boundary is too constrictive and could stunt the progress and growth of our community."

Urban Issue Example; advocating a change:

Submission: "We would like to see the industrial sites in our township zoned as commercial. The current operations could then be grandfathered in as a nonconforming use for this area."

Groundwater issue example; endorsing a part of the plan:

Submission: "Groundwater protection has been an important part of planning and zoning in _ Township (See pages 156-157 of our Plan). Our township is "downstream" from your community in terms of direction of much of the groundwater flow along our boundary. The groundwater protection provisions in your Plan is consistent with our Plan and those provisions in your plan are supported."

Rural issue example; asking a question:

Submission: "Does the small area labeled 'Agricultural-Forest Production' on the map in section 31 and 32 of your community really merit Agricultural preservation? Our township has similar soil regimes as that part of your community. Soil survey data found only a small area of our township with better farm soils. However the area was not large enough to create a critical mass of agricultural activity within a definable service area to support various agriculture-dependant businesses and services to warrant the additional regulation and property owner burden of having agriculture preservation regulations. By allowing, without restriction agriculture and farming in rural areas such farms can continue. This stance is consistent with our Plan p. 148)."

The important point, as seen with these examples, is to have submissions based on your plans and to present reasons for the issues raised (to have a preponderance of evidence/facts to substantiate the concerns). Even if there are no concerns, as with the groundwater example, it is

important to support and endorse parts of the plan seen as beneficial.

It is advisable that these submissions and your planning commission's responses be included in an appendix of the final version of the plan.

What a County Planning Commission Reviews For

The county planning commission is performing two functions with its review. It is reviewing the draft plan (or amendment) just like everyone else, and it is also intended to perform a coordination and communication role with its review of other's submissions.

The county planning commission's review shall include, but need not be limited to, both of the following:

- A statement indicating if the county planning commission considered the proposed plan as inconsistent with the plan of any city, village, township, or region that received a copy of the draft plan (or amendment).
- A statement whether the county planning commission considers the draft plan (or amendment) to be inconsistent with a county plan(s), if any.

The county's submissions are advisory.

Be Polite

Through all this, it is important to be polite, courteous, and professional. To be effective, submissions and reviews of submissions regarding plans of another government should be done

professionally. The planning Guideline¹¹ also presents, on page 5, suggestions on tone and focus of the review of submissions. Their suggestions focus on four major points:

- Efficiency: Respect the idea the submission and review stage are near the end of a plan adoption process. A community may be ready to adopt, and others may be waiting for the task to be done. Do not extend the adoption more than necessary.
- Substantive review: Focus only on significant issues, in a clear and well documented way. Suggest solutions rather than only pointing out what is wrong.
- Productive: Be clear and document statements. The idea is to improve the quality of planning for the entire area. This process is to improve coordinated planning, not to undermine relationships or exacerbate tensions between governments.
- Professional: Submissions and review of submissions should be done with mutual respect of others. They should be factual, objective, and based on sound planning principles. It should be polite, constructive, and politically sensitive. Do not be defensive. Prepare materials for others in a way that you would appreciate receiving them.

What Next?

The community that receives your submissions should review each of them carefully. The result should be to make changes to their plan, or to prepare a list of reasons why your submission should not result in a change to their plan.

¹¹Law Committee of the Michigan Society of Planning Board of Directors; "The Michigan Society of Planning's "Guideline Number __; Draft What Should Local Comments on a Proposed Plan Consist of? and What Should a Local Government Do With Comments it Receives on a Proposed Plan?"; page 5. Available at the Society's web site at <http://www.planningmi.org/resources/Implementation%20Guidelines.htm>, <http://www.planningmi.org/resources/plan%20comment%20guideline..DOC>.

Next, the community will begin to prepare the next draft of the proposed plan. The second draft plan is the version of the plan for which a 30 day public comment period and public hearing are held. That public process – for citizens rather than adjacent governments – will also result in more comments on the plan. Those comments should also be reviewed carefully. The result should be to make changes to their plan, or to prepare a list of reasons why a comment should not result in a change to their plan.

It is advisable for the all the submissions, public comments, and a planning commission's

responses to be included in an appendix of the final version of the plan.

The adopted, final version of the plan is then also sent to the same list which the starting to plan notice and draft plan were sent to. As a result everyone will have a copy of everyone's plans to consult, use, and hopefully continue a process of coordinated planning.

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