



Conway Township Planning Commission

Monday, August 14, 2023 | 7:00pm

Conway Township Hall | 8015 N. Fowlerville Road, Fowlerville, Michigan 48836

1. **CALL TO ORDER / PLEDGE**
2. **ROLL CALL**
3. **CALL TO THE PUBLIC**
4. **APPROVAL OF PLANNING COMMISSION MEETING August 14, 2023 AGENDA**
5. **APPROVAL OF THE July 10, 2023 MEETING MINUTES**
6. **COMMUNICATIONS**
 - a. Zoning Administrator's Report
 - b. Livingston County Planning Commission Update/Report
7. **OLD BUSINESS**
 - a. Shipping Containers [Accessory/Principal Use] (get new draft from Abby)
 - b. Zoning Ordinance on Windmills Update
 - c. 2022 Proposed Zoning Ordinances
 - i. LCPC #Z-07-22 | Event Barns – Special Land Use Districts
 - ii. LCPC #Z-08-22 | Event Barns – Special Land Use Regulations
 - iii. LCPC #Z-10-22 | Event Barns – Parking Space Requirements
 - iv. LCPC #Z-18-22 | Accessory Dwelling Units
 - d. 2023 Proposed Zoning Ordinance
 - i. LCPC #Z-24-23 | Solar Amendment
8. **NEW BUSINESS**
9. **PLANNING COMMISSION MEMBER DISCUSSION**
10. **2nd CALL TO THE PUBLIC**
11. **ADJOURNMENT**

Any person may speak for up to 3 minutes during the public comment period.

Meeting will be Monday, September 11, 2023

CONWAY TOWNSHIP POLICY No. 7

PUBLIC COMMENT AND CONDUCT POLICY

Conway Township Board recognizes its obligation to obtain and the benefits to be received from public comments on matters pending before the Board. To provide an orderly and efficient manner to obtain public comment and to provide the public with an opportunity to participate in public meetings, the Conway Township Board hereby adopts the following policy for public comment and conduct at public meetings:

1. Public comment is restricted to only those times designated for public comment on the agenda, unless permitted otherwise by the chairperson or a majority of the Board. All persons addressing the Board shall comment only after being recognized by the chairperson conducting the meeting.
2. No individual speaker shall be permitted to speak more than 3 minutes regardless of topic and no time may be transferred or assigned by others to the speaker as to extend the 3-minute time limit. At the discretion of the chairperson, a speaker may be allowed to comment further than the three-minute limit. Alternatively, the chairperson may direct the speaker to submit further comment to the Board in writing at a later date.
3. When recognized by the chairperson to speak, the individual recognized shall approach and speak from the podium or location designated by the chairperson and shall not deviate from the location. When the speaker is advised by the chairperson to stop speaking when time has expired, the speaker shall cease speaking and be seated.
4. Prior to addressing the Board, each speaker shall first state for the record the speaker's name and address, the subject on which the speaker will speak, and state whether the speaker represents an organization or other person, and identify such organization or person. All remarks shall be addressed to the Board as a whole and not to any member thereof specifically or any other member of the public. Public comment is not intended to require Board members or Township staff to provide any answer to the speaker. Discussions between speakers and members of the audience will not be permitted.
5. Only one speaker will be acknowledged at a time. In the event that a group of more than three persons supporting or opposing the same position desires to be heard, in the interest of time, a spokesperson may be designated to express the group's concern and the spokesperson may be allotted up to 10 minutes to speak.
6. Public comments must be presented in a respectful manner and participants shall conduct themselves in an orderly and civil manner. Comments or language of a lewd, insulting, or provocative nature shall not be permitted. No person shall disrupt the Board and/or partake in behavior that becomes hostile, argumentative or threatens the public or an individual's safety, or is disruptive to the meeting. No person shall utilize any profane or obscene speech or gesture.
7. Violation of any provision of this policy shall be deemed a breach of the peace and such person will be asked to leave. If the person being asked to leave does not voluntarily leave or cease the behavior, the person may be ejected, and law enforcement may be called to remove the person.
8. Any person shall have the right to tape record, videotape or broadcast the proceedings of the Township Board, but shall not utilize the electric outlets of the Township without prior permission of the Township Clerk. Any tape recording, video camera or other camera utilized by any such person, shall be kept at least ten feet from all members of the Board and shall not be placed behind them.

This policy may be adopted for use by other boards, commissions, and committees of the Township. This policy or a summary of it may be placed on the back of the meeting agenda or made available with the meeting agenda.

I, Elizabeth Whitt, Conway Township Clerk, hereby certify that this administrative Conway Township Policy No. 7 was approved by a regular meeting of the Conway Township Board on June 17, 2014, and further amended on March 21, 2023 at a regular meeting of the Board.

/s/  _____
Elizabeth Whitt
Conway Township Clerk



Conway Township Planning Commission Meeting Minutes

Monday, July 10th, 2023 | 7:00pm EST

Conway Township Hall | 8015 N. Fowlerville Road, Fowlerville, MI 48836

Agenda	Items Discussed	Actions to be Taken
Attendees	<p>PC Members Present: Jeff Klein, Meghan Swain-Kuch, George Pushies - Ex-Officio, Shawn Morrison, Lucas Curd, and Kayla Poissant Absent- Dave Whitt</p> <p>Zoning Administrator – Gary Klein</p> <p>Livingston County Planning Commissioner: Dennis Bowdoin</p> <p>Township Attorney: Abby Cooper, JD, Absent- Michael D. Homier</p>	None
Call to Order/Pledge	Chair, M. Swain-Kuch called the Conway Township Planning Commission meeting to order at 7:00pm and led the Pledge of Allegiance.	None
Approval of Agenda	Motion to accept the meeting agenda as amended for July 10 th , 2023. Motion by L. Curd. Support by J. Klein. Motion Approved.	Motion Approved
Approval of June 12th, 2023 Minutes	Motion to accept meeting minutes from June 12 th , 2023. Motion by S. Morrison. Support by J. Klein. Motion Approved.	Motion Approved
1st Call to the Public	<p>Sarah Porter- Sober Rd.- She stated that the public comment policy used in this month’s packet was not the most updated policy. She also stated that she emailed the PC and Township officials and received no response back. She would like to know how the township is going to proceed with wind ordinances drafting. She asked if the PC had assignments to research or whether the PC was waiting for a draft from the attorney. She stated that she had done numerous different research on wind ordinances, and asked if the PC would accept that research and input from the public.</p> <p>Steve Smith- Robb Rd.- He stated that he believes that small windmills for farmers makes senses to help power certain things. He stated that the tallest tree in Michigan</p>	None

	is a 155 feet white pine, and that in this area a tall tree is considered at about 80-90 feet tall.	
Communications	<p>a. Zoning Administrator Report: G. Klein reported that there were five Land Use Permits last month (three for accessory buildings, two pool decks), and two permits for shingles.</p> <p>b. Livingston County Planning Commission Report: D. Bowdoin stated that he received word that the LCPC would be reviewing the Conway Township Solar Ordinance at their next meeting on 7/19.</p>	<p>None</p> <p>None</p>
Old Business	<p>a. Shipping Containers (Accessory/Principal Use)- M. Swain-Kuch stated that the draft was in the packet. She also stated that she would like to see at least three sides of screening all away around the shipping containers. There was discussion by all PC members. There were concerns about the enforceability of screening, and if it would be appropriate to screen the container to that extent. K. Poissant asked about whether the container could be from the front face of the house back instead of just in the rear of the house. There was discussion on this from all PC members as well. Temporary storage was also discussed. A question was asked about homeowners that already shipping containers on their property after an ordinance is passed by the township. A. Cooper responded that the homeowner with a pre-existing container would be "grandfathered-in" as long as the container was not in violation at the time the ordinance goes into effect or becomes a bigger violation afterwards. It was agreed to allow the containers in side yards as well as the rear yard, and it was agreed that the screening would stay, but at the discretion of the zoning administrator, it can be brought in front of the PC. It was also agreed to review the draft again next meeting before scheduling a public hearing.</p>	None

	<p>b. Zoning Ordinance on Windmills Update Mr. Homier was not in attendance to address the update. Mr. Homier said he was on his way to M. Swain-Kuch, and he did not send a draft of the ordinance before the meeting. This will be continued on in the next month.</p>	None
	<p>c. House Bills 4526, 4527, 4528 (Sand/Gravel) Update M. Swain-Kuch stated that she submitted a card against the bills in her own name, not associated with the township due to the language of pre-empting local control. She said there is a lot of opposition to the bills including the governor’s office, and that the bills will be taken up in the fall.</p>	None
	<p>d. 2022 Proposed Zoning Ordinances- Event Barns and Accessory Dwelling Units M. Swain-Kuch stated that these ordinances were being looked at by the prior PC and had been reviewed by the LCPC, but not sent for approval to the Township Board. K. Poissant asked about separating commercial purposes from residential/private uses of the barn/accessory building. A. Cooper stated that she believes that there is some work still to do on this ordinance, including what K. Poissant stated. K. Poissant wanted to make sure that private uses would not be included in this ordinance, and only commercial uses. She also mentioned the amplification of sound portion only in the dwelling would not be possible in this type of venue. G. Pushies asked G. Klein how the Township enforces the noise ordinance now, and G. Klein stated that the Township does not enforce it currently. K. Poissant also mentioned dancing outside of the dwelling. D. Bowdoin stated that the recommendation came from Brighton Township, and that they found out that by moving the entertainment inside the building, it cut down the size of the event. It was discussed about the size of the events that could take place. K. Poissant stated that the capacity of the event could be limited to the capacity of the dwelling. It was also discussed about the usage of portal restrooms versus a restroom building with septic. M. Swain-Kuch recommended that</p>	None

	the PC review the drafts for next month, and bring any questions or concerns to the next meeting.	
New Business	None at this time.	None
Commission Discussion	S. Morrison asked D. Bowdoin about the radius of wind turbines around the airport. D. Bowdoin stated that the wind turbines could not be in the five-mile radius around any airport.	None
Last Call to the Public	<p>Mike Brown- Sober Rd.- He brought up whether there would be a maximum number of shipping containers on individual properties. He stated that he was happy to hear the PC going more towards the Township's accessory building language on shipping containers. He also stated that he is familiar with wedding barn events, and that a lot of the events in the area use portable restrooms. He also mentioned that they use a lot of tents, and do tend to keep the doors of the barn open.</p> <p>Steve Smith- Robb Rd.- He stated that he appreciated K. Poissant's comment on separating private verse commercial use on the event barn ordinance.</p>	None
Adjournment	Motion to adjourn at 7:58pm. Motion by G. Pushies. Support by J. Klein. Motion Approved.	Motion Approved

Respectfully Submitted:

Kayla Poissant,
PC Secretary

Approved:

Meghan Swain-Kuch,
PC Chair

CONWAY TOWNSHIP
ORDINANCE NO. _____
AN ORDINANCE TO AMEND THE ZONING ORDINANCE
TO DEFINE AND REGULATE CARGO CONTAINERS

The Township of Conway ordains:

Section 1. Addition of Definitions to Article 2 of the Township Zoning Ordinance

The following definitions are added to Article 2 of the Township Zoning Ordinance, consistent with the existing ordering of definitions in that section:

Cargo Container. Any metal or primarily metal container designed or constructed to ship, store, or handle bulk goods or items, or which appears substantially similar to such containers in appearance. Such containers include reusable steel boxes, freight containers, and bulk shipping containers; originally, a standardized reusable vessel that was designed for and used in the parking, shipping, movement, transportation or storage of freight, articles of goods or commodities; generally capable of being mounted or moved on a rail car, or loaded on a ship.

Portable Storage Container. A portable or moveable, weather resistant receptacle designed and used for the storage or shipment of household goods, wares, valuables or merchandise (ie. PODS or MODS), and which is typically leased on a short-term basis for temporary storage purposes.

Section 2. Addition of New Section 6.18, entitled “Cargo Containers and Portable Storage Containers.”

New Section 6.18, currently designated as “Reserved,” entitled “Cargo Containers and Portable Storage Containers,” is added to the Township’s Zoning Ordinance and reads as follows:

Section 6.18 — Cargo Containers and Portable Storage Containers

A. **Cargo Containers.** Cargo containers are permitted as an accessory use in all zoning districts subject to the requirements of this Section. The following regulations apply to all cargo container use:

1. Cargo containers shall not be stacked above the height of a single container device.
2. Cargo containers shall meet all required setbacks.
3. Cargo containers shall be located in rear yards with the exception that cargo containers may be allowed in the side yard but not forward of the front building.
4. Cargo containers must be screened so as to not be visible from the street or nearby buildings, drives, and roads.

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Deleted: placed in the rear yard and

Deleted: and

Deleted: finished in a manner which minimizes its visibility from

5. No electricity or plumbing may be run or connected to a cargo container.
6. Cargo containers shall not be used to store hazardous materials, as defined by the Michigan Fire Prevention Code, 1941 PA 207, MCL 29.1 *et seq.*
7. Cargo containers shall not occupy required off-street parking, fire lanes, loading or landscaping areas.
8. No cargo container shall be placed in a location which may cause hazardous conditions or constitute a threat to public safety.
9. No cargo container may be used as living quarters.
10. No structural modifications may be made to cargo containers.
11. No livestock or pets may be stored in cargo containers.

B. Cargo Containers for Permanent Storage. Cargo containers may be permanently placed on the property for storage purposes upon issuance of a land use permit from the Zoning Administrator. The following regulations shall also apply:

1. All applicable building regulations are followed.
2. A solid foundation (road base material/gravel or better) is required.
3. Cargo containers shall be painted in solid colors (colors which blend into the surrounding area).
4. Cargo containers shall not be used for any advertising purpose and shall be kept clean of all alpha-numeric signage and writing.
5. Any writing or graffiti that may be placed on the container is the responsibility of the property owner and shall be promptly removed.

C. Cargo Containers for Temporary Use. Property owners will be required to obtain a temporary land use permit (Section 6.09) from the Zoning Administrator for the temporary use of cargo containers. The following regulations shall also apply:

1. Cargo containers shall be removed from the property within 180 calendar days from the date of initial placement. Property owners are allowed one additional period of up to 180 days.
2. Cargo containers associated with an approved building construction project shall be permitted to remain on-site until the earlier occurrence of approval of the project's final building inspection or the expiration of the building permit.

D. Portable Storage Containers. Portable storage containers are permitted as an accessory use in all zoning districts upon issuance of a temporary land use permit (Section 6.09) from the Zoning Administrator and shall adhere to the following restrictions:

1. No portable storage container may be stacked on top of another or on top of any other object.
2. Portable storage containers shall not be used to store hazardous materials, as defined by the Michigan Fire Prevention Code, 1941 PA 207, MCL 29.1 *et seq.*
3. No electricity or plumbing may be run or connected to a portable storage container.

4. Portable storage containers used in a residential district or associated with a residential use must be placed on a driveway or paved area.
5. Portable storage containers used in a non-residential district or associated with a nonresidential use shall not occupy required off-street parking, loading or landscaping areas.
6. No portable storage container shall be placed in a location which may cause hazardous conditions or constitute a threat to public safety.
7. No portable storage container may be used for living quarters.
8. No livestock or pets may be stored in a portable storage container.
9. Portable storage containers may not be placed on a vacant lot, unless that lot is associated with an approved building construction project.
10. Time Limits.
 - a. Portable storage containers shall be removed from the property within 180 calendar days from the date of initial placement. Property owners are allowed one additional period of up to 180 days.
 - b. Portable storage containers associated with an approved building construction project shall be permitted to remain on-site until the earlier occurrence of approval of the project's final building inspection or the expiration of the building permit.

E. Referral to Planning Commission. At any time after receipt of an application for a cargo container or portable storage container pursuant to this Section, the Zoning Administrator may elect to refer the application for review and approval by the Planning Commission at no additional cost to the applicant.

Section 3. 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 4. 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.

Section 5. Effective Date.

This Ordinance takes effect seven days after publication as provided by law.

CONWAY TOWNSHIP
ORDINANCE NO. _____
AN ORDINANCE TO AMEND THE ZONING ORDINANCE
TO REGULATE WIND ENERGY SYSTEMS

The Township of Conway ordains:

Section 1. Adoption of New Section _____, Wind Energy System Overlay District

New Section _____, entitled "Wind Energy System Overlay District," is added to the Zoning Ordinance and reads as follows:

Section _____ Purpose and Findings

A. Purpose. The Wind Energy System Overlay District (the "District") is intended to provide suitable locations for utility-scale wind energy systems that are otherwise authorized under state law and the Township's Code of Ordinances and Zoning Ordinance to meet a reasonable demonstrated need for this land use in the Township. It is the intent of the Township to permit these systems to the extent a demonstrated need exists for the land use by regulating the siting, design, construction, operation, monitoring, modification, and removal of such systems to protect the public health, safety, and welfare, and to ensure compatibility of land uses in the vicinity of wind energy systems. The Township seeks to preserve its rural character and agricultural heritage. To these ends, the lands included in this District are within reasonable proximity to existing electric power transmission infrastructure.

B. Findings. In establishing this overlay district, the Township of Conway finds as follows:

1. It is necessary and reasonable to permit utility-scale wind energy systems in the Township to the extent that there is a demonstrated need for that land use.
2. Land use for utility-scale wind energy systems beyond a reasonable and legitimate demonstrated need to provide for the Township's energy needs would have needless adverse effects on surrounding businesses and residences, and be detrimental to the health, safety, welfare, and prosperity of the Township and its residents.
3. The Township wishes to preserve its existing topography and rural character, maintain property values, and protect and preserve the quality and pace of rural life of its residents while preserving the environment and protecting wildlife.
4. Wind Energy Systems can adversely impact the health, safety, welfare, and prosperity of that community, including existing property values, especially when in proximity to farms, forests, and residential properties.
5. Wind Energy Systems shall be carefully managed to reduce the adverse long-term effects such land use can have on the productivity of farmland. See University of Michigan Graham Sustainability Institute & Michigan State University Extension, "Planning & Zoning for Wind Energy Systems."
6. Several Michigan communities have suffered, or are suffering, from fiscal uncertainty due to litigation and rule changes concerning taxation arising from rural renewable energy production.

7. Conway Township contributes significant storm water runoff into adjacent municipalities because of relative elevations, and therefore the Township values low-impact development to better manage its stormwater runoff.

8. Impervious surfaces such as wind turbines channel stormwater runoff, and support posts and trenching are likely to damage drain tiles. Thus, Utility Scale Wind Energy Systems must be carefully sited, designed, and limited in scope.

9. The Township adopts these land use regulations to balance any demonstrated need for utility-scale wind energy systems in the Township with the public, health, and safety impacts identified above.

Section ____ Delineation of the Wind Energy System Overlay District

A. The Wind Energy System Overlay District overlays existing zoning districts delineated on the official Conway Township Zoning Map. The boundaries of the Wind Energy System Overlay District are depicted on Map A, incorporated herein by reference, and are generally described as follows:

An area of land consisting of approximately ____ acres, comprised of the following:

[INSERT AREA DESCRIPTION HERE]

Section ____ . Permitted Uses.

There are no uses permitted by right in the Wind Energy System Overlay District, other than uses permitted by right in the underlying zoning districts.

Section ____ . Special Land Uses.

The following uses are permitted following approval by the Planning Commission as a Special Land Use in the Wind Energy System Overlay District as regulated by Article 13 (special land uses) and Article 14 (site plan review).

Utility-Scale Wind Energy Systems

Section 2. Amendment of Section 6.01 of the Zoning Ordinance Section

6.01 of the Zoning Ordinance, entitled “Establishment of Districts,” is amended to read as follows:

For purposes of innovative and flexible development, Conway Township has established the following overlay district:

Overlay District

SES Wind Energy System

Commented [AL1]: Draft language in the event the Township decides to do an Overlay Zoning District as discussed at the May PC Meeting.

Section 3. Addition of Definitions to Article 2 of the Township Zoning Ordinance

The following definitions are added to Article 2 of the Township Zoning Ordinance, consistent with the existing ordering of definitions in that section:

E. Private Wind Energy System: A Wind Energy System used exclusively for private purposes and not used for any commercial resale of any energy, except for the sale of surplus electrical energy back to the electrical grid.

G. Wind Energy System (WECS): Any part of a system that collects or stores wind radiation or energy for the purpose of transforming it into any other form of usable energy, including the collection and transfer of heat created by wind energy to any other medium by any means.

H. Utility-Scale Wind Energy System: A Wind Energy System in which the principal design, purpose, or use is to provide energy to off-site uses or the wholesale or retail sale of generated electricity to any person or entity.

I. Non-Participating Property: A property that is not subject to a Utility Scale Wind Energy System lease or easement agreement at the time an application is submitted for a Special Land Use for the purposes of constructing a Utility Scale Wind Energy System.

J. Participating Property: A property that participates in a lease or easement agreement, or other contractual agreement, with or that is owned by an entity submitting a Special Land Use Permit application for the purpose of developing a Utility Scale Wind Energy System.

K. Owner/Operator: A person or entity that owns or operates a Utility Scale Wind Energy System. "Owner/operator," even when used in the singular, may refer to more than one person or entity if there are multiple owners or operators, or the Utility Scale Wind Energy System is owned and operated by different entities. "Owner/operator" includes any successor to the original owner/operator. "Owner/operator" may or may not be the same as the applicant.

Section 4. Addition of New Section _____, entitled "Wind Energy Systems"

New Section ____, entitled "Wind Energy Systems," is added to the Township's Zoning Ordinance and reads as follows:

Section _____s Wind Energy Systems.

A. General Provisions. All Wind Energy Systems are subject to the following requirements:

1. All Wind Energy Systems shall conform to the provisions of this Ordinance and all county, state, and federal regulations and safety requirements, including applicable building codes and applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriter Laboratory (UL), National Electrical Code (NEC), National Fire Protection Association (NFPA), and the most current Michigan Uniform Building Code adopted by the enforcing agencies.
2. If an applicant, operator, or landowner of a Wind Energy System fails to comply with this Ordinance, the Township, in addition to any other remedy under this Ordinance, may revoke any approvals after giving the applicant notice and an opportunity to be heard. Additionally, the Township may pursue any legal or equitable action to abate a violation and recover any and all costs, including the Township's actual attorney fees and costs.

B. Private Wind Energy Systems.

1. Administrative Review. Except as provided in subsection (d) below, all Private Wind Energy Systems require administrative approval as follows:

a. Application to Zoning Administrator. An applicant who seeks to install a Private Wind Energy System shall submit an application to the Zoning Administrator on a form approved by the Township Board.

b. Application Requirements. The application shall include:

1. A site plan depicting setbacks, turbine size, and the location of property lines, buildings, fences, greenbelts, and road right of ways. The site plan shall be drawn to scale.
2. Photographs of the property's existing condition.
3. Renderings or catalogue cuts of the proposed wind energy equipment.
4. A certificate of compliance demonstrating that the system has been tested and approved by Underwriters Laboratories (UL) or other approved independent testing agency acceptable to Township.
5. A copy of the manufacturer's installation directions.

c. Zoning Administrator Authority. The Zoning Administrator is authorized to approve, approve with conditions, or deny applications for Private Wind Energy Systems. An aggrieved party may appeal the Zoning Administrator's decision to the Zoning Board of Appeals pursuant to Article 6 of the Zoning Ordinance.

d. Exclusions from Administrative Review. Administrative review is not required for repair and replacement of existing wind energy equipment if there is no expansion of the size or area of the wind energy equipment.

2. Private Wind Energy System. Private Wind Energy Systems are permitted in all zoning districts as an accessory use, subject to administrative approval as set forth in this section and subject to the following requirements:

a. Safety. A Private Wind Energy System shall be installed, maintained, and used only in accordance with the manufacturer's instructions, and it shall comply with all applicable construction code and electric code including the most current version of the Michigan Uniform Building Code and National Electrical Code adopted by the enforcing agencies.

b. Building Permit. A building permit is required.

c. Maximum Height. The total height of a Private WECS with the blade fully extended must not exceed 300 feet. The minimum clearance from ground level to the blade at its lowest point must be 30 feet.

d. Location. The minimum setback of a Private WECS from any property line or road right-of-way must equal three times the total height of the unit (with the WECS blade at its highest point).

e. Private WECS must comply with the noise limits set forth in this Ordinance.

f. Abandonment. If a Private Wind Energy System has been abandoned for a period of six months, the property owner shall remove it within three months after the date of abandonment.

h. Inspection. The Zoning Administrator may inspect a Private Wind Energy System for compliance with this ordinance upon providing reasonable notice to the property owner or occupant.

i. Underground Transmission. All power transmission or other lines, wires, or conduits from a Private Wind Energy System to any building or other structure shall be located underground. If batteries are used as part of the Private Wind Energy System, they shall be placed in a secured container or enclosure.

C. Utility-Scale Wind Energy Systems. Utility-Scale Wind Energy Systems are permitted by Special Land Use approval in the Wind Energy System Overlay District and require a special land use permit under Article 5 and site plan approval under Article 4. Utility-Scale Wind Energy Systems are also subject to the following requirements:

1. Special Land Use Permit Application Requirements. In addition to the requirements of Article 5, the applicant for a Utility-Scale Wind Energy System shall provide the Township with all of the following:

a. Application fee in an amount set by resolution or fee schedule approved by the Township Board.

b. A deposit for an escrow account in an amount set by resolution or fee schedule approved by the Township Board. The escrow account is used to cover all costs and expenses associated with the special land use review and/or approval process, which costs can include, but are not limited to, review fees of the Township Attorney, Township Planner, and Township Engineer, as well as any reports or studies which the Township anticipates will be required during the review and/or approval process for the application. At any point during the review process, the Township may require that the applicant place additional monies into escrow with the Township if the existing escrowed funds on account with the Township will be insufficient, in the determination of the Township, to cover any remaining costs or expenses with the review and/or approval process. If additional funds are required by the Township to be placed in escrow and the applicant refuses to do so within 14 days after receiving notice, the Township will cease the zoning review and/or approval process until and unless the applicant makes the required escrow deposit. Any escrow amounts in excess of actual cost will be returned to the applicant. An itemized billing of all expenses will be provided to the applicant upon request.

c. A list of all parcel numbers that will be used by the Utility-Scale Wind Energy System; documentation establishing ownership of each parcel; and any and all lease or option agreements, easements, or purchase agreements for the subject parcels, together with any attachments to such agreements or easements.

d. An operations agreement setting forth the operations parameters, the name and contact information of the certified operator, the applicant's inspection protocol, emergency procedures, and general safety documentation.

e. Federal Employer Identification Number for current owner/operator is required at the time of application.

f. A written emergency response plan detailing the applicant's plan for responding to emergencies, including fire emergencies, and analyzing whether adequate resources exist to respond to fires and other emergencies. If adequate resources do not exist, the applicant shall

identify its plan for providing those resources. The emergency plan shall include identification of potential hazards to adjacent properties, public roadways, and to the community in general that may be created, as well as plans for immediate cleanup, long-term monitoring, and continued mitigation efforts following an emergency.

g. A written description of the fire suppression system that will be installed, which shall identify the manufacturer of the fire suppression system and generally describe its operations and capacity to extinguish fires.

h. A written description of specialized training and/or equipment necessary for handling fires and/or other emergencies at the Utility Scale Wind Energy System site. The training plan must include, at a minimum, annual emergency response training for local firefighters and other local emergency personnel at the site of the Utility-Scale Wind Energy System.

i. A complete set of photographs, video, and topography map of the entire Participating Property prior to construction.

j. A copy of any power purchase agreement or other written agreement that the applicant has with an electric utility or any agreement or approval for interconnection between the proposed Utility-Scale Wind Energy System and an electric utility or transmission company.

k. A written plan conforming to the requirements of this ordinance for maintaining the subject property, including a plan for maintaining and inspecting drain tiles and addressing stormwater management.

l. A decommissioning and land reclamation plan describing the actions to be taken following the abandonment or discontinuation of the Utility-Scale Wind Energy 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 Wind Energy System and restore the subject parcels to as near as possible to the condition the subject parcels were in prior to being used as a Utility-Scale Wind Energy System.

m. Financial security that meets the requirements of this ordinance.

n. A plan for resolving complaints regarding but not limited to noise, glare, maintenance, and drainage from the public or other property owners concerning the construction and operation of the Utility-Scale Wind Energy System.

o. Identification of and a plan for managing any hazardous waste.

p. A transportation plan for construction and operation phases, including any applicable agreements with the Ingham County Road Commission and Michigan Department of Transportation.

q. An attestation that the applicant and owner of the subject property will indemnify and hold the Township and its officials, elected or appointed, harmless from any costs or liability arising from the approval, installation, construction, maintenance, use, repair, or removal of the Utility-Scale Wind Energy System.

r. A copy of the manufacturer's directions, instruction manual, and specification sheets including any unredacted safety manuals and Safety Data Sheets (SDS), for installing, maintaining, and using the Utility-Scale Wind Energy System.

s. A ground cover vegetation establishment and management plan that complies with this ordinance.

t. Proof of environmental compliance, including compliance with:

i. Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act; (MCL 324.3101 et. seq.);

ii. Part 91, Soil Erosion and Sedimentation Control (MCL 324.9101 et. seq.) and any corresponding County ordinances;

iii. Part 301, Inland Lakes and Streams, (MCL 324.30101 et. seq.);

iv. Part 303, Wetlands (MCL 324.30301 et. seq.);

v. 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 Township.

u. Any additional information or documentation requested by the Planning Commission, Township Board, or other Township representative.

v. Insurance. Proof of the owner/operator's public liability insurance shall be provided at the time of application. If the applicant is approved, proof of insurance shall be provided to the Township annually thereafter. The policy shall provide for bodily injury and property damage and shall name Conway Township and each Participating Property owner as an additional insured. The owner/operator shall insure for liability for the utility scale wind system until removed for at least \$25,000,000 per occurrence to protect the owner/operator, Township, and Participating Property owner. Proof of a current policy is required annually and shall be provided each year to the Township prior to the anniversary date of the Special Land Use Permit.

w. Compliance with the Michigan Uniform Building Code and National Electric Safety Code: Construction of a Utility Wind Energy Facility shall comply with the most current version of the Michigan Uniform Building Code and National Electrical Code adopted by the enforcing agencies as a condition of any Special Land Use Permit under this section.

x. Conceptual plan. A graphical computer generated depiction of how the Utility-Scale Wind Energy System will appear from all directions.

2. Site Plan Application Requirements.

a. Contents of Site Plan. In addition to the requirements in Article 4, the applicant shall, at its expense, provide a detailed application and site plan drafted to a scale of 1" = 200 feet with the following:

1. Location of all proposed structures, turbines, equipment, transformers, and substations.

2. Location of all existing structures or dwellings on the parcel and location of all existing structures or dwelling on adjacent Non-Participating Property within 1000 feet of the property lines of any Participating Properties.

3. Depiction of all setbacks, property lines, fences, signs, greenbelts, screening, drain tiles, easements, flood plains, bodies of water, proposed access routes, and road rights of way.
4. Indication of how and where the system will be connected to the power grid.
5. Plan for any land clearing and grading required for the installation and operation of the system.
6. Plan for ground cover establishment and management.
7. Anticipated construction schedule and completion date. As a condition of any special land use or site plan approval, hours of construction shall be limited to Monday through Friday from 7:00 a.m. to 5:00 p.m. with no construction on Saturday, Sunday, or any federally recognized holiday.
8. Sound modeling study including sound isolines extending from the sound sources to the property lines.
9. Any additional studies requested by the Planning Commission, including but not limited to the following:
 - a. Visual Impact Assessment: A technical analysis by a third party qualified professional of the visual impacts of the proposed project, including a description of the project, the existing visual landscape, and important scenic resources, plus visual simulations that show what the project will look like (including proposed landscaping and other screening measures), a description of potential project impacts, and mitigation measures that would help to reduce the visual impacts created by the project.
 - b. Environmental Analysis: An analysis by a third-party qualified professional to identify and assess any potential impacts on the natural environment including, but not limited to, removal of trees, wetlands and other fragile ecosystems, wildlife, endangered and threatened species. If required, the analysis will identify all appropriate measures to minimize, eliminate or mitigate adverse impacts identified and show those measures on the site plan, where applicable.
 - c. Stormwater Study: An analysis by a third-party qualified professional studying the proposed layout of the Utility-Scale Wind Energy System and how the spacing, row separation, and slope affects stormwater infiltration, including calculations for a 100-year rain event. Percolation tests or site-specific soil information shall be provided to demonstrate infiltration on-site without the use of engineered solutions.
 - d. Glare Study: An analysis by a third-party qualified professional to determine if glare from the Utility-Scale Wind Energy System will be visible from nearby airports, air strips, residences, and roadways. The analysis will consider the changing position of the sun throughout the day and year and its influences on the utility-scale wind energy system.
 - e. Optional Conceptual Layout Plan. Applicants shall submit an optional conceptual layout plan for review prior to submission of a formal site plan. The

conceptual site plan shall be reviewed by the Planning Commission to allow for discussion and feedback.

10. Approvals from Other Agencies. Final site plan approval may be granted only after the applicant receives all required federal, state and local approvals, including any applicable approval by the state historic preservation office. Applicant shall provide copies of all review letters, final approved plans, and reports issued by any other governing agencies to the Township.

11. The site plan must show the existing topographical grades in two-foot intervals and conditions of all Participating Property at the time of application.

12. A baseline soil test including Cation Exchange Capacity (CEC) shall be provided to the township prior to any construction.

13. A written description of how the applicant will address dust control during construction. Such plan shall, at a minimum, consist of water applications at least three times per day unless it has rained in the preceding three hours of the planned application.

14. Water Usage and Cleaning. The applicant shall detail the methodology planned for cleaning the wind turbines, frequency, and listing of any and all detergents, surfactants, chemical solutions used for each cleaning, and sources of water used to facilitate turbine restoration and maintenance.

3. Application Items as Substantive Requirements. The information, plans, documents, and other items identified as application requirements in this ordinance, including the site plan and special land use permit, are substantive requirements for obtaining approval for a Utility-Scale Wind Energy System. The Planning Commission is to review the sufficiency of the application materials. If the Planning Commission determines that the substance of any application item is insufficient to protect the public health, safety, and welfare, the Planning Commission shall deny approval on that basis.

4. System and Location Requirements.

a. Utility-Scale Wind Energy Systems are to be located only in the Wind Energy System Overlay District.

c. The minimum setback from any property line of a Non-Participating Landowner or any road right-of-way is 3,000 feet or five times the Tip Height of each turbine in the Utility-Scale WECS. Additionally, each turbine must be located at least 2.5 miles from the nearest lake or body of water. If a single Utility-Scale Wind Energy System is located on more than one lot, or if the adjacent parcel is owned by the same owner as the property on which the Utility-Scale Wind Energy System is located, then the lot line setbacks of this subsection do not apply to the lot lines shared by those lots.

c. The maximum height of a Utility-Scale WECS with the blade fully extended must not exceed 300 feet.

d. The minimum clearance from ground level to the blade at its lowest point must be at least 100 feet.

e. Blade arcs created by a Utility-Scale WECS must have a minimum of 100 feet of clearance over and away from any structure.

f. Each Utility-Scale WECS must be equipped with a braking or equivalent device, capable of stopping the Utility-Scale WECS operation in high winds with or without SCADA control. The braking system must be effective during complete grid power failure when Utility-Scale WECS are unable to communicate with SCADA control or receive power.

g. All turbines must be equipped with technology that automatically de-ices the turbine blades. The system must detect ice and heat the blades, such as through the use of built-in carbon heating mats or through the circulation of hot air.

5. Permits. All required county, state, and federal permits shall be obtained before the Utility-Scale Wind Energy System begins operating.

6. Appearance. All turbines and towers must be painted a non-obtrusive, neutral color, such as beige, gray, or off-white and must be non-reflective. All turbines bases and blades must be the same color and must be consistent with the color of other Utility-Scale WECS in the Township. No advertisements, graphics, or striping are permitted on the blades or towers. The applicant is encouraged to select anti-icing paint that prevents the formation of ice on the surface of the turbine's blades.

7. Lighting. Lighting of the Utility-Scale Wind Energy System is limited to the minimum light necessary for safe operation. Towers may be lit only to the minimum extent required by the FAA.

8. Security Fencing.

a. Security fencing may be required by the Planning Commission to be installed around all electrical equipment related to the Utility-Scale Wind Energy System, including any transformers. Fencing shall be at least seven feet tall and be composed of woven agricultural wire. Barbed and razor wire is prohibited.

b. A containment system shall surround any transformers in case of hazardous waste or oil spills.

c. Appropriate warning signs shall be posted at safe intervals at the entrance and around the perimeter of the Utility-Scale Wind Energy System.

d. Gate posts and corner posts shall have a concrete foundation.

e. Gates shall be the same height and constructed of the same material as the fencing. Access, such as Knox box, shall be provided for emergency responders.

f. The Township may allow or require a fence design to allow for the passage of wildlife upon a finding that adequate access control and visual screening will be preserved.

g. Security fencing is subject to setback requirements. The security fence shall be locked, and a self-locking device shall be used. Lock boxes and keys (may be electronic such as keypad opener, if the passcode is provided to the Township and central dispatch for 911 service) shall be provided at locked entrances for emergency personnel access. Electric fencing is not permitted. A safety plan shall be in place and updated regularly with the local fire department having jurisdiction over the Utility-Scale Wind Energy System.

9. Noise. All sound measurements are to be instantaneous and shall not be averaged. The noise generated by a Utility-Scale Wind Energy System shall not exceed the following limits:

a. 40 dBA Lmax, as measured at the property line, between the hours of 7:00 a.m. and 9:00 p.m.

b. 35 dBA Lmax, as measured at the property line, between the hours of 9:00 p.m. and 7:00 a.m.

c. The owner/operator of the Utility Scale Wind Energy System shall annually provide for a sound analysis or modeling, conducted by an auditory expert chosen by the Township, at the expense of the applicant.

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

11. Drain Tile Inspections. The Utility-Scale Wind Energy System shall be maintained in working condition at all times while in operation. The owner/operator shall identify and inspect all drain tiles at least once every two years by means of a robotic camera, with the first inspection occurring post construction but before the Utility-Scale Wind Energy System is in operation. The owner/operator shall submit proof of the inspection to the Township. The owner/operator shall repair any damage or failure of the drain tile within 60 days after discovery and submit proof of the repair to the Township. The Township is entitled, but not required, to have a representative present at each inspection or to conduct an independent inspection.

12. Fire Suppression. The Utility-Scale Wind Energy System shall include a fire suppression system that is specifically designed to immediately suppress and extinguish fires in any part of the Wind Energy System, including the turbines, electrical equipment, and transformers. The owner/operator shall provide documentation establishing the effectiveness of the fire suppression system and the results of a third-party independent inspection of the fire suppression system.

13. Battery Storage. Commercial grid storage batteries or capacitor banks storing or returning supplemental power to the grid are not permitted in the District. Use of Batteries in commercial applications is only permitted as emergency backup for safety lighting and related computer infrastructures.

14. A Utility-Scale WECS must not interfere with any radio, television, or other communication systems. If the Township or the applicant or operator of the Utility-Scale WECS receive a complaint about communication interference, the applicant or operator must resolve the interference immediately and provide proof that the interference has been resolved within 90 days.

15. Stray Voltage Assessments: No stray voltage originating from a Utility Scale Wind Energy System may be detected on any Participating or Non-Participating property. A preconstruction stray voltage test shall be conducted on all Michigan Department of Agriculture & Rural Development (MDARD) registered livestock facilities located within a one-mile radius of the Participating Properties. The tests shall be performed by an investigator approved by the Township. A report of the tests shall be provided to the owners of all property included in the study area. The applicant/landowner shall seek written permission from the property owners prior to conducting testing on such owners' property. Applicants/landowners shall not be required to perform testing on property where the owners have refused to grant permission to conduct the testing. The owner of any Participating Property included in the list of project parcels shall not refuse the stray voltage testing if they have a MDARD registered livestock facility on the Participating Property.

16. Drainage. Drainage on the site shall be maintained in a manner consistent with, or improved upon, existing natural drainage patterns. Any disturbance to drainage or water management practices shall be managed within the property and on-site in order to not negatively impact surrounding properties as a result of the development. This shall be maintained for the duration of the operation and shall be able to be returned to pre-existing conditions following decommissioning. Any existing drainage tiles that are identified on the property shall be shown on the as-built drawings submitted following construction. Prior

to the start of construction, any existing drain tile shall be inspected by robotic camera and the imagery submitted to the Township for baseline documentation on tile condition. Any damage shall be repaired, and a report submitted to the landowner and Township. While the facility is in operation, the owner/operator shall reinspect the drain tiles every three years by robotic camera for any damage and shall repair any damage within 60 days of discovery. The owner/operator shall report the inspection, along with any damage and repair, to the Township within 90 days after each three-year deadline. The Township reserves the right to have the Building Inspector or other agent present at the time of repair. Wind turbine support structures and/or foundations shall be constructed to preserve any drainage field tile or system.

17. Access Routes. Access drives are subject to the approval of the Ingham County Road Commission to the extent of the Road Commission's jurisdiction. All access drives and roads within the site shall be adequately maintained for emergency vehicle use, including winter maintenance.

18. The owner/operator shall submit an As Built Drawing with dimensions relative to property lines of all new structures including turbines and buried cable both inside and outside fenced areas upon completion and before any power is supplied to the grid. The As Built Drawing shall be a scale of 1" = 200 feet.

19. Signs. Signs are permitted but shall comply with Article 22. The lot shall include at least one sign identifying the owner and providing a 24-hour emergency contact telephone number.

20. Emergency Action Plan and Training. Before the Utility Wind Energy System is operational, the owner/operator shall provide the necessary training, equipment, or agreements specified in the application to Township or other emergency personnel.

21. Decommissioning and/or Abandonment.

a. If a Utility-Scale Wind Energy System is abandoned or otherwise non-operational for a period of six months, the owner/operator shall notify the Township and shall remove the system within six months after the date of abandonment. Removal requires receipt of a demolition permit and full restoration of the site in accordance with the provisions of this Ordinance and to the satisfaction of the Zoning Administrator. The site shall be filled and covered with topsoil and restored to a state compatible with the surrounding vegetation. The requirements of this subsection also apply to a Utility-Scale Wind Energy System that is never fully completed or operational if construction has been halted for a period six months.

b. The decommissioning plan shall be written to provide security to the Township for 125% of the cost to remove and dispose of all turbines, removal of all wiring, footings, and pilings, (regardless of depth), and restoration of the land to its original condition. The value of decommissioning shall be determined by a third-party financial consultant or engineer selected by the Township and paid for by the developer. The decommissioning security shall be paid in cash to the Township. Once the value of decommissioning is determined, it shall be updated on a periodic basis of not less than every 2 years and additional security shall be required based on the average inflation rate of the preceding 2 years.

c. All abandonment and decommissioning work shall be done when soil is dry.

d. The ground shall be restored to its original topography within three hundred sixty-five (365) days of abandonment or decommissioning. An extension may be granted if a good faith effort has been demonstrated and any delay is not the result of actions or inaction of the owner/operator.

e. If land balancing is required, all topsoil will be saved and spread evenly over balanced area according to the existing topography map provided at the time of application.

f. An annual report shall be provided to the Zoning Administrator showing continuity of operation and shall notify the Zoning Administrator if the use is to cease, prior to decommissioning, or abandonment.

g. Continuing Obligations: Failure to keep any required financial security in full force and effect at all times while a Utility Wind Energy System exists or is in place shall constitute a material and significant violation of the Special Land Use Permit, and this Ordinance, and will subject the Utility Wind Energy System owner/operator (jointly and severally, if more there is more than one owner or operator) to all remedies available to the Township, including any enforcement action, civil action, request for injunctive relief, and revocation of the Special Land Use Permit.

h. The Township shall have the right to seek injunctive relief to effect or complete decommissioning, as well as the right to seek reimbursement from the owner/operator or landowner for decommissioning costs in excess of the amount deposited in escrow and to file a lien against any real property owned by the owner/operator or landowner for the amount of the excess, and to take all steps allowed by law to enforce said lien.

i. At the time of decommissioning, the Planning Commission may allow deviations from the above decommissioning requirements following notice and a public hearing in accordance with Section 103 of the Zoning Enabling Act.

22. Complaint Resolution. Utility Wind Energy Systems shall provide a complaint resolution process, as described below:

a. The site shall have signs posted with contact information to collect complaints related to the Utility Wind Energy System.

b. A log shall be kept by the owner/operator of all complaints received and shall be available to Township officials for review at the Township's request.

c. The owner/operator shall respond to complainants within ten (10) business days and shall provide notification to the Zoning Administrator.

d. Any resolution shall include lawful and reasonable solutions consistent with the Zoning Ordinance, which shall also be provided to the Zoning Administrator.

e. The owner/operator or its assigns reserve the right to adjudicate any claims made against it, including residential claims, in a court of competent jurisdiction. An annual report shall be submitted to the Zoning Administrator and the Township Board that details all complaints received, the status of complaint resolution, and actions taken to mitigate complaints.

23. Maintenance and Repair

a. Each Utility-Scale Wind Energy System shall be kept and maintained in good repair and condition at all times and the site shall be neat, clean, and free of refuse, waste, or unsightly, hazardous, or unsanitary conditions. All wind turbines damaged beyond repair or use shall be replaced and removed from the project site within seven (7) days and shall be disposed of off-site in accordance with any state or federal requirements.

b. If the Township Board or Zoning Administrator determines that a Utility Scale Wind Energy System fails to meet the requirements of this Ordinance or the Special Land Use Permit, the Zoning Administrator or Township Board shall provide notice to the owner/operator of the non-compliance, and the owner/operator has 14 days to cure the violation. If the violation is a safety

hazard as determined by the Zoning Administrator or Township Board, then the owner and/or operator has 7 days to cure the violation. If the owner and/or operator has not remedied non-compliance issues in the aforementioned time periods, the owner/operator shall immediately shut down the Utility Scale Wind Energy System and shall not operate, start or restart the Utility Scale Wind Energy System until the issues have been resolved. If the owner/operator fails to bring the operation into compliance, the Township may seek relief at law or equity to abate the nuisance and may also issue a municipal civil infraction citation. Each violation for which the owner/operator are deemed responsible shall result in a \$500.00 fine.

c. The owner/operator shall keep a maintenance log on the wind turbine(s), which shall be available for the Township's review within 48 hours of such request.

d. General Maintenance Bond. At the time of the Special Land Use application, the owner/operator shall submit two (2) third-party contractor bids for construction of all fencing, landscaping, and drainage improvements associated with the utility scale wind energy system. A performance bond in the amount of 125% of the higher bid shall be provided to the Township to ensure completion. The Township may use the bond to complete or repair any landscaping, fencing, or drainage infrastructure (including drain tiles).

24. Extraordinary Events. If the Utility-Scale Wind Energy System experiences a failure, fire, leakage of hazardous materials, personal injury, or other extraordinary or catastrophic event, the owner/operator shall notify the Township within 8 hours.

25. Annual Report. The owner/operator shall submit a report on or before January 1 of each year that includes all of the following:

- a. Amount of electric generation;
- b. Current proof of insurance with the township and Participating Property owner(s) shown as named insured;
- c. Verification of financial security; and
- d. A summary of all complaints, complaint resolutions, and extraordinary events.

Additionally, a representative of the owner/operator shall appear before the Planning Commission annually to report on the Utility-Scale Wind Energy System and address questions or concerns from the Planning Commission.

26. Inspections. The Township may inspect a Utility-Scale Wind Energy System at any time by providing 24 hours advance notice to the owner/operator.

27. Transferability. A special use permit for a Utility-Scale Wind Energy System is transferable to a new owner. The new owner shall register its name, Federal Employer Identification Number, and business address 30 days prior to the transfer date with the Township and shall comply with this Ordinance and all approvals and conditions issued by the Township. In the event of a sale or transfer of ownership and/or operation of the wind facility, the original security bond or escrow shall be maintained throughout the entirety of the process and shall not be altered.

28. Major and Minor Site Plan Amendments.

- a. Major site plan amendments include those listed in Section _____ and any of the following:

1. Changes of the location of turbines, fencing, buildings, or ancillary equipment by 10 feet or more.

2. Any increase in the height of wind turbines.

b. Minor site plan amendments include those listed in section _____ and any of the following:

1. Changes of the location of turbines, fencing, buildings, or ancillary equipment by less than 10 feet.

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

Section 5. 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 6. 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.

Section 7. Effective Date. This Ordinance takes effect seven days after publication as provided by law.

MAP A
OVERLAY DISTRICT BOUNDARIES

99999:LDICKINS:7162985-1



Livingston County Department of Planning

MEMORANDUM

TO: Livingston County Planning Commissioners and the
Conway Township Board of Trustees

FROM: Robert Stanford, Principal Planner

DATE: January 4, 2022

SUBJECT: Z-07-22 Amendments to Zoning Ordinance Article -

Article 7: AR Agricultural Residential District
Article 8: R Residential District
Article 10: C Commercial District
Article 11: I Industrial District

Kathleen J. Kline-Hudson
AICP, PEM
Director

Robert A. Stanford
AICP, PEM
Principal Planner

Scott Barb
PEM
Principal Planner

The Conway Township Planning Commission proposes to revise sections within its Article 7: AR Agricultural Residential District, Article 8: R Residential Districts, Article 10: C Commercial Districts and Article 11: I Industrial Districts of the Township Zoning Ordinance regarding Special Event/Wedding Structures and Venues.

According to the township's legal counsel, these amendments were issues that the PC had considered years ago and didn't move forward with at the time. It came back to the Planning Commission because the Zoning Administrator had been receiving calls asking if this use was permitted. The Township Planner provided some sample ordinance language and shared their experiences with this kind of use in other townships. The Planning Commission then decided to allow this use as a special land use at this time. These amendments directly correlate with the proposed amendments in County Planning Case Z-08-22, also under County review at this time.

A summary of the proposed amendments is contained in this review. Proposed additions to existing text are noted in **red underline**, deletions in ~~strikethrough~~, and staff comments are noted in **bold, italic underline**.

ARTICLE 7. AR AGRICULTURAL RESIDENTIAL DISTRICT

Section 7.03 Special Uses

- A. The following uses of land and structures may be permitted upon the issuance of a special use permit in accordance with the procedures and standards contained in Article 13, Special Land Uses:

22. Special Event/Wedding Structures and Venues. (See Section 13.10).

Department Information

Administration Building
304 E. Grand River Avenue
Suite 206
Howell, MI 48843-2323

•
(517) 546-7555
Fax (517) 552-2347

•
Web Site
co.livingston.mi.us



Z-07-22 Conway Township
Amendments to Zoning Ordinance Article 7: AR Agricultural Residential District, Article 8: R Residential District, Article 10: C Commercial District, and Article 11: I Industrial District

ARTICLE 8. R RESIDENTIAL DISTRICT

Section 8.03 Special Uses

- A. The following uses of land and structures may be permitted upon the issuance of a special use permit in accordance with the procedures and standards contained in Article 13, Special Land Uses.

13. Special Event/Wedding Structures and Venues. (See Section 13.10).

ARTICLE 10. C COMMERCIAL DISTRICT

Section 10.03 Special Uses

- A. The following uses of land and structures may be permitted upon the issuance of a special use permit in accordance with the procedures and standards contained in Article 13 Special Land Uses:

11. Special Event/Wedding Structures and Venues. (See Section 13.10).

ARTICLE 11. I INDUSTRIAL DISTRICT

Section 11.03 Special Approval

- A. The following uses may be permitted subject to the conditions hereinafter imposed and subject further to the approval of the Planning Commission pursuant to the standards of Article 13 Special Land Uses.

10. Special Event/Wedding Structures and Venues. (See Section 13.10).

Township Recommendation: Approval. The Conway Township Planning Commission recommended Approval of this zoning amendment at its December 13, 2021. There were no public comments noted in the minutes.

Staff Recommendation: Approval. The proposed amendments appear to be reasonable and appropriate.



Livingston County Department of Planning

MEMORANDUM

TO: Livingston County Planning Commissioners and the
Conway Township Board of Trustees

FROM: Robert Stanford, Principal Planner

DATE: January 4, 2022

SUBJECT: Z-08-22 Amendments to Zoning Ordinance Article -
Article 13: *Special Land Uses*
Section 13.10(W): *Special Event/Wedding Structures and
Venues*

Kathleen J. Kline-Hudson
AICP, PEM
Director

Robert A. Stanford
AICP, PEM
Principal Planner

Scott Barb
PEM
Principal Planner

The Conway Township Planning Commission proposes to add a new section to Article 13: Special Land Uses of the Township Zoning Ordinance regarding Special Event/Wedding Structures and Venues.

According to the township's legal counsel, these amendments were issues that the PC had considered years ago and didn't move forward with at the time. It came back to the Planning Commission because the Zoning Administrator had been receiving calls asking if this use was permitted. The Township Planner provided some sample ordinance language and shared their experiences with this kind of use in other townships. The Planning Commission then decided to allow this use as a special land use at this time. These amendments directly correlate with the proposed amendments in County Planning Case Z-07-22, also under County review at this time.

A summary of the proposed amendments is contained in this review. Proposed additions to existing text are noted in **red underline**, deletions in ~~strikethrough~~, and staff comments are noted in ***bold, italic underline***.

ARTICLE 13. SPECIAL LAND USES

Section 13.10 Site Design Conditions

The special land use general review standards of Section 13.05 are the basis for all uses authorized by special land use approval. The following sections identify specific requirements which individual special land uses shall comply with, in addition to the general standards of the zoning district in which the special use is proposed, Section 13.05 and the site plan design requirements of Article 14.

Department Information

Administration Building
304 E. Grand River Avenue
Suite 206
Howell, MI 48843-2323

•
(517) 546-7555
Fax (517) 552-2347

•
Web Site
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W. Special Event/Wedding Structures and Venues.

1. Intent and Purpose.

This special land use is for the conversion of existing farm structures or construction of new structures of a farm, rustic or similar style, and the use of surrounding grounds for organized meeting and/or reception space as a gathering place for weddings, parties, and corporate events.

2. Site Requirements and Performance Standards.

All special event/wedding structures, venues, and surrounding grounds shall be subject to the following requirements and standards:

- a. All approved special land uses for special wedding structures, venues, and surrounding grounds are subject to an annual review by the Zoning Administrator for compliance purposes as stated in Section 13.06 (D.).

STAFF COMMENTS: The Township Ordinance regarding permit compliance (Section 13.06 (D.)), states the following:

D. Permit Compliance. In authorizing any special use permit, the Planning Commission may require a performance guarantee pursuant to Section 3.06 to insure compliance with the requirements, specifications and conditions imposed. All special use permits shall be subject to an annual review by the Zoning Administrator for compliance purposes. The Zoning Administrator shall report any non-compliance findings to the Planning Commission for further action.

-
- b. The minimum parcel size shall be twenty (20) acres.
 - c. A five hundred (500) foot open buffer shall be provided on all sides of the property not abutting a public roadway. Special event activities are not permitted within this buffer area. Where possible, agricultural crops shall remain or be grown in the buffer area, or suitable landscaping shall be installed, to maintain the rural/agricultural character of the site.
 - d. A landscape buffer meeting the requirements of Article 6 shall be installed along all property boundaries abutting a residentially zoned district or residential use. The Planning Commission may request additional landscaping to provide further screening/buffer from lights or noise.
 - e. Parcels shall have unobstructed frontage and provide direct ingress and egress to a solid surface public road.



- f. All ingress/egress shall be designed in such a manner to minimize traffic hazards associated with entering and exiting the public roadway and meet the requirements and standards of Article 16.
- g. Access drives on private easements are not permitted.
- h. Event parking area design shall meet the requirements and standards of Article 15.
- i. Parking is not permitted within the designated front yard, required buffer area, public private right of way, or within any other setback areas required by this Ordinance.
- j. Barrier-free parking spaces and pathway shall be a solid surface and meet ADA requirements.
- k. Lighting shall be the minimum necessary to provide for site safety and comply with ordinance standards. Lighting shall be directed away from all adjacent properties.
- l. Structures shall meet Fire Code standards and shall be inspected by the Fowlerville Area Fire Department and Livingston County Building Department prior to issuance of a Certificate of Occupancy.

STAFF COMMENTS: Staff would recommend that the Township also consult with law enforcement in order to make sure they are aware of this new type of land use within the township, as there are times when these types of uses, unfortunately, generate the need for law enforcement presence. In addition, the township should require written approval from the Fowlerville Area Fire Department and the Livingston County Building Department, correspondence of which remains as part of the permanent land use permit file with the Township Zoning Administration office prior to any final approval of a site plan and permit.

- m. Amplified music and dancing are permitted only within the event structure as part of the special use permit. Township noise ordinance shall be observed and complied with.

STAFF COMMENTS: Staff would recommend that the parcel owner and or the applicant/petitioner provide the Township with a professional noise level analysis of the lot/parcel in order for Township officials and the Planning Commission to better understand the negative effects generated by the proposed amplified noise generated from the site. Also, Staff would recommend that the township establish a set, general time allowed for music at these events, which takes into consideration the surrounding land use character (residential versus commercial) and retains good neighborly relations to the extent possible.

- n. No portable restroom facilities shall be permitted. A permanent restroom facility plan must be approved by the Livingston County Health Department.
- o. The sale and consumption of alcohol beverages on the premises are subject to all applicable local and state licensing requirements.



STAFF COMMENT: Here the question arises, who is the responsible party to secure the liquor permit, the owner of the property or the event applicant/petitioner? This permit should also be retained as part of the permanent land use permit file residing in the Zoning Administrator's office.

- p. Tents are permitted only for outdoor wedding ceremonies.
- q. Applicants for a special use permit under this subsection shall, in addition to any other special use and site plan application requirements, provide the following information at the time of application:
 - 1. Ownership of the property.
 - 2. A site plan for the entire parcel, including proposed ingress/egress, parking areas, and capacity and otherwise consistent with Article 14.
 - 3. Proposed hours/days of operation.

STAFF COMMENTS: Staff would highly recommend that the township pre-establish a set standard for hours of operation for this land use, especially due to the noise and traffic elements it typically generates. A good rule of thumb would be an operational time limit of 9 or 10 AM until 10 or 11 PM, with the site only operational during Daylight Savings Time (or Mid-March through early November), when leaves are still on the trees, in order to provide another level of noise suppression and to maximize the level of daylight available during that time period.

- 4. The size of the event facility and guest capacity, including a floor plan of the structure and other areas/structures to be utilized. Applicant must provide a copy of Certificate of Occupancy for any structures included in the event.
- 5. The anticipated number of events per year.

STAFF COMMENTS: Again, Staff would suggest that the township pre-establish a set number of events allowed by the site, either daily, weekly, monthly and yearly. Staff would also suggest that the owner of the site maintain a log of events that will serve as part of the basis for the annual permit review by the township.

- 6. The maximum number of attendees per event, which shall not exceed the capacity of all utilized structures.
- 7. Number of full- and part-time employees.
- 8. Provision of restroom facilities.
- 9. Location of refuse receptacles and method of disposal.
- 10. Proposed signage.



11. Use of music at the facility, including types of sound amplification.

STAFF COMMENTS: please refer to the comments regarding sound/amplified music provided above.

12. Identification of any temporary structures or tents to be used in association with events.

13. Evidence of insurance coverage.

14. Any other documentation required by the Zoning Administrator.

STAFF COMMENTS: Staff has consulted with well-respected Michigan Township's Association (MTA) planning and legal expert Catherine Kauffman regarding this topic in other planning capacities and situations in the past. Her advice is for the community to make sure it takes a good hard look at the level of desire the township has in allowing this type of land use and then start small in concept and build from there. She states that the Key is to start with a SMALL vision of what the intent of the event barn land use is, what the township envisions it is, and have a strict set of standards and requirements, which, if necessary, can be amended over time. Keep the Vision Small and Focused.

In addition, she states that another key is to remember that a violation of a Special Use permit is a violation of the entire Zoning Ordinance, and this can be enforced through preferably the municipal civil infraction process.

Other keys she feels are important:

- **Has the township identified the proper zoning districts? Why these districts?**
- **Has the township identified the proper minimum parcel size? Why this acreage?**
- **If possible, make it a requirement that the Event Structure be tied directly to the commercial-ag use/nature of the subject parcel. This is a VERY IMPORTANT consideration, in order to preserve the Goals and Objectives of the Master Plan – preservation of ag uses, open space, etc**
- **If possible, require that a certain percentage of the parcel be dedicated to commercial agricultural uses and remaining percentage MAY be utilized for Event Structure use.**
- **If possible require that the parcel include an owner-occupied residential dwelling. This is also a very IMPORTANT consideration, so that outsiders that do not want to live or associate with the rest of the community but only want to profit from the use are dissuaded from looking at this for purely financial gain. Purpose of the event structure use should be to aid in the continued preservation of farming and commercial-ag activities in the township by providing an outside "niche" commercial opportunity/activity to keep them financially viable.**



- **Other Important Issues to Consider:**
 - **Noise: Enforcement of the regulation is challenging, who enforces, how is it measured (Decibel reader). The Decimal reader must be calibrated. Allow or not allow amplified music. Require all doors to be closed during an event. Require a vestibule as part of the building envelope to diminish noise level/effects.**
 - **Traffic: How is it controlled – ingress and egress to and from parcel, who enforces, important to have Road Commission involved as well. Drinking and driving issue.**
 - **Frequency and Duration of “Events”: How is an “Event” defined. Can it be all day, half day, etc., What time of year (seasonal, etc.). Is a three-day event by same renter constitute one event or three events? 3-day weekends are important considerations. Five events per week is too many – we need to scale this number way back.**
 - **Setbacks: Ample enough to diminish effects of events on surrounding parcels.**
 - **Landscaping: How much, need for more than normal because of amplified music? Where located on site?**
 - **Lighting: How much, what type and how shielded (same as required for site plan and commercial special uses).**
 - **Parking: How much, allow for non-paved parking but how do you identify parking spaces, required handicap parking, signage, concrete wheel stops.**
 - **Sanitation: Require on-site permanent restrooms or simply allow port-a-johns and handwashing stations. How many required and where location on the site.**
 - **Handicap Accessibility: Must be accessible to all. Handicap parking. Signage.**
 - **Ingress and Egress within the building envelope: Must have exit signs, safe walking to and from parking area and event barn.**
 - **Fire suppression: Require sprinkled building due to commercial nature of use and number of occupants. Must consider everyone’s safety and Building Code requirements.**
- **Compare what is already allowed in the intended districts with what exact types of activities the township will allow as an event barn special use. How do they compare?**
- **Ask local building official: What type of building category does our ordinance describe? And what is required for C of O – requirements for compliance to Code.**



What about rehabbing a building previously used for strictly Ag purposes into an Event Barn.

- **It is necessary to have solid language regarding violation of the special use permit (Should be located in the Special Use Chapter so it covers all special uses). Use municipal civil infraction process, do not use criminal court process. Provide Notice of Violation, Time for Correction (within 30 days of notice), Require a Hearing for Permit Holder that is in violation.**
- **Need to require an Escrow Fee or Performance Guarantee: This is used to cover all reviews and required studies as part of the special Use and Site Plan review process.**
- **Require Sound Study? Do analysis of immediately surrounding uses to petitioner's lot and where they want to site the Event Barn (to try to answer questions regarding noise, traffic issues, etc.). Require \$1500-\$2000 bond in addition to the actual permit fee.**

Hopefully the township will find these suggestions beneficial to the process and will consider them prior to taking any final action on these amendments.

Township Recommendation: Approval. The Conway Township Planning Commission recommended Approval of this zoning amendment at its December 13, 2021. There were no public comments noted in the minutes.

Staff Recommendation: Approval. The proposed amendments appear to be reasonable and appropriate. Staff would encourage the township to take careful consideration of all the items of consideration as presented by staff prior to taking any final action on these amendments.



Livingston County Department of Planning

MEMORANDUM

TO: Livingston County Planning Commissioners and the
Conway Township Board of Trustees

FROM: Robert Stanford, Principal Planner

DATE: January 4, 2022

SUBJECT: Z-10-22 Amendments to Zoning Ordinance Article -
*Article 15: Off-Street Parking and Loading-Unloading
Standards
Section 15.04: Parking Space Requirements*

Kathleen J. Kline-Hudson
AICP, PEM
Director

Robert A. Stanford
AICP, PEM
Principal Planner

Scott Barb
PEM
Principal Planner

The Conway Township Planning Commission proposes updates to Article 15: *Off-Street Parking and Loading-Unloading Standards*, Section 15.04: *Parking Space Requirements* of the Township Zoning Ordinance regarding parking space requirements for the newly created Special Event/Wedding Structures and Venues land use.

A summary of the proposed amendments IS contained in this review. Proposed additions to existing text are noted in red underline, deletions in ~~strikethrough~~, and staff comments are noted in ***underline***.

Section 15.04 Parking Space Requirements

Off-street parking spaces shall be required in all districts based upon the following permitted and specially permitted uses:

Type of Use	Required Number of Spaces
Single Family Attached Dwellings	Three (3) spaces for each dwelling unit, plus one (1) space per five (5) units for guest parking
<u>Special Event/Wedding Structures and Venues</u>	<u>One (1) space per three (3) people, based on the occupancy load of the building</u>
Veterinary Hospital, Clinics, and Commercial Kennels	One (1) space for each three hundred (300) square feet of gross floor area, plus one (1) space per employee on the largest work shift

If a particular use is not specifically listed, the Planning Commission, in its discretion, may chose the closest similar use to the use not specifically listed and apply or deviate from the requirements to fit the new use.

Department Information

Administration Building
304 E. Grand River Avenue
Suite 206
Howell, MI 48843-2323

(517) 546-7555
Fax (517) 552-2347

Web Site
co.livingston.mi.us



Z-10-22: Conway Township

Article 15: Off-Street Parking and Loading-Unloading Standards, Section 15.04: Parking Space Requirements

Page 2

STAFF COMMENTS: This amendment corresponds with the newly proposed Event and Wedding Structures Special Land Use amendments being reviewed concurrently BY County Planning (See County Zoning Cases Z-07-22 and Z-08-22).

County Planning Staff would suggest the township consult with the Livingston County Building Department to ensure this proposed standard meets with current Building Code compliance. County Planning Staff would also suggest adding requirements for barrier free accessible spaces and loading and unloading spaces.

Township Recommendation: Approval. The Conway Township Planning Commission recommended Approval of this zoning amendment at its May 10, 2021. There were no public comments noted in the minutes.

Staff Recommendation: Approval. The proposed amendments appear to be reasonable and appropriate.



Livingston County Department of Planning

MEMORANDUM

TO: Livingston County Planning Commissioners and the
Conway Township Board of Trustees

FROM: Robert Stanford, Principal Planner

DATE: March 1, 2022

SUBJECT: Z-18-22 Amendments to Zoning Ordinance Article -

Article 6: *General and Supplemental Regulations*
Section 6.27: *Accessory Dwelling Units (ADUs)*

Kathleen J. Kline-Hudson
AICP, PEM
Director

Robert A. Stanford
AICP, PEM
Principal Planner

Scott Barb
PEM
Principal Planner

The Conway Township Planning Commission proposes a completely new set of regulations for the Township Zoning Ordinance, as Section 6.27, to allow detached accessory dwelling units in the AR and R districts.

Proposed additions to existing text are noted in **red underline**, deletions in ~~strike through~~, and staff comments are noted in **bold, italic underline**.

Section 6.27 Accessory Dwelling Unit

A. Purpose and Intent. It is the intent of this section to permit detached Accessory Dwelling Units (ADUs) upon single family properties with an existing primary dwelling in the AR and R Districts to allow homeowners to have a supplemental source of income with a long-term tenant as well as other nontangible benefits to older residents such as companionship or a live-in caretaker. It is recognized that ADUs provide an opportunity for affordable housing for young and old households as well as a way for family members to reside nearby with independence. It is further recognized that appropriate limitations are necessary to ensure compatible and harmonious use in Conway Township. Where contradictions with Article 2, definition(s) of dwelling, exist, the provisions hereunder shall apply, however the Michigan Residential Building Code shall remain applicable.

B. Regulations.

1. The principal dwelling or the ADU must be declared the main residence of the owner of record.
2. An ADU may only be established on a lot with a single-family dwelling on it in a building that is separate and detached from the principal dwelling.

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3. The ADU shall not be greater than forty (40) percent of the gross floor area of the principal dwelling structure or 1,000 square feet; whichever is less.
4. The number of off-street parking spaces for the ADU shall be not less than one (1) and shall not block the required parking for the primary dwelling.
5. If garage floor area is converted for an ADU, replacement off-street parking shall be provided for the primary dwelling.
6. No more than two (2) bedrooms may be provided in the ADU.
7. The occupancy of the ADU shall not be more than two (2) persons.
8. ADUs and the principal dwelling must be connected to sewer if available. If public water and sewer are not available, the use of private water and septic systems for the ADU shall be subject to the approval of the Livingston County Health Department. The ADU shall comply with all applicable housing, building, fire, and health code requirements.
9. The primary dwelling and the ADU shall share the same vehicular access to the property.
10. All zoning district bulk and setback requirements shall apply to the site.
11. Mobile homes, shipping containers and trailers on wheels shall not be considered or used as an ADU for purposes of the section.

C. Approval Procedure.

1. ADUs shall require a land use permit from the Zoning Administrator.
2. The applicant shall submit a plan with the following information for review to the Zoning Administrator.
 - a. The location of the proposed ADU, lot identification (address and property number), size of lot, dimension of lot lines, existing improvements on the lot, water, sewer, and septic connections, location of structures on adjacent lots, abutting streets, driveways, and parking areas.
 - b. Any additional information required by the Ordinance or the Zoning Administrator.
3. The Planning Commission may waive one or more of the regulations of this Section upon consideration of the following factors:



- a. The topography and/or wooded nature of the subject property and how it reduces the visibility of or screens from view the detached ADU.
- b. A unique design is proposed preventing or reducing the ability to comply with specific standards and regulations provided in Section 6.27.
- c. Existing principal and accessory buildings on the subject property, or nearby properties, would support a waiver.

STAFF COMMENT:

Excerpt from American Planning Association PAS (Planning Advisory Service) Quicknotes 19 pertaining to ADUs:

The benefits to the home owner and the ADU occupant are many. For the home owner, ADUs provide the opportunity to offer an affordable and independent housing option to the owner's grown son or daughter just starting out or to an elderly parent or two who might need a helping hand nearby. The unit could also be leased to unrelated individuals or newly established families, which would provide the dual benefit of providing affordable housing to the ADU occupant and supplemental rental income to the owner. Supplemental income could offset the high cost of a home mortgage, utilities, and real estate taxes. Finally, leasing an ADU to a young person or family can provide an elderly home owner with a sense of security and an opportunity to exchange needed work around the house and yard for a discount on rent.

ADUs are a particularly desirable option for many communities today considering the current economic climate, changes in household size, increasing numbers of aging baby boomers, and the shortage of affordable housing choices. They provide a low-impact way for a community to expand its range of housing choices.

Link to document:

<https://planning-org-uploaded-media.s3.amazonaws.com/document/PASQuickNotes19.pdf>

A couple of outstanding issues brought out from this document that the township may want to consider before final approval of the proposed regulations:

1. **Form of Ownership. Should the township's ordinance prohibit converting the ADU unit into a condominium?**
2. **Preexisting, nonconforming ADUs. How should the ordinance treat grandfathered ADUs? How do you treat illegal apartments that want to apply for an ADU permit?**



Additional helpful information is available through the American Planning Association (APA) regarding the regulation of ADUs if township officials would like to research the topic further. According to the APA:

In 2001 AARP retained APA's Research Department to write a guidance report for citizens interested in convincing local and state officials of the benefits of allowing ADUs and showing them how to do it. Entitled "Accessory Dwelling Units: Model State Act and Model Local Ordinance", the monograph provides alternative statute and ordinance language useful to implementing all forms of ADUs.

"The Model Local Ordinance" suggests recommendations for communities. Additionally, the intent of the ordinance describes the permitting process for eligibility and approval, and further outlines standards for ADU approval pertaining to lot size, occupancy, building standards, parking and traffic, public health, and how to deal with nonconforming ADUs. "The Model State Act" provides findings and policies encouraging the approval of ADUs and names local governments as the entities entitled to authorize Planning fundamentals for public officials and engaged citizens.

Link to document: <https://www.planning.org/knowledgebase/resource/9123024/>

Finally, for consistency and continuity purposes, County Planning Staff would recommend that new listings also be added to Sections 7.03(A) and 8.03(A) to list ADUs as allowed as special uses in the AR and R Districts, and include reference to this section, such as:

EXAMPLES:

Section 7.03 Special Uses

21. Commercial Solar Energy System (See Section 6.26).

22. Accessory Dwelling Units (see Section 6.27).

Section 8.03 Special Uses

12. Ground-Mounted Solar Energy Collector (See Section 6.26).

22. Accessory Dwelling Units (see Section 6.27).

Township Recommendation: Approval. The Conway Township Planning Commission recommended Approval of this zoning amendment at its February 14, 2022. There were no public comments noted in the minutes.

Staff Recommendation: Approval. The proposed amendments appear to be reasonable and appropriate. The township has done the right thing by proactively amending the zoning ordinance to allow for ADUs.



Livingston County Department of Planning

July 20, 2023

Conway Township Board of Trustees
c/o Elizabeth Whitt, Clerk
8015 N. Fowlerville Road
P.O. Box 1157
Fowlerville Michigan 48836

Scott Barb
AICP, PEM
Director

Robert A. Stanford
AICP
Principal Planner

Martha Haglund
Principal Planner

Re: Livingston County Planning Commission Review of Zoning Ordinance Amendments:

Z-24-23: Text Amendment, Amendments to Zoning Ordinance Articles-Variou Articles: Solar Energy System Overlay District

Dear Board Members:

The Livingston County Planning Commission met on Wednesday, July 19, 2023, and reviewed the proposed Zoning Ordinance amendments referenced above. The Livingston County Planning Commissioners made the following recommendations:

Z-24-23: Take No Action, Encourage Further Review.

There are a few key elements as highlighted in the review that have remaining questions and clarifications which should be addressed before any final approval is given by the township. In addition, it is recommended that the township carefully consider all Staff comments noted throughout the review before proceeding with any final approval of the proposed amendments by the township as well.

Copies of the staff review and draft Livingston County Planning Commission meeting minutes are enclosed. Do not hesitate to contact our office should you have any questions regarding this county action.

Sincerely

Robert Stanford
Principal Planner

Enclosures

c: Meghan Swain-Kuch: Chair, Conway Township Planning Commission
Gary Klein, Zoning Administrator

Meeting minutes and agendas are available:
<https://www.livgov.com/plan/econdev/Pages/meetings.aspx>

Department Information

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Web Site
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ZONING/MASTER PLAN AMENDMENT FORM

Livingston County Planning Commission, 304 East Grand River, Suite 206, Howell, MI 48843-2323

2-24-23

LOCAL CASE NUMBER

COUNTY CASE NUMBER

The Conway Township

Planning Commission is submitting the following amendment for review and comment.

REZONING (MAP AMENDMENT) Property description and location (attach a map of the proposed amendment as required by law).

Size: _____

Location: _____

Existing Zoning District is: _____

Proposed Zoning District: _____

Name of Petitioner: _____

Name of Property Owner: _____

Purpose of Change: _____

Existing Land Use: _____

ZONING ORDINANCE TEXT AMENDMENT The following Article(s) and Section(s) to be amended:

Article Number(s): New 19 & 2 Article Name(s): Solar Energy Systems Overlay District; add definitions

Section Number(s): 6.01, 6.26 Section Name(s): Amend 6.01, repeal & replace Sec 6.26 re: solar energy systems

Please attach a copy of the proposed zoning ordinance changes.

PUBLIC NOTICE AND PUBLICATION SCHEDULE

Legal notice of the public hearing was published on May 21, 2023

In the Fowlerville News and Views

(not less than 15 days before the public hearing per Michigan Zoning Enabling Act, Act 110 of 2006, MCL 125.3103)

Newspaper, which has general circulation in the jurisdiction. The Conway Township Planning Commission held a public hearing on June 12, 2023

MINUTES OF PUBLIC HEARING (Please check "a" or "b" below)

a. The meeting minutes are attached.
 b. The minutes of the meeting will be sent later. The case information has been sent so that the Livingston County Planning Department staff can be working on the case while the minutes are being prepared. The facts brought out at the hearing are: (use additional sheets as necessary)

MASTER PLAN

Adoption of new or revised plan Amendment (Section/Chapter)

Note: For all master plan cases, the municipality must submit a statement signed by the Planning Commission Secretary stating that all of the necessary legislative bodies have been sent notice of the public hearing and copies of the proposed language/map, along with the name and address of each, and date of submittal.

PUBLIC NOTICE AND PUBLICATION SCHEDULE

Legal notice of the public hearing was published on _____

(not less than 15 days before the public hearing per Michigan Planning Enabling Act, Act 33 of 2008, MCL 125.3843)

In the _____ Newspaper, which has general circulation in the jurisdiction.

The Conway Township

Planning Commission held a public hearing on _____ to hear the

MINUTES OF PUBLIC HEARING (Please check "a" or "b" below)

a. The meeting minutes are attached.
 b. The minutes of the meeting will be sent later. The case information has been sent so that the Livingston County Planning Department staff can be working on the case while the minutes are being prepared. The facts brought out at the hearing are: (use additional sheets as necessary)

LOCAL JURISDICTION PLANNING COMMISSION ACTION

The recommendation of the Conway Township Planning Commission, at its meeting of June 12, 2023 was: _____

Approval Disapproval Approval under the following conditions: (use additional sheets as necessary)

Date Received _____ The Commission on the above meeting date took the following action: _____

LIVINGSTON COUNTY PLANNING COMMISSION ACTION

Date of Meeting _____ The Conway Township Board at a legally constituted meeting held on the above date PASSED PASSED WITH AMENDED LANGUAGE DID NOT PASS NO ACTION-ENCOURAGE FURTHER REVIEW the recommended change contained herein.
 Approval Approval with conditions stated in attachment Disapproval No action encourage further review

LOCAL JURISDICTION BOARD ACTION

Date of Meeting _____ The Conway Township Board at a legally constituted meeting held on the above date PASSED PASSED WITH AMENDED LANGUAGE DID NOT PASS NO ACTION-ENCOURAGE FURTHER REVIEW the recommended change contained herein.

Please sign and return one completed copy of this form to the Livingston County Planning Department.

(Clerk)

Livingston County Department of Planning

LIVINGSTON COUNTY PLANNING COMMISSION MEETING

Wednesday, July 19, 2023 – 6:30 p.m.

Administration Building, Board of Commissioners Chambers
304 East Grand River, Howell, MI 48843

Please note that this is a hybrid meeting with County Planning Commissioners and staff meeting in-person. Audience participants are welcome to attend in-person or via Zoom by using the meeting link at the bottom of the agenda.

Agenda

1. Call to Order
2. Pledge of Allegiance to the Flag
3. Roll and Introduction of Guests
4. Approval of Agenda – July 19, 2023
5. Approval of Meeting Minutes – June 21, 2023
6. Call to the Public
7. Zoning Reviews
- A. Z-24-23: Conway Township Text Amendment – Article 19 Solar Energy Systems Overlay District
- B. Z-25-23: Handy Township Conditional Rezoning, Section 16 – Agricultural Residential to Neighborhood Service Commercial
8. Old Business
9. New Business
- A. LCPC Visits to Local Planning Commissions: Reports:
10. Reports:
11. Call to the Public
12. Adjournment

Via Zoom (on-line meetings): <https://zoom.us/j/3997000062?pwd=SUDLVFFcmozWnFxbm0vchRlWkVlZz09>
Via the Zoom app
Join a meeting, with meeting number: 399 700 0062
Enter the password: LCBOC (ensure there are no spaces before or after the password)
Meeting ID: 399 700 0062
Password: 886752
Meeting recordings may be made using a personal computer or laptop, after requesting ability



Scott Barb
AICP, PEM
Director

Robert A. Stanford
AICP
Principal Planner

Martha Haglund
Principal Planner

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04 E. Grand River Avenue
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DRAFT

**LIVINGSTON COUNTY PLANNING
COMMISSION MEETING MINUTES**

July 19, 2023

6:30 p.m.

Hybrid In-Person and Virtual Zoom Meeting

**Zoom Virtual Meeting Room Meeting ID: 399-700-0062 / Password: LCBOC
<https://zoom.us/j/3997000062?pwd=SUdLYVFFcmozWnFxbm0vcHRjWkVlZz09>**

PLANNING COMMISSION	
COMMISSIONERS PRESENT:	BILL ANDERSON MATT IKLE DENNIS BOWDOIN MARGARET BURKHOLDER
COMMISSIONERS ABSENT:	JASON SCHROCK
STAFF PRESENT:	SCOTT BARB ROB STANFORD MARTHA HAGLUND
OTHERS PRESENT:	BRUCE POWELSON, SARA PORTER, JOE RAICA, JENNIFER RAICA, STEVE SMITH, KEN CARMACK, STEVE WEISS, CLINT BEACH ZOOM ONLINE: VICTORIA, KR, RP, SHAWN

1. **CALL TO ORDER:** Meeting was called to order by Planning Commissioner Anderson at 6:30 PM.

2. **PLEDGE OF ALLEGIANCE TO THE FLAG**

3. **ROLL AND INTRODUCTION OF GUESTS:** None.

4. **APPROVAL OF AGENDA**

Commissioner Action: IT WAS MOVED BY COMMISSIONER IKLE TO APPROVE THE AGENDA, DATED JULY 19, 2023, SECONDED BY COMMISSIONER CALL. All in favor, motion passed 6-0.

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

Commissioner Action: IT WAS MOVED BY COMMISSIONER FUNK TO APPROVE THE MINUTES, DATED JUNE 21, 2023, SECONDED BY COMMISSIONER BOWDOIN. All in favor, motion passed 6-0.

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

7. ZONING REVIEWS:

A. Z-24-23: CONWAY TOWNSHIP, AMENDMENTS TO ZONING ORDINANCE ARTICLES
VARIOUS ARTICLES: SOLAR ENERGY SYSTEM OVERLAY DISTRICT.

The Conway Township Planning Commission proposes to amend various articles in the Township Zoning Ordinance to regulate Solar Energy Systems. Principal Planner Stanford reviewed his report with key findings throughout the text including but not limited to:

- Overlay District of 136 acres: Location, proximity to transmission lines, owner notification
- Written description of the fire suppression system that will be installed as well as any specialized equipment necessary for emergency response.
- Submit Safety measures and user manual information to Emergency Management Director as well as the County Environmental Health Department Director for compliance, permanent filing, and reference.
- Be specific describing the qualifications for 'qualified individuals' completing all Impact Assessments.
- Develop a Special Land Use Documentation for Permit Transfer to run with the land.

Township Recommendation: Approval. The Conway Township Planning Commission recommended Approval of this set of zoning amendments at its June 12, 2023 meeting. There were public comments both for and against different aspects of the proposed ordinance language noted in the minutes.

Staff Recommendation: Approval with Conditions. The proposed amendments appear to be reasonable and appropriate. There are a few key elements as highlighted in the review that have remaining questions and clarifications which should be addressed before any final approval is given by the township. In addition, Staff would highly recommend that the township carefully consider all Staff comments noted throughout the review before proceeding with any final approval of the proposed amendments by the township as well.

Commission Discussion: Commissioner Call inquired about building permits by county or zoning administrator and how will the Township confirm abandonment. Commissioner Call also inquired about who will pay for the training for the emergency responders and if Township permits are required for solar developments. Commissioner Bowdoin stated that the Township Planning Commission and citizens have been supportive to create a cohesive ordinance for the community. Commissioner Bowdoin believes that the builder should be responsible for the emergency training of personnel. Commissioner Bowdoin asked if the proposed ordinance is too exclusionary with regards to the size of the proposed overlay district. Commissioner Ikle stated that the Township should be asking for an additional endorsement for the development and who asked for \$25 million for insurance. Commissioner Ikle also asked about the security bond and how it would not come with a new entity. The Township should also have the ability to deny an owner based on track record and other background information per attorney review. There are also no definitions on financial security and should be included in the ordinance. Commissioner Funk believes there is still lots of items that need to be reviewed. Commissioner Funk also stated concerns over roads and impacts upon infrastructure due to solar developments. There also needs to be some detail regarding conceptual plans and what is the minimum requirements. Commissioner Ikle suggested townships use a planner for development of ordinances.

Public Comment: Steve Smith, Conway Township, asked about inverters and the setback requirements. Brian Williams, Conway Township, suggested that solar developers are not truthful regarding their reasons for developments in certain areas. Sara Porter, Conway Township, wants additional studies for proposed developments and wants it included in the ordinance. Mike Brown, Conway Township, explained that the \$25 million requested by Township includes abandonment and decommissioning costs; would like comments included in county review to the township. Steve Weiss, Conway Township, stated that the township planner and attorney led them down the wrong path regarding their development of the solar ordinances.

Commission Action:

Commissioner Action: IT WAS MOVED BY COMMISSIONER BOWDOIN TO RECOMMEND NO ACTION, ENCOURAGE FURTHER REVIEW SECONDED BY COMMISSIONER FUNK.
Motion passed: 5-1 (Ikle-Nay)

B. Z-25-23: HANDY TOWNSHIP: CONDITIONAL REZONING, AGRICULTURAL RESIDENTIAL (AR) TO NEIGHBORHOOD SERVICE COMMERCIAL (NSC), IN SECTION 16.

**Current Zoning: Agricultural Residential (AR)
Proposed Zoning: Neighborhood Service Commercial (NSC)**

Section: 16

Township Master Plan: The Handy Township Future Land Use Map (2018) designates the subject parcel as Industrial. The Township Master Plan states the following regarding the Industrial future land use classification:

The industrial land use category includes both Prime (I-1) and General (I-2) industrial activities. The zoning district is intended to accommodate primarily light industrial activities that pose minimal environmental impacts upon surrounding areas and uses. It is intended to implement the industrial land use category.

The applicant is requesting a conditional rezoning to NSC which is a category intended for local shopping, convenience, and personal/professional services, and are intended to meet the day to day needs of residents. It should be noted that mini-warehouses and self-storage units may be permitted in the industrial or neighborhood service commercial districts subject to any standards outlined in the Township Ordinance, but open-air businesses are only allowed in the NSC District. The conditional rezoning incorporates an open-air NSC zoning meets the applicant's needs, we believe deviating from the Future Land Use Map invites unnecessary conflicts for the Township. The Township Master plan specifically has an NSC overlay along Grand River Avenue for the purpose of expanding permitted and special uses in this category within the Township.

Township Planning Commission Recommendation: Approval. The proposed conditional rezoning was approved at the June 23, 2023, township public hearing. Minor comments from the public included concerns over potential traffic, wetlands, and noise.

Staff Recommendation: Approval. We are recommending approval of the proposed conditional rezoning from AR (Agricultural Residential) to NSC (Neighborhood Service Commercial). Staff would note that while the proposed rezoning offers a buffer between industrial and residential uses, the conditional rezoning does deviate from the Handy Township Master Plan and Future Land Use Map.

Commission Discussion: Commissioner Call noted that the rezoning deviating from the Township Master Plan and had a question about spot zoning. Bowdoin thought the applicant should work to get it approved under the planned Industrial zoning district. Commissioner Funk concurred with Commissioners Call and Bowdoin.

Public Comment: Melissa Selgado, Handy Township, reiterated the property is zoned agricultural and should remain and is opposed to the rezoning. The applicant, Jennifer Raica, Handy Township, spoke about her application for conditional rezoning and briefed the planning commission on the development.

C. Commission Action:

Commissioner Action: IT WAS MOVED BY COMMISSIONER BURKHOLDER TO RECOMMEND APPROVAL, NO SECOND. MOTION FAILS. COMMISSIONER IKLE MOVED TO RECOMMEND DISAPPROVAL, SECONDED BY BOWDOIN.

Motion passed: 4-2 (Call, Burkholder – Nay)

8. OLD BUSINESS: None.

9. NEW BUSINESS:

a. LCPC Visits to Local Planning Commissions: Martha Haglund briefed the planning commission on the Genoa Township Planning Commission meeting.

10. REPORTS: None.

11. CALL TO THE PUBLIC: Mike Brown, Conway Township, spoke again regarding solar developments.

12. ADJOURNMENT:

Commissioner Action: IT WAS MOVED BY COMMISSIONER CALL TO ADJOURN THE MEETING AT 8:12 P.M., SECONDED BY COMMISSIONER IKLE.

Motion passed: 6-0



Scott Barb
AICP, PEM
Director

Robert A. Stanford
AICP
Principal Planner

Martha Haglund
Principal Planner

Department Information

Administration Building
304 E. Grand River Avenue
Suite 206
Howell, MI 48843-2323

(517) 546-7555
Fax (517) 552-2347

Web Site
millivcounty.gov/planning/

MEMORANDUM

TO: Livingston County Planning Commissioners and the
Conway Township Board of Trustees
Robert Stanford, Principal Planner
June 28, 2023
DATE:
SUBJECT: Z-24-23 Amendments to Zoning Ordinance Articles -
Various Articles: Solar Energy System Overlay District

The Conway Township Planning Commission proposes to amend various articles in the Township Zoning Ordinance in order to regulate Solar Energy Systems. The elements of the amendments which are newly proposed are noted in **this manner**. Current zoning ordinance text not being revised is noted in *this manner*. Staff comments are noted in **this manner**. For this review, Staff evaluated and assessed the level of satisfactory and appropriate completeness and comprehensiveness of this proposed set of ordinance amendments based on the utilization and combination of the following sources:

1. Best-practice elements for large-scale/utility-scale solar energy systems as provided in the guidebook developed by Michigan State University Extension and the University of Michigan Graham Sustainability Institute entitled: "Planning & Zoning for Solar Energy Systems: A guide for Michigan Local Governments" (specifically pp. 31-39).
2. Best-practice elements garnered by Staff via County Planning review reports, and subsequent reviews and recommendations provided by the Livingston County Planning Commission, from recent, previously proposed, solar energy system ordinances sent in for these purposes from other local Livingston County communities.

ITEM 1. ADOPTION OF NEW ARTICLE 19, SOLAR ENERGY SYSTEM OVERLAY DISTRICT
The Township proposes to add an entirely new Article 19 entitled "Solar Energy System Overlay District," to the Township Zoning Ordinance. The new Article 19 reads as follows:

A. Purpose. The Solar Energy System Overlay District (the "District") is intended to provide suitable locations for utility-scale solar energy systems that are otherwise authorized under state law and the Township's Code of Ordinances and Zoning Ordinance to meet a reasonable demonstrated need for this land use in the Township. It is the intent of the Township to permit these systems to the extent a demonstrated need exists for the land use by regulating the siting, design, construction, operation, monitoring, modification, and

Section 19.01 Purpose and Findings



removal of such systems to protect the public health, safety, and welfare, and to ensure compatibility of land uses in the vicinity of solar energy systems. The Township seeks to preserve its rural character and agricultural heritage. To these ends, the lands included in this District are within reasonable proximity to existing electric power transmission infrastructure.

B. Findings. In establishing this overlay district, the Township of Conway finds as follows:

1. It is necessary and reasonable to permit utility-scale solar energy systems in the Township to the extent that there is a demonstrated need for that land use.
2. Land use for utility-scale solar energy systems beyond a reasonable and legitimate demonstrated need to provide for the Township's energy needs would have needless adverse effects on surrounding businesses and residences, and be detrimental to the health, safety, welfare, and prosperity of the Township and its residents.
3. The Township wishes to preserve its existing topography and rural character, maintain property values, and protect and preserve the quality and pace of rural life of its residents while preserving the environment and protecting wildlife.
4. Solar Energy Systems can adversely impact the health, safety, welfare, and prosperity of that community, including existing property values, especially when in proximity to farms, forests, and residential properties.
5. Solar Energy Systems shall be carefully managed to reduce the adverse long-term effects such land use can have on the productivity of farmland. See University of Michigan Graham Sustainability Institute & Michigan State University Extension, "Planning & Zoning for Solar Energy Systems."
6. Several Michigan communities have suffered, or are suffering, from fiscal uncertainty due to litigation and rule changes concerning taxation arising from rural renewable energy production.
7. Conway Township contributes significant storm water runoff into adjacent municipalities because of relative elevations, and therefore the Township values low-impact development to better manage its stormwater runoff.
8. Impervious surfaces such as solar panels channel stormwater runoff, and support posts and trenching are likely to damage drain tiles. Thus, Utility Scale Solar Energy Systems must be carefully sited, designed, and limited in scope.
9. The Township adopts these land use regulations to balance any demonstrated need for utility-scale solar energy systems in the Township with the public, health, and safety impacts identified above.

Section 19.02 Delineation of the Solar Energy System Overlay District

A. The Solar Energy System Overlay District overlays existing zoning districts delineated on the official Conway Township Zoning Map. The boundaries of the Solar Energy System Overlay District are depicted on Map A, incorporated herein by reference, and are generally described as follows:

An area of land consisting of approximately 136 acres, comprised of the following:

1. That portion of Parcel No. 01-12-100-003 located south of the Conway Cohoctah Union Drain as depicted on Map A;
2. That portion of Parcel No. 01-11-200-002 located south and east of the Conway Cohoctah Union Drain; and
3. A northerly portion of Parcel No. 01-11-400-02, as depicted on Map A, the southern boundary of which is located 1,750 feet north of the Section 11/Section 14 line.



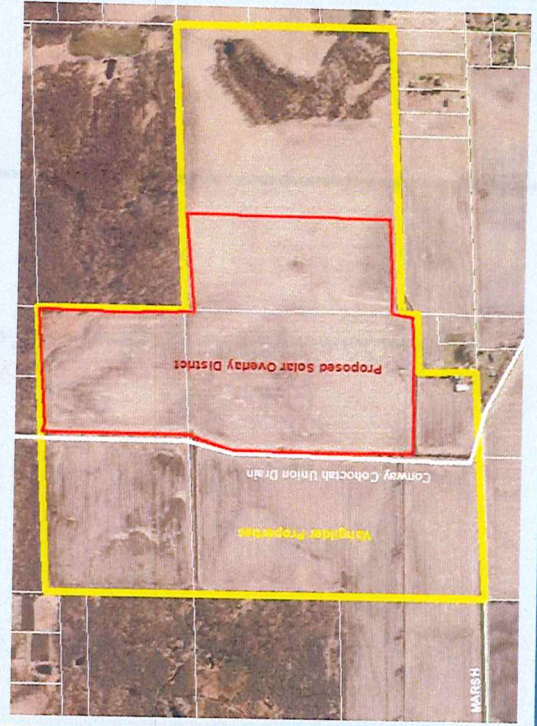
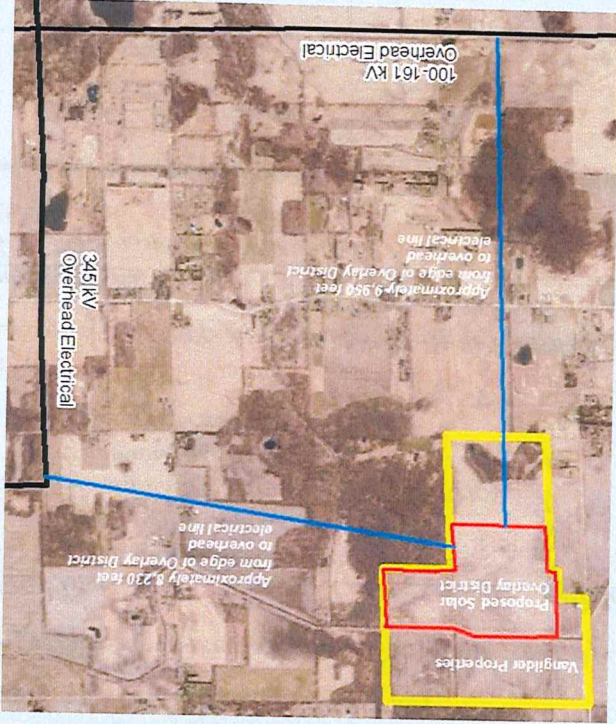
STAFF COMMENTS: For the sake of consistency, Item 19.02(A)(1) above should include an “; and” after the sentence and additionally, Item 19.02(A)(2) should include the phrase: “as depicted on Map A”. Also, have the Vangilder’s been notified by the township of this proposed solar overlay district boundary associated with their properties?

MAP A: OVERLAY DISTRICT BOUNDARIES



STAFF COMMENT:
Parcel Information
 Parcel 01-11-200-002 = Overall Size: 154.54 Acres
 Owner: Vangilder Properties LLC
 Parcel 01-11-400-002 = Overall Size: 120.62 Acres
 Owner: Vangilder Properties LLC
 Parcel 01-12-100-003 = Overall Size 82.05 Acres
 Owner: Vangilder Properties LLC
 Total Acreage: 357.21 Acres
 Source: Livingston County GIS Department

As shown in the maps below, the proposed solar overlay district is located approximately 9,950 feet (1.88 miles) from the 100-161 kV electric line that bisects the township in an east-west direction, and approximately 8,230 feet (1.55 miles) from the 345kV electric line that bisects the township in a north-south direction. This line would most likely be the anticipated tap in location for the solar site.





Section 19.03. Permitted Uses.

There are no uses permitted by right in the Solar Energy System Overlay District, other than uses permitted by right in the underlying zoning districts.

Section 19.04. Special Land Uses.

The following uses are permitted following approval by the Planning Commission as a Special Land Use in the Solar Energy System Overlay District as regulated by Article 13 (special land uses) and Article 14 (site plan review).

Utility-Scale Solar Energy Systems

STAFF COMMENT: As proposed, the township has identified only a three-acre, 136-acre overlay district for future large/utility scale solar energy system/facility development within the township. As such, does this mean that no other proposed solar energy system facility will be considered unless it is located solely within this district? If so and to clarify, does that also mean that, for example, a township resident with a large-acre parcel, also in close proximity to the existing overhead electrical line, would not legally be allowed to pursue a large/utility scale solar energy facility development on their property as well? Are there plans for any additional areas that could be identified in the future as potential large/utility scale solar energy overlay districts?

ITEM 2. AMENDMENT OF SECTION 6.01 OF THE ZONING ORDINANCE
 Section 6.01 of the Zoning Ordinance, entitled "Establishment of Districts," is amended to read as follows:

Section 6.01 Establishment of Districts

For the purpose of the ordinance, Conway Township is hereby divided into the following zoning districts:

Zoning District		Article
AR	Agricultural Residential District	7
R	Residential District	8
MHP	Manufactured Housing Park District	9
C	Commercial District	10
I	Industrial District	11

For purposes of innovative and flexible development, Conway Township has established the following overlay districts: applicable to the AR Agricultural Residential District and the R Residential District:

Overlay District		Article
OS	Open Space Community	12
SES	Solar Energy System	19



ITEM 3. ADDITION OF DEFINITIONS TO ARTICLE 2 OF THE TOWNSHIP ZONING ORDINANCE

The following definitions are added to Article 2 of the Township Zoning Ordinance, consistent with the existing ordering of definitions in that section:

- A. Building Integrated Photovoltaics (BIPVs): A small, private Solar Energy System that is integrated into the structure of a building, such as solar roof tiles and solar shingles.
- B. Ground Mounted Solar Energy System: A Private or Utility-Scale Solar Energy System that is not attached to or mounted to any roof or exterior wall of any principal or accessory building.
- C. Maximum Tilt: The maximum angle of a solar array (i.e., most vertical position) for capturing solar radiation as compared to the horizon line.
- D. Minimum Tilt: The minimal angle of a solar array (i.e., most horizontal position) for capturing solar radiation as compared to the horizon line.
- E. Private Solar Energy System: A Solar Energy System used exclusively for private purposes and not used for any commercial resale of any energy, except for the sale of surplus electrical energy back to the electrical grid.
- F. Roof or Building Mounted Solar Energy System: A Private Solar Energy System attached to or mounted on any roof or exterior wall of any principal or accessory building, but excluding BIPVs.
- G. Solar Energy System: Any part of a system that collects or stores solar radiation or energy for the purpose of transforming it into any other form of usable energy, including the collection and transfer of heat created by solar energy to any other medium by any means.
- H. Utility-Scale Solar Energy System: A Solar Energy System in which the principal design, purpose, or use is to provide energy to off-site uses or the wholesale or retail sale of generated electricity to any person or entity.
- I. Non-Participating Property: A property that is not subject to a Utility Scale Solar Energy System lease or easement agreement at the time an application is submitted for a Special Land Use for the purposes of constructing a Utility Scale Solar Energy System.
- J. Participating Property: A property that participates in a lease or easement agreement, or other contractual agreement, with or that is owned by an entity submitting a Special Land Use Permit application for the purpose of developing a Utility Scale Solar Energy System.
- K. Owner/Operator: A person or entity that owns or operates a Utility Scale Solar Energy System. "Owner/operator," even when used in the singular, may refer to more than one person or entity if there are multiple owners or operators, or the Utility Scale Solar Energy System is owned and operated by different entities. "Owner/operator" includes any successor to the original owner/operator. "Owner/operator" may or may not be the same as the applicant.



ITEM 4. Repeal of Existing Section 6.26; Addition of New Section 6.26, entitled "Solar Energy Systems"
The current Section 6.26, entitled "Solar Energy Collectors," is repealed in its entirety. New Section 6.26, entitled "Solar Energy Systems," is added to the Township's Zoning Ordinance and reads as follows:

Section 6.26. Solar Energy Systems.

A. General Provisions. All Solar Energy Systems are subject to the following requirements:

1. All Solar Energy Systems shall conform to the provisions of this Ordinance and all county, state, and federal regulations and safety requirements, including applicable building codes and applicable industry standards, including those of the American National Standards Institute (ANSI), Underwriter Laboratory (UL), National Electrical Code (NEC), National Fire Protection Association (NFPA), and the most current Michigan Uniform Building Code adopted by the enforcing agencies.
2. If an applicant, operator, or landowner of a Solar Energy System fails to comply with this Ordinance, the Township, in addition to any other remedy under this Ordinance, may revoke any approvals after giving the applicant notice and an opportunity to be heard. Additionally, the Township may pursue any legal or equitable action to abate a violation and recover any and all costs, including the Township's actual attorney fees and costs.

STAFF COMMENTS: This is an excellent manner in which to begin this ordinance. This is probably the most important aspect to consider of this entire land use issue, so highlighting this requirement right from the start eliminates any questionable processes or practices by any party related in the matter going forward.

B. Private Solar Energy Systems.

1. Administrative Review. Except as provided in subsection (d) below, all Private Solar Energy Systems require administrative approval as follows:
 - a. Application to Zoning Administrator. An applicant who seeks to install a Private Solar Energy System shall submit an application to the Zoning Administrator on a form approved by the Township Board.
 - b. Application Requirements. The application shall include:
 1. A site plan depicting setbacks, panel size, and the location of property lines, buildings, fences, greenbelts, and road right of ways. The site plan shall be drawn to scale.
 2. Photographs of the property's existing condition.
 3. Renderings or catalogue cuts of the proposed solar energy equipment.
 4. A certificate of compliance demonstrating that the system has been tested and approved by Underwriters Laboratories (UL) or other approved independent testing agency acceptable to Township.
 5. A copy of the manufacturer's installation directions.



- c. Zoning Administrator Authority. The Zoning Administrator is authorized to approve, approve with conditions, or deny applications for Private Solar Energy Systems. An aggrieved party may appeal the Zoning Administrator's decision to the Zoning Board of Appeals pursuant to Section 5.04(A) of the Zoning Ordinance.
 - d. Exclusions from Administrative Review. Administrative review is not required for (i) a single solar panel with a total area of less than eight square feet; and (ii) repair and replacement of existing solar energy equipment if there is no expansion of the size or area of the solar energy equipment.
2. Private Solar Energy System BIVPs. Private Solar Energy System BIVPs are permitted as accessory uses in all zoning districts, subject to administrative approval as set forth in this section. A building permit is required for the installation of BIVPs.

3. Roof or Building Mounted Private Solar Energy Systems. Roof or Building Mounted Private Solar Energy Systems are permitted in all zoning districts as an accessory use, subject to administrative approval as set forth in this section and subject to the following requirements:
- a. Safety. A Roof or Building Mounted Private Solar Energy System shall be installed, maintained, and used only in accordance with the manufacturer's instructions, and it shall comply with all applicable construction code and electric code including the most current version of the Michigan Uniform Building Code and National Electrical Code adopted by the enforcing agencies.
 - b. Building Permit. A building permit is required for installation of a Roof or Building Mounted Private Solar Energy System.
 - c. Maximum Height. No part of the Solar Energy System mounted on a roof is permitted to extend more than five feet beyond the peak of the roof or to exceed the maximum building limitation for the zoning district in which it is located. No part of a Solar Energy System mounted on a roof is to project beyond the eaves of the roof.

- d. Location. If the Solar Energy System is mounted on a building in an area other than the roof, no part of the Solar Energy System is permitted to extend beyond the wall on which it is mounted. A Solar Energy System mounted on a building wall may not face an adjacent public right-of-way.
- e. Appearance. Roof or Building Mounted Private Solar Energy Systems shall be neutral in color and substantially non-reflective of light.
- f. Abandonment. If a Roof or Building Mounted Private Solar Energy System has been abandoned for a period of six months, the property owner shall remove it within three months after the date of abandonment.

STAFF COMMENT: How will the township know if/when the roof or building mounted private solar energy system has been abandoned?

- g. Nonconforming Buildings. A Roof or Building Mounted Private Solar Energy System installed on a nonconforming building or structure is not considered an expansion of the nonconformity, but it shall meet all height and placement requirements of the zoning district and this section.



- h. Inspection. The Zoning Administrator may inspect a Private Solar Energy System for compliance with this ordinance upon providing reasonable notice to the property owner or occupant.

STAFF COMMENT: How often will township officials inspect private solar energy systems? This isn't clear from the proposed text above.

- 4. Ground Mounted Private Solar Energy Systems. Ground Mounted Private Solar Energy Systems are permitted in all zoning districts as an accessory use, subject to administrative approval as set forth in this section and subject to the following requirements:

- a. Safety. A Ground Mounted Private Solar Energy System shall be installed, maintained, and used only in accordance with the manufacturer's instructions, and it shall comply with all applicable construction code and electric code including the most current version of the Michigan Uniform Building Code and National Electrical Code adopted by the enforcing agencies. The Ground Mounted Private Solar Energy System shall be permanently and safely attached to the ground.
- b. Building Permit. A building permit is required for installation of a Ground Mounted Private Solar Energy System.
- c. Maximum Height. A Ground Mounted Private Solar Energy System shall not exceed the maximum building height for adjacent accessory buildings and shall not exceed 16 feet above the ground when oriented at maximum tilt.
- d. Location. A Ground Mounted Private Solar Energy System shall be located in the rear yard or side yard and meet the applicable setback requirements for the zoning district in which it is located.
- e. Underground Transmission. All power transmission or other lines, wires, or conduits from a Ground Mounted Private Solar Energy System to any building or other structure shall be located underground. If batteries are used as part of the Ground Mounted Private Solar Energy System, they shall be placed in a secured container or enclosure.
- f. Screening. Greenbelt screening is required around any Ground Mounted Private Solar Energy System and around any equipment associated with the system to obscure, to the greatest extent possible, the Solar Energy System from any adjacent residences. The greenbelt shall consist of shrubbery, trees, or other non-invasive plant species that provide a visual screen. In lieu of planting greenbelt, a decorative fence that is at least 50% opaque (meeting the requirements of this Ordinance applicable to fences) may be used if approved by the Planning Commission.
- g. Lot Area Coverage. The area of the Ground Mounted Private Solar Energy System shall not exceed 50% of the square footage of the principal building on the property. If the property is two acres or less in size, a Ground Mounted Private Solar Energy System is not considered an accessory building or structure for purposes of Section 6.06.
- h. Appearance. The exterior surfaces of a Ground Mounted Private Solar Energy System shall be generally neutral in color and substantially non-reflective of light.
- i. Abandonment. If a Ground Mounted Private Solar Energy System has been abandoned, the property owner shall notify the Township and remove the system within three months after the date of abandonment.



STAFF COMMENT: This option related to abandonment of a private energy system appears to be reasonable and appropriate.

- j. Nonconforming Buildings. A Ground Mounted Private Solar Energy System installed on a nonconforming building or structure is not considered an expansion of the nonconformity, but it shall meet all height and placement requirements of the zoning district and this section.
- k. Inspection. The Zoning Administrator may inspect a Private Solar Energy System for compliance with this ordinance upon providing reasonable notice to the property owner or occupant.

STAFF COMMENT: Same as comment regarding item 3(h) above.

C. Utility-Scale Solar Energy Systems. Utility-Scale Solar Energy Systems are permitted by Special Land Use approval in the Solar Energy System Overlay District and require a special land use permit under Article 13 and site plan approval under Article 14. Utility-Scale Solar Energy Systems are also subject to the following requirements:

- 1. Special Land Use Permit Application Requirements. In addition to the requirements of Article 13, the applicant for a Utility-Scale Solar Energy System shall provide the Township with all of the following:

- a. Application fee in an amount set by resolution or fee schedule approved by the Township Board.
- b. A deposit for an escrow account in an amount set by resolution or fee schedule approved by the Township Board. The escrow account is used to cover all costs and expenses associated with the special land use review and/or approval process, which costs can include, but are not limited to, review fees of the Township Attorney, Township Planner, and Township Engineer, as well as any reports or studies which the Township anticipates will be required during the review and/or approval process for the application. At any point during the review process, the Township may require that the applicant place additional monies into escrow with the Township if the existing escrowed funds on account with the Township will be insufficient, in the determination of the Township, to cover any remaining costs or expenses with the review and/or approval process. If additional funds are required by the Township to be placed in escrow and the applicant refuses to do so within 14 days after receiving notice, the Township will cease the zoning review and/or approval process until and unless the applicant makes the required escrow deposit. Any escrow amounts in excess of actual cost will be returned to the applicant. An itemized billing of all expenses will be provided to the applicant upon request.

- c. A list of all parcel numbers that will be used by the Utility-Scale Solar Energy System; documentation establishing ownership of each parcel; and any and all lease or option agreements, easements, or purchase agreements for the subject parcels, together with any attachments to such agreements or easements.
- d. An operations agreement setting forth the operations parameters, the name and contact information of the certified operator, the applicant's inspection protocol, emergency procedures, and general safety documentation.
- e. Federal Employer Identification Number for current owner/operator is required at the time of application.



f. A written emergency response plan detailing the applicant's plan for responding to emergencies, including fire emergencies, and analyzing whether adequate resources exist to respond to fires and other emergencies. If adequate resources do not exist, the applicant shall identify its plan for providing those resources. The emergency plan shall include identification of potential hazards to adjacent properties, public roadways, and to the community in general that may be created, as well as plans for immediate cleanup, long-term monitoring, and continued mitigation efforts following an emergency.

STAFF COMMENT: Staff would highly recommend that this emergency response plan be submitted to the County Emergency Management Director for their review and approval prior to any final approval by the township.

g. A written description of the fire suppression system that will be installed, which shall identify the manufacturer of the fire suppression system and generally describe its operations and capacity to extinguish fires.

h. A written description of specialized training and/or equipment necessary for handling fires and/or other emergencies at the Utility Scale Solar Energy System site. The training plan must include, at a minimum, annual emergency response training for local firefighters and other local emergency personnel at the site of the Utility-Scale Solar Energy System.

STAFF COMMENT: Staff would suggest that this proposed written description of the fire suppression system that will be installed as well as the proposed specialized training and/or equipment necessary for handling fires and/or other emergencies at the Utility Scale Solar Energy System site and the annual emergency response training plan be submitted to the County Sheriff, County Emergency Services Director, the Chief of the Fowlerville Fire Department, and the County Emergency Management Director for review and approval prior to any final approval by the township.

- i. A complete set of photographs, video, and topography map of the entire Participating Property prior to construction.
- j. A copy of any power purchase agreement or other written agreement that the applicant has with an electric utility or any agreement or approval for interconnection between the proposed Utility-Scale Solar Energy System and an electric utility or transmission company.
- k. A written plan conforming to the requirements of this ordinance for maintaining the subject property, including a plan for maintaining and inspecting drain tiles and addressing stormwater management.
- l. A decommissioning and land reclamation plan describing the actions to be taken following the abandonment or discontinuation of the Utility-Scale Solar Energy 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 Solar Energy System and restore the subject parcels to as near as possible to the condition the subject parcels were in prior to being used as a Utility-Scale Solar Energy System.
- m. Financial security that meets the requirements of this ordinance.



- n. A plan for resolving complaints regarding but not limited to noise, glare, maintenance, and drainage from the public or other property owners concerning the construction and operation of the Utility-Scale Solar Energy System.
- o. Identification of and a plan for managing any hazardous waste.

STAFF COMMENT: Staff would highly recommend that this hazardous waste plan be submitted to the County Emergency Management Director as well as the County Environmental Health Department Director for review and approval prior to any final approval by the township.

- p. A transportation plan for construction and operation phases, including any applicable agreements with the Livingston County Road Commission and Michigan Department of Transportation.

STAFF COMMENT: Staff would suggest that this transportation plan be submitted to the Livingston County Road Commission (LCRC) and Michigan Department of Transportation (MDOT) for review and approval prior to any final approval by the township.

- q. An attestation that the applicant and owner of the subject property will indemnify and hold the Township and its officials, elected or appointed, harmless from any costs or liability arising from the approval, installation, construction, maintenance, use, repair, or removal of the Utility-Scale Solar Energy System.
- r. A copy of the manufacturer's directions, instruction manual, and specification sheets including any unredacted safety manuals and Safety Data Sheets (SDS), for installing, maintaining, and using the Utility-Scale Solar Energy System.

STAFF COMMENT: A copy of this information should be supplied to the County Emergency Management Director as well as the County Environmental Health Department Director for compliance, permanent filing, and reference.

- s. A ground cover vegetation establishment and management plan that complies with this ordinance.
- t. Proof of environmental compliance, including compliance with:
 - i. Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act; (MCL 324.3101 et. seq.);
 - ii. Part 91, Soil Erosion and Sedimentation Control (MCL 324.9101 et. seq.) and any corresponding County ordinances;
 - iii. Part 301, Inland Lakes and Streams, (MCL 324.30101 et. seq.);
 - iv. Part 303, Wetlands (MCL 324.30301 et. seq.);
 - v. 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 Township.
 - u. Any additional information or documentation requested by the Planning Commission, Township Board, or other Township representative.



- v. Insurance. Proof of the owner/operator's public liability insurance shall be provided at the time of application. If the applicant is approved, proof of insurance shall be provided to the Township annually thereafter. The policy shall provide for bodily injury and property damage and shall name Conway Township and each Participating Property owner as an additional insured. The owner/operator shall insure for liability for the utility scale solar system until removed for at least \$25,000,000 per occurrence to protect the owner/operator, Township, and Participating Property owner. Proof of a current policy is required annually and shall be provided each year to the Township prior to the anniversary date of the Special Land Use Permit.
- w. Compliance with the Michigan Uniform Building Code and National Electric Safety Code: Construction of a Utility Solar Energy Facility shall comply with the most current version of the Michigan Uniform Building Code and National Electrical Code adopted by the enforcing agencies as a condition of any Special Land Use Permit under this section.
- x. Conceptual plan. A graphical computer generated depiction of how the Utility-Scale Solar Energy System will appear from all directions.
- 2. Site Plan Application Requirements.
 - a. Contents of Site Plan. In addition to the requirements in Article 14, the applicant shall, at its expense, provide a detailed application and site plan drafted to a scale of 1" = 200 feet with the following:
 - 1. Location of all proposed structures, panels, equipment, transformers, and substations.
 - 2. Location of all existing structures or dwellings on the parcel and location of all existing structures or dwelling on adjacent Non-Participating Property within 1000 feet of the property lines of any Participating Properties.
 - 3. Depiction of all setbacks, property lines, fences, signs, greenbelts, screening, drain tiles, easements, flood plains, bodies of water, proposed access routes, and road rights of way.
 - 4. Indication of how and where the system will be connected to the power grid.
 - 5. Plan for any land clearing and grading required for the installation and operation of the system.
 - 6. Plan for ground cover establishment and management.
 - 7. Anticipated construction schedule and completion date. As a condition of any special land use or site plan approval, hours of construction shall be limited to Monday through Friday from 7:00 a.m. to 5:00 p.m. with no construction on Saturday, Sunday, or any federally recognized holiday.
 - 8. Sound modeling study including sound isolines extending from the sound sources to the property lines.

STAFF COMMENT: For sake of clarity and convention, Staff would suggest revising and utilizing the following syntax for the dimensional reference above (instead of mixing symbol and verbal):
 "...1" (inch) = 200' (feet)..."



9. Any additional studies requested by the Planning Commission, including but not limited to the following:

- a. Visual Impact Assessment: A technical analysis by a third party qualified professional of the visual impacts of the proposed project, including a description of the project, the existing visual landscape, and important scenic resources, plus visual simulations that show what the project will look like (including proposed landscaping and other screening measures), a description of potential project impacts, and mitigation measures that would help to reduce the visual impacts created by the project.

STAFF COMMENT: What specific professional qualifications and/or educational experience would the reviewing individual for this requirement be required to possess in order for the applicant to attain compliance? This should be clearly identified. More specifics are needed here.

- b. Environmental Analysis: An analysis by a third-party qualified professional to identify and assess any potential impacts on the natural environment including, but not limited to, removal of trees, wetlands and other fragile ecosystems, wildlife, endangered and threatened species. If required, the analysis will identify all appropriate measures to minimize, eliminate or mitigate adverse impacts identified and show those measures on the site plan, where applicable.

STAFF COMMENT: What specific professional qualifications and/or educational experience would the reviewing individual for this requirement be required to possess in order for the applicant to attain compliance? This should be clearly identified. More specifics are needed here.

- c. Stormwater Study: An analysis by a third-party qualified professional studying the proposed layout of the Utility-Scale Solar Energy System and how the spacing, row separation, and slope affects stormwater infiltration, including calculations for a 100-year rain event. Percolation tests or site-specific soil information shall be provided to demonstrate infiltration on-site without the use of engineered solutions.

STAFF COMMENT: What specific professional qualifications and/or educational experience would the reviewing individual for this requirement be required to possess in order for the applicant to attain compliance? This should be clearly identified. More specifics are needed here.

- d. Glare Study: An analysis by a third-party qualified professional to determine if glare from the Utility-Scale Solar Energy System will be visible from nearby airports, air strips, residences, and roadways. The analysis will consider the changing position of the sun throughout the day and year and its influences on the utility-scale solar energy system.

STAFF COMMENT: What specific professional qualifications and/or educational experience would the reviewing individual for this requirement be required to possess in order for the applicant to attain compliance? This should be clearly identified. More specifics are needed here.



e. Optional Conceptual Layout Plan. Applicants shall submit an optional conceptual layout plan for review prior to submission of a formal site plan. The conceptual site plan shall be reviewed by the Planning Commission to allow for discussion and feedback.

STAFF COMMENT: What are the required elements that the applicant must show on this plan to attain compliance? More specifics are needed here.

10. Approvals from Other Agencies. Final site plan approval may be granted only after the applicant receives all required federal, state and local approvals, including any applicable approval by the state historic preservation office. Applicant shall provide copies of all review letters, final approved plans, and reports issued by any other governing agencies to the Township.

11. The site plan must show the existing topographical grades in two-foot intervals and conditions of all Participating Property at the time of application.

12. A baseline soil test including Cation Exchange Capacity (CEC) shall be provided to the township prior to any construction.

STAFF COMMENT: This test should be forwarded to the township engineer for review and comment.

13. A written description of how the applicant will address dust control during construction. Such plan shall, at a minimum, consist of water applications at least three times per day unless it has rained in the preceding three hours of the planned application.

14. Water Usage and Cleaning. The applicant shall detail the methodology planned for cleaning the solar panels, frequency, and listing of any and all detergents, surfactants, chemical solutions used for each cleaning, and sources of water used to facilitate panel restoration and maintenance.

3. Application Items as Substantive Requirements. The information, plans, documents, and other items identified as application requirements in this ordinance, including the site plan and special land use permit, are substantive requirements for obtaining approval for a Utility-Scale Solar Energy System. The Planning Commission is to review the sufficiency of the application materials. If the Planning Commission determines that the substance of any application item is insufficient to protect the public health, safety, and welfare, the Planning Commission shall deny approval on that basis.

4. System and Location Requirements.

a. Utility-Scale Solar Energy Systems are to be located only in the Solar Energy System Overlay District.

STAFF COMMENT: Refer to same comment regarding item 19.02 (A).

b. Utility-Scale Solar Energy Systems shall be ground mounted.

c. Utility-Scale Solar Energy Systems (including all solar panels, structures, equipment, and fencing) shall be set back 500 feet from all Non-Participating Property lines (measured from the parcel line of the Non-Participating Property to the nearest fence line of the Utility-Scale Solar Energy System) and 750 feet from all public road rights-of-way measured from the nearest boundary of the public right-of-way. If a single Utility-Scale Solar Energy System is located on more than one lot, or if the adjacent parcel is owned by the same owner as the property on which



the Utility-Scale Solar Energy System is located, then the lot line setbacks of this subsection do not apply to the lot lines shared by those lots.

- d. Utility-Scale Solar Energy Systems shall be set back at least 150 feet from the edge of any wetland, shoreline, or drain. The Planning Commission may increase this setback requirement if the Planning Commission determines that such a setback is necessary to protect the public health, safety, and welfare.

- e. Riparian buffers and filter strips, and where needed, denitrifying bioreactors, may be required and if required must be installed and maintained to the specifications required by the United States Department of Agriculture's Farm Service Agency (USDA/FSA). The buffers and filter strips are intended to reduce or eliminate sediment and nutrient loading of drainage ditches, streams, rivers, lakes, and other nearby waterways. If required, no structures may be placed within the buffer or filter strip areas. Depending upon the topography, soil, and other factors, buffer or filter strips will generally be between 33 feet and 164 feet wide, on both sides of ditches, streams, and other waterways.

- f. The height of the Utility-Scale Solar Energy System and any mounts, buildings, accessory structures, and related equipment shall not exceed 16 feet when oriented at maximum tilt. The Planning Commission may allow a height of up to 20 feet if the applicant establishes that the lot is used for grazing by farm animals in a manner that requires increasing the height limit. Lighting rods may exceed 16 feet in height, but they shall be limited to the height necessary to protect the Utility-Scale Solar Energy System from lightning.
- g. PV Array Components: PV array components shall be approved by the Institute of Electrical and Electronics Engineers (IEEE), Solar Rating and Certification Corporation (SRCC), Electronic Testing Laboratories (ETL), or other similar certification organization acceptable to the Township.

- 5. Permits. All required county, state, and federal permits shall be obtained before the Utility-Scale Solar Energy System begins operating.

- 6. Screening. Greenbelt screening is required around any Utility-Scale Solar Energy System and around any equipment associated with the system to obscure, to the greatest extent possible, the Solar Energy System from all sides and any open views from Non-Participating Property.

STAFF COMMENT: Unless otherwise overlooked by staff and referenced elsewhere in the proposed ordinance, what is the overall dimensional width of the required greenbelt screen?

- a. Screening shall be installed to obscure the Utility Scale Solar Energy System and shall contain two rows of staggered evergreen trees planted not greater than twelve (12) feet apart trunk to trunk, and the two rows shall be no greater than ten (10) feet apart. Any substitution shall be approved in advance by the Planning Commission. No species of any *Arborvitae* shall be permitted.

- b. Planting shall be at least eight (8) feet tall at time of planting, measured from the top of the root ball to the base of the leader (not including the height of the leader) and reasonably expected to reach a height of ten (10) feet within three (3) growing seasons.

- c. The trees may be trimmed but shall maintain a height of at least eighteen (18) feet.
- d. Evergreen trees shall be Norway Spruce.



STAFF COMMENT: Norway Spruce is fast growing and a good choice of tree species for this type of land use buffering usage.

- e. Good arboricultural techniques shall be followed with respect to vegetation, including but not limited to, proper pruning, proper fertilizing, and proper mulching, so that the vegetation will reach maturity as soon as practical and will have maximum density in foliage. Dead or diseased vegetation shall be removed and shall be replanted in a manner consistent with this Section at the next appropriate planting time. Each dead or diseased vegetation shall be completely replaced at 50% as determined by the Zoning Administrator. Annual review by a Professional Arborist, paid for by the owner/operator, shall be performed to determine any plant/vegetation replacement necessary to remain in compliance with the ordinance.
- f. Utility-Scale Solar Energy Systems also shall comply with the landscaping standards in Section 6.16 of the Zoning Ordinance.
- g. Front, side, and rear yard screening is required if the Utility-Scale Solar Energy System is adjacent to a non-participating property.
- 7. Appearance. The exterior surface of the Utility-Scale Solar Energy System shall be generally neutral in color and substantially non-reflective of light.
- 8. Lighting. Lighting of the Utility-Scale Solar Energy System is limited to the minimum light necessary for safe operation. Illumination from any lighting shall not extend beyond the perimeter of the participating property. The Utility-Scale Solar Energy System shall not produce any glare that is visible to neighboring lots or to persons traveling on public or private roads. Flashing or intermittent lights are prohibited.
- 9. Security Fencing.
 - a. Security fencing may be required by the Planning Commission to be installed around all electrical equipment related to the Utility-Scale Solar Energy System, including any transformers. Fencing shall be at least seven feet tall and be composed of woven agricultural wire. Barbed and razor wire is prohibited.
 - b. A containment system shall surround any transformers in case of hazardous waste or oil spills.
 - c. Appropriate warning signs shall be posted at safe intervals at the entrance and around the perimeter of the Utility-Scale Solar Energy System.
 - d. Gate posts and corner posts shall have a concrete foundation.
 - e. Gates shall be the same height and constructed of the same material as the fencing. Access, such as Knox box, shall be provided for emergency responders.
 - f. The Township may allow or require a fence design to allow for the passage of wildlife upon a finding that adequate access control and visual screening will be preserved.
 - g. Security fencing is subject to setback requirements. The security fence shall be locked, and a self-locking device shall be used. Lock boxes and keys (may be electronic such as keypad opener, if the passcode is provided to the Township and central dispatch for 911 service) shall be provided at locked entrances for emergency personnel access. Electric fencing is not permitted. A safety plan shall be in place and updated regularly with the local fire department having jurisdiction over the Utility-Scale Solar Energy System.



10. Noise. All sound measurements are to be instantaneous and shall not be averaged. The noise generated by a Utility-Scale Solar Energy System shall not exceed the following limits:
- a. 40 dBA Lmax, as measured at the property line, between the hours of 7:00 a.m. and 9:00 p.m.
 - b. 35 dBA Lmax, as measured at the property line, between the hours of 9:00 p.m. and 7:00 a.m.
 - c. The owner/operator of the Utility Scale Solar Energy System shall annually provide for a sound analysis or modeling, conducted by an auditory expert chosen by the Township, at the expense of the applicant.

11. Underground Transmission. All power transmission, communication, or other lines, wires, or conduits from a Utility-Scale Solar Energy System to any building or other structure shall be located underground at a depth that complies with current National Electrical Code standards, except for power switchyards or the area within a substation.
12. Drain Tile Inspections. The Utility-Scale Solar Energy System shall be maintained in working condition at all times while in operation. The owner/operator shall identify and inspect all drain tiles at least once every two years by means of a robotic camera, with the first inspection occurring post construction but before the Utility-Scale Solar Energy System is in operation. The owner/operator shall submit proof of the inspection to the Township. The owner/operator shall repair any damage or failure of the drain tile within 60 days after discovery and submit proof of the repair to the Township. The Township is entitled, but not required, to have a representative present at each inspection or to conduct an independent inspection.

STAFF COMMENT: Good Plan of Operation.

13. Fire Suppression. The Utility-Scale Solar Energy System shall include a fire suppression system that is specifically designed to immediately suppress and extinguish fires in any part of the Solar Energy System, including the panels, electrical equipment, and transformers. The owner/operator shall provide documentation establishing the effectiveness of the fire suppression system and the results of a third-party independent inspection of the fire suppression system.

STAFF COMMENT: This system should also be reviewed and inspected by the local Fire Chief and possibly, if required, the State Fire Marshall, for compliance.

14. Battery Storage. Commercial grid storage batteries or capacitor banks storing or returning supplemental power to the grid are not permitted in the District. Use of Batteries in commercial applications is only permitted as emergency backup for safety lighting and related computer infrastructures.

STAFF COMMENT: The County Emergency Management Director should be notified in the case where a commercial grid storage battery is utilized in a proposed large/utility scale solar facility, so that its location is known and added to the County Emergency Operations Plan (EOP).

15. Inverters shall be set back at least 150 feet inside the boundary of a Solar Energy System Overlay District.
16. Stray Voltage Assessments: No stray voltage originating from a Utility Scale Solar Energy System may be detected on any Participating or Non-Participating property. A preconstruction stray voltage test shall be conducted on all Michigan Department of Agriculture & Rural Development (MDARD) registered livestock facilities located within a one-mile radius of the Participating Properties. The



tests shall be performed by an investigator approved by the Township. A report of the tests shall be provided to the owners of all property included in the study area. The applicant/landowner shall seek written permission from the property owners prior to conducting testing on such owners' property. Applicants/landowners shall not be required to perform testing on property where the owners have refused to grant permission to conduct the testing. The owner of any Participating Property included in the list of project parcels shall not refuse the stray voltage testing if they have a MIDARD registered livestock facility on the Participating Property.

17. Ground Cover. The lot on which the Utility-Scale Solar Energy System is located shall be covered with vegetation until decommissioning. To meet this requirement, the lot shall include one or more of the following:

- a. Pollinator Habitat: A site designed to have vegetation that will enhance pollinator populations, including a diversity of flowering plants and wildflowers, and meets a score of 76 or more on the Michigan Pollinator Habitat Planning Scorecard for Solar Sites.
- b. Conservation Cover: A site designed with practices to restore native plants, grasses, and prairie with the aim of protecting specific species or providing specific ecosystem services, such as carbon sequestration or soil health. The site shall be designed in partnership with a conservation organization or approved by the Livingston Conservation District.
- c. Forage/Grazing: Sites that incorporate rotational livestock grazing and forage production as part of a vegetative maintenance plan.
- d. Agrivoltaics: Sites that combine raising crops for food, fiber, or fuel, and generating electricity within the project area to maximize land use.
- e. Ground cover shall be planted within four months of project completion, weather permitting.
- f. Invasive species and noxious weeds are not permitted and shall be removed in a timely manner.

18. Drainage. Drainage on the site shall be maintained in a manner consistent with, or improved upon, existing natural drainage patterns. Any disturbance to drainage or water management practices shall be managed within the property and on-site in order to not negatively impact surrounding properties as a result of the development. This shall be maintained for the duration of the operation and shall be able to be returned to pre-existing conditions following decommissioning. Any existing drainage tiles that are identified on the property shall be shown on the as-built drawings submitted following construction. Prior to the start of construction, any existing drain tile shall be inspected by robotic camera and the imagery submitted to the Township for baseline documentation on tile condition. Any damage shall be repaired, and a report submitted to the landowner and Township. While the facility is in operation, the owner/operator shall reinspect the drain tiles every three years by robotic camera for any damage and shall repair any damage within 60 days of discovery. The owner/operator shall report the inspection, along with any damage and repair, to the Township within 90 days after each three-year deadline. The Township reserves the right to have the Building Inspector or other agent present at the time of repair. Solar panel support structures and/or foundations shall be constructed to preserve any drainage field tile or system.

STAFF COMMENT: The Livingston County Drain Commissioner Office should be consulted concerning any drainage maintenance issue related to the solar project.

19. Access Routes. Access drives are subject to the approval of the Livingston County Road Commission to the extent of the Road Commission's jurisdiction. All access drives and roads within the site shall be adequately maintained for emergency vehicle use, including winter maintenance.



20. The owner/operator shall submit an As Built Drawing with dimensions relative to property lines of all new structures including inverters and buried cable both inside and outside fenced areas upon completion and before any power is supplied to the grid. The As Built Drawing shall be a scale of 1" = 200 feet.

STAFF COMMENT: For sake of clarity and convention, Staff would suggest revising and utilizing the following syntax for the dimensional reference above (instead of mixing symbol and verbal):

"...1" (inch) = 200' (feet)..."

21. Signs are permitted but shall comply with Article 17. The lot shall include at least one sign identifying the owner and providing a 24-hour emergency contact telephone number.

22. Emergency Action Plan and Training. Before the Utility Solar Energy System is operational, the owner/operator shall provide the necessary training, equipment, or agreements specified in the application to Township or other emergency personnel.

STAFF COMMENT: Staff would highly recommend that this Emergency Action Plan and Training Plan be submitted to the County Emergency Management Director for review and approval prior to any final approval by the township.

23. Decommissioning and/or Abandonment.

a. If a Utility-Scale Solar Energy System is abandoned or otherwise non-operational for a period of six months, the owner/operator shall notify the Township and shall remove the system within six months after the date of abandonment. Removal requires receipt of a demolition permit and full restoration of the site in accordance with the provisions of this Ordinance and to the satisfaction of the Zoning Administrator. The site shall be filled and covered with topsoil and restored to a state compatible with the surrounding vegetation. The requirements of this subsection also apply to a Utility-Scale Solar Energy System that is never fully completed or operational if construction has been halted for a period six months.

b. The decommissioning plan shall be written to provide security to the Township for 125% of the cost to remove and dispose of all panels, removal of all wiring, footings, and pilings, (regardless of depth), and restoration of the land to its original condition. The value of decommissioning shall be determined by a third-party financial consultant or engineer selected by the Township and paid for by the developer. The decommissioning security shall be paid in cash to the Township. Once the value of decommissioning is determined, it shall be updated on a periodic basis of not less than every 2 years and additional security shall be required based on the average inflation rate of the preceding 2 years.

c. All abandonment and decommissioning work shall be done when soil is dry.
d. The ground shall be restored to its original topography within three hundred sixty-five (365) days of abandonment or decommissioning. An extension may be granted if a good faith effort has been demonstrated and any delay is not the result of actions or inaction of the owner/operator.
e. If land balancing is required, all topsoil will be saved and spread evenly over balanced area according to the existing topography map provided at the time of application.



- f. An annual report shall be provided to the Zoning Administrator showing continuity of operation and shall notify the Zoning Administrator if the use is to cease, prior to decommissioning, or abandonment.
- g. Continuing Obligations: Failure to keep any required financial security in full force and effect at all times while a Utility Solar Energy System exists or is in place shall constitute a material and significant violation of the Special Land Use Permit, and this Ordinance, and will subject the Utility Solar Energy System owner/operator (jointly and severally, if more there is more than one owner or operator) to all remedies available to the Township, including any enforcement action, civil action, request for injunctive relief, and revocation of the Special Land Use Permit.
- h. The Township shall have the right to seek injunctive relief to effect or complete decommissioning, as well as the right to seek reimbursement from the owner/operator or landowner for decommissioning costs in excess of the amount deposited in escrow and to file a lien against any real property owned by the owner/operator or landowner for the amount of the excess, and to take all steps allowed by law to enforce said lien.
- i. At the time of decommissioning, the Planning Commission may allow deviations from the above decommissioning requirements following notice and a public hearing in accordance with Section 103 of the Zoning Enabling Act.
24. Complaint Resolution. Utility Solar Energy Systems shall provide a complaint resolution process, as described below:
- a. The site shall have signs posted with contact information to collect complaints related to the Utility Solar Energy System.
- b. A log shall be kept by the owner/operator of all complaints received and shall be available to Township officials for review at the Township's request.
- c. The owner/operator shall respond to complainants within ten (10) business days and shall provide notification to the Zoning Administrator.
- d. Any resolution shall include lawful and reasonable solutions consistent with the Zoning Ordinance, which shall also be provided to the Zoning Administrator.
- e. The owner/operator or its assigns reserve the right to adjudicate any claims made against it, including residential claims, in a court of competent jurisdiction. An annual report shall be submitted to the Zoning Administrator and the Township Board that details all complaints received, the status of complaint resolution, and actions taken to mitigate complaints.
25. Maintenance and Repair
- a. Each Utility-Scale Solar Energy System shall be kept and maintained in good repair and condition at all times and the site shall be neat, clean, and free of refuse, waste, or unsightly, hazardous, or unsanitary conditions. All solar panels damaged beyond repair or use shall be replaced and removed from the project site within seven (7) days and shall be disposed of off-site in accordance with any state or federal requirements.
- b. If the Township Board or Zoning Administrator determines that a Utility Scale Solar Energy System fails to meet the requirements of this Ordinance or the Special Land Use Permit, the Zoning Administrator or Township Board shall provide notice to the owner/operator of the non-compliance, and the owner/operator has 14 days to cure the violation. If the violation is a safety hazard as determined by the Zoning Administrator or Township Board, then the owner and/or



operator has 7 days to cure the violation. If the owner and/or operator has not remedied non-compliance issues in the aforementioned time periods, the owner/operator shall immediately shut down the Utility Scale Solar Energy System and shall not operate, start or restart the Utility Scale Solar Energy System until the issues have been resolved. If the owner/operator fails to bring the operation into compliance, the Township may seek relief at law or equity to abate the nuisance and may also issue a municipal civil infraction citation. Each violation for which the owner/operator are deemed responsible shall result in a \$500.00 fine.


STAFF COMMENT: If the violation is a safety hazard as determined by the Zoning Administrator or Township Board, Staff would also suggest that the County Emergency Manager be notified as well.

- c. The owner/operator shall keep a maintenance log on the solar array(s), which shall be available for the Township's review within 48 hours of such request.
- d. General Maintenance Bond. At the time of the Special Land Use application, the owner/operator shall submit two (2) third-party contractor bids for construction of all fencing, landscaping, and drainage improvements associated with the utility scale solar energy system. A performance bond in the amount of 125% of the higher bid shall be provided to the Township to ensure completion. The Township may use the bond to complete or repair any landscaping, fencing, or drainage infrastructure (including drain tiles).
- 26. Extraordinary Events. If the Utility-Scale Solar Energy System experiences a failure, fire, leakage of hazardous materials, personal injury, or other extraordinary or catastrophic event, the owner/operator shall notify the Township within 8 hours.
- 27. Annual Report. The owner/operator shall submit a report on or before January 1 of each year that includes all of the following:
 - a. Amount of electric generation;
 - b. Current proof of insurance with the township and Participating Property owner(s) shown as named insured;
 - c. Verification of financial security; and
 - d. A summary of all complaints, complaint resolutions, and extraordinary events. Additionally, a representative of the owner/operator shall appear before the Planning Commission annually to report on the Utility-Scale Solar Energy System and address questions or concerns from the Planning Commission.
- 28. Inspections. The Township may inspect a Utility-Scale Solar Energy System at any time by providing 24 hours advance notice to the owner/operator.
- 29. Transferability. A special use permit for a Utility-Scale Solar Energy System is transferable to a new owner. The new owner shall register its name, Federal Employer Identification Number, and business address 30 days prior to the transfer date with the Township and shall comply with this Ordinance and all approvals and conditions issued by the Township. In the event of a sale or transfer of ownership and/or operation of the solar facility, the original security bond or escrow shall be maintained throughout the entirety of the process and shall not be altered.



STAFF COMMENT: If not done so already, the township should develop a form for proper historical record and tracking of the land use permit transfer in these cases. The permit could be something similar to the example below:

Example: Special Land Use Permit Transfer Request

 www.conwaymi.gov EST. MARCH 6, 1838		PLANNING & ZONING SUP TRANSFER REQUEST	DATE STAMP
SPECIAL USE PERMIT TRANSFER REQUEST			
SPECIAL USE PERMIT #		PERMIT ADDRESS	
PREVIOUS PERMIT HOLDER NAME:			
Business Name			
Address			
City		State	
Zip		Fax	
NEW PERMIT HOLDER NAME:			
Business Name			
Address			
City		State	
Zip		Fax	
NEW BUSINESS NAME:			
Business Name			
Address		City	
State		Zip	
Email		Fax	
NEW BUSINESS NAME:			
Business Name			
Address			
City		State	
Zip		Fax	
I acknowledge that I have received a copy of the current restrictions for the operation of this Special Use Permit and agree to operate this special use within the limits specified on this permit.			
Business Owner's Signature		Print Name	
Date			

30. Major and Minor Site Plan Amendments.

- a. Major site plan amendments include those listed in Section 14.08(C) and any of the following:
 - 1. Changes of the location of arrays, fencing, buildings, or ancillary equipment by 10 feet or more.

- 2. Any increase in the height of solar panels.

- b. Minor site plan amendments include those listed in section 14.08(D) and any of the following:

- 1. Changes of the location of arrays, fencing, buildings, or ancillary equipment by less than 10 feet.

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

Section 5. 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 6. 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.

Section 7. Effective Date.

This Ordinance takes effect seven days after publication as provided by law.

Township Recommendation: Approval. The Conway Township Planning Commission recommended Approval of this set of zoning amendments at its June 12, 2023 meeting. There were public comments both for and against different aspects of the proposed ordinance language noted in the minutes.

Staff Recommendation: Approval with Conditions. The proposed amendments appear to be reasonable and appropriate. There are a few key elements as highlighted in the review that have remaining questions and clarifications which should be addressed before any final approval is given by the township. In addition, Staff would highly recommend that the township carefully consider all Staff comments noted throughout the review before proceeding with any final approval of the proposed amendments by the township as well.

