



Conway Township Planning Commission
Monday, December 11, 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 December 11, 2023 AGENDA**
5. **APPROVAL OF THE November 13, 2023 MEETING MINUTES**
6. **COMMUNICATIONS**
 - a. Zoning Administrator's Report
 - b. Livingston County Planning Commission Update/Report
7. **OLD BUSINESS**
 - a. Zoning Ordinance on Windmills Update – Updated marked-up and clean version from Foster Swift
 - b. Training for PC board due by end of year – 6 hours (5 years or less), 3 hours (<5 years)
8. **NEW BUSINESS**
 - a. New vacant PC board member positions available
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.

Next Meeting will be Monday, January 8, 2024



Conway Township Planning Commission Meeting Minutes
 Monday, November 13th, 2023 | 7:00pm EST
 Conway Township Hall | 8015 N. Fowlerville Road, Fowlerville, MI 48836

Agenda	Items Discussed	Actions to be Taken
Attendees	PC Members Present: George Pushies - Ex-Officio, Shawn Morrison, Mike Brown, Mike Stock, Lucas Curd-Chair, and Kayla Poissant- Secretary Absent- Jeff Klein Zoning Administrator – Gary Klein Livingston County Planning Commissioner: Dennis Bowdoin Township Attorney: Michael D. Homier Absent- Abby Cooper	None
Call to Order/Pledge	Chair, L. Curd 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 for November 13 th , 2023. Motion by K. Poissant. Support S. Morrison. Motion Approved.	Motion Approved
Approval of October 2023 Minutes	Motion to accept meeting minutes from October 9 th , 2023. Motion by M. Brown. Support by G. Pushies. Motion Approved.	Motion Approved
Call to the Public	Steve Smith- Robb Rd.- He stated that he would like Mr. Homier regarding how to proceed with respect to the voting and laws being passed by the state. He would like to request that if we continue on the proposed wind ordinance, he would like to see a public meeting about. Specifically on the proposed wind ordinance, he would like to see an exemption on private wind mills, and he would like to clarify the setbacks and they seem confusing. He also stated that has been discussion regarding being 5 miles from an airport, and would like to clarify that and make sure the wind facility would be as far away as possible from the airport.	None

	<p>Sara Porter- Sober Rd.- She welcomed M. Stock to the PC, and she stated that when M. Stock stated at a previous meeting to protect the health, safety, and welfare of the people, she was hooked. She become concerned when he stated he would rather live next to a solar farm than a cargo container. She asked if he had read the current solar ordinance and asked for his opinion on it as well as the cargo containers.</p> <p>M. Stock responded stating that he was previously on the PC from 2012-2021. He stated that he has not read the current solar ordinance in full, and with respects to the cargo he doesn't see solar as an enemy. He said that he sees a lot of blight occurring in our township especially over the past few years that isn't being enforced per the ordinance. He stated that he is in favor for control over the solar facilities, and that it is everyone's job to protect the health, safety, and welfare of the community. He stated that he wants to keep the rural aspect in our community.</p> <p>Kennedy Parker- Hayner Rd.- She welcomed M. Stock to the PC, and she said that a good lesson learned from being on the PC is to choose our words carefully. She referred to the saying "pick your poison" that had been previously said. She stated that she has been a public servant for 37 years, and moved to this area awhile ago. She mentioned that where she lives, the solar facility could be 1,200 acres. She said it was more than just "picking your poison".</p>	
<p>Communications</p>	<p>a. Zoning Administrator Report: G. Klein stated that there two Land Use permits- one for a house and one for a deck. He also stated that there were six waivers- five for re-roofing and one for shoring basement walls.</p> <p>b. Livingston County Planning Commission Report: D. Bowdoin stated that were a couple of rezoning projects ongoing, one in Genoa and one in Green Oak Townships. Handy Township is changing their verbiage on the keeping of animals, and Marion has some verbiage changes to their light and industrial area. He also stated that in regards to the cargo ordinance recently submitted to the LCPC, the LCPC did approved it but with a lot of recommendations. One aspect was to consider bring in someone from the building department to discuss this issue.</p>	<p>None</p> <p>None</p>

	<p>G. Pushies stated that the discussion on the taxation piece was confusing and asked for comments on it. D. Bowdoin also stated that it was confusing and did not make sense to him either. He stated that there are new taxation laws in place that need to be reviewed and understood. He agreed with G. Pushies that it revolves around permanent foundations.</p>	
<p>Old Business</p>	<p>a. Zoning Ordinance Amendment No. 2023-05: Cargo Containers-</p> <p>L. Curd stated that the LCPC sent back the ordinance with approval with a lot of recommendation and a letter. Discussion continued. K. Poissant asked Mr. Homier to clarify the process on the approval process between the Conway PC, LCPC, and the Conway Township Board. Mr. Homier explained that the PC makes a recommendation for approval to the Township Board, and the LCPC has 30 days to review and comment before the Township Board reviews it and votes on it. He stated that the comments and review from the LCPC goes to the Township Board, and not to the PC. He also stated that the Township Board could send the ordinance back to the PC if they deemed necessary in regards to the LCPC comments and recommendations. K. Poissant asked if the PC can send a proposed ordinance to the LCPC for their recommendations on it, but not recommend approval on the ordinance to the Township Board. Mr. Homier stated that there was nothing in the ZEA about it, but the LCPC wouldn't have to respond to it. He said that we would probably be within our authority to get input from the LCPC before recommending approval. The PC agreed that the cargo ordinance is in the hands of the Township at this time, and the PC will wait to hear from the Board. M. Brown stated that he did speak on this ordinance a few times, and believes that there are a few important holes in the ordinance that should be looked at.</p> <p>b. Zoning Ordinance on Windmills Update-</p> <p>L. Curd stated that the PC had a clean and a marked-up version of the ordinance in the packet for review. Mr. Homier stated that the bills passed the House and Senate and they are up for signing by the Governor which is expected. He stated that the PC should continue the current proposed ordinance, as a lot can happen in a year's time. He mentioned hearing discussion from opposing views on the bills as well as an upcoming</p>	

election could change things. G. Pushies asked about the bills and the wattage described on them, and mentioned how the Township would still need something in place. Mr. Homier agreed, but did state that the current ordinance would have to be changed in order to be in compliance, and also stated that it wouldn't be in affect until one year after signing. There was discussion regarding the moratorium end date and making sure there was no gap between the end date and the possible start of the state law. M. Brown asked about the MSPC and review process. Mr. Homier stated that the permit for it has to be issued before construction started so companies applying early wouldn't make sense due to that, and it is the law currently in place at the decision moment takes priority, and not retrospective. G. Pushies asked about other issues that may be coming up in the future, and Mr. Homier brought up possibly gravel mining and short-term rentals. Questions about zoning came up and was discussed.

Mr. Homier stated that he wasn't concerned about having an overlay district with the Township, but putting in anything about being 5- miles away from an airport could be problematic. K. Poissant mentioned that she did not want to put any verbiage into the ordinance about being a certain distance away from an airport due to the fact that the airport could be gone at some point so the ordinance should be written as if it wasn't there. Other PC members agreed, and discussion continued. Mr. Homier confirmed that the 5-mile rule is not a law at this time. Steve Smith brought up transmission lines and although agreed the ordinance should be made as if the airport wasn't there, but we should make sure that he was in favor of the 5-mile radius since the airport was there. Mr. Homier stated that he wasn't comfortable putting that verbiage in the ordinance, but recommended other ways to get a similar outcome like not reducing the minimum required decent on an incoming aircraft. Discussion continued on the risk factors of verbiage, overlays, and how to achieve the same result. D. Bowdoin brought up the M-59 airport and their radius when it is instrument only which stretches to Killinger Rd.

There was discussion regarding the new style of windmills and how that would impact the overlay. There was also discussion about wattage and demonstrated need of the Township, and how if there is enough solar

	<p>would a wind facility be necessary. Mr. Homier did clarify that the Township can not exempt a wind or solar facility if the other already existed. Discussion about the different styles of wind turbines and can they be limited in the ordinance. Mr. Homier said that limiting the style is no different than limiting the height.</p> <p>Motion to use the egg-beater style wind turbines in the proposed wind ordinance with an overlay district. Motion by M. Brown. Support by G. Pushies. Motion Approved.</p> <p>Mr. Homier brought up Steve Smith’s comment on separating the type of windmills allowed wasn’t rational due to them being so similar and their regulatory perspective. Steve Smith disagreed and stated that he was disappointed in Mr. Homier’s work, and he did bring up the height issue of 30 feet of a tradition wind mill. Mr. Homier stated that that issue can be discussed and altered if necessary. Mr. Homier and Steve Smith continued to have a back-and-forth discussion about the types of traditional wind mills, exemptions, and risks.</p> <p>c. House Bills 5120-5123 Update: L. Curd stated that the bills were already discussed earlier, and was just providing an update.</p>	<p>Motion Approved</p>
<p>New Business</p>	<p>a. Selection of Planning Commission Vice-Chair:</p> <p>Motion to appoint Mike Brown Vice-Chair. Motion by G. Pushies. Support by S. Morrison. Motion Approved.</p> <p>b. Training for PC Board due by end of year: L. Curd reminded the PC that there were training hours due by the end of the year. Six hours for five-years or less service, or three hours for more five years of service. K. Poissant brought up the MTA website that had seminars and recorded teachings, and that there was a form to fill out for the clerk to submit the training hours.</p>	<p>Motion Approved</p>
<p>Commission Discussion</p>	<p>None at this time.</p>	<p>None</p>
<p>Last Call to the Public</p>	<p>Steve Smith- Robb Rd.- He stated that he wanted to end on something funny since the discussion today was intense at time. He mentioned about some people living in a barn, and jokingly cautioned about enforcing it because some may be kicked out to sleep there at some point.</p>	<p>None</p>

	<p>Jim Dannemiller- He asked about why the Township is not enforcing the blight ordinances. G. Klein stated that the Township is complaint-based, and that no complaints have come in regarding it.</p> <p>The PC thanked Mr. Homier for attending the meeting.</p>	
Adjournment	<p>Motion to adjourn at 8:22pm. Motion by G. Pushies. Support by M. Brown. Motion Approved.</p>	Motion Approved

Respectfully Submitted:

Kayla Poissant,
PC Secretary

Approved:

Lucas Curd,
PC Chair

DRAFT

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 the community, including existing property values, especially when in proximity to farms, forests, and residential properties.
5. Wind Energy Systems must 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 may channel stormwater runoff, and support structures and trenching are more likely to damage drain tiles. Thus, 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 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 System

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

WES Wind Energy System

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:

A. Adverse Sound Character: Sounds or noise that cause building rattle, is impulsive, tonal, and includes amplitude modulation, or has a low-frequency bass rumble.

B. Ambient: Ambient is defined as the sound pressure level exceeded 90% of the time over a 96- hour measurement period with daytime/nighttime division.

C. Anemometer Tower: A freestanding tower containing instrumentation such as anemometers that is designed to provide present moment wind data for use by the supervisory control and data acquisition (SCADA) system which is an accessory land use to a Wind Energy System.

D. ANSI: the American National Standards Institute.

E. dBA: The A-weighted sound level.

F. FAA: The Federal Aviation Administration.

G. GIS: Geographic Information System and is comparable to GPS (global positioning system) coordinates.

H. IEC: The International Electrotechnical Commission.

I. ISO: The International Organization for Standardization.

J. LMax (LAMax or LCMMax): The maximum dB(A) or dB(C) sound level measured using the “fast response” setting of the sound meter (equivalent to 0.125 second exponential averaging time).

K. NEC: National Electrical Code.

L. Noise: A sound that causes disturbance that exceeds 40 dBA Lmax or 35 dBA Lmax.

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

N. Owner/Operator: A person, firm, corporation, company, limited liability corporation or other entity, as well as their agents, contractors, successors, assigns and/or transferees, who applies for Township approval to construct, repair, maintain, decommission and/or operate a WES and/or WES Testing Facility. An Owner/Operator must have the legal authority to represent and bind the owner of the Participating Property or lessee to the terms or conditions of any approvals for a permitted WES or WES Testing Facility. The duties and obligations regarding approval for any approved WES or WES Testing Facility shall be jointly and severally binding upon the Owner/Operator of the WES or WES Testing Facility. “Owner/operator,” even when used in the singular, may refer to more than one person or entity if there are multiple applicants, owners, or operators, or if the WES or WES Testing Facility is owned and operated by different entities.

O. 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 an application for the purpose of developing a WES. Participating Property also includes any property upon which is located a WES like in the case of a Private WES.

P. Private Wind Energy System (Private WES): 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.

Q. SCADA (supervisory control and data acquisition): A computer system that monitors and controls WES.

R. Shadow Flicker: Alternating changes in light intensity caused by the moving blades of wind turbines on the ground and stationary objects, including but not limited to a window of a dwelling.

S. Sound level meter: An instrument for the measurement of sound levels that meets the ANSI requirements of S1.4-1983 (or later revision) for Type 1 or 2 instruments. For frequency analysis, octave and 1/3 octave filters shall conform to ANSI S1.11-1986 (or later revision).

T. Sound Pressure: An average rate at which sound energy is transmitted through a unit area in a specified direction (equivalent to 0.125 second exponential averaging time) See LMax. The pressure of the sound measured at a receiver.

U. Sound Pressure Level: The sound pressure mapped to a logarithmic scale and reported in decibels (dB).

V. Strobe Effect: The effect resulting from the flashing of reflected light, which can be visible from some distance, from the surface finish of turbine blades.

W. Tip Height: The height of a Private WES with a blade at the highest vertical point.

X. Utility-Scale Wind Energy System (Utility-Scale WES): A Wind Energy System consisting of a vertical axis wind turbine 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.

Y. Wetland: As used in this Ordinance, wetland shall mean the areas defined as such by Michigan law (see Part 301 Inland Lakes and Rivers and Part 303 Wetlands Protections of the Natural Resources and Environmental Protection Act, last revised effective 3-29-19), and regulated by the Michigan Department of Natural Resources, and the Michigan Department of Environment, Great Lakes, and Energy.

Z. Wind Energy System (WES): Any part of a system that collects or stores wind energy for the purpose of transforming it into any other form of usable energy and includes any combination of the following: A mill or machine operated by wind acting on oblique vanes or sails that radiate from a horizontal or vertical shaft; a surface area such as a blade, rotor, or similar device, either variable or fixed, for utilizing the wind for electrical or mechanical power; a shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity or energy

producing device; the generator, alternator, or another device to convert the energy of the wind into electrical or other usable energy; the tower, pylon, or other structure upon which any, all, or some combination of the above are mounted; and any other components not listed above but associated with the normal construction, operation, and maintenance of a WES.

AA. Wind Energy System Testing Facility (WES Testing Facility): A structure and equipment such as a meteorological tower for the collection of wind data and other meteorological data and transmission to a collection source, shall not be deemed to be a communication tower.

BB. Wind Energy System Facility (WES Facility): Clusters of two or more Utility Scale WES placed upon a lot or parcel with the intent to sell or provide electricity to a site or location other than the premises upon which the WES Facility is located. A WES Facility may or may not be owned by the Owner of the Participating Property upon which they are placed.

Section 4. Addition of New Section _____, entitled “Wind Energy System”

New Section ____, entitled “Wind Energy System,” is added to the Township’s Zoning Ordinance and reads as follows:

Section ____s Wind Energy System (WES).

- A. General Provisions. All WES are subject to the following requirements:
 - 1. All WES, including towers, shall conform to the provisions of this Ordinance and all local, county, state, and federal regulations and safety requirements, including applicable building codes and applicable industry standards, including those of ANSI, FAA, Michigan Airport Zoning Act, Michigan Tall Structures Act, Underwriter Laboratory (UL), NEC, National Fire Protection Association (NFPA), and the most current Michigan Uniform Building Code adopted by the enforcing agencies. An interconnected Utility Scale WES shall comply with any applicable Michigan Public Service Commission (MPSC) and Federal Energy Regulatory Commission (FERC) standards.
 - 2. If an applicant, Owner, Operator, or Participating Property Owner of a WES fails to comply with this Ordinance, the Township, in addition to any other remedy under this Ordinance, may revoke any approvals after giving notice and an opportunity to be heard. Additionally, the Township may pursue any legal or equitable action to abate a violation and recover all costs, including the Township’s actual attorney fees and costs.

B. Private Wind Energy System (Private WES).

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

- a. Application to Zoning Administrator. An applicant who seeks to install a Private WES shall apply to the Zoning Administrator on a form approved by the Township Board, including the payment of the required application fee.
- 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 WES.
 - 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 WES. 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 WES if there is no expansion of the size or area of the WES.

2. Accessory Use. Private WES 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 WES shall be installed, maintained, and used only in accordance with the manufacturer's instructions, and it shall comply with this Ordinance, all applicable construction code and electric code (including the most current version of the Michigan Uniform Building Code), FAA, Michigan Airport Zoning Act, Michigan Tall Structures Act, and NEC adopted by the enforcing agencies.
- b. Building Permit. A building permit is required.
- c. Maximum Height. The Tip Height of a Private WES must not exceed 130 feet. The minimum clearance from ground level to the blade at its lowest point must be at least 30 feet. Tip Height is measured from the average grade at the base of the tower or structure supporting the WES. Notwithstanding any other provision in this Zoning Ordinance, the Tip Height restriction in this section applicable to Private WES shall apply.

- d. Location. The minimum setback of a Private WES from any property line or road right-of-way must equal three times the Tip Height of the WES.
- e. Noise. Private WES must comply with the noise limits set forth in Section C.14 of this Ordinance.
- f. Abandonment. If a Private WES has been abandoned for a period of six months, the Owner shall remove it within three months after the date of abandonment. The Zoning Administrator may request proof of power or usable energy generation for purposes of abandonment analysis.
- g. Inspection. The Zoning Administrator may inspect a Private WES for compliance with this Ordinance upon providing reasonable notice to the Owner or occupant.
- h. Underground Transmission. All power transmission or other lines, wires, or conduits from a Private WES to any building or other structure shall be located underground. If batteries are used as part of the Private WES, they shall be placed in a secured container or enclosure.
- i. Shadow Flicker. Private WES shall not produce any shadow flicker on any Non-Participating Property. Measures to eliminate all effects of shadow flicker on Non-Participating Property, such as stopping the WES from rotating during times when shadow crosses Non-Participating Property, shall be required.
- j. Non-Conforming Wind Energy Systems. WES existing on the date of adoption of this Ordinance shall constitute a legal non-conforming use.

C. Utility-Scale Wind Energy Systems. Utility-Scale WES 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 WES are also subject to the following requirements:

1. Findings: This Ordinance has been developed with the intention of obtaining an appropriate balance between the desire for renewable energy resources and the need to protect the public health, safety, and welfare of the community and the character and stability of the Township's residential, agricultural, recreational, commercial and/or industrial areas and preserving and protecting the Township's important and sensitive environmental and ecological assets and areas, open space, viewscales and aesthetics, wetlands, and other ecological and environmentally sensitive areas.

Based on evidence presented in this State and others concerning the adverse secondary effects of Utility Scale WES on communities, including, but not limited to, findings from the Wind Turbine Health Impact Study: Report of Independent Expert Panel, prepared for the Massachusetts Department of Environmental Protection (2012); Strategic Health Impact Assessment on Wind Energy Development in Oregon, prepared for the State of

Oregon (2012); Noise and Human Health: A Review of Scientific Literature, Wind Turbines, prepared for the State of Vermont's Department of Health (2017); Analysis of the Research on the Health Effects from Wind Turbines, Including Effects From Noise, prepared for the Maine Department of Health and Human Services (2012); Jeffrey et al, Adverse Health Effects of Industrial Wind Turbines, 59 Can Fam Physician 473-475 (2013); Salt, A., and Kaltenbach, J, Infrasound From Wind Turbines Could Affect Humans, 31(4) Bulletin Science, Technology and Society, 296-302 (2011), Sample Zoning for Wind Energy Systems, for Michigan State University Extension (March 2017), and Environmental Noise Guidelines for the European Region, prepared for the World Health Organization Regional Office for Europe (2018), the following are among the potential harmful secondary effects of Utility Scale WES:

- a. Falling ice or "ice throws" is physically harmful and measures should be taken to protect the public from the risk of "ice throws."
- b. Nighttime wind turbine noise can cause sleep disturbance. Generally, sleep disturbance can adversely affect mood, cognitive functioning and one's overall sense of health and wellbeing. Chronic stress and sleep disturbance could increase the risk for cardiovascular disease, decreased immune function, endocrine disorders, and mental illness. In addition, possible health effects include increased heart rate, insomnia, fatigue, accidents, reduction in performance and depression.
- c. Noise from Utility Scale WES could potentially impact people's health and wellbeing if it increases background sound levels by more than 10 dB(A) or results in long term outdoor community sound levels above 35-40 dB(A) Lmax.
- d. There is evidence that Utility Scale WES sound is more noticeable, annoying, and disturbing than other community industrial sounds at the same level of loudness, due to its adverse sound character.
- e. Alternating changes in light intensity caused by the moving blades of WES on the ground and stationary objects, also known as shadow flicker, may cause health issues.
- f. The Township desires to protect ecological and environmentally sensitive areas in the Township including, but not limited to, habitats for endangered species or heavily used migration routes for species of waterfowl and other migratory birds (some of which are protected species), including eagles, tundra swans, and sand hill cranes. Thus, the Township has determined that WES sites can adversely impact wildlife and their habitats and makes evaluation of proposed WES sites essential. The Township finds that any WES sites should have the lowest potential for negative impacts on wildlife resources and avoid locations with higher concentrations of migratory birds. Further, any WES sites that would fragment sensitive habitat areas, like rivers, streams, and wetlands, should be avoided.
- g. The general welfare, health, and safety of the citizens of the Township will be promoted by the enactment of this Ordinance.

2. Special Land Use Permit Application Requirements. In addition to the requirements of Article 13, the applicant for a Utility-Scale WES 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, Township Engineer, and other Township qualified professional consultants in the areas of electrical, acoustics, environmental, and health and safety, 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 sole 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 more than actual cost will be returned to the applicant. An itemized billing of all expenses will be provided to the applicant upon request.

c. Required Security Deposits. Following approval, but prior to the issuance of a special land use permit for the construction of any Utility Scale WES, the following security deposits shall be deposited with the Township.

1. Sufficient funds to decommission and remove the WES in the event of abandonment.

2. Sufficient funds to repair the anticipated damage to roadways during construction of the WES.

3. A \$15,000 escrow account to cover the costs of complaint investigation, mitigation, and resolution.

d. A map including all parcel numbers that depicts all Participating Property to be used by the Utility-Scale WES; documentation establishing ownership of each parcel; and any and all lease or option agreements (including “good neighbor” agreements), easements, or purchase agreements for the subject parcels, together with any attachments to such agreements or easements.

- e. An operations agreement setting forth the operations parameters, the name and contact information of the Owner/Operator, the Owner/Operator's inspection protocol, emergency procedures, and general safety documentation.
- f. Federal Employer Identification Number for the Owner/Operator is required at the time of application.
- g. A written emergency response plan detailing the Owner/Operator'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 Owner/Operator 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.
- h. 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.
- i. A written description of specialized training and/or equipment necessary for handling fires and/or other emergencies. All training and/or equipment will be paid for by the Owner/Operator. The training plan must include, at a minimum, mandatory annual emergency response training for local firefighters and other local emergency personnel at the site of a Utility-Scale WES.
- j. A complete set of photographs, video, and topography map of the entire Participating Property prior to construction.
- k. A copy of any power purchase agreement or other written agreement that the Owner/Operator has with an electric utility or any agreement or approval for interconnection between the proposed Utility-Scale WES and an electric utility or transmission company.
- l. 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.
- m. A decommissioning and land reclamation plan describing the actions to be taken following the abandonment or discontinuation of the Utility-Scale WES, 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 WES 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 WES.
- n. Financial security that meets the requirements of this Ordinance.

- o. A plan for resolving complaints regarding but not limited to noise, glare, maintenance, shadow flicker, vibrations, ice throws, lighting, and drainage from the public or other property owners concerning the construction and operation of the Utility-Scale WES.
- p. Identification of and a plan for managing any hazardous waste.
- q. A transportation plan for construction and operation phases, including any applicable agreements with the Livingston County Road Commission and Michigan Department of Transportation.
- r. An attestation that the Owner/Operator 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 WES.
- s. Utility-Scale WES shall be a vertical axis wind turbine constructed in accordance with the manufacturer's specifications and directions and shall be inspected by a third-party engineer retained by the Township and paid for out of the escrow maintained by the applicant. As built plans shall be provided to the Township upon completion of construction. A copy of the manufacturer's directions, instruction manual, and specification sheets for each model of turbine in the Utility-Scale WES, including any unredacted safety manuals and Safety Data Sheets (SDS), for installing, maintaining, and using the Utility-Scale WES. The safety manuals and SDS should include standard details for an industrial site such as materials, chemicals, fire, access, safe distances during Utility-Scale WES failure, processes in emergencies, etc.
- t. A ground cover vegetation establishment and management plan that complies with this Ordinance.
- u. Proof of environmental compliance, including compliance with:
 1. Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act; (MCL 324.3101 et. Seq.);
 2. Part 91, Soil Erosion and Sedimentation Control (MCL 324.9101 et. Seq.) and any corresponding County ordinances;
 3. Part 301, Inland Lakes and Streams, (MCL 324.30101 et. Seq.);
 4. Part 303, Wetlands (MCL 324.30301 et. Seq.);
 5. Part 365, Endangered Species Protection (MCL324.36501 et. Seq.); and

6. Any other applicable laws and rules in force at the time the application is considered by the Township.

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

w. Insurance. Proof of the Owner/Operator's public liability insurance shall be provided at the time of application. If the Owner/Operator is approved, proof of insurance shall be provided to the Township annually thereafter. The policy shall provide for bodily injury, property damage, livestock damage, and future earnings loss and shall name Conway Township and each Participating Property owner as an additional insured with the right to be notified of cancellation and/or significant reduction of coverage. 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. Aggregate policies are allowed if minimum coverage per Utility-Scale WES is satisfied, and coverage is provided for every site where owner/operator's equipment is located.

x. Compliance with the Michigan Uniform Building Code and National Electric Safety Code: Construction of a Utility-Scale WES 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.

y. Conceptual plan. A graphical computer-generated depiction of how the Utility-Scale WES will appear from all directions.

z. The Owner/Operator shall also submit a written explanation of the design characteristics and the ability of the structure(s) and attendant facilities to withstand winds, ice and other naturally occurring hazards, as well as information regarding health, welfare and safety in areas including, but not limited to, noise, vibration, shadow flicker, and blade ice deposits. This information shall also address the potential for the WES to structurally fail or collapse, and what results should be expected in such an event.

3. 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 inch = 200 feet with the following:

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

2. 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.
3. Indication of how and where the system will be connected to the power grid.
4. Plan for any land clearing and grading required for the installation and operation of the system.
5. Plan for ground cover establishment and management.
6. 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.
7. Sound modeling study including sound isolines extending from the sound sources to the property lines of Participating Property.
8. 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 acceptable to the Township, 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 acceptable to the Township, 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 acceptable to the Township, studying the proposed layout of the Utility-Scale WES 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 acceptable to the Township, to determine if glare from the Utility-Scale WES 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 WES.

e. Conceptual Layout Plan. Owner/Operator shall submit a 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.

f. Background Sound Analysis. A background (ambient) sound analysis shall be performed by an independent third-party acoustician acceptable to the Township and a report provided which indicates Leq 1 second, L10, and L90 sound levels using A-weighting and C-weighting. Data shall be collected at midpoints along property lines of adjoining Non-Participating Property and Participating Property. Measurement procedures are to follow the most recent versions of ANSI S12.18 and ANSI S12.9, Part 3 guideline (with an observer present). Measurements shall be taken using an ANSI or IEC Type 1 Precision Integrating Sound Level Meter. The study must include a minimum of four four-day (96 hour) testing periods, include one Sunday, and divide data by daytime and nighttime. One of the four-day testing periods must occur between December 1 and March 1, one must occur between March 1 and June 1, one must occur between June 1 and September 1, and one must occur between September 1 and December 1. The sound background study shall report for the period of the monitoring topography, temperature, weather patterns, sources of ambient sound, and prevailing wind direction.

g. Economic Impact: The Owner/Operator shall fund and provide an economic impact analysis performed by an independent third-party acceptable to the Township. Such a study shall include probable financial impact regarding jobs, tax revenue, lease payments and property values at a minimum and average set-backs distances. Business and residential growth potential shall be considered.

h. Wind Assessment Analysis. A wind assessment analysis conducted within a potential project area shall be completed within 18 months of the date of application for a Utility-Scale WES and shall be performed by an independent third-party acceptable to the Township. The study must show analysis for a period of time no less than one (1) year. The height of an anemometer (or similar) device measuring wind availability shall be placed within the potential vertical swept blade area of the proposed Utility-Scale WES. The anemometer shall be decommissioned in accordance with this

Ordinance, including the provision of a security bond covering decommissioning costs.

i. Shadow Flicker Impact Analysis. A copy of a shadow flicker analysis shall be performed by an independent third-party acceptable to the Township at Non-Participating Property lines to identify the locations of shadow flicker that may be caused by any Utility-Scale WES and the expected durations of the flicker at these locations from sunrise to sunset over the course of a year. The site plan shall identify problem areas where shadow flicker may affect the owners and/or occupants of Non-Participating Property and show measures that shall be taken to eliminate shadow flicker.

j. A copy of a site suitability analysis by a third-party qualified professional acceptable to the Township to identify and assess any potential impacts to or hazardous conditions resulting from proximate existing uses and conditions. The suitability analysis must include:

(i) A flight pattern analysis and impact statement.

(ii) A subsurface mine analysis and impact statement.

(iii) An oil and gas lease analysis and impact statement.

(iv) Other local site conditions identified by Planning Commission.

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

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

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

12. 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.

13. Water Usage and Cleaning. The Owner/Operator 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.

14. Repair Documentation: Owner/Operator must provide a detailed policy and process book for the repair, replacement, and removal of malfunctioning, defective, worn, or noncompliant Utility-Scale WES. Sections of the process book should consider any ordinance requirement or Utility-Scale WES performance deficiency. The process book shall also include a detailed maintenance schedule.

15. Documentation that noise emissions, construction code, tower, and safety requirements have been reviewed by the appropriate third-party professional and the submitted site plan is prepared to show compliance with these issues.

16. A description of the routes to be used by construction and delivery vehicles and of any road improvements that shall be necessary to accommodate construction vehicles, equipment or other deliveries, and an agreement or bond which guarantees the repair of damage to public roads and other areas caused by construction of the Utility-Scale WES.

17. Access Driveways: Geographic information system (GIS) mapping location of Utility-Scale WES and WES Testing Facility access driveways together with details regarding dimensions, composition, and maintenance of the proposed driveways and be filed with the township and recorded at the Livingston County Register of Deeds as an easement. The site plan shall include traffic routes, time of the year use, staging areas, and any other physical sites related to Utility-Scale WES. Construction of the Access Driveway that serves a Utility-Scale WES or WES Testing Facility is required to protect the public health, safety, and welfare by offering an adequate means by which governmental agencies may readily access the site in the event of an emergency. All such roads shall be constructed to allow access at all times by any emergency service vehicles, such as fire, police, and repair. Access driveways must meet Fowlerville Township Fire Department regulations and grant permanent access easement to the Township to be recorded at the Livingston County Register of Deeds.

18. All new infrastructure above and below ground related to the project, including transmission line locations.

19. A contact for the Owner/Operator to which any notice of complaint, as defined by this Ordinance, may be sent.

20. Building Siting: Geographic information system(GIS) mapping of locations and height of all proposed buildings, structures, electrical lines, towers, guy wires, guy wire anchors, security fencing, and other aboveground structures associated with the Utility Scale WES.

21. Nearby Building Siting and Airports: Geographic information system (GIS) mapping locations of any existing airport located within 5 miles of a

proposed Utility-Scale WES and the location and height of all existing adjacent buildings, structures, and existing or proposed above ground and underground utilities located within 2500 feet of the property lines of any Participating Property, including the location of all overhead and underground electrical transmission or distribution lines, whether utilized or not by the Utility-Scale WES or WES Testing Facility.

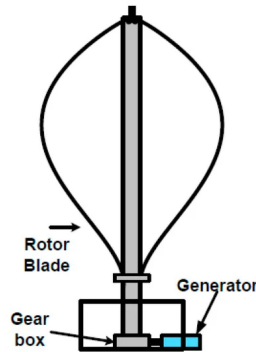
22. Site Lighting: A lighting plan for each Utility-Scale WES and WES Testing Facility. Such plan must describe all lighting that will be utilized and documentation that FAA requirements are met. RADAR activated lighting shall be utilized if allowed by FAA. Such a plan shall include but is not limited to, the planned number and location of lights, light color, activation methods, effect on Township residents and whether any lights blink. Due to complexity in describing lighting effects for health, welfare, and safety, Owner/Operator shall, if available, provide example locations with product descriptions, where similar, or proposed, lighting solutions are currently deployed. Lighting shall be fully shielded from ground, be FAA compliant, and be of most current design, to minimize lighting blinking and brightness nuisance.

23. Supplemental: Additional detail(s) and information as requested by the Planning Commission.

4. 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 WES. The Planning Commission shall review the sufficiency of the application materials and the required standards and findings under Section 13.05 of this Ordinance. If the Planning Commission determines that the substance of any application item is insufficient, the Planning Commission shall deny approval on that basis.

5. System and Location Requirements.

a. Utility-Scale WES shall be limited to vertical axis wind turbines similar to the depiction below, as opposed to a horizontal axis wind turbine, and shall only be located in the Wind Energy System Overlay District.



b. Setback: The following setback, measured from the outside edge (the point furthest from the tower as it rotates) of the blades, not from the tower itself, shall be observed. The minimum setback from any property line of a Non-Participating Property or any public or private road right-of-way is _____ feet or five times the height, whichever is greater. Additionally, each turbine must be located at least 2.5 miles from the nearest inland lake as defined by the Natural Resources and Environmental Protection Act, Act 451 of 1994, and ___ miles from the property line of any existing airport. If a single Utility-Scale WES is located on more than one property, or if the adjacent property is owned by the same owner as the property on which the Utility-Scale WES is located, then the lot line setbacks of this subsection do not apply to the lot lines shared by those properties.

c. The height of a Utility-Scale WES 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 50 feet.

e. Rotor blades of a Utility-Scale WES must have a minimum of 100 feet of clearance from any structure.

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

g. All Utility-Scale WES may be required to be equipped with technology that automatically de-ices the turbine blades. Such 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.

h. The size of a Participating Property to be used for a Utility Scale WES shall be sufficient to comply with all setback requirements in this section.

6. Vibrations: No Utility-Scale WES shall create vibrations that are detectable by humans on Non-participating Property. No Utility-Scale WES shall generate or permit to be generated any vibration in the low-frequency range of 0.1 to 20 Hz, including the 1, 2, 4, 8, and 16 Hertz octave bands that is perceivable by human sensation or exceeds an rms acceleration level of 50 dB(unweighted) re 1 micro-g at any time and for any duration either due to impulsive or periodic excitation of structure or any other mechanism at a Non-Participating Property line or at any point within a Non-Participating Property.

7. Shadow Flicker: Zero hours of Shadow Flicker may fall on or in a Non-Participating Property or on public roads or highways. Site plan and other documents and drawings shall show mitigation measures to eliminate potential impacts from shadow flicker, as

identified in the Shadow Flicker Impact Analysis. Measures to eliminate all effects of shadow flicker on all Non-Participating Property beginning at the property lines, such as programming the Utility-Scale WES to stop rotating during times when shadow crosses property lines, shall be required.

8. Substations and accessory buildings: Structures related or accessory to a Utility-Scale WES shall be subject to the dimensional and locational standards of structures in the zoning district in which they are located. Where structures are visible from Non-Participating Property, vegetation or manmade screening shall be required to minimize visual impact off-site.

9. Permits: All required local, county, state, and federal permits shall be obtained before the Utility-Scale WES begins operating.

10. Appearance: All Utility-Scale WES must be painted a non-obtrusive, neutral color, such as beige, gray, or off-white and must be non-reflective. All bases and rotor blades of Utility-Scale WES must be the same color and must be consistent with the color of other Utility-Scale WES in the Township. No advertisements, graphics, or striping are permitted on the Utility-Scale WES. The Owner/Operator is encouraged to select anti-icing paint that prevents the formation of ice on the rotor blades of the Utility-Scale WES.

11. Lighting: Lighting of the Utility-Scale WES is limited to the minimum light necessary for safe operation. Utility-Scale WES may be lit only to the minimum extent required by the FAA.

12. Security Fencing:

a. Security fencing may be required by the Planning Commission to be installed around all electrical equipment related to the Utility-Scale WES, 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 WES.

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 WES.

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

- a. 40 dBA Lmax, as measured at the property line of the Participating Property, between the hours of 7:00 a.m. and 9:00 p.m.
- b. 35 dBA Lmax, as measured at the property line of the Participating Property, between the hours of 9:00 p.m. and 7:00 a.m.
- c. The Owner/Operator of the Utility Scale WES shall annually provide for a sound analysis or modeling, conducted by an auditory expert chosen by the Township, at the expense of the Owner/Operator.

14. Underground Transmission: Except for power switchyards, the areas within a substation, or for interconnection with a regulated transmission line, all power transmission, communication, or other lines, wires, or conduits from a Utility-Scale WES to any building or other structure shall be located underground and in compliance with current NEC standards. Burial depth shall be at a depth that causes no known environmental, land use, or safety issues, but not less than 6 feet below grade or deeper than drain tile on the Participating Property, whichever depth is greater.

15. Road Damage: The Owner/Operator shall inform the Livingston County Road Commission (LCRC) and the Township of all the roads they propose to use as haul routes for construction, repair, or decommissioning for each Utility-Scale WES. This shall be done prior to beginning any work at any site. A third-party road inspector will be retained, with mutual approval of the Township, the Owner/Operator, and the LCRC or the Michigan Department of Transportation (MDOT) if a state highway is involved. The road inspector will determine any precautions to be taken (including videotaping and physical inspections) during the process, to determine any damage that may be caused by Owner/Operator, and then determine the appropriate road standards and measures to be taken to repair the damage. The cost of the third-party road inspector and/or any other required third-party assistance, and of all repairs necessitated to restore the roads [and related property which may be damaged by the Owner/Operator], shall be the responsibility of the Owner/Operator, and shall in no case be the responsibility of the Township.

16. Fire Suppression: The Utility-Scale WES shall include a fire suppression system that is specifically designed to immediately suppress and extinguish fires in any part of the

WES. 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.

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

18. Electronic Interference: A Utility-Scale WES must not interfere with any radio, television, or other communication systems. If the Township or the Owner/Operator of the Utility-Scale WES receive a complaint about communication interference, the Owner/Operator must resolve the interference immediately and provide proof that the interference has been resolved within 90 days.

19. Stray Voltage Assessments: No stray voltage originating from a Utility-Scale WES may be detected on any Participating Property 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 Property. 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 Owner/Operator shall seek written permission from the property owners prior to conducting testing on such owners' property. Owner/Operator 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 shall not refuse the stray voltage testing if they have a MDARD registered livestock facility on the Participating Property.

20. Drainage: Drainage on Participating Property 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 Participating 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 of the Utility-Scale WES and shall be able to be returned to pre-existing conditions following decommissioning. Any existing drainage tiles that are identified on Participating 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 property owner and Township. While the Utility-Scale WES is in operation, the Owner/Operator shall reinspect the drain tiles every two (2) 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 two-year deadline. The Township reserves the right to have the Building Inspector, Livingston County Drain Commissioner, or other agent present at the time of repair. WES support structures and/or foundations shall be constructed to preserve any drainage field tile or system.

21. 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.

22. As-Built Drawings: The Owner/Operator shall submit "as built" drawings with dimensions relative to Participating Property lines of all new structures including Utility-Scale WES and buried cable both inside and outside fenced areas upon completion and before any power is generated by any Utility-Scale WES. The as built drawings shall be a scale of 1 inch = 200 feet.

23. Signs: Signs are permitted but shall comply with Article 22. Each Utility-Scale WES shall include at least one sign identifying the Owner/Operator and providing a 24-hour emergency contact telephone number.

24. Emergency Action Plan and Training: Before the Utility-Scale WES is operational, the Owner/Operator shall provide the necessary training, equipment, or agreements specified in the application to Township or other emergency personnel.

25. Decommissioning and/or Abandonment:

a. If a Utility-Scale WES is abandoned or otherwise non-operational for a period of six months, the Owner/Operator shall notify the Township and shall remove the Utility-Scale WES 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 WES 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 equal to at least 125% of the cost to remove and dispose of all Utility-Scale WES, 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 Owner/Operator. The cost of decommissioning shall be exclusive of any estimated salvage value. 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 of the Consumer Price Index published from time to time by the Bureau of Labor Statistics for the preceding 2 years.

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

d. Participating Property 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 the Owner/Operator 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-Scale WES 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 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 for decommissioning costs in excess of the amount deposited in escrow and to file a lien against any real property of the Owner/Operator 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.

26. Complaint Resolution: Utility-Scale WES shall provide a complaint resolution process, as described below:

a. Participating Property upon which a Utility-Scale WES is located shall have signs posted with contact information to collect complaints.

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 this Ordinance, which shall also be provided to the Zoning Administrator. If the mitigation plan is determined to be satisfactory, the Owner/Operator must implement the mitigation within 30 days.

e. If the Owner/Operator fails to implement the mitigation plan, the Planning Commission shall hold a public hearing for the purpose of considering revocation of the special land use permit pursuant to the process under Section 13.06.E of this Ordinance. If the Owner/Operator implements the mitigation plan prior to the hearing date, the hearing may be cancelled.

f. If the Owner/Operator requests that the Zoning Board of Appeals review the complaint it must do so within thirty (30) days following the date the Owner/Operator is notified of the complaint. Upon the timely request of the Owner/Operator, the Zoning Board of Appeals shall hold a public hearing and shall hear evidence from both the complainant, and the Owner/Operator. Following the public hearing, the Zoning Board of Appeals shall make one of the following determinations:

1. The Owner/Operator is in compliance with the Ordinance and all conditions of approval, and no further action is needed.

2. The Owner/Operator is out of compliance with either the Ordinance, or the conditions of approval, or both, and the Owner/Operator must submit a mitigation plan to the Zoning Administrator within 60 days. If no mitigation plan is submitted, the Zoning Administrator shall notice a public hearing of the Planning Commission for the purpose of revoking the special land use permit. If the special land use permit is revoked, the abandonment process shall begin.

g. The Owner/Operator shall provide an annual report to the Zoning Administrator that details all complaints received, the status of complaint resolution, and actions taken to mitigate complaints.

27. Required Escrow Account: The Owner/Operator of a Utility-Scale WES shall be required, as a condition of the operation, to fund an escrow account in the amount of \$15,000 for investigation of complaints, including but not limited to, noise, glare, maintenance, shadow flicker, vibrations, ice throws, lighting, stray voltage, signal interference, and drainage. The escrow established by this subsection may be used at the discretion of the Township to pay for third-party investigative services. Funds shall be deposited with the Township Treasurer, or with a third-party fiduciary, at the discretion of the Township. When the escrow account balance is below \$5,000 the Township shall notify the Owner/Operator and the Owner/Operator shall replenish the account to an amount of \$15,000 within 45 days.

28. Maintenance and Repair:

a. Each Utility-Scale WES 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 Utility-Scale WES 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 Zoning Administrator or Planning Commission determines that a Utility-Scale WES fails to meet the requirements of this Ordinance or the special land use permit, the Zoning Administrator or Planning Commission 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 Planning Commission, then the Owner/Operator has 7 days to cure the violation. If the Owner/Operator has not remedied non-compliance issues in the aforementioned time periods, the Owner/Operator shall immediately shut down the Utility-Scale WES and shall not operate, start or restart the Utility-Scale WES until the issues have been resolved. If the Owner/Operator fails to bring the Utility-Scale WES 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 is deemed responsible shall result in a \$500.00 fine.

c. The Owner/Operator shall keep a maintenance log on each Utility-Scale WES, which shall be available for the Township's review within 48 hours of such request.

d. 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).

29. Extraordinary Events: If the Utility-Scale WES 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.

30. 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, the Owner/Operator shall appear before the Planning Commission annually to report on the Utility-Scale WES and address questions or concerns from the Planning Commission.

31. Inspections: The Township may inspect a Utility-Scale WES at any time by providing 24 hours advance notice to the Owner/Operator.

32. Transferability: A special land use permit for a Utility-Scale WES 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.

a. 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. The estimated costs of decommissioning shall be resubmitted, and the security bond adjusted to account for the new estimate.

b. Any proposed amendments to the approved site plan of the special land use permit shall be submitted to the Zoning Administrator pursuant to Section 13.07 of this Ordinance and, except as provided below, shall follow the process therein.

33. Amendments:

a. Major site plan amendments shall follow the same process for the original approval, including a public hearing and include 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.
3. Any variance request.
4. Any other change not included below as a minor site plan amendment.

b. Minor site plan amendments may be approved by the Zoning Administrator and include the following:

1. Changes of the location of a Utility-Scale WES, fencing, buildings, or ancillary equipment by less than 10 feet.

33. 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

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 the community, including existing property values, especially when in proximity to farms, forests, and residential properties.
5. Wind Energy Systems must 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 may channel stormwater runoff, and support structures and trenching are more likely to damage drain tiles. Thus, 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 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 System

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

WES Wind Energy System

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:

A. Adverse Sound Character: Sounds or noise that cause building rattle, is impulsive, tonal, and includes amplitude modulation, or has a low-frequency bass rumble.

B. Ambient: Ambient is defined as the sound pressure level exceeded 90% of the time over a 96- hour measurement period with daytime/nighttime division.

C. Anemometer Tower: A freestanding tower containing instrumentation such as anemometers that is designed to provide present moment wind data for use by the supervisory control and data acquisition (SCADA) system which is an accessory land use to a Wind Energy System.

D. ANSI: the American National Standards Institute.

E. dBA: The A-weighted sound level.

F. FAA: The Federal Aviation Administration.

G. GIS: Geographic Information System and is comparable to GPS (global positioning system) coordinates.

H. IEC: The International Electrotechnical Commission.

I. ISO: The International Organization for Standardization.

J. LMax (LAMax or LCMMax): The maximum dB(A) or dB(C) sound level measured using the “fast response” setting of the sound meter (equivalent to 0.125 second exponential averaging time).

K. NEC: National Electrical Code.

L. Noise: A sound that causes disturbance that exceeds 40 dBA Lmax or 35 dBA Lmax.

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

N. Owner/Operator: A person, firm, corporation, company, limited liability corporation or other entity, as well as their agents, contractors, successors, assigns and/or transferees, who applies for Township approval to construct, repair, maintain, decommission and/or operate a WES and/or WES Testing Facility. An Owner/Operator must have the legal authority to represent and bind the owner of the Participating Property or lessee to the terms or conditions of any approvals for a permitted WES or WES Testing Facility. The duties and obligations regarding approval for any approved WES or WES Testing Facility shall be jointly and severally binding upon the Owner/Operator of the WES or WES Testing Facility. “Owner/operator,” even when used in the singular, may refer to more than one person or entity if there are multiple applicants, owners, or operators, or if the WES or WES Testing Facility is owned and operated by different entities.

O. 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 an application for the purpose of developing a WES. Participating Property also includes any property upon which is located a WES like in the case of a Private WES.

P. Private Wind Energy System (Private WES): 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.

Q. SCADA (supervisory control and data acquisition): A computer system that monitors and controls WES.

R. Shadow Flicker: Alternating changes in light intensity caused by the moving blades of wind turbines on the ground and stationary objects, including but not limited to a window of a dwelling.

S. Sound level meter: An instrument for the measurement of sound levels that meets the ANSI requirements of S1.4-1983 (or later revision) for Type 1 or 2 instruments. For frequency analysis, octave and 1/3 octave filters shall conform to ANSI S1.11-1986 (or later revision).

T. Sound Pressure: An average rate at which sound energy is transmitted through a unit area in a specified direction (equivalent to 0.125 second exponential averaging time) See LMax. The pressure of the sound measured at a receiver.

U. Sound Pressure Level: The sound pressure mapped to a logarithmic scale and reported in decibels (dB).

V. Strobe Effect: The effect resulting from the flashing of reflected light, which can be visible from some distance, from the surface finish of turbine blades.

W. Tip Height: The height of a Private WES with a blade at the highest vertical point.

X. Utility-Scale Wind Energy System (Utility-Scale WES): A Wind Energy System consisting of a vertical axis wind turbine 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.

Y. Wetland: As used in this Ordinance, wetland shall mean the areas defined as such by Michigan law (see Part 301 Inland Lakes and Rivers and Part 303 Wetlands Protections of the Natural Resources and Environmental Protection Act, last revised effective 3-29-19), and regulated by the Michigan Department of Natural Resources, and the Michigan Department of Environment, Great Lakes, and Energy.

Z. Wind Energy System (WES): Any part of a system that collects or stores wind energy for the purpose of transforming it into any other form of usable energy and includes any combination of the following: A mill or machine operated by wind acting on oblique vanes or sails that radiate from a horizontal or vertical shaft; a surface area such as a blade, rotor, or similar device, either variable or fixed, for utilizing the wind for electrical or mechanical power; a shaft, gearing, belt, or coupling utilized to convert the rotation of the surface area into a form suitable for driving a generator, alternator, or other electricity or energy

producing device; the generator, alternator, or another device to convert the energy of the wind into electrical or other usable energy; the tower, pylon, or other structure upon which any, all, or some combination of the above are mounted; and any other components not listed above but associated with the normal construction, operation, and maintenance of a WES.

AA. Wind Energy System Testing Facility (WES Testing Facility): A structure and equipment such as a meteorological tower for the collection of wind data and other meteorological data and transmission to a collection source, shall not be deemed to be a communication tower.

BB. Wind Energy System Facility (WES Facility): Clusters of two or more Utility Scale WES placed upon a lot or parcel with the intent to sell or provide electricity to a site or location other than the premises upon which the WES Facility is located. A WES Facility may or may not be owned by the Owner of the Participating Property upon which they are placed.

Section 4. Addition of New Section _____, entitled “Wind Energy System”

New Section ____, entitled “Wind Energy System,” is added to the Township’s Zoning Ordinance and reads as follows:

Section ____s Wind Energy System (WES).

- A. General Provisions. All WES are subject to the following requirements:
 - 1. All WES, including towers, shall conform to the provisions of this Ordinance and all local, county, state, and federal regulations and safety requirements, including applicable building codes and applicable industry standards, including those of ANSI, FAA, Michigan Airport Zoning Act, Michigan Tall Structures Act, Underwriter Laboratory (UL), NEC, National Fire Protection Association (NFPA), and the most current Michigan Uniform Building Code adopted by the enforcing agencies. An interconnected Utility Scale WES shall comply with any applicable Michigan Public Service Commission (MPSC) and Federal Energy Regulatory Commission (FERC) standards.
 - 2. If an applicant, Owner, Operator, or Participating Property Owner of a WES fails to comply with this Ordinance, the Township, in addition to any other remedy under this Ordinance, may revoke any approvals after giving notice and an opportunity to be heard. Additionally, the Township may pursue any legal or equitable action to abate a violation and recover all costs, including the Township’s actual attorney fees and costs.

B. Private Wind Energy System (Private WES).

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

- a. Application to Zoning Administrator. An applicant who seeks to install a Private WES shall apply to the Zoning Administrator on a form approved by the Township Board, including the payment of the required application fee.
- 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 WES.
 - 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 WES. 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 WES if there is no expansion of the size or area of the WES.

2. Accessory Use. Private WES 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 WES shall be installed, maintained, and used only in accordance with the manufacturer's instructions, and it shall comply with this Ordinance, all applicable construction code and electric code (including the most current version of the Michigan Uniform Building Code), FAA, Michigan Airport Zoning Act, Michigan Tall Structures Act, and NEC adopted by the enforcing agencies.
- b. Building Permit. A building permit is required.
- c. Maximum Height. The Tip Height of a Private WES must not exceed 130 feet. The minimum clearance from ground level to the blade at its lowest point must be at least 30 feet. Tip Height is measured from the average grade at the base of the tower or structure supporting the WES. Notwithstanding any other provision in this Zoning Ordinance, the Tip Height restriction in this section applicable to Private WES shall apply.

- d. Location. The minimum setback of a Private WES from any property line or road right-of-way must equal three times the Tip Height of the WES.
- e. Noise. Private WES must comply with the noise limits set forth in Section C.14 of this Ordinance.
- f. Abandonment. If a Private WES has been abandoned for a period of six months, the Owner shall remove it within three months after the date of abandonment. The Zoning Administrator may request proof of power or usable energy generation for purposes of abandonment analysis.
- g. Inspection. The Zoning Administrator may inspect a Private WES for compliance with this Ordinance upon providing reasonable notice to the Owner or occupant.
- h. Underground Transmission. All power transmission or other lines, wires, or conduits from a Private WES to any building or other structure shall be located underground. If batteries are used as part of the Private WES, they shall be placed in a secured container or enclosure.
- i. Shadow Flicker. Private WES shall not produce any shadow flicker on any Non-Participating Property. Measures to eliminate all effects of shadow flicker on Non-Participating Property, such as stopping the WES from rotating during times when shadow crosses Non-Participating Property, shall be required.
- j. Non-Conforming Wind Energy Systems. WES existing on the date of adoption of this Ordinance shall constitute a legal non-conforming use.

C. Utility-Scale Wind Energy Systems. Utility-Scale WES 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 WES are also subject to the following requirements:

1. Findings: This Ordinance has been developed with the intention of obtaining an appropriate balance between the desire for renewable energy resources and the need to protect the public health, safety, and welfare of the community and the character and stability of the Township's residential, agricultural, recreational, commercial and/or industrial areas and preserving and protecting the Township's important and sensitive environmental and ecological assets and areas, open space, viewscales and aesthetics, wetlands, and other ecological and environmentally sensitive areas.

Based on evidence presented in this State and others concerning the adverse secondary effects of Utility Scale WES on communities, including, but not limited to, findings from the Wind Turbine Health Impact Study: Report of Independent Expert Panel, prepared for the Massachusetts Department of Environmental Protection (2012); Strategic Health Impact Assessment on Wind Energy Development in Oregon, prepared for the State of

Oregon (2012); Noise and Human Health: A Review of Scientific Literature, Wind Turbines, prepared for the State of Vermont's Department of Health (2017); Analysis of the Research on the Health Effects from Wind Turbines, Including Effects From Noise, prepared for the Maine Department of Health and Human Services (2012); Jeffrey et al, Adverse Health Effects of Industrial Wind Turbines, 59 Can Fam Physician 473-475 (2013); Salt, A., and Kaltenbach, J, Infrasound From Wind Turbines Could Affect Humans, 31(4) Bulletin Science, Technology and Society, 296-302 (2011), Sample Zoning for Wind Energy Systems, for Michigan State University Extension (March 2017), and Environmental Noise Guidelines for the European Region, prepared for the World Health Organization Regional Office for Europe (2018), the following are among the potential harmful secondary effects of Utility Scale WES:

- a. Falling ice or "ice throws" is physically harmful and measures should be taken to protect the public from the risk of "ice throws."
- b. Nighttime wind turbine noise can cause sleep disturbance. Generally, sleep disturbance can adversely affect mood, cognitive functioning and one's overall sense of health and wellbeing. Chronic stress and sleep disturbance could increase the risk for cardiovascular disease, decreased immune function, endocrine disorders, and mental illness. In addition, possible health effects include increased heart rate, insomnia, fatigue, accidents, reduction in performance and depression.
- c. Noise from Utility Scale WES could potentially impact people's health and wellbeing if it increases background sound levels by more than 10 dB(A) or results in long term outdoor community sound levels above 35-40 dB(A) Lmax.
- d. There is evidence that Utility Scale WES sound is more noticeable, annoying, and disturbing than other community industrial sounds at the same level of loudness, due to its adverse sound character.
- e. Alternating changes in light intensity caused by the moving blades of WES on the ground and stationary objects, also known as shadow flicker, may cause health issues.
- f. The Township desires to protect ecological and environmentally sensitive areas in the Township including, but not limited to, habitats for endangered species or heavily used migration routes for species of waterfowl and other migratory birds (some of which are protected species), including eagles, tundra swans, and sand hill cranes. Thus, the Township has determined that WES sites can adversely impact wildlife and their habitats and makes evaluation of proposed WES sites essential. The Township finds that any WES sites should have the lowest potential for negative impacts on wildlife resources and avoid locations with higher concentrations of migratory birds. Further, any WES sites that would fragment sensitive habitat areas, like rivers, streams, and wetlands, should be avoided.
- g. The general welfare, health, and safety of the citizens of the Township will be promoted by the enactment of this Ordinance.

2. Special Land Use Permit Application Requirements. In addition to the requirements of Article 13, the applicant for a Utility-Scale WES 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, Township Engineer, and other Township qualified professional consultants in the areas of electrical, acoustics, environmental, and health and safety, 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 sole 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 more than actual cost will be returned to the applicant. An itemized billing of all expenses will be provided to the applicant upon request.

c. Required Security Deposits. Following approval, but prior to the issuance of a special land use permit for the construction of any Utility Scale WES, the following security deposits shall be deposited with the Township.

1. Sufficient funds to decommission and remove the WES in the event of abandonment.

2. Sufficient funds to repair the anticipated damage to roadways during construction of the WES.

3. A \$15,000 escrow account to cover the costs of complaint investigation, mitigation, and resolution.

d. A map including all parcel numbers that depicts all Participating Property to be used by the Utility-Scale WES; documentation establishing ownership of each parcel; and any and all lease or option agreements (including “good neighbor” agreements), easements, or purchase agreements for the subject parcels, together with any attachments to such agreements or easements.

- e. An operations agreement setting forth the operations parameters, the name and contact information of the Owner/Operator, the Owner/Operator's inspection protocol, emergency procedures, and general safety documentation.
- f. Federal Employer Identification Number for the Owner/Operator is required at the time of application.
- g. A written emergency response plan detailing the Owner/Operator'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 Owner/Operator 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.
- h. 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.
- i. A written description of specialized training and/or equipment necessary for handling fires and/or other emergencies. All training and/or equipment will be paid for by the Owner/Operator. The training plan must include, at a minimum, mandatory annual emergency response training for local firefighters and other local emergency personnel at the site of a Utility-Scale WES.
- j. A complete set of photographs, video, and topography map of the entire Participating Property prior to construction.
- k. A copy of any power purchase agreement or other written agreement that the Owner/Operator has with an electric utility or any agreement or approval for interconnection between the proposed Utility-Scale WES and an electric utility or transmission company.
- l. 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.
- m. A decommissioning and land reclamation plan describing the actions to be taken following the abandonment or discontinuation of the Utility-Scale WES, 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 WES 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 WES.
- n. Financial security that meets the requirements of this Ordinance.

- o. A plan for resolving complaints regarding but not limited to noise, glare, maintenance, shadow flicker, vibrations, ice throws, lighting, and drainage from the public or other property owners concerning the construction and operation of the Utility-Scale WES.
- p. Identification of and a plan for managing any hazardous waste.
- q. A transportation plan for construction and operation phases, including any applicable agreements with the Livingston County Road Commission and Michigan Department of Transportation.
- r. An attestation that the Owner/Operator 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 WES.
- s. Utility-Scale WES shall be a vertical axis wind turbine constructed in accordance with the manufacturer's specifications and directions and shall be inspected by a third-party engineer retained by the Township and paid for out of the escrow maintained by the applicant. As built plans shall be provided to the Township upon completion of construction. A copy of the manufacturer's directions, instruction manual, and specification sheets for each model of turbine in the Utility-Scale WES, including any unredacted safety manuals and Safety Data Sheets (SDS), for installing, maintaining, and using the Utility-Scale WES. The safety manuals and SDS should include standard details for an industrial site such as materials, chemicals, fire, access, safe distances during Utility-Scale WES failure, processes in emergencies, etc.
- t. A ground cover vegetation establishment and management plan that complies with this Ordinance.
- u. Proof of environmental compliance, including compliance with:
 - 1. Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act; (MCL 324.3101 et. Seq.);
 - 2. Part 91, Soil Erosion and Sedimentation Control (MCL 324.9101 et. Seq.) and any corresponding County ordinances;
 - 3. Part 301, Inland Lakes and Streams, (MCL 324.30101 et. Seq.);
 - 4. Part 303, Wetlands (MCL 324.30301 et. Seq.);
 - 5. Part 365, Endangered Species Protection (MCL324.36501 et. Seq.); and

6. Any other applicable laws and rules in force at the time the application is considered by the Township.

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

w. Insurance. Proof of the Owner/Operator's public liability insurance shall be provided at the time of application. If the Owner/Operator is approved, proof of insurance shall be provided to the Township annually thereafter. The policy shall provide for bodily injury, property damage, livestock damage, and future earnings loss and shall name Conway Township and each Participating Property owner as an additional insured with the right to be notified of cancellation and/or significant reduction of coverage. 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. Aggregate policies are allowed if minimum coverage per Utility-Scale WES is satisfied, and coverage is provided for every site where owner/operator's equipment is located.

x. Compliance with the Michigan Uniform Building Code and National Electric Safety Code: Construction of a Utility-Scale WES 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.

y. Conceptual plan. A graphical computer-generated depiction of how the Utility-Scale WES will appear from all directions.

z. The Owner/Operator shall also submit a written explanation of the design characteristics and the ability of the structure(s) and attendant facilities to withstand winds, ice and other naturally occurring hazards, as well as information regarding health, welfare and safety in areas including, but not limited to, noise, vibration, shadow flicker, and blade ice deposits. This information shall also address the potential for the WES to structurally fail or collapse, and what results should be expected in such an event.

3. 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 inch = 200 feet with the following:

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

2. 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.
3. Indication of how and where the system will be connected to the power grid.
4. Plan for any land clearing and grading required for the installation and operation of the system.
5. Plan for ground cover establishment and management.
6. 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.
7. Sound modeling study including sound isolines extending from the sound sources to the property lines of Participating Property.
8. 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 acceptable to the Township, 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 acceptable to the Township, 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 acceptable to the Township, studying the proposed layout of the Utility-Scale WES 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 acceptable to the Township, to determine if glare from the Utility-Scale WES 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 WES.

e. Conceptual Layout Plan. Owner/Operator shall submit a 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.

f. Background Sound Analysis. A background (ambient) sound analysis shall be performed by an independent third-party acoustician acceptable to the Township and a report provided which indicates Leq 1 second, L10, and L90 sound levels using A-weighting and C-weighting. Data shall be collected at midpoints along property lines of adjoining Non-Participating Property and Participating Property. Measurement procedures are to follow the most recent versions of ANSI S12.18 and ANSI S12.9, Part 3 guideline (with an observer present). Measurements shall be taken using an ANSI or IEC Type 1 Precision Integrating Sound Level Meter. The study must include a minimum of four four-day (96 hour) testing periods, include one Sunday, and divide data by daytime and nighttime. One of the four-day testing periods must occur between December 1 and March 1, one must occur between March 1 and June 1, one must occur between June 1 and September 1, and one must occur between September 1 and December 1. The sound background study shall report for the period of the monitoring topography, temperature, weather patterns, sources of ambient sound, and prevailing wind direction.

g. Economic Impact: The Owner/Operator shall fund and provide an economic impact analysis performed by an independent third-party acceptable to the Township. Such a study shall include probable financial impact regarding jobs, tax revenue, lease payments and property values at a minimum and average set-backs distances. Business and residential growth potential shall be considered.

h. Wind Assessment Analysis. A wind assessment analysis conducted within a potential project area shall be completed within 18 months of the date of application for a Utility-Scale WES and shall be performed by an independent third-party acceptable to the Township. The study must show analysis for a period of time no less than one (1) year. The height of an anemometer (or similar) device measuring wind availability shall be placed within the potential vertical swept blade area of the proposed Utility-Scale WES. The anemometer shall be decommissioned in accordance with this

Ordinance, including the provision of a security bond covering decommissioning costs.

i. Shadow Flicker Impact Analysis. A copy of a shadow flicker analysis shall be performed by an independent third-party acceptable to the Township at Non-Participating Property lines to identify the locations of shadow flicker that may be caused by any Utility-Scale WES and the expected durations of the flicker at these locations from sunrise to sunset over the course of a year. The site plan shall identify problem areas where shadow flicker may affect the owners and/or occupants of Non-Participating Property and show measures that shall be taken to eliminate shadow flicker.

j. A copy of a site suitability analysis by a third-party qualified professional acceptable to the Township to identify and assess any potential impacts to or hazardous conditions resulting from proximate existing uses and conditions. The suitability analysis must include:

- (i) A flight pattern analysis and impact statement.
- (ii) A subsurface mine analysis and impact statement.
- (iii) An oil and gas lease analysis and impact statement.
- (iv) Other local site conditions identified by Planning Commission.

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

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

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

12. 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.

13. Water Usage and Cleaning. The Owner/Operator 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.

14. Repair Documentation: Owner/Operator must provide a detailed policy and process book for the repair, replacement, and removal of malfunctioning, defective, worn, or noncompliant Utility-Scale WES. Sections of the process book should consider any ordinance requirement or Utility-Scale WES performance deficiency. The process book shall also include a detailed maintenance schedule.

15. Documentation that noise emissions, construction code, tower, and safety requirements have been reviewed by the appropriate third-party professional and the submitted site plan is prepared to show compliance with these issues.

16. A description of the routes to be used by construction and delivery vehicles and of any road improvements that shall be necessary to accommodate construction vehicles, equipment or other deliveries, and an agreement or bond which guarantees the repair of damage to public roads and other areas caused by construction of the Utility-Scale WES.

17. Access Driveways: Geographic information system (GIS) mapping location of Utility-Scale WES and WES Testing Facility access driveways together with details regarding dimensions, composition, and maintenance of the proposed driveways and be filed with the township and recorded at the Livingston County Register of Deeds as an easement. The site plan shall include traffic routes, time of the year use, staging areas, and any other physical sites related to Utility-Scale WES. Construction of the Access Driveway that serves a Utility-Scale WES or WES Testing Facility is required to protect the public health, safety, and welfare by offering an adequate means by which governmental agencies may readily access the site in the event of an emergency. All such roads shall be constructed to allow access at all times by any emergency service vehicles, such as fire, police, and repair. Access driveways must meet Fowlerville Township Fire Department regulations and grant permanent access easement to the Township to be recorded at the Livingston County Register of Deeds.

18. All new infrastructure above and below ground related to the project, including transmission line locations.

19. A contact for the Owner/Operator to which any notice of complaint, as defined by this Ordinance, may be sent.

20. Building Siting: Geographic information system(GIS) mapping of locations and height of all proposed buildings, structures, electrical lines, towers, guy wires, guy wire anchors, security fencing, and other aboveground structures associated with the Utility Scale WES.

21. Nearby Building Siting and Airports: Geographic information system (GIS) mapping locations of any existing airport located within 5 miles of a

proposed Utility-Scale WES and the location and height of all existing adjacent buildings, structures, and existing or proposed above ground and underground utilities located within 2500 feet of the property lines of any Participating Property, including the location of all overhead and underground electrical transmission or distribution lines, whether utilized or not by the Utility-Scale WES or WES Testing Facility.

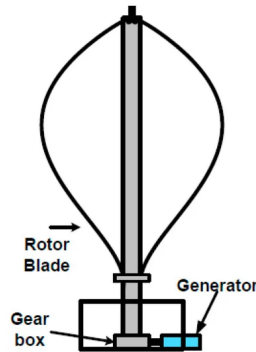
22. Site Lighting: A lighting plan for each Utility-Scale WES and WES Testing Facility. Such plan must describe all lighting that will be utilized and documentation that FAA requirements are met. RADAR activated lighting shall be utilized if allowed by FAA. Such a plan shall include but is not limited to, the planned number and location of lights, light color, activation methods, effect on Township residents and whether any lights blink. Due to complexity in describing lighting effects for health, welfare, and safety, Owner/Operator shall, if available, provide example locations with product descriptions, where similar, or proposed, lighting solutions are currently deployed. Lighting shall be fully shielded from ground, be FAA compliant, and be of most current design, to minimize lighting blinking and brightness nuisance.

23. Supplemental: Additional detail(s) and information as requested by the Planning Commission.

4. 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 WES. The Planning Commission shall review the sufficiency of the application materials and the required standards and findings under Section 13.05 of this Ordinance. If the Planning Commission determines that the substance of any application item is insufficient, the Planning Commission shall deny approval on that basis.

5. System and Location Requirements.

a. Utility-Scale WES shall be limited to vertical axis wind turbines similar to the depiction below, as opposed to a horizontal axis wind turbine, and shall only be located in the Wind Energy System Overlay District.



b. Setback: The following setback, measured from the outside edge (the point furthest from the tower as it rotates) of the blades, not from the tower itself, shall be observed. The minimum setback from any property line of a Non-Participating Property or any public or private road right-of-way is _____ feet or five times the height, whichever is greater. Additionally, each turbine must be located at least 2.5 miles from the nearest inland lake as defined by the Natural Resources and Environmental Protection Act, Act 451 of 1994. and ___ miles from the property line of any existing airport. If a single Utility-Scale WES is located on more than one property, or if the adjacent property is owned by the same owner as the property on which the Utility-Scale WES is located, then the lot line setbacks of this subsection do not apply to the lot lines shared by those properties.

c. The height of a Utility-Scale WES 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 50 feet.

e. Rotor blades of a Utility-Scale WES must have a minimum of 100 feet of clearance from any structure.

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

g. All Utility-Scale WES may be required to be equipped with technology that automatically de-ices the turbine blades. Such 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.

h. The size of a Participating Property to be used for a Utility Scale WES shall be sufficient to comply with all setback requirements in this section.

6. Vibrations: No Utility-Scale WES shall create vibrations that are detectable by humans on Non-participating Property. No Utility-Scale WES shall generate or permit to be generated any vibration in the low-frequency range of 0.1 to 20 Hz, including the 1, 2, 4, 8, and 16 Hertz octave bands that is perceivable by human sensation or exceeds an rms acceleration level of 50 dB(unweighted) re 1 micro-g at any time and for any duration either due to impulsive or periodic excitation of structure or any other mechanism at a Non-Participating Property line or at any point within a Non-Participating Property.

7. Shadow Flicker: Zero hours of Shadow Flicker may fall on or in a Non-Participating Property or on public roads or highways. Site plan and other documents and drawings shall show mitigation measures to eliminate potential impacts from shadow flicker, as

identified in the Shadow Flicker Impact Analysis. Measures to eliminate all effects of shadow flicker on all Non-Participating Property beginning at the property lines, such as programming the Utility-Scale WES to stop rotating during times when shadow crosses property lines, shall be required.

8. Substations and accessory buildings: Structures related or accessory to a Utility-Scale WES shall be subject to the dimensional and locational standards of structures in the zoning district in which they are located. Where structures are visible from Non-Participating Property, vegetation or manmade screening shall be required to minimize visual impact off-site.

9. Permits: All required local, county, state, and federal permits shall be obtained before the Utility-Scale WES begins operating.

10. Appearance: All Utility-Scale WES must be painted a non-obtrusive, neutral color, such as beige, gray, or off-white and must be non-reflective. All bases and rotor blades of Utility-Scale WES must be the same color and must be consistent with the color of other Utility-Scale WES in the Township. No advertisements, graphics, or striping are permitted on the Utility-Scale WES. The Owner/Operator is encouraged to select anti-icing paint that prevents the formation of ice on the rotor blades of the Utility-Scale WES.

11. Lighting: Lighting of the Utility-Scale WES is limited to the minimum light necessary for safe operation. Utility-Scale WES may be lit only to the minimum extent required by the FAA.

12. Security Fencing:

a. Security fencing may be required by the Planning Commission to be installed around all electrical equipment related to the Utility-Scale WES, 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 WES.

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 WES.

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

- a. 40 dBA Lmax, as measured at the property line of the Participating Property, between the hours of 7:00 a.m. and 9:00 p.m.
- b. 35 dBA Lmax, as measured at the property line of the Participating Property, between the hours of 9:00 p.m. and 7:00 a.m.
- c. The Owner/Operator of the Utility Scale WES shall annually provide for a sound analysis or modeling, conducted by an auditory expert chosen by the Township, at the expense of the Owner/Operator.

14. Underground Transmission: Except for power switchyards, the areas within a substation, or for interconnection with a regulated transmission line, all power transmission, communication, or other lines, wires, or conduits from a Utility-Scale WES to any building or other structure shall be located underground and in compliance with current NEC standards. Burial depth shall be at a depth that causes no known environmental, land use, or safety issues, but not less than 6 feet below grade or deeper than drain tile on the Participating Property, whichever depth is greater.

15. Road Damage: The Owner/Operator shall inform the Livingston County Road Commission (LCRC) and the Township of all the roads they propose to use as haul routes for construction, repair, or decommissioning for each Utility-Scale WES. This shall be done prior to beginning any work at any site. A third-party road inspector will be retained, with mutual approval of the Township, the Owner/Operator, and the LCRC or the Michigan Department of Transportation (MDOT) if a state highway is involved. The road inspector will determine any precautions to be taken (including videotaping and physical inspections) during the process, to determine any damage that may be caused by Owner/Operator, and then determine the appropriate road standards and measures to be taken to repair the damage. The cost of the third-party road inspector and/or any other required third-party assistance, and of all repairs necessitated to restore the roads [and related property which may be damaged by the Owner/Operator], shall be the responsibility of the Owner/Operator, and shall in no case be the responsibility of the Township.

16. Fire Suppression: The Utility-Scale WES shall include a fire suppression system that is specifically designed to immediately suppress and extinguish fires in any part of the

WES. 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.

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

18. Electronic Interference: A Utility-Scale WES must not interfere with any radio, television, or other communication systems. If the Township or the Owner/Operator of the Utility-Scale WES receive a complaint about communication interference, the Owner/Operator must resolve the interference immediately and provide proof that the interference has been resolved within 90 days.

19. Stray Voltage Assessments: No stray voltage originating from a Utility-Scale WES may be detected on any Participating Property 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 Property. 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 Owner/Operator shall seek written permission from the property owners prior to conducting testing on such owners' property. Owner/Operator 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 shall not refuse the stray voltage testing if they have a MDARD registered livestock facility on the Participating Property.

20. Drainage: Drainage on Participating Property 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 Participating 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 of the Utility-Scale WES and shall be able to be returned to pre-existing conditions following decommissioning. Any existing drainage tiles that are identified on Participating 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 property owner and Township. While the Utility-Scale WES is in operation, the Owner/Operator shall reinspect the drain tiles every two (2) 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 two-year deadline. The Township reserves the right to have the Building Inspector, Livingston County Drain Commissioner, or other agent present at the time of repair. WES support structures and/or foundations shall be constructed to preserve any drainage field tile or system.

21. 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.

22. As-Built Drawings: The Owner/Operator shall submit "as built" drawings with dimensions relative to Participating Property lines of all new structures including Utility-Scale WES and buried cable both inside and outside fenced areas upon completion and before any power is generated by any Utility-Scale WES. The as built drawings shall be a scale of 1 inch = 200 feet.

23. Signs: Signs are permitted but shall comply with Article 22. Each Utility-Scale WES shall include at least one sign identifying the Owner/Operator and providing a 24-hour emergency contact telephone number.

24. Emergency Action Plan and Training: Before the Utility-Scale WES is operational, the Owner/Operator shall provide the necessary training, equipment, or agreements specified in the application to Township or other emergency personnel.

25. Decommissioning and/or Abandonment:

a. If a Utility-Scale WES is abandoned or otherwise non-operational for a period of six months, the Owner/Operator shall notify the Township and shall remove the Utility-Scale WES 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 WES 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 equal to at least 125% of the cost to remove and dispose of all Utility-Scale WES, 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 Owner/Operator. The cost of decommissioning shall be exclusive of any estimated salvage value. 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 of the Consumer Price Index published from time to time by the Bureau of Labor Statistics for the preceding 2 years.

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

d. Participating Property 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 the Owner/Operator 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-Scale WES 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 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 for decommissioning costs in excess of the amount deposited in escrow and to file a lien against any real property of the Owner/Operator 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.

26. Complaint Resolution: Utility-Scale WES shall provide a complaint resolution process, as described below:

a. Participating Property upon which a Utility-Scale WES is located shall have signs posted with contact information to collect complaints.

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 this Ordinance, which shall also be provided to the Zoning Administrator. If the mitigation plan is determined to be satisfactory, the Owner/Operator must implement the mitigation within 30 days.

e. If the Owner/Operator fails to implement the mitigation plan, the Planning Commission shall hold a public hearing for the purpose of considering revocation of the special land use permit pursuant to the process under Section 13.06.E of this Ordinance. If the Owner/Operator implements the mitigation plan prior to the hearing date, the hearing may be cancelled.

f. If the Owner/Operator requests that the Zoning Board of Appeals review the complaint it must do so within thirty (30) days following the date the Owner/Operator is notified of the complaint. Upon the timely request of the Owner/Operator, the Zoning Board of Appeals shall hold a public hearing and shall hear evidence from both the complainant, and the Owner/Operator. Following the public hearing, the Zoning Board of Appeals shall make one of the following determinations:

1. The Owner/Operator is in compliance with the Ordinance and all conditions of approval, and no further action is needed.

2. The Owner/Operator is out of compliance with either the Ordinance, or the conditions of approval, or both, and the Owner/Operator must submit a mitigation plan to the Zoning Administrator within 60 days. If no mitigation plan is submitted, the Zoning Administrator shall notice a public hearing of the Planning Commission for the purpose of revoking the special land use permit. If the special land use permit is revoked, the abandonment process shall begin.

g. The Owner/Operator shall provide an annual report to the Zoning Administrator that details all complaints received, the status of complaint resolution, and actions taken to mitigate complaints.

27. Required Escrow Account: The Owner/Operator of a Utility-Scale WES shall be required, as a condition of the operation, to fund an escrow account in the amount of \$15,000 for investigation of complaints, including but not limited to, noise, glare, maintenance, shadow flicker, vibrations, ice throws, lighting, stray voltage, signal interference, and drainage. The escrow established by this subsection may be used at the discretion of the Township to pay for third-party investigative services. Funds shall be deposited with the Township Treasurer, or with a third-party fiduciary, at the discretion of the Township. When the escrow account balance is below \$5,000 the Township shall notify the Owner/Operator and the Owner/Operator shall replenish the account to an amount of \$15,000 within 45 days.

28. Maintenance and Repair:

a. Each Utility-Scale WES 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 Utility-Scale WES 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 Zoning Administrator or Planning Commission determines that a Utility-Scale WES fails to meet the requirements of this Ordinance or the special land use permit, the Zoning Administrator or Planning Commission 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 Planning Commission, then the Owner/Operator has 7 days to cure the violation. If the Owner/Operator has not remedied non-compliance issues in the aforementioned time periods, the Owner/Operator shall immediately shut down the Utility-Scale WES and shall not operate, start or restart the Utility-Scale WES until the issues have been resolved. If the Owner/Operator fails to bring the Utility-Scale WES 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 is deemed responsible shall result in a \$500.00 fine.

c. The Owner/Operator shall keep a maintenance log on each Utility-Scale WES, which shall be available for the Township's review within 48 hours of such request.

d. 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).

29. Extraordinary Events: If the Utility-Scale WES 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.

30. 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, the Owner/Operator shall appear before the Planning Commission annually to report on the Utility-Scale WES and address questions or concerns from the Planning Commission.

31. Inspections: The Township may inspect a Utility-Scale WES at any time by providing 24 hours advance notice to the Owner/Operator.

32. Transferability: A special land use permit for a Utility-Scale WES 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.

a. 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. The estimated costs of decommissioning shall be resubmitted, and the security bond adjusted to account for the new estimate.

b. Any proposed amendments to the approved site plan of the special land use permit shall be submitted to the Zoning Administrator pursuant to Section 13.07 of this Ordinance and, except as provided below, shall follow the process therein.

33. Amendments:

a. Major site plan amendments shall follow the same process for the original approval, including a public hearing and include 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.
3. Any variance request.
4. Any other change not included below as a minor site plan amendment.

b. Minor site plan amendments may be approved by the Zoning Administrator and include the following:

1. Changes of the location of a Utility-Scale WES, fencing, buildings, or ancillary equipment by less than 10 feet.

33. 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



Livingston County Department of Planning

LIVINGSTON COUNTY PLANNING COMMISSION MEETING

Wednesday, November 15, 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.

Scott Barb
AICP, PEM
Director

Robert A. Stanford
AICP
Principal Planner

Martha Haglund
Principal Planner

Agenda

1. Call to Order
2. Pledge of Allegiance to the Flag
3. Roll and Introduction of Guests
4. Approval of Agenda – November 15, 2023
5. Approval of Meeting Minutes – October 18, 2023
6. Call to the Public
7. Zoning Reviews
 - A. Z-34-23: Genoa Township Rezoning, Section 9 NSD to GC
 - B. Z-35-23: Green Oak Township Conditional Rezoning, Section 19 R2 to GB
 - C. Z-36-23: Handy Township Text Amendment, Section 2.14 Keeping of Animals
 - D. Z-37-23: Marion Township Text Amendment, Sections 3.2 & 10 Light Industrial Data Processing Facilities
8. Old Business:
9. New Business:
10. Reports
 - A. 2025 Livingston County Master Plan update
 - B. MSU Extension/County Planning Roles & Responsibilities Training
 - C. Annual Meeting to Follow Adjournment
 - D. Call to the Public
 - E. Adjournment

Department Information

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

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Web Site
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DRAFT
LIVINGSTON COUNTY PLANNING
COMMISSION MEETING MINUTES

October 18, 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=SUdLYVFFcmozWnFxbm0vcHRjWkVIZz09

PLANNING COMMISSION	
COMMISSIONERS PRESENT:	MATT IKLE DENNIS BOWDOIN MARGARET BURKHOLDER JASON SCHROCK PAUL FUNK
COMMISSIONERS ABSENT:	BILL ANDERSON BILL CALL
STAFF PRESENT:	SCOTT BARB ROB STANFORD MARTHA HAGLUND
OTHERS PRESENT:	SARAH PORTER, BRUCE POWELSON, CHARLIE KOENN, BRIAN PROKUDA, TIM ZIMMER, MIKE BROWN ONLINE: TIM BOAL, KELLY RALKO, KIM C.

1. **CALL TO ORDER:** Meeting was called to order by Planning Commissioner Ikle 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 FUNK TO APPROVE THE AGENDA, DATED OCTOBER 18, 2023, SECONDED BY COMMISSIONER BOWDOIN.
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All in favor, motion passed 5-0.

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

Commissioner Action: IT WAS MOVED BY COMMISSIONER BOWDOIN TO APPROVE THE MINUTES, DATED SEPTEMBER 20, 2023, SECONDED BY COMMISSIONER SCHROCK.
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All in favor, motion passed 5-0.

6. **CALL TO THE PUBLIC:** Commissioner Bowdoin introduced Mike Brown; newly appointed Planning Commissioner on Conway Township Planning Commission.

7. ZONING REVIEWS:

A. **Z-30-23 BRIGHTON TOWNSHIP: CONDITIONAL REZONING
RC RESIDENTIAL COUNTRY DISTRICT TO R-PUD RESIDENTIAL PLANNED UNIT
DEVELOPMENT DISTRICT
SECTION 4.**

Current Zoning: RC Residential Country District

**Proposed Zoning: R-PUD Residential Planned Unit Development District
Sections 4**

Township Master Plan:

The Future Land Use plan and map of Brighton Charter Township (2020) designates the site as *Low Density Residential*. The Township Master Plan further describes these areas in the following manner (p.17).

Low Density Residential These areas are designated for single-family residences, located between the rural residential and more urbanized areas of the Township. This designation encompasses the majority of land planned for future residential use, and generally includes areas that do not have access to municipal water and sewers. Because public water and sewer service is not planned to be expanded to these areas in the near future, the lot sizes proposed must be adequate to accommodate onsite well and septic facilities. Many areas have already been developed where fewer environmental constraints are found. However, the land immediately surrounding many of the lakes is designated for residential land uses. These areas will need to be monitored to ensure the environmental integrity is maintained and water quality remains satisfactory. Public sewer services have been extended to some of the low density residential areas that surround School and Lyons Lakes, while the remaining lakes within this designation are currently served by on-site facilities. The primary type of development within this classification is expected to be single-family residences on lots that are roughly one acre in size.

Township Planning Commission Recommendation: Approval. The proposed conditional rezoning was approved at the August 23, 2023, public hearing. There were no major comments indicated in the draft meeting minutes of the August 23, 2023, public hearing on the proposed rezoning.

Staff Recommendation: Approval. Approval. The proposed conditional rezoning from RC - Residential Country District to Residential Planned Unit Development District (R-PUD) is appropriate at the given location. The RPUD zoning designation (based on the underlying RC residential unit density) offers much more regulatory site design flexibility (clustering of residential units, etc.) and better integration and preservation of the unique natural areas found on the subject site (i.e., wetland habitat preservation) as a valuable amenity incorporated within the overall site plan, than a straight zoning to the RC zoning designation would offer.

Commission Discussion: Commissioner Burkholder clarified that the project was for site condominiums.

Public Comment: Tim Zimmer from Livingston Engineering spoke briefly about the project.

Commission Action:

COMMISSION ACTION: IT WAS MOVED BY COMMISSIONER BOWDOIN TO RECOMMEND APPROVAL, SECONDED BY COMMISSIONER BURKHOLDER.

Motion passed: 5-0

B. Z-31-23 PUTNAM TOWNSHIP: REZONING
AO AGRICULTURAL OPEN SPACE DISTRICT TO C-2 GENERAL BUSINESS DISTRICT
SECTION 23.

Current Zoning: AO Agricultural Open Space District
Proposed Zoning: C-2 General Business District
Sections 23

Township Master Plan:

The Putnam Township Future Land Use Map designates the subject parcel as General Business and Light Industrial. The Township Master Plan states the following regarding the General Business and Light Industrial future land use classification:

The General Business District lies near the Village of Pinckney and M-36 and are intended to serve a community wide market. Food, general merchandise, retail stores, personal services, and eating and drinking uses typically anchor the GB areas. Centers located adjacent to Pinckney are extensions of downtown Pinckney and compete directly with downtown businesses.

Industrial uses will generally be limited to those areas that may be served by public utilities. These areas should have access to appropriate roadways, sufficient property to accommodate adequate setbacks, and designed in such a way as to negate effects on homes and other uses.

The proposed rezoning designation of C-2 generally corresponds to the Township Future Land Use Map that establishes General Business and Light Industrial for the property. This area lends itself to commercial development along M-36 and nearly adjacent to the Village of Pinckney limits that include a Secondary Business District.

The proposed zoning designation is compatible with the Putnam Township Master Plan and there are no development conflicts with the 2018 Livingston County Master Plan.

Township Planning Commission Recommendation: Approval. The proposed rezoning was approved at the September 13, 2023, public hearing. There were no major comments indicated in the draft meeting minutes of the September 13, 2023, public hearing on the proposed rezoning.

Staff Recommendation: Approval. The proposed rezoning from AO (Agricultural Open Space) to C-2 (General Business) is consistent with the Putnam Township Master Plan and the Livingston County Master Plan.

Commission Discussion: Commissioner Funk asked about the proposed uses allowed on the property.

Public Comment: None.

Commission Action:

COMMISSION ACTION: IT WAS MOVED BY COMMISSIONER SCHROCK TO RECOMMEND APPROVAL, SECONDED BY COMMISSIONER BURKHOLDER.

Motion passed: 5-0

C. Z-32-23: CONWAY TOWNSHIP, AMENDMENTS TO ZONING ORDINANCE ARTICLES-
ARTICLE 2: DEFINITIONS ARTICLE 6: GENERAL AND SUPPLEMENTAL REGULATIONS
SECTION 6.18 (NEW): CARGO CONTAINERS AND PORTABLE STORAGE CONTAINERS.

The Conway Township Planning Commission has proposed the above-referenced zoning amendment to define and regulate cargo containers.

Township Recommendation: Approval. The Conway Township Planning Commission recommended Approval of this zoning amendment at its September 11, 2023. There were a few public comments noted in the minutes, both in support and opposition to the proposed amendments.

Staff Recommendation: Approval with Conditions. Approval With Conditions: If it is truly the desire and intent of Conway Township to allow for this land use activity, Staff would recommend an Approval with Conditions regarding these proposed amendments which address the regulation of temporary and permanent cargo containers in all township zoning districts. Conditions of Approval being that the township assess and carefully consider all suggestions and recommendations highlighted in Staff's review, especially those provided by the County Building Department. There are many concerns raised which give pause and rise to the level of important reassessment of the ordinance provisions as proposed, prior to any final approval that is undertaken by the Conway Township Board.

Commission Discussion: Commissioner Burkholder asked how many of the containers are allowed on one property. Commissioner Ikle inquired about screening and the requirements for this item. Principal Planner, Stanford confirmed regulations dealing with amount of cargo containers and screening need to be addressed and staff report Z-32-23 reflects those as missing items. Commissioner Funk asked what prompted this text change. Commissioner Bowdoin said the text change was initially brought forward to the Township Planning Commission by the Township Zoning Administrator. Commissioner Funk asked if this text amendment should be sent to all the Townships in the county. Commissioner Schrock asked if what would happen to the current cargo containers in-use. Principal Planner Stanford responded that the currently used cargo containers would be considered a legal non-conformity, and that any further alteration proposed or done after the approval of this ordinance by the Township Board would constitute a non-conforming use or structure.

Public Comment: Sarah Porter asked if this is the first ordinance in the county. Brian Prokuda inquired about dimensions of the containers and square feet of the containers and in what way they could be used.

Commission Action:

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

Motion passed: 5-0

D. **Z-33-23 HOWELL TOWNSHIP: CONDITIONAL REZONING:
NSC NEIGHBORHOOD SERVICE COMMERCIAL DISTRICT TO IFZ INDUSTRIAL FLEX
ZONE DISTRICT SECTION 25.**

Current Zoning: NSC Neighborhood Service Commercial District

Proposed Zoning: IFZ Industrial Flex Zone District

Sections 25

Township Master Plan:

The draft Howell Township Future Land Use Map (2022) designates the subject parcel as Local Commercial. The Township Master Plan states the following regarding the Local Commercial future land use classification:

These areas are intended to have smaller scale commercial uses that serve the needs of the immediately surrounding neighborhoods. These areas support small scale retail, personal service establishments, small offices, and low intensity local contractors such as plumbers, electricians, or similar service providers such that the uses would not create a nuisance for neighboring businesses or residence.

The property is located along a highly transitional area of Grand River Avenue where land uses are tightly bound by a mix of residential, neighborhood service commercial, and more intense industrial flex zone to the north and east. The Township's 2023 Master Plan and Future Land Use Map establish Industrial Flex north of the subject parcel and the intent of this classification is to provide flexibility for land uses including industrial and commercial uses that are compatible with the IFZ designation. Based on the Township's Master Plan, the proposed conditional rezoning to Industrial Flex Zone is well aligned with the goals and objectives of the Township's vision for this area.

Township Planning Commission Recommendation: Approval. The proposed conditional rezoning was approved at the September 26, 2023, public hearing. There were no major comments indicated in the draft meeting minutes of the September 26, 2023, public hearing on the proposed conditional rezoning.

Staff Recommendation: Approval. The proposed rezoning from NSC (Neighborhood Service Commercial) to IFZ (Industrial Flex Zone) is generally consistent with the overall policies of the Howell Township Master Plan and the Livingston County Master Plan.

Commission Discussion: None.

Public Comment: None.

Commission Action:

COMMISSION ACTION: IT WAS MOVED BY COMMISSIONER BOWDOIN TO RECOMMEND APPROVAL, SECONDED BY COMMISSIONER BURKHOLDER.

Motion passed: 5-0

8. **OLD BUSINESS:** None.

9. **NEW BUSINESS:**

A. **PLANNING COMMISSIONER APPOINTMENTS:** Commissioner Burkholder and Commissioner Ikle were re-appointed to new 3-year terms at County Board of Commissioners meeting October 10, 2023.

B. **PLANNING COMMISSIONER RESOLUTION FOR CONSIDERATION: WIND AND SOLAR PREEMPTION:** Planning Director Barb and Principal Planner Stanford outlined the background on the resolution.

a. **Commissioner Discussion:** Commissioner Funk expressed his support for the resolution.

b. **Public Comment:** residents Sarah Porter and Mike Brown talked about House Bills 5120-5123: regarding the regulation and siting of Renewable Energy Facilities.

Commission Action:

COMMISSION ACTION: IT WAS MOVED BY COMMISSIONER FUNK TO RECOMMEND APPROVAL OF THE SOLAR AND WIND RESOLUTION AS PRESENTED, SECONDED BY COMMISSIONER SCHROCK (SEE ATTACHMENT FOR RESOLUTION TEXT).

Motion passed: 5-0

10. **REPORTS:** Principal Planner Haglund outlined the County Planning Department's quarterly newsletter, At-A-Glance, that summarizes local Planning Commission meetings. Commissioner Funk and Planning Director Barb discussed doing community visits.

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

12. **ADJOURNMENT:**

Commissioner Action: IT WAS MOVED BY COMMISSIONER BOWDOIN TO ADJOURN THE MEETING AT 7:40 P.M., SECONDED BY COMMISSIONER SHROCK.

Motion passed: 5-0

**LIVINGSTON COUNTY PLANNING COMMISSION
RESOLUTION
OPPOSING ANY LEGISLATION PREEMPTING LOCAL CONTROL FOR SOLAR AND WIND DEVELOPMENTS**

Whereas Executive Directive 2020-10 aims to achieve 100 percent carbon neutrality in Michigan by 2050; and

Whereas industry leaders have pledged to reduce carbon emissions to help achieve this goal; and

Whereas efforts to expand renewable energy projects will continue to increase in this state; and

Whereas the governor has proposed the Michigan Public Service Commission be the sole regulating authority for solar and wind projects to expedite these efforts; and

Whereas by granting the Michigan Public Service Commission this authority, local control will be preempted; and

Whereas should local control be preempted, a county, township, city, or village would be unable to determine the location, size, setback distance, decibel level or any other criteria for a solar or wind facility; and

Whereas should local control be preempted, a county, township, city, or village would be unable to determine requirements for construction, operation, use, or maintenance of a solar or wind facility; and

Whereas if a county already has a solar or wind policy, practice, regulation, rule, or ordinance on record it would be null and void; and

Whereas all other types of energy facilities, while regulated by the Michigan Public Service Commission, must adhere to local zoning; and

Whereas this proposal grants far more regulating authority to the Michigan Public Service Commission than for any other energy source; and

Whereas the Michigan Association of Counties opposes any legislative action that may grant the Michigan Public Service Commission this power.

THEREFORE, BE IT RESOLVED that the Livingston County Planning Commission opposes the preemption of local control in solar and wind siting and zoning.

Motion to Adopt Resolution by Commissioner Funk. Supported by Commissioner Schubert.

Roll call vote:

Yeas:

Nays:

Abstentions:

Absent:

RESOLUTION DECLARED ADOPTED

Adopted October 18, 2023



Matt Ikle
Planning Commission Vice-Chair



**LIVINGSTON COUNTY PLANNING DEPARTMENT
REZONING REQUEST - | -
STAFF REPORT**

**CASE NUMBER:
Z-34-23**


COUNTY CASE NUMBER:	Z-34-23	TOWNSHIP:	Genoa Charter Township
REPORT DATE:	11/02/2023	SECTION NUMBER:	7
STAFF ANALYSIS BY:	Martha Haglund	TOTAL ACREAGE:	1.34

APPLICANT / OWNER:	Desine, Inc. Edward Copp
LOCATION:	4711-09-200-006 & 4711-09-200-008
LAND USE:	Sales & Office Space

CURRENT ZONING:	REQUESTED ZONING:
NSD-Neighborhood Service District	GCD-General Commercial District
PERMITTED/SPECIAL USES (Not all inclusive):	PERMITTED/SPECIAL USES (Not all inclusive):
<p>Permitted: Retail establishments, childcare centers, business services such as mailing/copying and data processing, personal business and services such as barber shops salons or mailing centers, photographer and artist studios, banks, offices space, medial offices up to 15,000 sq. ft., public park and open space</p> <p>-NSD: Is intended as retail business and services to serve needs of nearby residential neighborhoods.</p>	<p>Permitted: Retail establishments 15,000-30,000 sq ft, banquet halls, private clubs, childcare centers, funeral homes, bed and breakfast not more than 25 rooms, laundromats, personal business establishments such as salons, photography studios, restaurants serving alcoholic beverages, tool and equipment rental, office buildings larger than 55,000 sq ft., motion picture theaters, public parks, health clubs, a variety of educational services, churches, offices.</p> <p>-GCD: Is intended to accommodate those retail businesses and services that serve the overall community.</p>
<p>Special: Retail establishments 15,001- 30,000 sq. ft, outdoor commercial display, sales or storage, restaurants and bars serving alcoholic beverages, banks with drive through, offices between 15,001-55,000 sq. ft., leasing and rental of recreational equipment, health clubs and fitness centers, variety of educational services.</p>	<p>Special: Retail establishments 30,000-60,000 sq ft., automobile and recreational vehicle sales, conference centers, restaurants sale with alcoholic beverages, kennel, pet day care center, climate-controlled indoor storage, automotive repair establishment, automobile wash, leasing and rental of automobiles, trucks and trailers, banks</p>
Minimum Lot Area: 1 Acre	Minimum Lot Area: 1 Acre

TOWNSHIP PLANNING COMMISSION RECOMMENDATION AND PUBLIC COMMENTS:	ESSENTIAL FACILITIES AND ACCESS:
<p>Genoa Township recommended approval of the rezoning at their October 10th Planning Commission meeting.</p> <p>There was no response at the call to the public.</p>	<p>Water: Municipal</p>
	<p>Sewer: Public Sewer</p>
	<p>Access: East Grand River</p>

EXISTING LAND USE, ZONING AND MASTER PLAN DESIGNATION:

		Land Use:	Zoning:	Master Plan:
	Subject Site:	Commercial/Office	NSD	Mixed-Use, Grand River
	To the North:	Commercial and Residential	NRPUD (Non-Residential Planned Unit Development and LRR (Lakeshore Resort Residential))	Mixed use, Medium Density Residential
	To the East:	Commercial and Residential	OSD (Office Service District) and LRR	Mixed Use and small lot single family residential
	To the South:	Undeveloped and Commercial	NRPUD	Mixed Use
	To the West:	Undeveloped and Commercial	NRPUD and RDPUD (Redevelopment Planned Unit Development) Overlay District	Mixed Use and Medium Density Residential

TOWNSHIP MASTER PLAN DESIGNATION:

Mixed Use-East/West Grand River: Two mixed-use districts are recommended that covers most the Grand River Avenue to allow flexibility of land uses. In these areas, commercial and residential uses, provided with a horizontal or vertical mixed use development pattern, will complement each other, creating “hubs” or “districts” of mutually supportive uses.

Staff Comments:

Traditionally, mix-use designations may include: commercial, office and retail space and some multi-family residential.

COUNTY COMPREHENSIVE PLAN:

The 2018 Livingston County Master Plan supports the use of mix-used planning to allow flexibility with compatible uses.

The 2018 Livingston County Master Plan does not direct future land use patterns, or development within Livingston County. Alternatively, it offers a county-wide land use perspective when reviewing potential rezoning amendments. The Land Use & Growth Management chapter of the plan includes decision-making recommendations regarding potential land use conflicts and promoting good land governance. This rezoning request, as it is planned to be developed within the planned unit development (PUD) alternative, can be compatible with the township’s planned future land use for this site of low density residential, as the PUD alternative carries with it a variety of flexible site plan development tools to ensure that the township is getting the desired type of development at this location. As such, the County would support and encourage this type of land use development at this location.

COUNTY PLANNING STAFF COMMENTS:

Genoa Charter Township Zoning Ordinance 22.04 states the criteria to be considered when contemplating a rezoning:

22.04.01 Consistency with the goals, policies and future land use map of the Genoa Township Master Plan, including any subarea or corridor studies. If conditions have changed since the Master Plan was adopted, the consistency with recent development trends in the area.

Township Review: The Future Land Use Map identifies the subject site as Mixed Use – West Grand River. Per the Zoning Plan, this future land use classification equates to a new zoning category that has not yet been created. However, based upon the description, it would seem to relate reasonably to GCD zoning. More specifically, this classification states that “currently developed with general commercial and office along Grand River, this area is intended to continue to promote these uses that are supported by area and regional residents as well as pass-by traffic along Grand River Avenue, including interchange traffic from I-96.”

22.04.02 Compatibility of the site's physical, geological, hydrological, and other environmental features with the host of uses permitted in the proposed zoning district.

Township Review: The site is previously developed with multiple buildings and paved and gravel surfacing. The rear of the property contains some topographic conditions and the drawing submitted notes a "ditch." Based on the Impact Assessment and the fact that the site was previously developed, we do not believe that environmental conditions will adversely impact the proposed change from NSD to GCD zoning.

22.04.03 The ability to the site to be reasonably developed with one (1) of the uses permitted under the current zoning.

Township Review: Most NSD (current zoning) uses are also allowed in the GCD (proposed zoning). Accordingly, the revised submittal materials note that the site could be developed with a permitted NSD use. However, the applicant also states that "leasing of existing, small, stand-alone retail space buildings for neighborhood service uses has become significantly more challenging as the brick and mortar retail market changes." The submittal further states that "with the number of unused or under-used retail spaces continuing to expand, the ability to maintain the use and occupancy of an existing building for a reasonable use at this location, is significantly better than having another vacant or under-utilized building in the Township."

Staff Comments: The applicant noted the site has been used as sales, office operation center and warehouse for the AAA Service. While office space is a permitted use within both districts Table 7.02 in Genoa Township Ordinance Lists: leasing and rental of automobiles, trucks, and trailers as a Special Use is only in the GCD. The rezoning would be necessary. The proposed rezoning would need a special land use permit. The applicant intends to apply for a special land use after rezoning is established.

22.04.04 The compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure and potential influence on property values.

Township Review: NSD and GCD allow similar types of uses, though GCD provides for larger and more intensive uses. For the most part, these uses are not expected to adversely impact surrounding land uses, especially the commercial uses along Grand River. The primary concern under this criterion is potential impact upon the residential properties to the northeast, though further development of the site will require landscaping/buffering and other site improvements (lighting standards, waste receptacle placement, use requirements) to help mitigate potential off-site impacts.

22.04.05 The capacity of Township infrastructure and services sufficient to accommodate the uses permitted in the requested district without compromising the "health, safety and welfare" of the Township.

Township Review: Given the nature of the request and the location of the properties, we do not anticipate issues with infrastructure and services.

22.04.06 The apparent demand for the types of uses permitted in the requested zoning district in the Township in relation to the amount of land in the Township currently zoned to accommodate the demand.

Township Review: This area of the Township contains a mix of zoning, including office, commercial, residential, industrial, and 2 different PUDs (mixed-use and non-residential). There is a limited amount of land zoned and/or planned for NSD/Neighborhood Commercial. The areas planned for such are further east along Grand River (and as previously noted, the Master Plan anticipates an increase in intensity for this area of Grand River). In general, there appears to be more demand for relatively larger/more intensive GCD uses than NSD.

22.04.07 Where a rezoning is reasonable given the above criteria, a determination the requested zoning district is more appropriate than another district or amending the list of permitted or Special Land Uses within a district.

Township Review: Since the nature of the use proposed is generally more intensive than the intent of the NSD, we do not feel that amending the text of the Zoning Ordinance would be more appropriate.

22.04.08 The request has not previously been submitted within the past one (1) year, unless conditions have changed or new information has been provided.

Township Review: There has not been a zoning request for the subject properties in the last year.

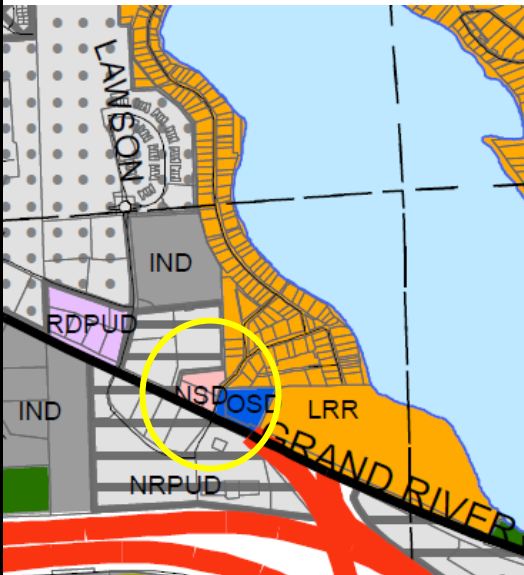
Township Review by:
Safe Built Studio
Brian Borden, Planning Manager

County Staff Comments: Staff would concur with most of the township review. Certainly, office space is compatible with the current and future land uses. The only criteria absent from the review was the requirement for a special land use for Trailer Sales. As indicated above the applicant intends to apply for the special use.

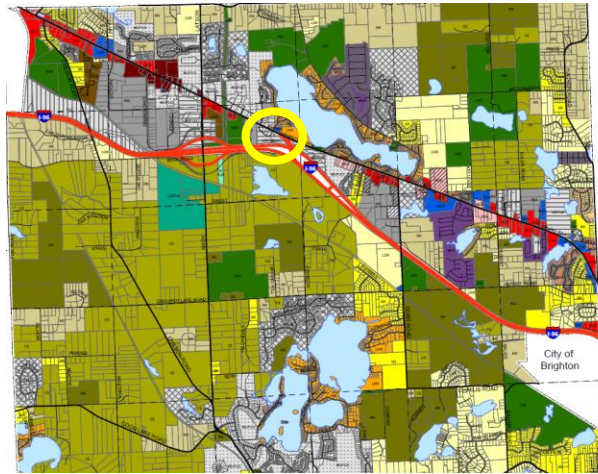
COUNTY PLANNING STAFF RECOMMENDATION:

APPROVAL: The township master plan designates the subject property as a mixed-use area along Grand River, although this category is not yet defined in their zoning plan; the Township Master Plan has a general description of mix use along Grand River allowing flexibility of currently developed parcels to service local and regional residents. The rezoning would be consistent with the township master plan and is compatible with surrounding uses.

ZONING MAP AND EXISTING LAND USE MAP:



TOWNSHIP ZONING MAP:



Genoa Charter Township
Livingston County, Michigan

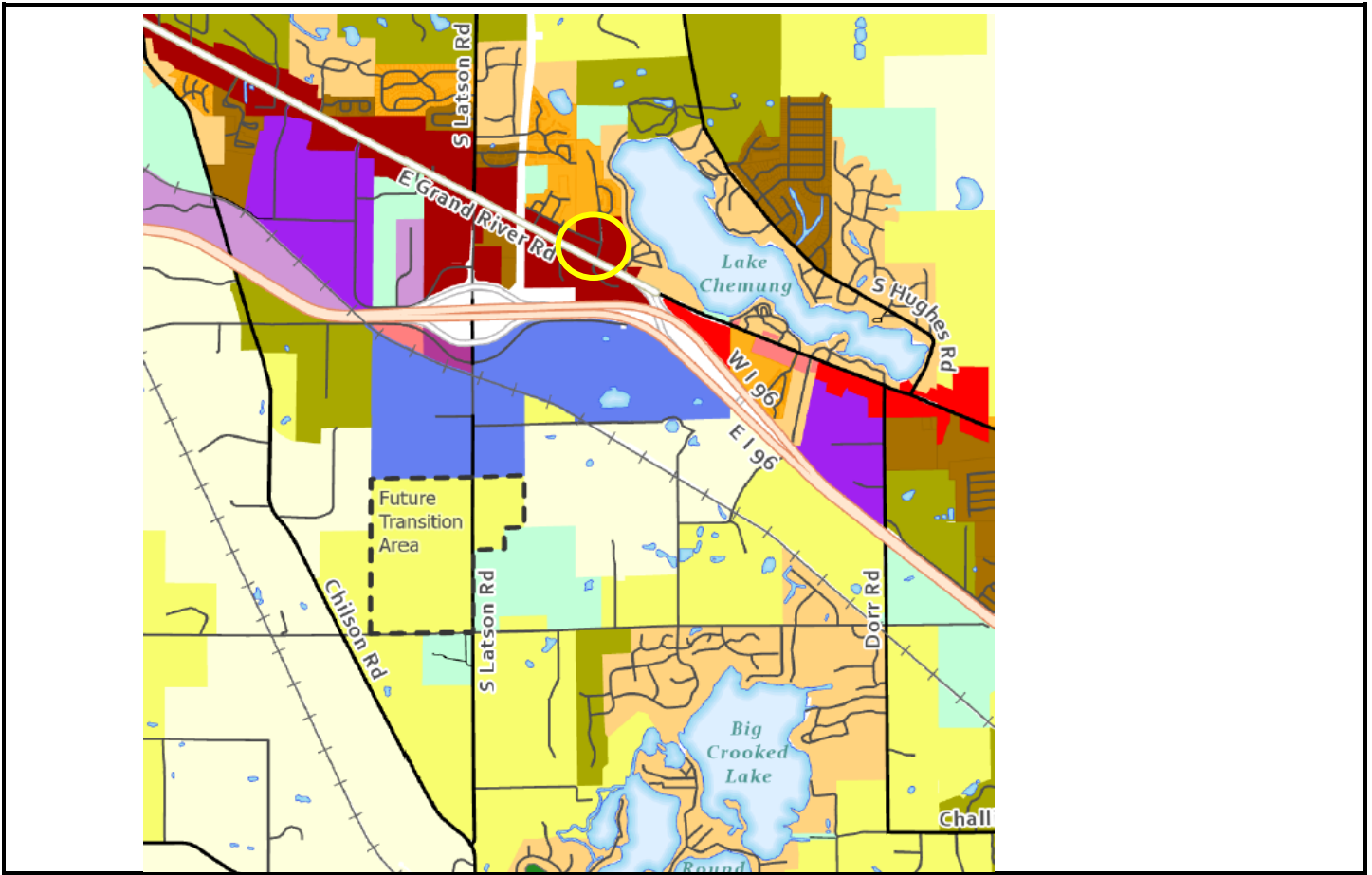
Legend

AG	GC
CE	NS
RR	OS
LDR	NRPUD
SR	IND
LRR	PID
UR	PRF
MDR	MUPUD
HDR	RDPUD
RPUD	Town Cente
MHP	CAPUD
RC	ICPUD

FUTURE LAND USE MAP:



Mixed Use - East Grand River	Agriculture/Country Estate
Mixed Use - West Grand River	Large Lot Rural Residential
Industrial	Low Density Residential
Research and Development	Small Lot Single Family Residential
Interchange Campus	Medium Density Residential
Interchange Commercial	High Density Residential
Public/Institutional/Utilities	Neighborhood Commercial
Private Recreation	



SITE PHOTOS:

Subject Site Northeast



Looking North Storage Area





**LIVINGSTON COUNTY PLANNING DEPARTMENT
REZONING REQUEST - | CONDITIONAL
STAFF REPORT**

**CASE NUMBER:
Z-35-23**


COUNTY CASE NUMBER:	Z-35-23	TOWNSHIP:	Green Oak Charter Township
REPORT DATE:	11/06/2023	SECTION NUMBER:	19
STAFF ANALYSIS BY:	Martha Haglund	TOTAL ACREAGE:	24.17

APPLICANT / OWNER:	David LeClair
LOCATION:	9615 Musch Rd.
LAND USE:	Single Family Residential, Past Farming Operations

CURRENT ZONING:	REQUESTED ZONING:
R-2 Single Family	GB-General Business (CONDITIONAL)
PERMITTED/SPECIAL USES (Not all inclusive):	PERMITTED/SPECIAL USES (Not all inclusive):
<u>Permitted:</u> Single-family dwelling, public education institutions, stables, farm operations and roadside stands, public parks and recreation areas	<u>Permitted:</u> Retail businesses, personal service establishments such as: small appliances repair or beauty shops and barber shops, professional offices, financial and business service establishments, post offices, private clubs and lounges, supermarkets, public and private schools, health and fitness clubs, theaters, eating and drinking establishments
<u>Special:</u> Churches, private schools, municipal buildings and utility buildings, private non-commercial recreation, hospitals, golf courses and country clubs, day care facilities, museums, cemeteries	<u>Special:</u> Eating and drinking establishments, indoor and outdoor recreation, shops providing merchandise, planned shopping centers, mini-storage, childcare centers, assembly halls or dancehalls, open air businesses when developed in conjunction with permitted use, plant nurseries, vehicle wash, bowling alleys, indoor skating rinks, mortuaries, veterinary offices and animal hospitals, warehouse/indoor storages, automobile service station.
Minimum Lot Area: 21,750 Square Feet	Minimum Lot Area: 20,000 Square Feet

TOWNSHIP PLANNING COMMISSION RECOMMENDATION AND PUBLIC COMMENTS:	ESSENTIAL FACILITIES AND ACCESS:
<p>There was a public hearing at the September 7, 2023 Green Oak Planning Commission meeting to conditionally rezone the parcel to allow wedding/event barns under the existing R2 Single Family District. Public comments included: those that were in favor of the project; preserved green space and prefer the project over a subdivision. Several letters of support were submitted. Concerns related to traffic, access drive on Spicer, and operational hours.</p> <p>The first public hearing was to conditionally rezone under the R2 Single Family Residential for the facility. Township Planner noted that a conditional rezoning cannot introduce a use that is not permitted in the district. There needed to be a second public hearing to conditional rezone within General Business District, as this is the only district that allows Assembly Halls as a special use.</p> <p>The Green Oak Planning Commission held a public hearing October 19, 2023, meeting. There were no public comments made. During deliberation the commissioners discussed: rezoning a portion of the parcel without doing a land split, the proposed access to Spicer Rd would go through what remained of the residential area, clarification that the conditional rezoning would only be for the proposed use in</p>	Water: Public
	Sewer: Project proposes two Septic Fields
	Access: Musch Rd Project proposes installing an access drive at Spicer Rd.

<p>the conditional agreement not another use, even if property is sold in the future. Commissioners noted concerns with having commercial use within residential areas. rezoning a portion of the property and not the whole, other areas in the township may be appropriate for the use. The Township Planning Commission voted to Recommend Denial of the Conditional Rezone from R2 to GB (5-2). The commissioners provided their reasons in a drafted resolution (Page 12).</p>	
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EXISTING LAND USE, ZONING AND MASTER PLAN DESIGNATION:				
	Land Use:	Zoning:	Master Plan:	
Subject Site:	Past Farming, Single Family Dwelling	R2-Single Family Residential	Public/Institutional	
	To the North:	Church	R2-Single Family Residential	Public/Institutional
	To the East:	Suburban Density Residential	R2-Single Family Residential	Suburban Density Residential
	To the South:	Ann Arbor Pinball Museum Industrial-Quarry Commercial-Salvage Yard	R2-Single Family Residential RE-Rural Estates	Public/Institutional/ Medium Density Residential
	To the West:	Medium and Low Density Residential	R2-Single Family Residential	Medium and low Density Residential

ENVIRONMENTAL CONDITIONS:	
Soils / Topography:	Wawasee Loam & Fox Sandy Loam
Wetlands:	No wetlands located on parcel.
Vegetation:	The site was a developed farm now has open field. There is approximately 2.5 acres of forested area in the southwest corner. Also 10 acres of meadow/woodland in the northeast portion of the parcel. No changes are proposed to these areas.
County Priority Natural Areas:	No High-Quality Natural Areas are located on site. Is adjacent to 17-acre Priority 3, forested area.

TOWNSHIP MASTER PLAN DESIGNATION:
<p>Public + Institutional Land areas and facilities such as public schools, libraries, and government buildings are considered public uses. Institutional includes such uses as churches, private schools, hospitals, private cemeteries, utility sites and the like.</p> <p>Staff Comments Many of the above uses are also permitted, special uses within the R2 district.</p> <p>The parcel was classified as PI (Public Institutional) when the farm operated as a collaborative for community supported agriculture. All other parcels in the Future Land Use Map designated Public Institutional are owned by schools, churches or utilities. All the PI parcels are all currently zoned R2-Single Family Residential.</p> <p>The Township Zoning Plan, in the Township Master Plan, designate the corresponding zoning of Public/Institution (PI) as the Public Land (PL) district. Some uses in PL include: public parks, public golf courses, recreation activities, private and public forest preserves.</p>

COUNTY COMPREHENSIVE PLAN:
<p>The 2018 Livingston County Master Plan does not direct future land use patterns, or development within Livingston County. Alternatively, it offers a county-wide land use perspective when reviewing potential rezoning amendments. The Land Use & Growth Management chapter of the plan includes decision-making recommendations regarding potential land use conflicts and promoting good land governance.</p>

Review

Background

The applicant currently, has an event/wedding barn located in Brighton Township (Tendale Barn) that went through a similar conditional rezoning process in 2019 (County File Z-19-19).

The applicant is proposing a similar event barn layout at the Musch Rd. property (Tendale Conservatory) and proposes a Conditional Rezoning of 24.17 acres from R2 Single Family Residential to General Business. The southern portion (5.98 acres) of the parcel is proposed to remain R2 zoning. The applicant indicates his daughter will reside at the existing single family home and act as caretaker for the venue while the southern portion is intended for a future build site for another family member.

Green Oak Township does not have a wedding/event barn ordinance. The most similar use found in the Township Zoning Ordinance would be an Assembly Hall. The Township Planner recommended the applicant apply for a conditional rezoning under the General Business District where an Assembly Halls are a permitted, special use.

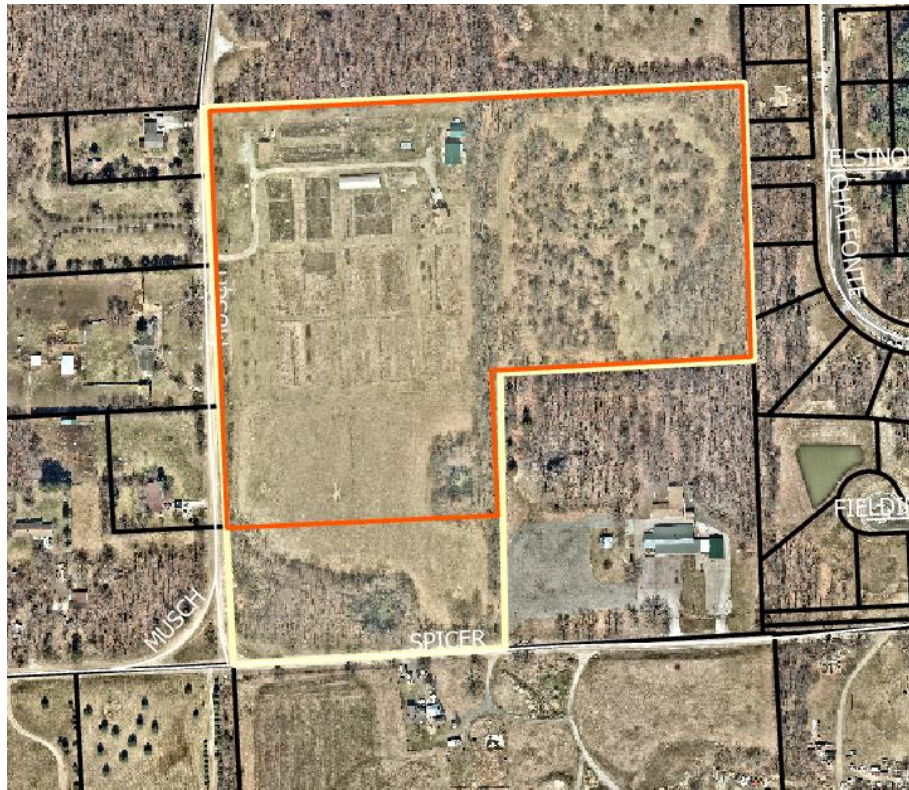
As the rezoning is also conditional on the site plan, aspects of the site plan will also be reviewed.

The applicant has provided a Conditional Conceptual plan depicting the proposed use and elements:

- Remodel two existing barns
- Event Barn (7,550 sq. ft.)
- Chapel/Conservatory (2,880 sq. ft.)
- Courtyard with fence
- 122 Parking spaces
- Existing Single-Family Residence (1600 sq. ft.)

The applicant submitted a conditional agreement. One of the conditions outlines that if the project does not adhere to the agreed upon site plan or the conditional agreement the property will return to the zoning to R2.

A traffic comparison analysis comparing trips generated from Wedding/Event Barn Venue vs. trips generated by a subdivision (38 Lots) was also submitted.



Staff Comments: The applicant is proposing access from Spicer Rd. to the South, through what would remain a residential zone. The applicant has not indicated if they would split the land. If that is the intention the land split should account for the southern driveway. All land divisions subject to Green Oak Land Division Ordinance and Land Division Act, Act 288 of 1967.

Criteria for Rezoning

38-539 Outlines the criteria for the findings for a proposed rezoning in Green Oak Charter Township

a.) Whether the rezoning is consistent with the policies and uses proposed for the area in the Township's Master Land Use Plan.

The Future Land Use Plan designates the parcel as Public/Institutional. The Township Zoning Ordinance and the Township Master Plan do not have a definition for Public Institutional. Parcels designated Public Institutional tend to be more developed such as schools churches or utility properties. According to the zoning plan, the corresponding zoning would be Public Land which tend to be much less developed with a maximum lot coverage of 20%. Most of the Public Land within the township is owned by Michigan Department of Natural Resources or Metro Parks. The township planner's report noted that the site would be nearly consistent with dimensional standards for Public Land and would be compliant with all General Business dimensional requirements.

When one considers the intense uses at most Public/Institutional examples within the township like schools or utility properties the proposed conditional rezoning would be much less intense and consistent with the master plan's corresponding zoning district of Public Land. This is not a traditional rezoning to General Business, the conditions in place including the proposed conditional concept plan would be consistent with the Township Master Plan.

b.) Whether all of the uses allowed under the proposed rezoning would be compatible with the other zones and uses in the surrounding area.

The surrounding uses include a church, museum and residential. There is a gravel quarry (industrial) and salvage yard (commercial) to the south. Although the industrial and commercial parcels to the south remain zoned and planned to be residential these intense uses should be taken into consideration when determining the compatibility of surrounding uses. The proposed conditional site plan would be less intense than the surrounding mix of land uses. As the conditional site plan presents a buffer of 600 feet to the east where a subdivision is located it may also be compatible with residential uses.

Beyond the mixed uses in the immediate vicinity, the Township Master Plan designates the Winans Lake Rd and Old US-23 as a future Mixed-Use with Commercial and Medium Residential this is approximately a mile from the proposed project. In neighboring, Hamburg Township there is an industrial/commercial area along M-36. The conditional rezoning is located between these two commercial nodes, the proposed preservation of open space could be more of a buffer than R2 zoning.

The conditions of the rezoning restrict commercial use to only those proposed. Further, the applicant will need a Special Use Permit and Final Site Plan review that will allow the Township Planning Commission the ability to have the project further comply with the surrounding area.

c.) Whether any public services and facilities would be significantly adversely impacted by a development or use allowed under the requested rezoning.

The site would be serviced by municipal water and proposes two new septic fields. The project includes a detention pond for stormwater. The applicant will use the existing well for irrigation of landscaping and greenhouses.

The traffic comparison submitted indicates that the proposed plan would create more trips on event days but would generate less traffic overall than R2 zoning (300 less trips on non-event days than a 38-lot subdivision). The applicant also reports that approximately half the events have shuttles from local hotels that may contribute to less traffic.

Staff would not anticipate adverse impact by the development or use allowed under the requested conditional rezoning.

d.) Whether the uses allowed under the proposed rezoning would be equally or better suited to the area than uses allowed under the land's current zoning.

The current R2 zone is adjacent to other developments and planned Public/Institutional. The Township Master Plan seeks to add R2 where infrastructure is available this site is prime for that development. There are institutional uses such as a museum and church that could be compatible with both R2 and the proposed Conditional GB Zone. The uses allowed in the proposed conditional rezoning would not necessarily be better suited for the uses allowed under the current rezoning.

e.) Whether the condition and/or value of property in the Township or in adjacent communities would be significantly adversely impacted by a development or use allowed under the requested rezoning.

We do not anticipate significant impact to the condition or property values with the proposed conditional rezoning.

f.) Whether or not the requested zoning change is justified by a change in conditions since the original ordinance was adopted or by an error in the ordinal ordinance.

The Future Land Use Plan was developed when the Stone Coop Farm was in operation and designated Public/Institutional. The proposed Conditional Rezoning would be more intense than when it was used as an agricultural collaborative. However, the Conditional Agreement would be consistent with the Future Land Use map with regards to the corresponding designation of Public Land and preservation of open space.

g.) Whether precedents might result for approval or denial of the petition and possible effects of such precedents.

The conditional rezoning to GB is compatible with surrounding mix-land uses in the surrounding area: residential, public/institutional, industrial, and commercial uses. The voluntary conditional agreement is consistent with the Township Master Plan as it estimates a total of 2.33% lot coverage and nearly fits the dimensional requirements of the Public Land which would be constant with the Township Master Plan's designation of Public/Institutional.

No precedents would be set by the Conditional Rezoning.

Township Criteria for Conditional Rezoning 38-542

Sec. 38-542. Conditional Rezoning.

(a) Intent. It is recognized that there are certain instances where it would be in the best interests of the Township, as well as advantageous to property owners seeking a change in zoning classification, **that certain conditions could be proposed by property owners as part of a request for rezoning. This is especially true since the Township must consider all potential uses which may be made of property when considering a traditional rezoning request, some of which may be inappropriate for a particular piece of property considering items such as, but not limited to, the surrounding land uses, the Township Master Plan, available infrastructure and utilities, and natural features.** It is the intent of this Section to provide a process consistent with the provisions of Section 405 of the Michigan Zoning Enabling Act, Public Act No. 110 of 2006 as amended, MCL 125.3101 et seq., by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

(b) Application and offer of conditions. An owner of land may voluntarily offer in writing conditions relating to the use and/or development of land for which a conditional rezoning is requested. This offer may be made either at the time the application for conditional rezoning is filed, or additional conditions **may be offered at a later time during the conditional rezoning process as set forth below.**

(c) Review procedures. The owner's offer of conditions may not purport to authorize uses or developments not permitted in the requested new zoning district. The owner's offer of conditions shall bear a reasonable and rational relationship to the property for which the conditional rezoning is requested. Further, the Planning Commission and Township Board shall, at a minimum, consider all the review considerations contained in Section 38-542 of this Ordinance in rendering a decision on a request for conditional rezoning.

(1) Other required approvals.

a. Any use or development proposed as part of an offer of conditions that would require a special land use permit under the terms of this Ordinance may only be commenced if a special land use permit for such use or development is ultimately granted in accordance with the provisions of this Ordinance.

b. Any use or development proposed as part of an offer of conditions that would require a variance under the terms of this Ordinance may only be commenced if a variance for such use or development is ultimately granted by the Zoning Board of Appeals in accordance with the provisions of this Ordinance.

c. Any use or development proposed as part of an offer of conditions that would require site plan approval under the terms of this Ordinance may only be commenced if site plan approval for such use or development is ultimately granted in accordance with the terms of this Ordinance.

STAFF: Applicant intends to apply for Special Use and the Final Site Plan would also have to be approved for the conditional rezoning to be affirmed.

Review of the proposed Conditional Agreement

NOW, THEREFORE, in consideration of the premises, covenants and agreements set forth herein, the Township shall rezone the Property from R2 Residential Single Family to Conditional GB, subject to the following conditions:

1. Owner agrees that if the Property is constructed under the Conditional GB zoning, the development will be in accordance with the Conditional Rezoning Request, this Agreement, including the offered conditions set forth below, the Conceptual Site Plan attached as Exhibit B, and with all applicable ordinances, laws and regulations. Owner agrees and acknowledges that all provisions of the underlying GB district shall apply to the Property, except as expressly modified and permitted by this Agreement.
2. Owner agrees that the right to develop and construct on the Property shall be subject to and in accordance with all subsequent applications, reviews, approvals, permits and authorizations required, including site plan and engineering reviews. The Township agrees that all uses contemplated herein shall be deemed permitted uses for the Property, with no further approvals required.

STAFF COMMENTS: As a Special Use Permit is required under 38-542 of the zoning ordinance. The conditional agreement must be subject to Special Use Permit that the Township Planning Commission could place conditions on the use. Ideally, the Special Use Permit and Conditional Agreement could be done simultaneously so both the agreement and special use are consistent.

3. Owner agrees to forbear from acting in a manner inconsistent with the offered conditions set forth in this agreement and the Conceptual Site Plan attached as Exhibit B, and all revisions and documents submitted and made a part of the record for approval.

STAFF COMMENTS: Owner is bound by the Site Plan Approval. If the site plan is not approved the R2 zoning will remain. This also complies with 38-542 of the zoning ordinance.

4. This Agreement shall be binding on and shall inure to the benefit of the successors, transferees and assigns of the parties. Upon execution of both parties, the agreement shall be recorded at the Livingston County Register of Deeds.
5. If the Property is developed under the Conditional GB District, the Property shall be developed in a manner consistent with the following conditions of rezoning and only the Conceptual Site Plan (attached Exhibit B) shall be allowed;
 - a. The Owner proposed to construct a "modern rustic" barn on the Property for use as an event venue available to the general public for private functions, including weddings, but also for events such as anniversaries, family reunions, graduation events, and non-profit or local fundraising events.
 - b. The facility will be set up to host both large and small events. The barn will be constructed to current Township building standards, fully insulated and equipped with both heating and cooling systems. The venue will contain restroom facilities as required by current building codes and will be connected to the Township water system. The event barn will not have full kitchen facilities or be licensed as a restaurant facility, but may offer a food prep area to accommodate catering or similar services. Any alcoholic beverages served at the facility will be required to be served by a professional bartending service that is fully certified and insured to operate in the State of Michigan or otherwise be served in compliance with State of Michigan liquor laws.
 - c. Rental tents for ceremonies shall be allowed in the designated outdoor venue areas. Any tent used shall be NTFD rated for fire safety from a reputable rental company who will erect and remove the tent within 48 hours of its use and 24 hours after its use, respectively.
 - d. Parking assistance for an event will be provided as reasonably necessary for the event and may include the use of valet attendants. For all large events, a multi passenger covered electric golf cart or similar vehicle will be utilized to shuttle guests from the parking area to the event barn or ceremony site and back to their vehicle parking at the end of each event.

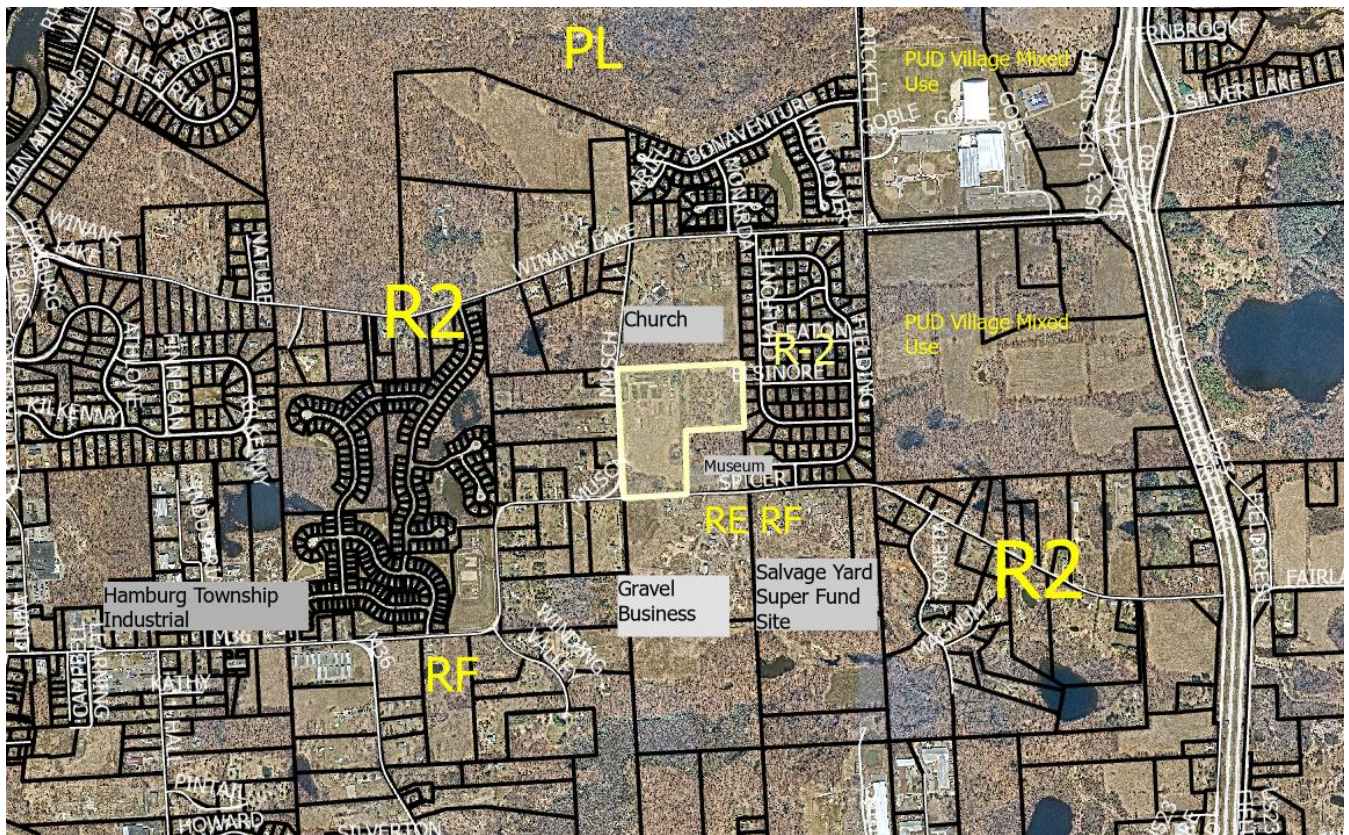
- e. Refuse generated from the event barn will be contained in collection bins on site either in the barn or an auxiliary area for regularly scheduled pickups. Recycling will take place at the facility in a manner that would allow such to be collected by the contracted refuse hauler at the same pick up time as the remaining refuse. It is anticipated that the chosen refuse hauler will provide pick on-site where the items are stored.
- f. The facility may alternatively provide (and charge for) or require event sponsors to purchase liability insurance for their respective event, including liquor liability insurance if they wish to serve alcoholic beverages. All catering companies or other business providing services to the Property will also be required to carry liability insurance prior to entering the Property.
- g. The facility will be available for both large and small events. A large event will be an event that occurs on a Saturday and will have up to a maximum number of 220 permitted guests. The hours for the event space will be 11 a.m. to midnight on Friday and Saturday with music ceasing by 11:00 p.m. Music of any sort (except outdoor ceremony/cocktail hour music prior to 7 p.m.) will be required to be contained within the event barn with the doors closed for sound containment. The Township noise Ordinance as outlined in Article V of the township ordinances will apply in all instances. The Tandale Conservatory contract will specify any guest capacity limits. All renters must comply with the Tandale Conservatory contract regarding the occupancy and rules assigned inside the facility. This information will be available to all potential guests and capacity signs will be posted in the event barn.
- h. Small events may be held on Thursday through Sunday 11 a.m. to 11:00 p.m., but not at the same time as a large event. A small event would be considered as one with less than 170 participants. Any music for such an event would also be required to take place within the event barn (except outdoor ceremony/cocktail hour music prior to 7 p.m) with the doors closed and would be required to cease at 10 p.m. An example of this type of event would be a small wedding, anniversary, or retirement gathering.
- i. The existing home on the Property will remain in use only as a single family residence in accordance with current R2 zoning regulations.
- j. Setbacks for the Property shall be per the GB zoning designation of the current zoning ordinance.
STAFF COMMENTS: Add: In accordance with the approved Conceptual Site Plan outlined in number 3.
- k. Gravel parking will be allowed as shown on the attached Preliminary Site Plan, except for barrier free spaces which shall be paved. Aisle widths, except for handicapped parking areas, shall be 18 feet wide.
- l. It is agreed that the Tandale Conservatory will connect to the Green Oak Township Water System at the rates in effect at the time of approval. Payment for the water system REU's will be made prior to the issuance of a final Certificate of Occupancy. The existing well on the parcel will be allowed to remain in use for irrigation purposes. The facility will utilize an on-site septic system subject to permitting and approvals from the Livingston County Health Department.
- m. No fireworks will be allowed on the property as part of any event held at the facility.
- n. All events greater than 50 people will be required to exit the facility at Spicer Road at the south end of the property as depicted on the site plan.
- o. The property under the conditional zoning will contain two hoop house/ greenhouse structures and an expanded orchard as depicted on the Conceptual Site Plan. These facilities will be used for growing flowers for use at the Tandale Conservatory and other potential facilities outside of the subject property. On site retail sales will not be allowed for these items.

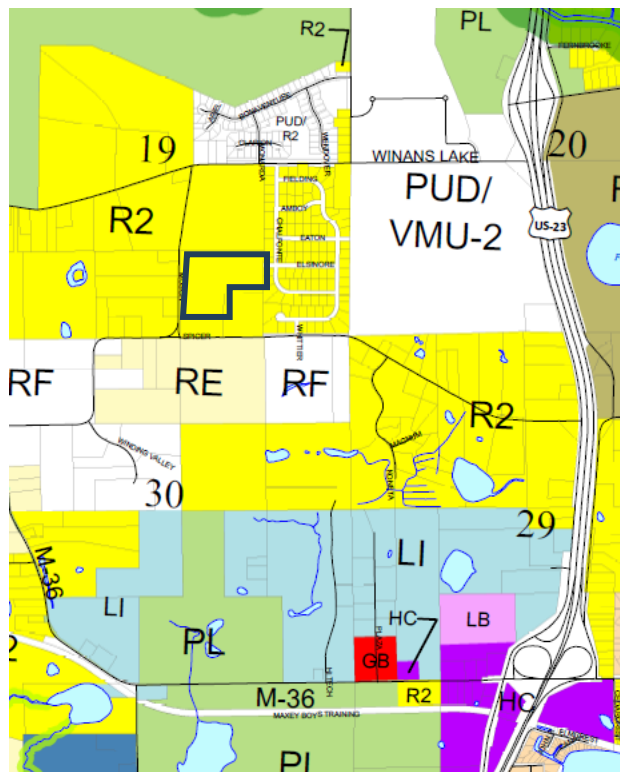
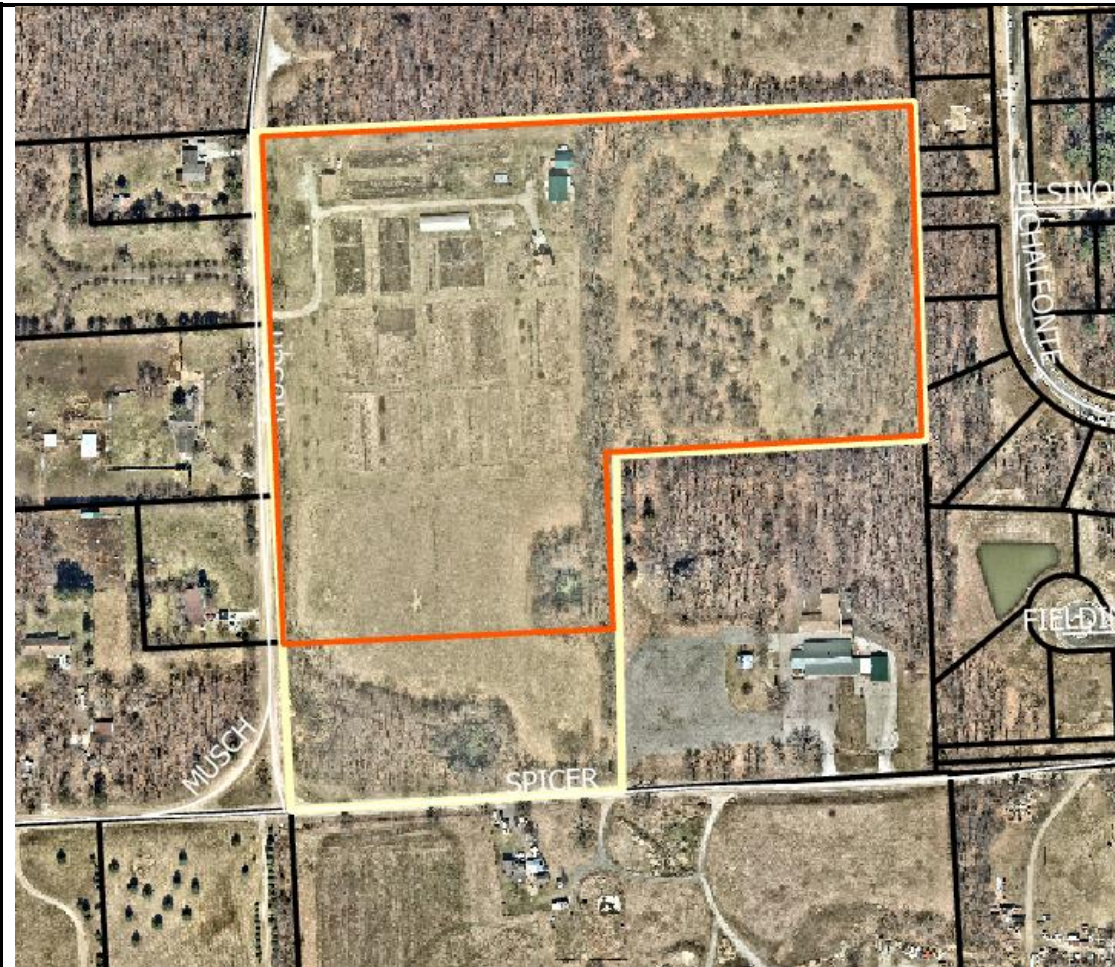
COUNTY PLANNING STAFF RECOMMENDATION:

Recommend Approval: The Conditional Rezoning is consistent with the Township Master Plan. The Conditional Site Plan meets the standards for the future use of Public/Intuitional or Public Land from the Zoning Plan. The Conditional Rezoning is compatible with the existing mixed land uses including church, museum, industrial, commercial to the south. The proposed preservation of open space makes it compatible with surrounding residential uses. Traffic would be comparable or less intense than its current zoning of R2.

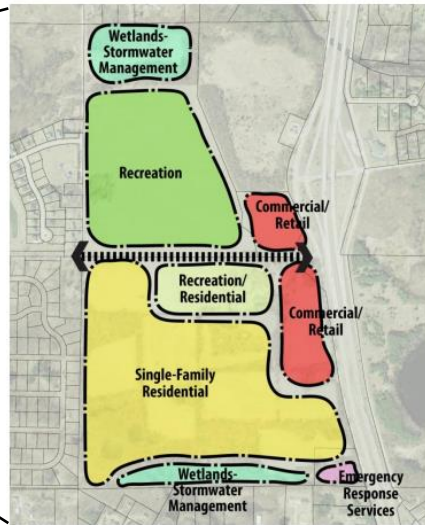
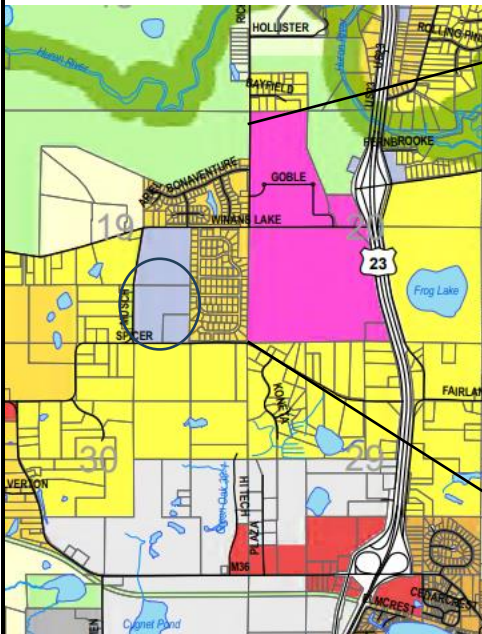
The Township Planning Commission recommended denial (5-2) to Conditional Rezone from R2 to GB. The Township Board may ask for clarification as to which conditions the Township Planning Commission found to be inconsistent with the Master Plan, Zoning, or surrounding land uses. The Township Planning Commission Resolution submitted lists the findings of denial, but County Staff find most of the reasons presented would be reasons to support the Conditional Rezoning from R2 to GB and be consistent with the Township Master Plan. Staff would disagree with finding (g); the conditional rezoning would be inconsistent with the Master Plan.

AERIAL, SURROUNDING LANDUSE, ZONING





FUTURE LAND USE MAP:

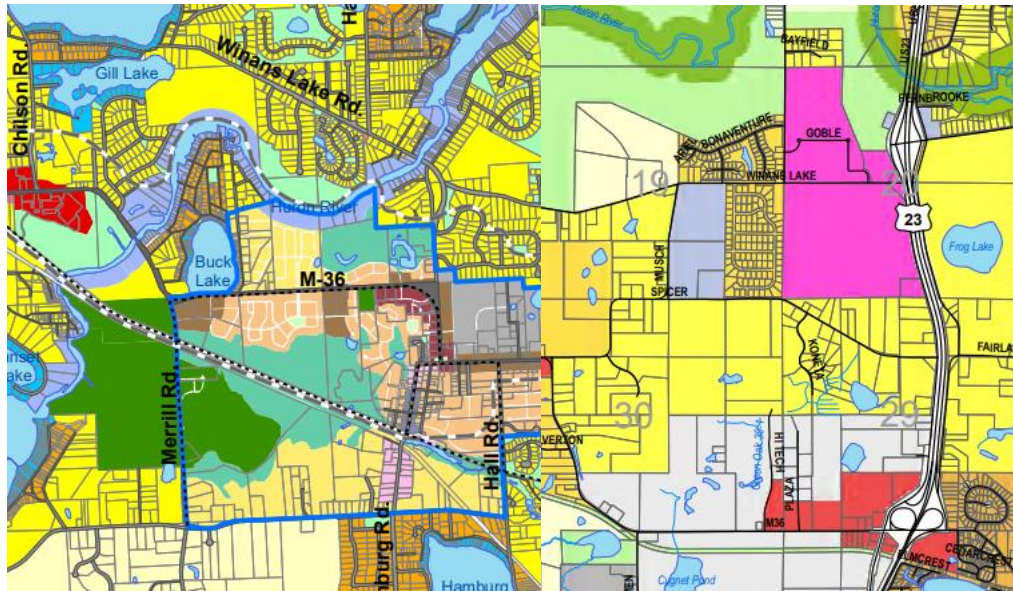


- Very Low Density Residential
- Low Density Residential
- Medium Density Residential
- Suburban Density Residential
- High Density Residential
- Multiple Family
- Manufactured Home Park
- Local Commercial
- General Commercial
- Village Mixed Use/PUD
- Research Office
- Limited Industrial
- General Industrial
- Public - Institutional
- Recreation - Conservation
- Natural River

SURROUNDING ZONING MAP:

Hamburg Township

Green Oak Township



SITE PHOTOS:



Existing Barn



Proposed Courtyard Area



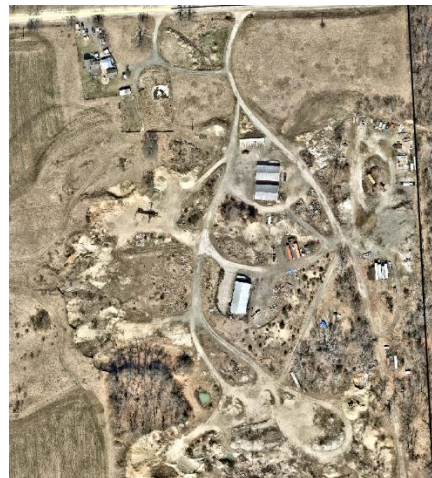
**Existing Pavilion, Proposed Storage
In front of proposed event barn looking west**



**Proposed Parking
Looking south**



Pinball Museum to the South



Quarry to the South

Resolution of Denial Planning Commission 10/19/23

**GREEN OAK CHARTER TOWNSHIP
PLANNING COMMISSION
RESOLUTION OF FINDINGS
AND
RECOMMENDATION OF DENIAL**

**REZONING R02-2023
Tandale Rezoning
10/19/23**

Whereas, the Township received a petition from David B. LeClair for a conditional rezoning from R2 – Single Family to GB – General Business on a parcel with parcel ID number 4716-19-400-011, otherwise known as 9615 Musch Road; and

Whereas, The subject parcel is 30.15 acres, 24.17 acres of which is requested for conditional rezoning to allow a wedding barn and accompanying facilities; and

Whereas, The subject parcel currently contains now-closed farming facilities; and

Whereas, The proposed use requires special land use approval in the GB – General Business district; and

Whereas, The Future Land Use Plan in the adopted Township Master Plan designates the subject site as Public/Institutional; and

Whereas, The GB General Business district provides for areas in which the community's overall commercial and business facilities can be centralized to most efficiently and effectively serve the general Township and adjacent areas; and

Whereas, the Planning Commission held a public hearing which was appropriately noticed on this matter on October 19, 2023, and received comments from the public; and

Whereas, the Planning Commission has reviewed the proposed conditional rezoning petition in terms of the standards stated within Section 38-539 of the Zoning Ordinance and finds the following:

- a) The Future Land Use Map in the Master Plan designates this area as Public /Institutional. Table 11 in the Zoning Plan in the Master Plan indicates that the comparable zoning for this designation is PL – Public Lands. Neither the Zoning Ordinance nor the Master Plan offers a definition for Public Lands, but it indicates sixty (60) foot front yard setbacks, fifty (50) feet rear yard setbacks, twenty (20) foot side yard setbacks, and 20% maximum lot coverage. Areas surrounding the subject parcel to the West, North, South, and East are all zoned and planned for institutional or medium and suburban density residential. The proposed event venue would result in 2.33% lot coverage and 10.19% impervious surface area. The setbacks would be nearly consistent with PL dimensional requirements and fully consistent with GB setback requirements. Furthermore, the Master Plan sets the goal of placing higher-density development in areas where water and sewer service are currently available.
- b) The proposed conditional rezoning would not necessarily allow for more compatible uses with existing land uses surrounding the parcel. The density of the development and the overall volume of traffic generation may be less than what is permitted in the existing R-2 zoning, but the intensity of use at concentrated times, primarily in the evenings every weekend may not actually be compatible with the surrounding residential uses. However, because this use will require the applicant to go through the special land use permit process the Planning Commission will have the ability to further

evaluate the compatibility of the use and potentially place conditions on the use that are designed to achieve compatibility. The applicant offered use conditions as part of the conditional rezoning request. As a use that requires special land use approval, the Planning Commission is enabled to require conditions of approval, as set forth in Section 38-44(d). As such, the Planning Commission may impose alternate conditions as part of the special land use approval required for this proposed project.

- c) The site is not located within a wellhead protection area. The proposed event facility will be serviced by public water and the plan includes extending utilities from their existing locations to serve the site. The site plan includes two proposed septic fields. The site plan includes the development of a stormwater detention pond and bio-swale.*
- d) The site is in proximity to a variety of land uses including institutional (museum and church), industrial, suburban density residential, medium density residential, and low density residential. The proposed use is not necessarily better suited to the area than R-2 single family residential.*
- e) This site does not appear to have the potential to significantly adversely impact the Township as a whole or adjacent communities based upon the proposed zoning.*
- f) The Future Land Use Map was developed when this site operated as Stone Coop Farm. The proposed event venue poses an alternative land use to the Public/Institutional designation, but it might alter the existing site conditions to a lesser extent than a Public/Institutional use might.*
- g) The proposed rezoning of this parcel is inconsistent with the future land use section of the Master Plan; however, the preservation of open space is consistent with the preservation policies established in the Master Plan. A negative precedent may be set if the rezoning were to be approved, as this proposed use is inconsistent with both the current zoning and the future land use plan.*

Now therefore be it resolved, that the Planning Commission recommends to the Township Board denial of the conditional rezoning petition R02-2023 to rezone the parcel with ID number 4716-19-400-011 from R2 – Single Family to GB – General Business on a parcel.



Livingston County Department of Planning

MEMORANDUM

Scott Barb
AICP, PEM
Director

Robert A. Stanford
AICP, PEM
Principal Planner

Martha Haglund
Principal Planner

TO: Livingston County Planning Commission and the Handy Township Board of Trustees

FROM: Scott Barb, Principal Planner

DATE: November 2, 2023

SUBJECT: Z-36-23. Amendments to the Zoning Ordinance: Chapter 2 General Provisions, Section 2.14 Keeping of Animals.

The Handy Township Planning Commission is proposing to amend Section 2.14 of the Township Zoning Ordinance by creating new language that will replace the existing text in this section of the Ordinance. Staff has reviewed the proposed amendments for accuracy and compatibility with the existing ordinance language and offers the following summary for your review. Staff comments are written in *italic and underlined* with additions and changes to the Ordinance written in **red**.

Section 2.14 Keeping of Animals

- A. The keeping of household pets, including dogs, cats, fish, birds, hamsters, rabbits, and other animals generally regarded as household pets is permitted as an accessory use in any residential district. However, no more than five (5) dogs, six (6) months of age or older, or five (5) cats, shall be kept or housed in or at one (1) dwelling unit.
- B. The keeping of animals not normally considered pets is prohibited in the NSC, AC, I-1, I-2, RB, MFR, PUD and MHP Districts. Keeping such animals in the AR and RA Districts is permitted with the following restrictions:
 - 1. The number of animal units per acre shall be limited to the following:

ANIMAL	# ANIMAL UNITS	AREA
Equine, donkey, mule, cow, camel, llama, alpaca, ratite, or bison	1	2 acres (1 acre for each additional unit)
Pigs	1	2 acres (1 acre for each additional unit)
Chickens (broiler hens, layers)	1	¼ acre (1/4 acre for each additional animal unit up to a total of 5 animal units)
Sheep, goats, geese, ducks, or turkeys	1	2 acres (1 acre for each additional animal unit)
Roosters	1	5 acres (5 acres for each additional animal unit)

Department Information

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

(517) 546-7555
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Web Site
www.livgov.com

2. An accessory building used to house, feed or shelter the animals shall not be nearer than sixty (60) feet to any dwelling adjacent to the subject parcel, and it shall be so constructed and maintained that odor, dust, noise, or drainage shall not constitute a nuisance or hazard to adjoining or nearby parcels.
3. Any grazing or exercise area shall not be nearer than sixty (60) feet to any dwelling adjacent to the subject parcel.
4. There must be fencing, or other suitable restraining mechanism, that will adequately maintain the animals within a designated area on the parcel or, that at a minimum, prevents the animals from leaving the premises.
5. For this subsection, one (1) animal unit shall be equal to the following:
 - One (1) equine, donkey, mule, cow, camel, llama, alpaca, ratite, or bison; or
 - Two (2) pigs; or
 - Five (5) chickens (broiler hens, layers; or
 - Five (5) sheep, goats, geese, ducks, or turkeys.
 - One (1) rooster

Staff comments: Reductions in the number of sheep and goats from 10 to 5 per 2 acres is noted. These regulations are intended to address the keeping of animals in the AR and RA Districts with commercial farm operations removed from this revised section.

C. The keeping of livestock on a commercial farm operation as defined under the Michigan Right to Farm Act, PA 93 of 1981 et seq., shall comply with all applicable Generally Accepted Agricultural Management Practices (GAAMP's). Primarily residential sites as defined in the GAAMP's shall comply with subsections A and B above.

It is highly recommended that any property owner who plans to keep and/or raise any of the above kinds of animals contact the Michigan Department of Agriculture, Right to Farm Program for advice on how to write and implement a site plan for manure management. Every property owner who raises any of the above animals should be aware of their rights and responsibilities that are contained in the Michigan Right to Farm Act and this Zoning Ordinance.

TOWNSHIP PLANNING COMMISSION RECOMMENDATION: APPROVAL. The Handy Township Planning Commission recommended approval of the proposed amendments at their October 26, 2023, public hearing. There were no public comments at the meeting.

RECOMMENDATION: APPROVAL. The proposed language is compatible with the Township Zoning Ordinance.



Livingston County Department of Planning

MEMORANDUM

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

FROM: Robert Stanford, Principal Planner

DATE: November 6, 2023

SUBJECT: Z-37-23 Amendments to Zoning Ordinance Articles - Various Sections: Data Processing Facility

Scott Barb
AICP, PEM
Director

Robert A. Stanford
AICP
Principal Planner

Martha Haglund
Principal Planner

The Marion Township Planning Commission proposes amendments to the Marion Township Zoning Ordinance to amend and add definitions related to data processing facilities.

Proposed additions to existing text are noted in red underline, deletions in ~~strikethrough~~.

The Marion Township Planning Commission proposes amendments to the Marion Township Zoning Ordinance to amend and add definitions related to data processing facilities, in the following manner:

ITEM 1. AMENDMENT OF ARTICLE III: DEFINITIONS

Section 3.02 Definitions of the Zoning Ordinance is amended by adding the following definition to read in its entirety, as follows:

Data Processing Facility: A building, dedicated space within a building, or group of structures located on one or more acres of land used to house a large group of computer systems and associated components, such as telecommunications and data processing systems, to be used for the remote storage, processing, or distribution of large amounts of data. Examples of such data include, but are not limited to, computationally intensive applications such as blockchain technology, cryptocurrency mining, weather modeling, genome sequencing, etc. Such facilities may also include air handlers, power generators, water cooling and storage facilities, utility substations, and other associated utility infrastructure to support operations.

Department Information

Administration Building
304 E. Grand River Avenue
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Web Site
milivcounty.gov/planning/



ITEM 2. AMENDMENT OF ARTICLE X: INDUSTRIAL

A new item, (D)(5), is added to Section 10.01 LI: Light Industrial District to read, in its entirety, as follows:

ARTICLE X: INDUSTRIAL DISTRICTS

Section 10.01 LI: Light Industrial District

(D) Uses Permitted By Special Use Permit:

1. Asphalt and concrete batching facilities.
2. Billboards.
3. Communication towers.
4. Junkyards/Reclamation centers.

(5) Data processing facility

ITEM 3. AMENDMENT OF ARTICLE X: INDUSTRIAL

Section 10.01 LI: Light Industrial District, Item E (1)(c) is revised in its entirety, to read as follows:

E. Site Development Requirements: The following minimum and maximum standards shall apply to all uses and structures in the LI: Light Industrial District unless they are specifically modified by the provisions of Article VI: General Provisions or Article XVII: Standards for Specific Special Land Uses; or as varied pursuant to Article V: Zoning Board of Appeals.

1. Performance Standards:

c. Sound:

- i. Non-Residential.** The intensity level of sounds shall not exceed the following decibel levels when adjacent to the following types of **non-residential** uses:

Decibels	Adjacent Use	Where Measured
55	Residential Dwellings	Common Lot Line
65	Commercial	Common Lot Line
70	Industrial and Other	Common Lot Line

<u>Decibels</u>	<u>Adjacent Use</u>	<u>Where Measured</u>
<u>65</u>	<u>Commercial</u>	<u>Common Lot Line</u>
<u>70</u>	<u>Industrial and Other</u>	<u>Common Lot Line</u>



ii. **Residential.** The intensity level of sounds shall not exceed the following decibel levels when directly adjacent to residential uses, measured at the common lot line:

<u>Residential Noise Level Limits</u>		
<u>Daytime</u> <u>(7 am-7 pm)</u> <u>45 dB(A)</u>	<u>Evening</u> <u>(7-11 pm)</u> <u>35 dB(A)</u>	<u>Night</u> <u>(11 pm-7 am)</u> <u>30 dB(A)</u>

The sound levels shall be measured with a type of audio output meter approved by the Bureau of Standards. Objectionable noises due to intermittence, beat frequency, or shrillness shall be muffled so as not to become a nuisance to adjacent uses.

STAFF COMMENT: Examples of different decibel levels

(Source: <https://www.iacacoustics.com/blog-full/comparative-examples-of-noise-levels>)

Passenger car at 65 mph at 25 ft (77 dB); freeway at 50 ft from pavement edge 10 a.m. (76 dB). Living room music (76 dB); radio or TV-audio, vacuum cleaner (70 dB).	70 dB	Arbitrary base of comparison. Upper 70s are annoyingly loud to some people.
Conversation in restaurant, office, background music, Air conditioning unit at 100 feet.	60 dB	Half as loud as 70 dB. Fairly quiet.
Quiet suburb, conversation at home. Large electrical transformers at 100 feet.	50 db	One-fourth as loud as 70 dB.
Library, bird calls (44 dB); lowest limit of urban ambient sound	40 db	One-eighth as loud as 70 dB.
Quiet rural area.	30 dB	One-sixteenth as loud as 70 dB. Very Quiet.



ITEM 4. AMENDMENT OF ARTICLE XVII: SPECIAL USE SPECIFIC LAND USES

A new section entitled “Section 17.36 Data Processing Facility” is hereby added to the Zoning Ordinance which shall read, in its entirety, as follows:

ARTICLE XVII: STANDARDS FOR SPECIFIC SPECIAL LAND USES

The following standards apply to the uses of land permitted by special use permit. The regulations contained in this Article shall be applied in addition to any other applicable, standard or regulation contained elsewhere in this Ordinance unless specifically noted.

Section 17.36 Data Processing Facility

The primary intent of the data mining ordinance is to establish guidelines and safeguards for the collection, storage, and use of data within our rural community. By implementing this ordinance, we aim to protect the privacy of our residents, ensure data security, and foster trust and transparency in data-driven practices.

STAFF COMMENT: The definition for the intended use as provided in this amendment uses the term “Data Processing Facility”, as does the title of this Intent section. However, the first sentence uses the term “data mining ordinance”, which is inconsistent. This should be corrected prior to any formal approval.

Data Processing Facilities are considered special uses and are therefore subject to the provisions of Article XVI, Special Use Permits, and other applicable provisions of the Ordinance. A Special Use Permit, and any conditions attached thereto, may be approved by the Township Board if all the criteria listed hereof are met.

Locational Requirements: Data Processing Facilities are permitted in the Light Industrial Districts with a minimum lot size of four (4) acres.

Performance Standards:

- a. Data Processing Facilities are considered a principal use and shall be the only principal use on a property at any one time.
 - b. Shall not be located within an industrial park;
 - c. At all times, sound levels at the property boundary may not exceed thirty (30) dB(A);
 - d. A fence shall be installed around the perimeter with a minimum height of six (6) feet;
 - e. Additional screening, such as a vegetative buffer, may be required at the discretion of the Planning Commission, per standards in Section 6.13.
-

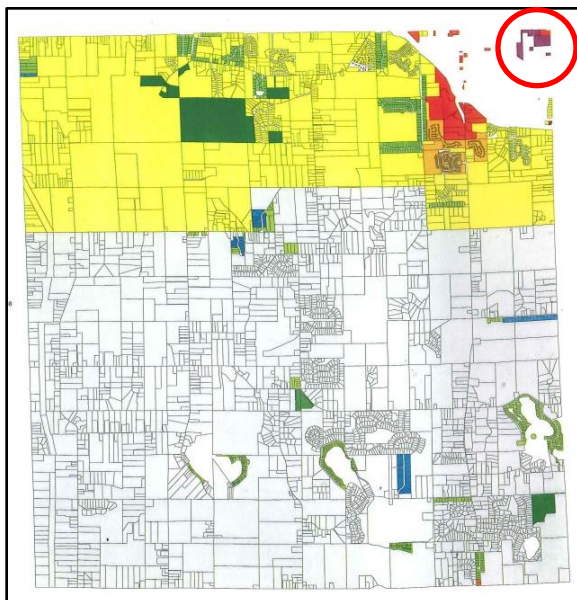


STAFF COMMENTS:

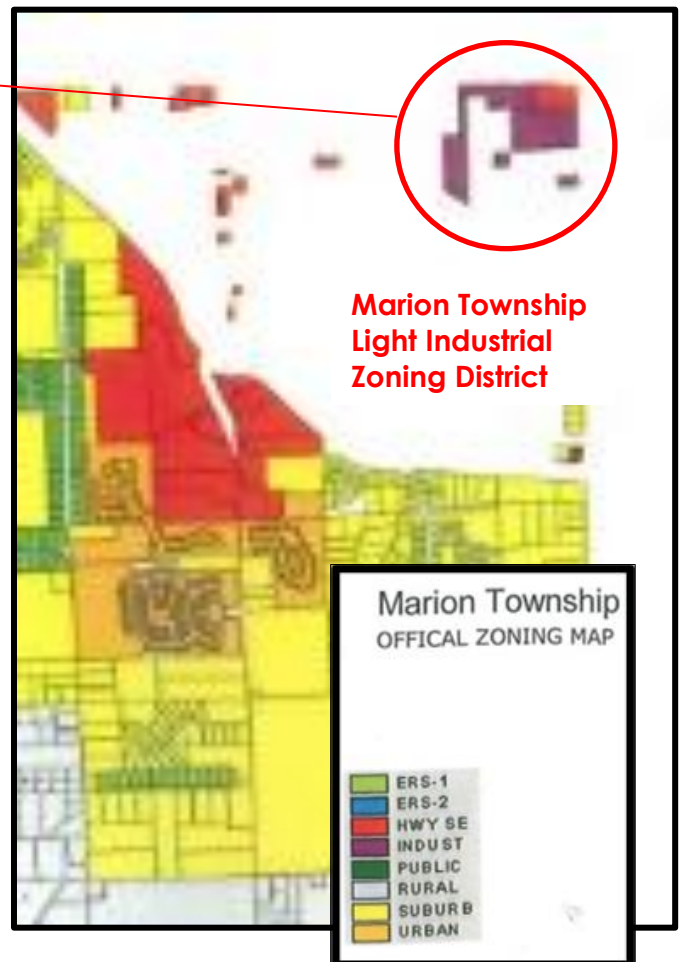
Data processing facilities are the physical facilities where the internet lives. Fundamentally, they consist of networked computer systems used for data storage and processing, along with supporting equipment, such as batteries, back-up power generators, and cooling devices. And an emerging segment of the data processing facility market consists of facilities dedicated in whole or part to "mining cryptocurrency."

From the exterior, data centers and cryptocurrency mining facilities may be physically indistinguishable from many commercial or light industrial uses. However, the operational characteristics of these facilities are typically quite distinct from those of surrounding land uses. From a planning and zoning perspective, the most noteworthy characteristics relate to their electricity and water use, noise production, enhanced safety and security needs, and low employment densities.

Marion Township has decided to allow this land use as a permitted special land use in the LI-Light Industrial zoning district. The map below identifies the location of the Township's LI-Light Industrial zoning district.



Marion Township Zoning Map (2008)





Z-37-23: Marion Township
Various Sections of the Township Zoning Ordinance related to Data Processing Facilities
Page 6



An example of a new cryptocurrency data mining facility in Cherokee County, North Carolina

Source: <https://www.citizen-times.com/story/news/madison/2023/06/16/madison-county-imposes-1-year-moratorium-on-data-processing-facilities/70318736007/>

Township Recommendation: Approval. The Marion Township Planning Commission recommended Approval of this zoning amendment at its August 22, 2023 public hearing. There were no public comments noted in the minutes.

Staff Recommendation: Approval. The proposed amendments related to the regulation of data processing facilities in Marion Township appear to be suitable and reasonable. As regulating this land use activity is very much new territory for many communities, it remains to be seen if the provisions of this proposed ordinance will adequately and effectively govern the use to the complete satisfaction of the township and its residents in the future.



Livingston County Department of Planning

LIVINGSTON COUNTY PLANNING COMMISSION ANNUAL MEETING Wednesday, November 15, 2023 – Follows the Regularly Scheduled Planning Commission Meeting

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.

Scott Barb
AICP, PEM
Director

Robert A. Stanford
AICP
Principal Planner

Martha Haglund
Principal Planner

Agenda

1. Call to Order
2. Approval of Annual Meeting Agenda – November 15, 2023
3. Reading and Approval of 2022 Annual Meeting Minutes.
4. Election of Officers
 - A. Chair
 - B. Vice-Chair
 - C. Planning Commission Secretary
5. Set Annual Calendar of Meetings for 2024
6. Commissioners Heard and Call to the Public
7. Adjournment

Department Information

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

●
(517) 546-7555
Fax (517) 552-2347

●
Web Site
<https://milivcounty.gov/planning/>

Via Zoom (on-line meetings):

<https://zoom.us/j/3997000062?pwd=SUdLYVFFcmozWnFxbm0vcHRjWkVIZz09>

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**

**LIVINGSTON COUNTY PLANNING COMMISSION
ANNUAL MEETING MINUTES**

November 16, 2022

**Immediately Following the Planning Commission Regular Meeting
304 E. Grand River Ave., Howell, Michigan**

- Virtual Meeting Held in Accordance with Public Act 228 of 2020 –

Zoom Virtual Meeting Room Meeting ID: 399-700-0062 / Password: LCBOC
<https://zoom.us/j/3997000062?pwd=SUdLYVFFcmozWnFxbm0vcHRjWkVIZz09>

PLANNING COMMISSION	
COMMISSIONERS PRESENT:	BRIAN PROKUDA MATT IKLE BILL CALL JASON SCHROCK PAUL FUNK BILL ANDERSON DENNIS BOWDOIN
COMMISSIONERS ABSENT:	NONE
STAFF PRESENT:	KATHLEEN KLINE-HUDSON ROB STANFORD SCOTT BARB
OTHERS PRESENT:	

1. **CALL TO ORDER:** Meeting was called to order by Commissioner Prokuda at 9:32 PM.
2. **APPROVAL OF ANNUAL MEETING AGENDA**

Commissioner Action: IT WAS MOVED BY COMMISSIONER ANDERSON TO APPROVE THE ANNUAL MEETING AGENDA DATED NOVEMBER 16, 2022. SECONDED BY COMMISSIONER CALL.

All in favor, motion passed.

3. **READING AND APPROVAL OF ANNUAL MEETING MINUTES**

Reading and Approval of 2021 Annual Meeting Minutes

Commissioner Action: IT WAS MOVED BY COMMISSIONER IKLE TO WAIVE THE FORMAL READING AND APPROVE THE MINUTES OF THE 2021 ANNUAL MEETING, SECONDED BY COMMISSIONER FUNK.

Motion passed: 7-0

4. ELECTIONS OF OFFICERS

Commissioner Prokuda opened the floor for nominations for the following Planning Commission positions:

1. **Planning Commission Chair**
2. **Planning Commission Vice-Chair**
3. **Planning Commission Secretary**

PLANNING COMMISSION CHAIR:

COMMISSIONER CALL NOMINATED COMMISSIONER ANDERSON. SECONDED BY COMMISSIONER FUNK.

COMMISSIONER ANDERSON ACCEPTED THE NOMINATION. HEARING NO OTHER NOMINATIONS, NOMINATIONS WERE CLOSED BY COMMISSIONER PROKUDA.

All in Favor. Motion passed. 7-0. Commissioner ANDERSON elected Chair.

Yea: Prokuda [X] Ikle [X] Anderson [X] Bowdoin [X] Funk [X] Call [X] Schrock [X]

Nay: None.

PLANNING COMMISSION VICE CHAIR:

COMMISSIONER FUNK NOMINATED COMMISSIONER IKLE SECONDED BY COMMISSIONER BOWDOIN.

COMMISSIONER IKLE ACCEPTED THE NOMINATION. HEARING NO OTHER NOMINATIONS, NOMINATIONS WERE CLOSED BY COMMISSIONER PROKUDA.

All in Favor. Motion passed. 7-0. Commissioner IKLE elected Vice Chair.

Yea: Prokuda [X] Ikle [X] Anderson [X] Bowdoin [X] Funk [X] Call [X] Schrock [X]

Nay: None.

PLANNING COMMISSION SECRETARY:

COMMISSIONER IKLE NOMINATED COMMISSIONER CALL. SECONDED BY COMMISSIONER SCHROCK.

COMMISSIONER CALL ACCEPTED THE NOMINATION. HEARING NO OTHER NOMINATIONS, NOMINATIONS WERE CLOSED BY COMMISSIONER PROKUDA.

All in Favor. Motion passed. 7-0. Commissioner CALL elected Planning Commission Secretary.

Yea: Prokuda [X] Ikle [X] Anderson [X] Bowdoin [X] Funk [X] Call [X] Schrock [X]

Nay: None.

5. REPORTS:

- A. Annual Calendar - Meeting Dates and Time Discussion:** Commissioners reviewed the calendar of Planning Commission meeting dates for 2023.

Commissioner Action: IT WAS MOVED BY COMMISSIONER IKLE TO RECOMMEND APPROVAL OF THE 2023 LIVINGSTON COUNTY PLANNING COMMISSION MEETING SCHEDULE, SECONDED BY COMMISSIONER FUNK.

All in Favor. Motion passed. 7-0.

B. Staff Reports:

- Staff will publish the 2023 meeting dates.

- 6. COMMISSIONERS HEARD AND CALL TO THE PUBLIC:** Commission Prokuda reviewed plans for a retirement farewell for Kathleen Kline-Hudson, Planning Department Director.

7. ADJOURNMENT:

Commissioner Action: IT WAS MOVED BY COMMISSIONER CALL TO ADJOURN THE MEETING AT 9:42 P.M., SECONDED BY COMMISSIONER ANDERSON.

Motion passed: 7-0

2023 MEETING SCHEDULE **LIVINGSTON COUNTY PLANNING COMMISSION**

Livingston County Planning Commission meetings are held at 6:30 p.m. on the third Wednesday of every month. The meeting location is:

**Livingston County Administration Building
304 E. Grand River Avenue, Howell, Michigan
Board of Commissioner’s Chambers (Upper Floor)**

Please note that County Planning Commissioners and County Planning staff currently meet in-person in the County Board meeting chambers noted above. Audience participants are welcome to attend in-person or via Zoom (the Zoom link is included on all meeting agendas).

Livingston County will provide necessary and reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed material being considered at the meeting, to individuals with disabilities at the meeting/hearing upon a ten-day notice to the Department of Planning. Any questions or concerns should be directed to the County Planning Department office: Telephone (517) 546-7555.

Meeting Date	Deadline Date for Receipt of Amendments (2 weeks prior to meeting date)
January 18, 2023	January 4, 2023
February 15, 2023	February 1, 2023
March 15, 2023	March 1, 2023
April 19, 2023	April 5, 2023
May 17, 2023	May 3, 2023
June 21, 2023	June 7, 2023
July 19, 2023	July 5, 2023
August 16, 2023	August 2, 2023
September 20, 2023	September 6, 2023
October 18, 2023	October 4, 2023
November 15, 2023	November 1, 2023
December 20, 2023	December 6, 2023



Livingston County Department of Planning

2024 MEETING SCHEDULE LIVINGSTON COUNTY PLANNING COMMISSION

Livingston County Planning Commission meetings are held at 6:30 p.m. on the third Wednesday of every month. The meeting location is:

Scott Barb
AICP, PEM
Director

Livingston County Administration Building
304 E. Grand River Avenue, Howell, Michigan
Board of Commissioner's Chambers (Upper Floor)

Robert A. Stanford
AICP
Principal Planner

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Martha Haglund
Principal Planner

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2024 Meeting Dates

January 17, 2024

February 21, 2024

March 20, 2024

April 17, 2024

May 15, 2024

June 19, 2024

July 17, 2024

August 21, 2024

September 18, 2024

October 16, 2024

November 20, 2024

December 18, 2024

Department Information

Administration Building
304 E. Grand River Avenue
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