



## Conway Township Planning Commission

Monday, October 10, 2022 | 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 October 10, 2022 AGENDA**
5. **APPROVAL OF THE September 12, 2022 MEETING MINUTES**
7. **COMMUNICATIONS**
  - a. Zoning Administrator's Report
  - b. Board Ex-Officio Report
  - c. Livingston County Planning Commission Report
8. **OLD BUSINESS**
  - a. Solar Ordinance (See attached)
  - b. Master Plan Update
    - i. Change to existing land use map
    - ii. Update demographics
    - iii. Commercial nodes
    - iv. Capital Improvements
  - c. Section 6.07 Supplemental Regulations Pertaining to Yards
    - A. Permitted Yard Encroachments
    6. Swimming Pools (conditions)
9. **NEW BUSINESS**
10. **PLANNING COMMISSION MEMBER DISCUSSION**
11. **LAST CALL TO THE PUBLIC**
12. **ADJOURNMENT**

Any person may speak for up to 3 minutes during the public comment period. Groups of 10 or more have the option of selecting a spokesperson, who may speak for up to 10 minutes.

***Next Meeting will be November 8, 2022***

## Conway Township Planning Commission

Monday, October 10, 2022 | 7:00pm

### Section 6.26 Solar Energy Systems Discussion Items

1. Bonding
2. Decommissioning
3. Wetlands Setbacks
4. Setbacks
  - a. Generally
  - b. Nonparticipating residence
  - c. Edge of road right of way
  - d. Nonparticipating vacant property
  - e. From drain
  - f. From electrical lines
5. Screening
6. Battery
7. Pollinator habitat
8. Training local fire departments
9. Decibels
10. Agency reviews and approvals
11. Screening
12. Restoration following construction/maintenance
13. Reporting
14. Groundwater contamination



**Conway Township Planning Commission Meeting Minutes**  
 Monday, September 12, 2022 | 7:00pm  
 Conway Township Hall | 8015 N. Fowlerville Road, Fowlerville, MI 48836

Agenda	Items Discussed	Actions to be Taken
<b>Attendees</b>	PC Members Present: Jeff Klein, Meghan Swain-Kuch, George Pushies - Ex-Officio, Lucas Curd, and Kayla Poissant. PC Members Absent: David Whitt and Kelly Ralko  Zoning Administrator – Gary Klein  Livingston County Planning Commissioner: Dennis Bowdoin  Township Attorney: Abby Cooper, JD  Township Planners: Justin Sprague and Hannah Smith	None
<b>Call to Order/Pledge</b>	Chair, M. Swain-Kuch called the Conway Township Planning Commission meeting to order at 7:00pm and led the Pledge of Allegiance.	None
<b>Approval of Agenda</b>	Motion to accept the meeting agenda as presented for September 12, 2022. Motion by J. Klein. Support G. Pushies. Motion approved.	Motion Passed
<b>Approval of August Minutes</b>	Motion to table the approval of the Planning Commission meeting minutes pending information from K. Ralko until next month. Motion by G. Pushies. Support by J. Klein. Motion approved.	Motion Passed
<b>Call to the Public</b>	Supervisor Bill Grubb stated that K. Ralko submitted her resignation to him in writing via email.	None
<b>Communications</b>	a. Zoning Administrator Report: J. Klein reported that there were four land use permits, and two waivers for communication towers that had equipment updates that are for cell phone/internet companies. Locations for upgrade included Sober Road and one other tower.	None
	b. Board Ex-Officio Report: G. Pushies reported that the August 16, 2022 board agenda was approved. There was no comment in the call to the public. Unfinished Business included investment policy	None

	<p>review and decision was tabled until next month. The resolution for late payment penalties on taxes was approved. The resolution for conditional rezoning was denied. For the sound system and microphones for Board members during the meeting is in a trial period. New Business included discussion on new tables and chairs. Resolution on extending the moratorium for the solar energy system was approved.</p> <p>c. Livingston County Planning Commission Report: LCPC D. Bowdoin reported that the LCPC was planning a brown bag lunch on September 20<sup>th</sup>, 2022 from 12p-1pm at the Genoa Township Hall. It will cover agricultural economic development. He also reported that there will be a Livingston County Citizen Planner Program for interested planning commission members. Dates included 10/27, 11/3, 11/10, 12/1, 12/8, and 12/15 from 6pm-9pm. The cost is \$250.00 and it will be located at the survival flight building in Howell. Supervisor B. Grubb stated the Township would cover the cost of the class for the planning commission members that were interested.</p>	None
<b>Old Business</b>		
<p><b>a. Rezoning of Parcel No. 4701-10-300-020 Update</b></p>	<p>Township Supervisor Bill Grubb advised that Township Trustee R. Holstein stated that the township could be in violation of spot-zoning if it was approved. Spot zoning is illegal. He stated to take it back to the planning commission to consider a corridor up Fowlerville Road. G. Pushies stated that there was precedent set at the Chase Lake/Fowlerville Roads location when it was approved. Swain-Kuch stated that this was a conditional rezoning and not spot zoning. G. Pushies brought up the fact that Trustee Holstein was speaking in a legal capacity on the Board, it is terms for immediate removal, citing conflicts if oaths to the bar and township. There are currently two commercial nodes available. One node could be removed, example the Lovejoy/Fowlerville Roads intersection which was previously a location for consideration and subsequently added to the Master Plan which is conditional rezoning. A. Cooper stated that the Master Plan was up for review in 2023, and when she was looking at this parcel, spot zoning was not on her radar for mentioning. She believed that the Board did not approve it because of the inconsistencies with the parcel and Master Plan. A.</p>	None

	<p>Cooper mentioned that the best plan moving forward should be changing/updating the Master Plan, which was one of several different factors in the denial. K. Poissant asked if the board could submit to the planning commission its reasons for denial? G. Pushies stated that there was nothing that prevented the planning commission from submitting a request of pre-approval to the board to review before the planning commission engages in all of the work to approve it. A. Cooper stated that the applicant or the planning commission could submit a non-binding approval for review.</p>	
<p><b>b. Solar Ordinance Draft</b></p>	<p>Swain-Kuch stated many participated in the solar farm tour in Shiawassee County. Sarah Mills, PhD and researcher with the University of Michigan, went on the tour to provide some background and information. S. Mills stated that solar farms are in line with farmland preservation. She stated that U of M and MSU are working together on this research. She has research ongoing, talking with farmers and how they use the revenue generated from their leases including new buildings, buying more/new land, retirement, etc. She is also looking into the local tax revenue for the community, and whether the farmers are making an economic impact in their local communities. Swain-Kuch brought up the personal property tax regarding businesses and equipment at the local level. S. Mills stated that utilities remained on the personal property tax, and that her understanding is that the solar panel equipment should be taxed as industrial personal property. There is a multiplier table to accompany this, and the assessor should consider whether the real property should be agricultural or commercial (what the primary purpose of the land is used for). G. Pushies asked about the guidance S. Mills keeps referring to. She stated that there is a guidance book for solar farms no statute. There was a discussion about the land going back and forth between industrial and agricultural. S. Mills stated that PA 116 is where the landowner agrees to not commercialize or develop the land for a period of time, and the land has to be rezoned. S. Mills stated that the Michigan Department of Agriculture and Rural Development changed this in 2019, adding solar, and one cannot claim those credits, but it does not have to rezone, it is just paused. Some requirements include drainage must</p>	<p>None</p>

	<p>stay the same, a decommissioning agreement bond, and have a 76 on the MSU pollinator scale. The decommissioning agreement can state what specific items like access roads/fences will stay or be removed in the end. The deadline to complete this solar ordinance is about six months due to the moratorium expiring. J. Sprague and H. Smith will provide a clean document for the planning commission to review next month and move forward in approving the ordinance. G. Pushies asked about referencing the guidance document that the ordinance is based on in the ordinance. A. Cooper stated that the document can be referenced in the minutes and not in the Master Plan. K. Ralko asked for discussion of an overlay. A. Cooper stated that there is only one overlay that she has seen in our township. J. Sprague and A. Cooper stated that doing overlay activity will be time-consuming and costly.</p>	
<b>c. Section 6.06 (N) Accessory Structures</b>	<p>The assessor called asking about this topic. There is a property on Fowlerville Rd near Lovejoy that is a "barnaminium." The structure is a barn that doesn't have a principal building on the property, and there is a family living in it. This is considered an accessory building, not a principal building, and cannot be used as living quarters. Bowdoin stated that it is an enforcement issue, so it needs to go to the Board. Discussed that there is no time period in which the principal building must be built if the property owner is allowed to build the accessory building first. Cooper stated that Subsection O stated you cannot live in an accessory building.</p>	None
<b>d. Land Division Ordinance</b>	<p>1 new legal description. This issue is before the Board at this time. Cooper stated that this is not in our purview and is at the Board level.</p>	None
<b>New Business</b>		
<b>a. Section 6.07 Supplemental Regulations Pertaining to Yards</b>	<p>There is a recommendation to make an ordinance stating the above ground pools that have a side height of 24 inches and higher will require permits. An official recommendation and wording will come back.</p>	None
<b>b. Zoning Board of Appeals (PC) Appointee</b>	<p>Motion to recommend to the Board of Trustees to appoint Lucas Curd to the Zoning Board of Appeals. Motion by M. Swain-Kuch. Support by G. Pushies. Motion approved.</p>	Motion Passed

<b>Commission Discussion</b>	No additional discussion.	None
<b>Last Call to the Public</b>	The second call to the public resulted in no comment.	None
<b>Adjournment</b>	Motion to adjourn at 8:39pm. Motion by G. Pushies. Support by J. Klein. Motion approved.	Motion Passed

Respectfully Submitted:

Kayla Poissant,  
PC Secretary

Approved:

Meghan Swain-Kuch,  
PC Chair

DRAFT

Unapproved Minutes  
Of the September 20, 2022  
Conway Township  
Regular Board Meeting  
7:00 pm

REGULAR MEETING

Supervisor Grubb called the meeting to order at 7:00 p.m. with the pledge of allegiance to the American flag.

Roll call: Trustee Richard Hohenstein, Trustee George Pushies, Supervisor William Grubb, Clerk Elizabeth Whitt

Absent: Treasurer Debra Grubb

Consent Agenda approved by roll call: Pushies – no, W. Grubb – yes, Whitt – yes, Hohenstein – yes. Motion approved.

Call to the public: three attendees spoke regarding secluded acres, waiving fees for non-profit groups and Broadband.

Motion to move to closed session regarding the resignation of a Planning Commissioner made by Pushies, supported by Whitt at 7:29pm. Returned from closed session at 7:57pm.

Motion to approve the Board Meeting Agenda with the following amendments: Add items 15 – PC Resolution, 16- accessory structures, 17-Amend land division ordinance, 18-ZA report, 19-masterplan for commercial zoning, 20- passing solar ordinance, 21-Dawn Patrol. Motion by Whitt. Supported by Pushies. Motion approved.

Motion to adopt the investment policy with revision (change report requirements to semi-annually) made by Whitt. Supported by Hohenstein. Motion approved with amendments.

Motion to send Ordinance Officer Agreement, including Trustee Hohenstein notes, to attorney, make changes as appropriate, return the new agreement to township for board review at a regular or special meeting. Motion by W Grubb, supported by Whitt. Motion approved.

Sound system purchase – no action

Motion to adjust Planning Secretary pay back to \$105 to be in line with the other secretary positions on various committees and commissions. Motion by Whitt, supported by Hohenstein. Motion approved.

Drains at large postponed to next meeting to research funds availability.

Motion to use standard private shared driveway agreement from, with attached survey, for a \$100 application fee. If residents need modifications, there is a \$100 application fee and \$1000 Escrow for legal review. Motion by Hohenstein, supported by Whitt. Motion approved.

Motion to amend fee schedule for hall security deposit from \$200 to \$350. Motion by Whitt, supported by W Grubb. Motion approved.

Motion Brande Nogafsky's pay rate be increased to \$20 per hour. Brande has shown incredible initiative in updating the township's assessment records. She has also achieved the MCAT certification and is going to be working towards her assessor's license. Motion by Whitt, supported by Hohenstein. Motion approved.

Motion we appoint Lucas Curd to the Zoning Board of Appeals as the Planning Commission representative. Motion by Whitt, supported by Hohenstein. Motion approved.

Motion we appoint Elizabeth Whitt to the Zoning Board of Appeals to serve as secretary, pending legal review. Motion by Whitt, supported by Pushies, Motion approved.

Motion the township institute a \$100 annual workwear allowance for the township employees. This will allow approximately 2-4 items a year. This is very common at other municipalities. It fosters team spirit and promotes the



Unapproved Minutes  
Of the September 20, 2022  
Conway Township  
Regular Board Meeting  
7:00 pm

township when worn to outside training and events. Ordering would be handled through the office. Motion by Whitt, supported by Hohenstein. Motion approved.

Resolution No 220920-01, regarding planning commission training and education. Offered by Whitt, Seconded by Pushies. Roll call: W Grubb – yes, Whitt – yes, Pushies – yes, Hohenstein – yes. Resolution passed.

Accessory structures ordinance amendment – tabled to next meeting

Amend land division ordinance – tabled to next meeting

Masterplan for commercial zoning – tabled to next meeting

Motion W Grubb to communicate to the Planning Commission approve the solar amendment and schedule public hearing. Motion by W Grubb, supported by Hohenstein. Motion approved.

Dawn Patrol – tabled to till next month

Call to the public – none spoke

Motion to adjourn at 10:46 p.m. Motion by Pushies. Support by Hohenstein. Motion approved.

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Elizabeth Whitt, Township Clerk

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Gabi Bresett, Township Deputy Clerk



# Livingston County Department of Planning

## LIVINGSTON COUNTY PLANNING COMMISSION MEETING

**Wednesday, September 21, 2022 – 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***

**Kathleen J. Kline-Hudson**  
AICP, PEM  
Director

**Robert A. Stanford**  
AICP, PEM  
Principal Planner

**Scott Barb**  
AICP, PEM  
Principal Planner

### Agenda

1. Call to Order
2. Pledge of Allegiance to the Flag
3. Roll and Introduction of Guests
4. Approval of Agenda – September 21, 2022
5. Approval of Meeting Minutes – August 17, 2022
6. Call to the Public
7. Zoning Reviews
  - A. Z-33-22 Brighton Township, Text Amendment, Article 14 Design Requirements, Sections 14-01, 18-03, 20-04 Metal Roofs and Site Plan Approval Extensions
  - B. Z-34-22 Green Oak Township, Rezoning, R-2 Single Family to LI Limited Industrial in Section 3
  - C. Z-35-22 Handy Township, Text Amendment, Chapter 16 Special Uses, Section 16.6 (AA) Office and Showrooms of Contractors
8. Old Business
  - A. Visits to Local Planning Commissions
  - B. Assembly Solar Facility Tour
9. New Business
  - A. Fall 2022 Citizen Planner Educational Series
  - B. Planning Commission Terms Expiring in 2022
10. Reports
11. Commissioners Heard and Call to the Public
12. 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  
[co.livingston.mi.us](http://co.livingston.mi.us)

### **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**

Meeting recordings may be made using a personal computer or laptop, after requesting ability from the meeting host.

October 3, 2022

Planning Commission  
Conway Township  
8015 N Fowlerville Road  
Fowlerville, MI 48836

Attention: Meghan Swain-Kuch, Planning Commission Chair

**Subject: Solar Ordinance – Outstanding Discussion Questions**

Dear Commissioners:

As you review the clean draft of the solar ordinance and finalize the draft before setting a public hearing, we have a few outstanding discussion items/questions that we'd like to discuss at the October 10<sup>th</sup> Planning Commission meeting. These are detailed below:

- **Landscaping/Screening** (Section 6.26.D.16). The general landscaping requirements (apply to all uses) of the Zoning Ordinance require that landscaping be provided along public road right-of-way and where adjacent to a residential property/district. Some solar ordinances allow flexibility for where landscaping/screening is required – for example, only along properties abutting *existing non-participating houses* or allowing the developer to work with property owners to determine their preferred method of screening, rather than requiring screening around the entire project. Is the Planning Commission interested in specifying this within the landscaping standards?
- **Decommissioning** (Section 6.26.D.20). The decommissioning fund section requires that an updated cost estimate be provided for review every three (3) years and requires an escrow amount for review of the cost estimates. As written now, the Township Board reviews and approves the decommissioning estimates and financial guarantees, but the Planning Commission determines the escrow amount for that review. As discussed at a previous meeting, evaluation of decommissioning estimates and financial guarantees may be more suitable for the Planning Commission, as the PC will be the body reviewing the plans in detail. Abby, Justin, and I have discussed a potential alternative approach where the Planning Commission makes recommendations to the Board on the amount of the initial financial guarantee and any subsequent changes to that amount during the 3-year review, and then the Board would make final determination. We are interested in the Planning Commission's thoughts on this.
- **Abandonment** (Section 6.26.D.21). Upon reviewing the draft, Abby raised a question about decommissioning and abandonment of a project and ensuring that the Township can decommission using the financial guarantee if the operator doesn't decommission as they are

supposed to, like in the case of abandonment. She shared a suggestion from Dr. Mills for Cohoctah Township that an abandonment hearing be included in the ordinance, which could be a potential good addition to the Conway Township ordinance as well. This is a topic for the Planning Commission to discuss and determine if it should be added to the draft.

We are looking forward to discussing the draft further at the October 10, 2022 Planning Commission meeting. If you have any further questions, please don't hesitate to contact us at 810-335-3800.

Sincerely,

**CIB PLANNING**

A handwritten signature in black ink, appearing to read "Hannah Smith", written over the printed name.

Hannah Smith  
Planner II

## Definitions

**Solar Energy System (SES):** A photovoltaic system or solar thermal system for generating and/or storing electricity or heat, including all above and below ground equipment or components required for the system to operate properly and to be secured to a roof surface or the ground. This includes any necessary operations and maintenance building(s), but does not include any temporary construction offices, substation(s) or other transmission facilities between the SES and the point of interconnection to the electrical grid.

1. **Building-Mounted Solar Energy System:** A solar energy system attached to the roof or wall of a building, or which serves as the roof, wall or window or other element, in whole or in part, of a building.
2. **Ground-Mounted Solar Energy System:** A solar energy system mounted on support posts, like a rack or pole, that is attached to or rests on the ground. The system is not attached to and is separate from any building on the parcel of land on which the solar energy system is located.
3. **Utility-Scale Solar Energy System:** A large-scale facility of solar energy arrays with the primary purpose of wholesale or retail sales of generated electricity.
4. **Accessory Solar Energy System:** A small-scale solar energy system with the primary purpose of generating electricity for the principal use on the site.

**Solar Array:** A photovoltaic panel, solar thermal collector, or collection of panels or collectors in a solar energy system that collects solar radiation.

**Dual Use:** A solar energy system that employs one or more of the following land management and conservation practices throughout the project site:

1. **Pollinator Habitat:** A site designed to have vegetation that will enhance pollinator populations, including a diversity of flowering plants and wildflowers, and meets a score of 76 or more on the Michigan Pollinator Habitat Planning Scorecard for Solar Sites.
2. **Conservation Cover:** A site designed with practices to restore native plants, grasses, and prairie with the aim of protecting specific species or providing specific ecosystem services, such as carbon sequestration or soil health. The site must be designed in partnership with a conservation organization or approved by the Livingston Conservation District.
3. **Forage/Grazing:** Sites that incorporate rotational livestock grazing and forage production as part of a vegetative maintenance plan.
4. **Agrivoltaics:** Sites that combine raising crops for food, fiber, or fuel, and generating electricity within the project area to maximize land use.

**Maximum Tilt:** The maximum angle of a solar array (i.e. most vertical position) for capturing solar radiation as compared to the horizon line.

**Minimum Tilt:** The minimal angle of a solar array (i.e. most horizontal position) for capturing solar radiation as compared to the horizon line.

**Participating Property:** One or more properties under a signed lease or easement for development of a utility-scale solar energy system associated with a project.

**Non-Participating Property:** One or more properties for which there is not a signed lease or easement for development of a utility-scale solar energy system associated with a project.

## Section 6.26 Solar Energy Systems

### A. Purpose and Intent.

Conway Township promotes the effective and efficient use of solar energy collection systems. It is the intent of the Township to permit these systems by regulating the siting, design, and installation of such systems to protect the public health, safety, and welfare, and to ensure compatibility of land uses in the vicinity of solar energy systems. Accessory and utility-scale solar energy systems, as defined in this Ordinance, shall comply with the provisions of this Section.

### B. Criteria For the Use of All Solar Energy Equipment.

1. Solar energy equipment shall be located to minimize visual impacts from the public right-of-way.
2. Solar energy equipment shall be repaired, removed, or replaced within twelve (12) months of no longer being operational.
3. All solar energy equipment must conform to all County, State, and Federal regulations and safety requirements as well as applicable industry standards.

### C. Accessory Solar Energy Systems. Accessory solar energy systems, as defined in Article 2 Definitions, include building-mounted systems and ground-mounted systems with the primary purpose of generating electricity for the principle use on the site. Accessory solar energy systems are a permitted accessory use in all zoning districts, subject to administrative review and approval.

1. **Application to Zoning Administrator.** An applicant who seeks to install an accessory solar energy system shall submit an application to the Zoning Administrator upon forms furnished and approved by the Conway Township Board of Trustees.
2. **Application Criteria.** The application must be approved in writing by the Zoning Administrator. The application shall include the following:
  - a. Photographs of the property's existing conditions.
  - b. Renderings or catalogue cuts of the proposed solar energy equipment.
  - c. 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.

- d. Plot plan to indicate where the solar energy equipment is to be installed on the property.
- e. In addition to the criteria contained in this subsection, applicants seeking approval of an accessory solar energy system shall meet the requirements of subsection (4) for a building-mounted system and subsection (5) for a ground-mounted system.

3. **Exclusions from Administrative Review.**

- a. The installation of one (1) solar panel with a total area of less than eight (8) square feet.
- b. Repair and replacement of existing solar energy equipment, provided that there is no expansion of the size or coverage area of the solar energy equipment.

4. **Building-Mounted Solar Energy System Requirements.** A building-mounted solar energy system shall be a permitted accessory use in all zoning districts, subject to the following requirements:

- a. Administrative review as set forth in subsection (1) above is required of all building-mounted solar energy systems permitted as an accessory use, subject to the exclusions in subsection (3).
- b. Solar energy systems that are mounted on the roof of a building shall not project more than five (5) feet above the highest point of the roof but, in any event, and shall not exceed the maximum building height limitation for the zoning district in which it is located, and shall not project beyond the eaves of the roof.
- c. Solar energy systems that are roof-mounted, wall-mounted or are otherwise attached to a building or structure shall be permanently and safely attached to the building or structure. Proof of the safety and reliability of the means of such attachment shall be submitted to the Zoning Administrator prior to installation; such proof shall be subject to the Zoning Administrator's approval.
- d. Solar energy systems that are wall-mounted shall not exceed the height of the building wall to which they are attached.
- e. Solar energy systems shall not be mounted on a building wall

that is facing an adjacent public right-of-way.

- f. The exterior surfaces of solar energy systems that are mounted on the roof or on a wall of a building, or are otherwise attached to a building or structure, shall be generally neutral in color and substantially non-reflective of light.
- g. Solar energy systems shall be installed, maintained, and used only in accordance with the manufacturer's directions. Upon request, a copy of such directions shall be submitted to the Zoning Administrator prior to installation. The Zoning Administrator may inspect the completed installation to verify compliance with the manufacturer's directions.
- h. Solar energy systems, and the installation and use thereof, shall comply with the County construction code and the electrical code.
- i. A building-mounted solar energy systems installed on a nonconforming building, structure, or use shall not be considered an expansion of the nonconformity, but shall be required to meet all height and placement requirements.

5. **Ground-Mounted Accessory Solar Energy System Requirements.** Ground-mounted solar energy collector systems which are accessory to a principal use shall be a permitted accessory use in all zoning districts, subject to the following requirements:

- a. Accessory ground-mounted solar energy systems shall be located only as follows:
  - They shall be located in the rear yard or the side yard, but not in the required rear yard setback or in the required side yard setback unless permitted by the Planning Commission.
  - Should extenuating circumstance exist that prevent locating in the rear or side yard, the Planning Commission may approve a front yard location, but, in no event, shall the energy system be located in the required front yard setback. The applicant shall demonstrate to the Commission that the rear or side yard location is not feasible.
- b. Solar energy systems shall be permanently and safely attached to the ground. Proof of the safety and reliability of the means of such attachment shall be submitted with the application and shall be subject to the Zoning Administrator's approval.



- c. Solar energy systems shall be installed, maintained and used only in accordance with the manufacturer's directions. A copy of such directions shall be submitted with the special land use application. The solar energy collector may be subject to the Zoning Administrator's inspection to determine compliance with the manufacturer's directions.
- d. **Height.** Accessory ground-mounted solar energy systems shall not exceed sixteen (16) feet in height, measured from the ground at the base of such equipment, when oriented at maximum tilt.
- e. **Appearance.** The exterior surfaces of solar energy systems shall be generally neutral in color and substantially non-reflective of light.
- f. **Lot Coverage.** The total area of accessory ground-mounted solar energy systems shall not exceed fifty percent (50%) of the square footage of the primary building of the property. For any parcel of land two (2) acres or less, an accessory ground-mounted solar energy collector shall not be deemed an accessory building or structure for purposes of Section 6.06(E).
- g. **Nonconformities.** An accessory ground-mounted solar energy system installed on a nonconforming use or lot shall not be considered an expansion of the nonconformity, however, shall meet placement and height requirements.

**D. Utility-Scale Solar Energy Systems.** Utility-scale solar energy systems, as defined in Article 2 Definitions, are permitted by Special Land Use approval and are subject to site plan and special land use review requirements.

- 1. **Special Land Use Required.** Special land use approval is required for a utility-scale solar energy system. Utility-scale solar energy systems are permitted as a special land use in AR Agricultural Residential, C Commercial, and I Industrial districts only.
- 2. **Height.** Utility-scale solar energy systems shall not exceed sixteen (16) feet in height, measured from the ground at the base of such equipment, when oriented at maximum tilt. The Planning Commission can permit up to twenty (20) feet in height for utility-scale systems as part of the special land use approval, to allow for grazing or other operations.

3. **Lot Coverage.** The total area of utility-scale solar energy systems shall not be included in the calculation of the maximum permitted lot coverage requirement for the parcel of land.
4. **Installation and safety.** Utility-scale solar energy systems shall be properly installed to ensure safety, and meet the following requirements:
  - a. Solar energy systems shall be safely attached to the ground. Proof of the safety and reliability of the means of such attachment shall be submitted with the special land use application and shall be subject to the Planning Commission's approval.
  - b. Solar energy systems shall be installed, maintained and used only in accordance with the manufacturer's directions. A copy of such directions shall be submitted with the special land use application. The special land use, if granted, may be subject to the Zoning Administrator's inspection to determine compliance with the manufacturer's directions.
5. **Appearance.** The exterior surfaces of solar energy systems shall be generally neutral in color and substantially non-reflective of light.
6. **Compliance with construction and electrical codes.** Utility-scale solar energy systems, and the installation and use thereof, shall comply with all applicable construction codes and electric codes, including state construction codes and the National Electric Safety Code.
7. **Fencing.** Utility-scale solar energy systems shall be fenced in with at least a seven (7) foot chain link fence or seven (7) foot woven wire fence with wooden or steel posts. Fencing must meet all applicable standards, including National Electrical Code requirements. Barbed wire is prohibited. Fencing is not subject to setback requirements.
8. **Transmission and communication lines.** All power transmission and communication lines between banks of solar panels and to nearby electric substations or interconnections with any buildings or other structures shall be located underground. Exemptions may be granted in instances when soil conditions, shape, topography, or other elements of the natural landscape interfere with the ability to bury lines, or distance makes undergrounding infeasible, at the discretion of the Planning Commission.
9. **Setbacks.** Minimum setbacks shall be two-hundred (200) feet

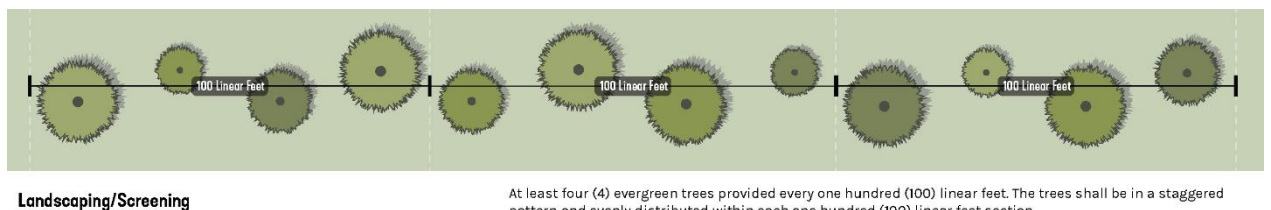
from any non-participating property with a residence and one hundred twenty-five (125) feet from all other non-participating properties. This shall be measured from the property line of the adjacent property to the closest point of the solar array at minimum tilt or any solar energy system components. A utility-scale solar energy system is not subject to property line setbacks for common property lines of two or more participating lots, except road right-of-way setbacks shall apply.

10. **Setback from wetlands.** Utility-scale solar energy systems shall be at least fifty (50) feet from the edge of any wetland, or any shoreline or drain easement. The Planning Commission shall have the authority to require up to one hundred fifty (150) feet setback, at the Commission's discretion.
11. **Sound.** The sound pressure level of a utility-scale solar energy system and all ancillary solar equipment shall not exceed 45 dB(A) at the property line of adjacent non-participating properties or the exterior of any non-participating habitable structure, whichever is closer. The site plan shall include modeled sound isolines extending from the sound source to the property lines to demonstrate compliance with this standard.
12. **Lighting.** Utility-scale solar energy system lighting shall be limited to inverter and/or substation locations only. Any lighting shall be directed downward and be placed to keep light on-site and glare away from adjacent properties, bodies of water, and adjacent roadways. Flashing or intermittent lights are prohibited.
13. **Groundcover.** A utility-scale solar energy system shall include the installation of ground cover vegetation maintained for the duration of operation until the site is decommissioned. A ground cover vegetation establishment and management plan shall be submitted as part of the site plan.
  - a. Properties bound by a Farmland Development Rights Act (PA 116) Agreement must follow the Michigan Department of Agriculture and Rural Development's Policy for allowing commercial solar panel development on PA 116 lands.
  - b. Ground cover at properties not enrolled in PA 116 shall meet one or more of the following types of Dual Use, as defined in this Ordinance, to promote ecological benefits:
    - Pollinator Habitat
    - Conservation Cover
    - Forage/Grazing
    - Agrivoltaics
14. **Drainage.** Drainage on the site shall be maintained in a manner consistent with, or improved upon, existing natural drainage patterns. Any disturbance to drainage or water management

practices must be managed within the property and on-site, in order to not negatively impact surrounding properties as a result of the development. This shall be maintained for the duration of the operation and shall be able to be returned to pre-existing conditions following decommissioning. Any existing drainage tiles that are identified on the property shall be shown on the as-built drawings submitted following construction.

15. **Wildlife Corridors.** Utility-scale solar energy system developments shall have access corridors for wildlife to navigate through the development. Applicants shall demonstrate within their site plan means for allowing wildlife corridors throughout the site, which may include natural patterns, breaks in the fencing, and other means for allowing movement of migratory animals and other wildlife.
16. **Landscaping/Screening.** Landscaping shall be provided in accordance with the standards required in Section 6.16 Required Landscaping and Screening, as well as the following additional screening requirements if determined appropriate by the Planning Commission:
  - a. At least four (4) evergreen trees provided every one hundred (100) linear feet. The trees shall be in a staggered pattern and evenly distributed within each one hundred (100) linear feet section, as shown in Figure 6.26.1. Trees shall be planted outside of the fencing.
  - b. Each evergreen tree shall have a minimum mature height of fifteen (15) height and have a minimum height of seven (7) feet at the time it is planted.
  - c. Landscaping shall be installed and inspected following project completion and prior to energy generation within the project. Landscaping shall be maintained in accordance with Section 6.16(E) of this Ordinance.

**Figure 6.26.1 Landscaping/Screening**



17. **Signage.** Signage shall be permitted in accordance with Article 17. Signage shall be required to identify the owner and provide a 24-hour emergency contact phone number.
18. **Agricultural Protection.** Utility-scale solar energy systems shall be sited to minimize impacts to agricultural production, including

the following:

- a. Systems shall be sited to minimize land disturbance or clearing except for minimally necessary. Topsoil shall be retained on-site.
  - b. Any access drives shall be designed to minimize extent of soil disturbance, water runoff, and soil compaction.
19. **PA 116 Farmland Development Rights Program.** Per the Michigan Department of Agriculture and Rural Development (MDARD), land enrolled in the PA 116 program may be permitted to participate in solar energy development subject to MDARD policy and requirements. Per MDARD standards, this land must be able to be returned to agricultural uses following the end of the solar development agreement or if/when the solar development is decommissioned for any reason.
20. **Decommissioning.** A decommissioning plan is required at the time of application to be reviewed and approved by the Planning Commission.
  - a. The decommissioning plan shall include:
    - The anticipated manner in which the project will be decommissioned, including a description of the process for removal of all structures and foundations, restoration of soil to a depth of four (4) feet and vegetation, and how all above-grade and below-grade improvements will be removed, retained, or restored for viable reuse of the property consistent with the zoning district.
    - The projected decommissioning costs for removal of the system (net of salvage value in current dollars) and site restoration/soil stabilization, less the amount of the surety bond posted with the State of Michigan for decommissioning of panels if installed on PA 116 land.
    - The method of ensuring that funds will be available for site decommissioning and stabilization. A financial security guarantee in an amount determined by the Township Board, based off of the decommissioning cost estimate provided, is required. This financial security guarantee must be posted at the time of receiving a construction permit for the system. The security shall be in the form of a cash bond, irrevocable bank letter of credit, or performance bond in a form approved by the Township. The estimate shall be prepared by the engineer for the applicant and shall be subject to approval by the Township.
  - b. A review of the amount of the performance guarantee based on inflation, salvage value, and current removal costs shall be reviewed every three (3) years, for the life of the project, and approved by the Conway Township Board. Updated costs estimates based on these conditions shall be provided by the applicant for review. The applicant shall provide escrow funds, in an amount determined by the Planning

- Commission, for the Township to review the updated cost estimates.
- c. A utility-scale solar energy system owner may at any time proceed with the decommissioning plan approved by the Planning Commission and remove the system as indicated in the most recent approved plan.
  - d. Any proposed amendment to the decommissioning plan shall be presented to the Planning Commission for approval.
21. **Abandonment.** In the event that a utility-scale solar energy system has been abandoned (meaning not having been in operation for a period of one year without a waiver from the Planning Commission), the system shall be removed by the applicant or the property owner and the site shall be stabilized and re-vegetated, in compliance with the approved decommissioning plan. If the abandoned system is not removed or repaired, amongst other available remedies, the Township may pursue legal action against the applicant and property owner to have the system removed and assess its cost to the tax roll of the subject parcel. The applicant and property owner shall be responsible for the payment of any costs and attorney's fees incurred by the Township in securing removal of the structure. The Township may utilize the benefit of any financial security being held under this Section to offset its cost. As a condition of approval, the applicant and property owner shall give permission to the Township to enter the parcel of land for this purpose.
22. **Annual Reports.** For a utility-scale solar energy system, an annual report shall be submitted to the Planning Commission by a date determined at the time of special land use approval. The annual report shall include an update on electricity generation by the project, as well as document all complaints received regarding the utility-scale solar energy system along with the status of complaint resolutions and the actions taken to mitigate the complaints.
23. **Additional approvals and agency reviews.** The following approval and agency reviews shall be required, as applicable:
- a. Local Fire Chief;
  - b. Department of Environment, Great Lakes, and Energy (EGLE);
  - c. Livingston County Drain Commission;
  - d. Livingston County Road Commission;
  - e. Livingston County Environmental Health;
  - f. Federal Aviation Administration (FAA);
  - g. Local Airport Zoning (if applicable);
  - h. Building Department;
  - i. Tax Assessor.

24. **Operations Agreement.** The applicant shall provide the Planning Commission with an operations agreement, which sets forth the operations parameters, the name and contact information of the certified operator, inspection protocol, emergency procedures and general safety documentation. It shall be a condition of approval that the Zoning Administrator shall be notified and provided copies of any changes.
25. **Indemnity/Insurance.** The Township shall be indemnified from all third-party claims for personal or property damage arising from the Developer's negligent and/or intentional acts and/or omissions during construction, maintenance, and decommissioning of the utility-scale solar energy system and shall be listed as an additional insured on applicable insurance policies during the life of the project.
26. **Maintenance and Repair.** Repair, replacement, and maintenance of components is permitted without the need for a new special land use permit. Proposals to change the project footprint of an existing system shall be considered a new application.
27. **Site Plan Requirements.** Utility-scale solar energy systems are subject to submittal and approval of a site plan meeting all requirements in Article 14 Site Plan Review. Prior to formal site plan submission, applicants may submit an optional conceptual layout plan to the Planning Commission for discussion and feedback. Special land use permits shall be applied for at the time of formal site plan submission.
- a. **Optional Conceptual Layout Plan.** For utility-scale solar energy systems, applicants may submit an optional conceptual layout plan for review prior to submission of a formal site plan. The conceptual site plan may be reviewed by the Planning Commission to allow for discussion and feedback. The following information may be shown on a conceptual layout plan:
- General parcel information, as required by Section 14.03(A) General Information, as applicable
  - Existing topography of the site shown at two (2) foot contour intervals with existing surface drainage patterns indicated
  - Proposed plans for site grading and drainage management
  - General landscaping plan, including proposed details for screening
  - The proposed location and layout of all solar arrays in the solar energy system
  - The proposed location and layout of any ancillary equipment (such as inverters), buildings, access drives, and security fencing

- Location of existing wetlands, shoreline, or drain easements
- b. **Site Plan.** Formal site plan submission for a utility-scale solar energy system must include a detailed site plan including all applicable requirements found in Section 14.03 information required of this Ordinance, except that utility-scale solar energy systems shall be submitted at a scale of 1" = 200 feet, plus the following site plan requirements:
- Location of all arrays, including dimensions and layout of arrays, ancillary structures and equipment, utility connections, dwellings on the property and within three-hundred (300) feet of the property lines, any existing and proposed structures, wiring locations, temporary and permanent access drives, fencing details, wildlife corridors, screening and landscaping detail, and any signage.
  - Information on where and how the utility-scale solar energy system will connect to the power grid. No utility-scale solar energy system shall be installed until evidence has been given to the Planning Commission that the electric utility company has agreed to allow the applicant to install an interconnected customer-owned generator to the grid or the applicant otherwise has a means for the wholesale or retail sales of generated electricity.
  - Plan for land clearing and/or grading required for the installation and operation of the system
  - Plan for ground cover establishment and management
  - Anticipated construction schedule
  - Sound modeling study including sound isolines extending from the sound source(s) to the property lines
  - A decommissioning plan in accordance with 6.26.D(20)
  - The location of prime farmland, as defined by the U.S. Department of Agriculture, Natural Resources Conservation Service – Web Soil Survey, to ensure agricultural protection in accordance with Section 6.26.D(16).
  - Additional studies may be required by the Planning Commission if reasonably related to the standards of this Ordinance as applied to the application, including but not limited to:
    - Visual Impact Assessment: A technical analysis by a third party qualified professional of the visual impacts of the proposed project, including a description of the project, the existing visual landscape, and important scenic resources, plus visual simulations that show what the project will look like (including proposed landscaping and other screening measures), a description of potential project impacts, and mitigation measures that would help to reduce the visual impacts created by the project.



- Environmental Analysis: An analysis by a third-party qualified professional to identify and assess any potential impacts on the natural environment including, but not limited to, wetlands and other fragile ecosystems, wildlife, endangered and threatened species. If required, the analysis shall identify all appropriate measures to minimize, eliminate or mitigate adverse impacts identified and show those measures on the site plan, where applicable.
  - Stormwater Study: An analysis by a third-party qualified professional that takes into account the proposed layout of the utility-scale solar energy system and how the spacing, row separation, and slope affects stormwater infiltration, including calculations for a 100-year rain event. Percolation tests or site-specific soil information shall be provided to demonstrate infiltration on-site without the use of engineered solutions.
  - Glare Study: An analysis by a third-party qualified professional to determine if glare from the utility-scale solar energy system will be visible from nearby residents and roadways. If required, the analysis shall consider the changing position of the sun throughout the day and year, and its influences on the utility-scale solar energy system.
- c. Final site plan approval shall only be granted once all necessary governmental approvals have been obtained. Planning Commission approval is conditioned upon approval from all other agencies.
- d. **Modifications of approved site plan.** Any modifications, revisions, or changes to an approved site plan shall be considered either a minor or major site plan amendment and must follow the standards of Section 14.08 Amendment of an Approved Site Plan.
- **Major Changes.** Major site plan changes considered major include those listed in Section 14.08(C), or the following:
    - Changes of location of arrays, fencing, buildings, or ancillary equipment by more than ten (10) feet.
    - An increase in height of solar panels.
  - **Minor Changes.** Minor site plan changes considered minor include those listed in Section 14.08(D), or the following:
    - Changes of location of arrays, fencing, buildings, or ancillary equipment by less than ten (10) feet.
- e. **Application Fee & Escrow Required.** An applicant for a utility-scale solar energy system must pay applicable application fees according to the Conway Township fee schedule. An escrow account shall be set up when special land use application is filed to cover costs and expenses associated with the review and approval process.

28. **As-Built Drawings.** A set of as-built drawings shall be submitted to the Township following project completion and prior to energy generation within the project.

**E. Solar Access Requirements.** When a solar energy collection system is installed on a lot, accessory structures or vegetation on an abutting lot shall not be located so as to block the solar array's access to solar energy. The portion of a solar energy system that is protected is the portion which is located so as not to be shaded between the hours of 10:00am and 3:00pm by a hypothetical twelve (12) foot obstruction located on the lot line.

**F. Solar Access Exemptions.** Structures or vegetation existing on an abutting lot at the time of installation of the solar energy collection system, or the effective date of this ordinance, whichever is later is exempt from subsection (E). above. Said subsection described in subsection (E) above controls any structure erected on, or vegetation planted in, abutting lots after the installation of the solar energy collection system.

- O. **Occupancy of Accessory Structures or Basements.** Buildings erected after the effective date of this ordinance such as garages or accessory buildings shall not be used or occupied for dwelling purposes at any time.
- P. **Design Standards.** Accessory buildings in the R Residential district shall be harmonious with the height, character and scale of surrounding buildings and topography. Exterior surfaces shall also be similar to that of surrounding structures. Metal pole barns or structures with agricultural or industrial metal finishes may not be permitted if they are not compatible with the surface finish materials of surrounding structures.

#### **Section 6.07 Supplemental Regulations Pertaining to Yards**

##### **A. Permitted Yard Encroachments.**

1. Paved terraces, patios and uncovered porches shall not be subject to yard requirements, provided the following minimum conditions are met:
  - a. The paved area is unroofed and without walls or other forms of solid continuous enclosure that links the paved area to the principal building.
  - b. The highest finished elevation of the paved area is not over three (3) feet above the average surroundings finished grade area. No portion of any paved area is closer than five (5) feet to any lot line or projects into any minimum required front yard area.
  - c. Such paved areas may have constructed wind breaks or walls not over six (6) feet high and not enclosing more than one-half (1/2) the perimeter of the paved area.
2. Unenclosed porches, roofed or unroofed, may project into a required side or rear yard area provided the porch is not higher than one (1) story and is erected on supporting piers. The porch shall not be closer than eight (8) feet to any side or rear lot line.
3. Enclosed porches shall be considered an integral part of the building and shall be subject to all yard and area dimensional requirements established for principal buildings.

4. Special structural elements such as cornices, sills, chimneys, gutters and similar structural features may project into any minimum required yard up to a maximum of two and one-half (2 ½) feet.
5. Fire escapes, outside stairways, and balconies, if of open construction, may project into minimum required yard areas up to a maximum of five (5) feet.
6. **Swimming pools** shall not be subject to yard requirements, provided the following minimum conditions are met:
  - a. Yard areas with a swimming pool, spa, hot tub or similar device (below ground or above ground) shall erect and maintain a fence or enclosure approved by the Zoning Administrator.
  - b. Fencing is to be a minimum of four (4) feet high, and equipped with a self-closing and self-latching gate. Latching devices are to be located at a minimum height of three (3) feet above the ground. Such fencing may be omitted where building walls without doorways abut the pool area, provided that the entire perimeter of the pool area is secured. Above ground swimming pools with sides of four (4) feet or more above grade, do not require fencing but do require a removable access ladder that lifts for safety. A spa or hot tub with a locking cover shall not require a fence.
  - c. Swimming pools, spas, hot tubs, similar facilities and surrounding decks, walks or similar accessories with an elevation measured from the mean grade at any point adjacent to such facility of two (2) feet or less shall be at least ten (10) feet from any lot line. Where the elevation is greater than two (2) feet above grade at any point, the setback shall be at least fifteen (15) feet from any public street right-of-way or lot line.
  - d. Swimming pools, spas, hot tubs and similar devices shall not be located in any front yard or in any easement.
  - e. No lights shall be erected, operated or maintained in connection with a swimming pool in such a manner as to create an annoyance to surrounding properties.
  - f. No overhead wiring shall be above a swimming pool.

- B. Yard Exceptions.** In cases where less than the full required future right-of-way width of a street has been deeded or dedicated, the minimum required yard on any properties abutting thereon shall be measured from the future required right-of-way line. The street width used for calculating the right-of-way shall meet Livingston County Road Commission requirements.

#### **Section 6.08 Supplemental Regulations Pertaining to Height**

- A. Permitted Exceptions for Structural Appurtenances.** The following kinds of structural appurtenances shall be permitted to exceed the height limitations for authorized uses.
1. Appurtenances that are ornamental in purpose, such as church steeples, belfries, cupolas, domes, ornamental towers and flagpoles provided that such structural elements do not exceed twenty (20) percent of the gross roof area.
  2. Appurtenances to mechanical or structural functions, such as chimneys and smoke stacks, water tanks, elevator and stairwells, penthouses, ventilators, aeries and fire and base towers, provided the total height of the structure or the building and appurtenance are one hundred twenty-five (125) feet or less from the ground. The foregoing permitted exceptions shall not be for human occupancy or dwelling.
  3. Structural extensions deemed necessary for appropriate building design such as cornices or parapet walls may extend a maximum of five (5) feet above the district's height limitation, provided that such structural extensions shall have no window openings.
  4. Solar energy systems shall be exempted from the computation of a building's height.
- B. Permitted Exceptions for Non-Residential Structures.** The following kinds of non-residential structures shall be permitted to exceed the height limitations for authorized uses.
1. Grain elevator and silo structures for agricultural operations are permitted up to one hundred twenty-five (125) feet. Farm structures are permitted up to forty-five (45) feet.
  2. Wind power electrical generating towers, provided each front, side and rear yard minimum is increased one (1) foot for each one (1) foot of additional height above the district requirement.