

NOTICE OF REGULAR MEETING
COVERT TOWNSHIP PLANNING COMMISSION

Wednesday, April 17, 2024

6:30 P.M. – COVERT TOWNSHIP HALL

AGENDA

1. Call to Order / Roll Call / Pledge of Allegiance
2. Approval of Agenda
3. Approval of Minutes
 : March 20, 2024
4. Public Comments Concerning Non-Agenda Items
5. New Business
 - No New Business is scheduled for consideration
6. Ongoing Business
 - A. Text Amendment - Battery Energy Storage Systems (BESS)
 - *Review Draft #2*
 - B. Community Survey Results (Raw Data)
7. Communications
 - MP/CMP Update
8. Adjournment

PLANNING COMMISSIONERS: *Please notify the Planning Commission Chair no later than the day before the scheduled meeting if you are unable to attend the meeting. In the event of a lack of a quorum, the meeting will be canceled.*

COVERT TOWNSHIP

PLANNING COMMISSION

MINUTES OF THE MARCH 20, 2024 REGULAR MEETING

6:30 P.M., COVERT TOWNSHP HALL

Call to Order / Roll Call / Pledge of Allegiance

Chair Rendell called the meeting to order at 6:30 p.m.

Members Present: Robert Brown, Tom Bury, Luke Dennison, Austin Harding, Wayne Rendell, Lonzey Taylor

Members Absent: Jena Johnson

Others Present: Rebecca Harvey, Township Planning Consultant

Approval of Agenda

Motion by Taylor, seconded by Bury, to approve the agenda of the March 20, 2024 regular meeting, as presented. Motion carried unanimously.

Approval of Minutes – February 21, 2024 Regular Meeting

Motion by Dennison, seconded by Harding, to approve the minutes of the February 21, 2024 regular meeting, as presented. Motion carried unanimously.

Public Comment on Non-Agenda Items

No public comment was offered on non-agenda items.

New Business

Election of Vice Chair

Motion by Chair Rendell, seconded by Taylor, to nominate/elect Tom Bury as Planning Commission Vice-Chair. Motion carried unanimously.

Site Plan Review – Ronan

Chair Rendell stated that the next matter to come before the Commission was the request by Catherine Ronan for Site Plan Review of the proposed occupancy of an existing commercial building (former auto service station) as an ‘upholstery shop’ and ‘motel/lodging facilities’ (2 short term rental rooms). Subject site is located at 31981 Blue Star Highway and is within the CC Community Commercial District.

Harvey provided an overview of the request and noted the following site plan elements:

- The property is provided access from ‘casual’ driveways off an informal gravel access road that exists within the abutting public road right-of-way.
- The proposed parking layout: does not meet applicable location or setback requirements; will result in direct access from/maneuverability within the informal access road within the public road right-of-way in violation of the Zoning Ordinance; and, is proposed to have a ‘compacted gravel’ surface.
- The site plan does not provide the required engineering to determine compliance with stormwater management standards.
- An on-site solid waste disposal proposal has not been detailed.
- Approval should be subject to Fire Department review/approval.

Catherine Ronan was present on behalf of the application. She explained that the road agency will not allow parking within the road right-of-way and that limited area exists on site to provide the required parking. She further noted that the road agency has no plans to improve the intersection and/or correct the site’s unusual existing access arrangement.

Ronan stated that she was unaware of the locational/setback requirements applicable to the proposed parking layout and that she is unsure of her ability to design on-site parking in compliance with the Ordinance.

She questioned the need for site engineering and a stormwater management plan, adding that the stormwater runoff from the adjacent roads onto the property is the bigger problem.

The Planning Commission acknowledged the problems associated with the proposed parking layout, detailing applicable parking standards. Optional layouts were discussed.

Following general discussion of the items noted in the staff report, motion by Bury, seconded by Taylor, to postpone action on the proposed site plan to allow the applicant the opportunity to prepare a revised site plan and/or to seek relief from the Zoning Board of Appeals regarding the parking requirements. Motion carried unanimously.

Environmentally Sensitive Land Use Permit - Holtec

Chair Rendell stated that the next matter to come before the Commission was consideration of the request by William Turco, Holtec for Environmentally Sensitive Land Use Permit approval for site investigation measures (clearing, bore hole drilling) on property proposed for future development. The subject property consists of approximately 385 acres located at 27780 Blue Star Highway (Palisades) and is within the I Industrial District.

Harvey provided an overview of the request, noting the following:

- The subject property is located within the Environmentally Sensitive Area Overlay and is subject to the Environmentally Sensitive Land Use Permit process established by Sections 22.04/22.09.
- The subject property is currently occupied by Palisades Nuclear Power facility; the property owner proposes to initiate site investigation for future development that will involve the clearing of trees and bore-hole drilling within a 2.9-acre area immediately west of the Main Warehouse on the site.
- The application material/narrative/plot plan submittal is complete.

Nick Culp, Holtec and Dave Watson, Enercon, were present on behalf of the application. They provided details on the proposed surgical removal of specific trees in the noted 3-acre area and how the soil borings would be completed. It was explained that the work is scheduled to be completed prior to April 15 to avoid the mid-April to mid-October bat roosting period that is in effect in that area. It was noted that the requested preliminary investigation represents the first step in the process.

Taylor expressed appreciation for the efforts made to follow the Township's standards in place in this area. He inquired as to the plans to reclaim any access roads established after the investigation is completed. It was confirmed that the access routes used would be reseeded in the fall or spring.

General questions were raised by the public regarding the bat habitat in the area and the application of any other state regulations to the proposed investigation.

Planning Commission review and discussion ensued, wherein the following findings were noted:

- Section 22.04 requires an Environmentally Sensitive Land Use Permit for *'construction, including but not limited to, tree harvesting, regardless of size'* within any area designated as an Environmentally Sensitive Area.
- The subject property is not classified as dunelands; does not qualify as having steep slopes; and is not within the Lake Michigan Area; Section 22.10 does not apply.
- The area proposed for tree clearing and bore-hole drilling will encompass less than 3 acres; Sections 22.11/12 do not apply.
- Per Section 22.04, proposed soil erosion and sedimentation control measures are detailed.
- Per Section 22.04, the Plot Plan demonstrates a proposed tree clearing area of 2.93 acres immediately west of the Main Warehouse building/parking-loading areas. The application does not propose *'selective cutting'* (e.g. only removal of dead vegetation and/or the active preservation of scenic trees or rare species) . . . but does demonstrate that the proposed 2.93-acre clearing area is a very small percentage of the *'on-site wooded areas'*; is immediately adjacent to a developed portion of the site; and, given its location, preserves the significant vegetative buffer from neighboring properties that exists. Compliance was noted.
- Based on a determination of compliance with Section 22.04, it was noted that the proposal complies with *'all requirements of this section regarding cutting of trees and other vegetation, wastewater disposal, erosion and sedimentation control, and other applicable provisions.'*
- Based on a determination of compliance with Section 22.04, it was further noted that the proposal complies with applicable State laws and Township Ordinances.

- The lack of construction/development connected to the proposed investigative measures, the minimal area proposed for clearing/hole-boring, and the location of the affected area on the 386-acre site suggests the area's natural resources will be minimally impacted.

Motion by Chair Rendell, seconded by Bury, to approve the requested Environmentally Sensitive Land Use Permit for site investigation measures (clearing, bore hole drilling) on the subject property. Approval is based on the review findings of Sections 22.04 and 22.09, Zoning Ordinance, and conditioned upon the following:

1. Submission of a Soil Erosion and Sedimentation Control Permit from the Van Buren County Drain Commissioner prior to start of project.
2. Reclamation of cleared areas and road accesses at the conclusion of the site investigation, as proposed.

Motion carried unanimously.

Ongoing Business

Text Amendment: Battery Storage Facilities

Chair Rendell reminded that the Commission had considered informational articles and sample ordinances regarding 'battery storage facilities' at the February meeting . . . and had requested that Harvey prepare draft text based on the City of Walker ordinance for Planning Commission consideration in March.

Harvey provided an overview of the State's recently enabled legislation related to the regulation of 'energy storage systems' and the parameters for a CREO (ordinance) and a 'workable' ordinance under said legislation. She confirmed that currently the Zoning Ordinance does not provide for (prohibits) 'energy storage systems'.

Harvey then provided an overview of Draft #1 of proposed amendments to Section 2.02 – Definitions and Section 18.34 – Battery Energy Storage Systems (BESS).

Commission members noted that Covert Township is an area of interest for 'energy storage systems' due to the location of five energy producers within the Township and expressed general

support for moving forward with developing a ‘workable’ ordinance as provided for in the legislation.

General discussion then ensued regarding the proposed draft text. Questions were raised regarding the reference to kilowatt hours in the draft text vs. the reference to megawatt hours in the legislation. It was also noted that the addition of a standard requiring compliance with NFPA (National Fire Protection Agency) was in order, as recommended in the legislation.

David Zubiak, Tenaska, a future ‘energy storage systems’ applicant, stated that he has no issues with the draft text presented, but will request his engineer to review same and provide comment to the Planning Commission following the meeting.

The Planning Commission then directed Harvey to request Township Attorney review of the draft text and to consider all review comments provided in the development of Draft #2 for continued Planning Commission consideration in April.

Community Survey Results

Chair Rendell referenced the written summary of the community survey responses provided by McKenna. The Commission noted its appreciation for the summary. After further discussion, the Commission requested a copy of the raw survey data given questions/interest in the relationship between the demographics of the respondents and the opinions offered. Harvey agreed to obtain the requested information.

Communications

Harvey reported on the status of the Master Plan/Coastal Management Plan project.

Chair Rendell inventoried Planning Commission members for needed documents. It was determined that all members have copies of the Master Plan, Coastal Management Plan and Zoning Ordinance.

Taylor advised that the Township Board has approved/adopted the recommended amendments related to the RTFA, conditional rezoning, mineral mining, and solar energy systems. He noted the recent recommendation related to keyhole development is pending.

In general follow up discussion, it was determined that the Planning Commission Work Plan should be amended to add the use of storage/shipping containers as 'accessory buildings/structures' as a Priority #1 item and discussion of 'tiny homes' as a land use option.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 8:25 p.m.

Respectfully Submitted,
Rebecca Harvey, AICP, PCP
(McKenna)
Township Planning Consultant

Covert Township

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Zoning Ordinance Amendment – Battery Energy Storage Systems (BESS)

Article 2 CONSTRUCTION OF LANGUAGE AND DEFINITIONS

Section 2.02 Definitions

Add:

Battery Energy Storage System - One or more devices, assembled together, capable of storing energy in order to supply electrical energy at a future time, not to include a stand-alone 12-volt car battery or an electric motor vehicle. A battery energy storage system is classified as a Tier 1 or Tier 2 Battery Energy Storage System as follows:

Tier 1 Battery Energy Storage Systems have an aggregate energy capacity less than or equal to 600kWh and, if in a room or enclosed area, consist of only a single energy storage system technology.

Tier 2 Battery Energy Storage Systems have an aggregate energy capacity greater than 600kWh or are comprised of more than one storage battery technology in a room or enclosed area.

Article 13 I – INDUSTRIAL DISTRICT

Section 13.03 Special Uses

Add:

6. Battery Energy Storage System (Tier 2)

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Article 18 GENERAL PROVISIONS

Add:

Section 18.34 Battery Energy Storage Systems (BESS)

- A. **Tier 1 Battery Energy Storage Systems** shall be permitted in all zoning districts as accessory uses, subject to the Michigan Building Code and the National Electric Code as applicable.
- B. **Tier 2 Battery Energy Storage Systems** shall be subject to the following:
 1. **Location.** Tier 2 Battery Energy Storage Systems may be established on one or more lots under a signed lease, easement or other agreement. These lots shall be defined as participating lots.
 2. **Setbacks.** Tier 2 Battery Energy Storage Systems shall comply with the setback requirements of the underlying zoning district for principal structures. Setbacks shall be measured from the lot line to the closest point of any component within the Battery Energy Storage System. Required setbacks shall not apply to common lot lines of participating lots.
 3. **Height.** Tier 2 Battery Energy Storage Systems shall comply with the building height limitations for principal structures of the underlying zoning district.
 4. **Fire Safety.** Tier 2 Battery Energy Storage Systems shall comply with the National Fire Protection Agency (NFPA) Fire Code 855 regarding 'energy storage systems'.
 5. **Utilities.** All on-site utility lines shall be placed underground to the extent feasible and as permitted by the serving utility, with the exception of the main service connection at the utility company right-of-way and any new interconnection equipment, including without limitation any poles, with new easements and rights-of-way.
 6. **Signage.** Signage shall be required in compliance with ANSI Z535 and shall include the type of technology associated with the battery energy storage systems, any special hazards associated, the type of suppression system installed in the area of battery energy storage systems, and 24-hour emergency contact information, including a reach-back phone number.

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- a. As required by the National Electrical Code, disconnect and other emergency shutoff information shall be clearly displayed on a light reflective surface. A clearly visible warning sign concerning voltage shall be placed at the base of all pad-mounted transformers and substations.
7. **Lighting.** Lighting of the battery energy storage systems shall be limited to that minimally required for safety and operational purposes and shall comply with Section 18.16 – Exterior Lighting.
8. **Noise.** The 1-hour average noise generated from the battery energy storage systems, components, and associated ancillary equipment, shall not exceed a noise level of 55 dBA as measured at the outside wall of any residence located on a non-participating lot. Applicants may submit equipment and component manufacturers noise ratings to demonstrate compliance. The applicant may be required to provide Operating Sound Pressure Level measurements from a reasonable number of sampled locations at the perimeter of the battery energy storage system to demonstrate compliance with this standard.
9. **Vegetation and tree-cutting.** The area within 10 feet on each side of Tier 2 Battery Energy Storage Systems shall be cleared of combustible vegetation and other combustible growth. Single specimens of trees, shrubbery, or cultivated ground cover shall be allowed provided they do not form a means of readily transmitting fire.
10. **Fencing Requirements.** Tier 2 Battery Energy Storage Systems, including all mechanical equipment, shall be enclosed by a 7-foot-high fence with a self-locking gate to prevent unauthorized access unless housed in a dedicated-use building and not interfering with ventilation or exhaust ports.
11. **Screening and Visibility.** Tier 2 Battery Energy Storage Systems shall have views minimized from adjacent properties to the extent reasonably practicable using architectural features, earth berms, landscaping, or other screening methods that will harmonize with the character of the property and surrounding area and not interfere with ventilation or exhaust ports.
12. **Decommissioning.**
 - a. **Decommissioning Plan.** The applicant shall submit a decommissioning plan to be implemented upon abandonment and/or in conjunction with removal from the facility. The decommissioning plan shall include:

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- (1) A narrative description of the activities to be accomplished, including who will perform that activity and at what point in time, for complete physical removal of all battery energy storage system components, structures, equipment, security barriers, and transmission lines from the site;
- (2) Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations;

(3) The anticipated life of the battery energy storage system

(4) The estimated decommissioning costs and how said estimate was determined;

(5) The method of ensuring that funds will be available for decommissioning and restoration;

(6) The method by which the decommissioning cost will be kept current;

(7) The manner in which the site will be restored, including a description of how any changes to the surrounding areas and other systems adjacent to the battery energy storage system, such as, but not limited to, structural elements, building penetrations, means of egress, and required fire detection suppression systems, will be protected during decommissioning and confirmed as being acceptable after the system is removed;

(8) A listing of any contingencies for removing an intact operational energy storage system from service, and for removing an energy storage system from service that has been damaged by a fire or other event.

- b. **Decommissioning Fund.** The owner and/or operator of the energy storage system, shall continuously maintain a fund or bond payable to the Township ~~in a form approved by the Township Board~~ for the removal of the battery energy storage system, ~~in an amount to be determined by the Township for the period of the life of the facility.~~ The amount of the fund or bond shall be determined based on the value of the project and the estimated cost of removal. This fund or bond may consist of a letter of credit from a State of Michigan licensed-financial institution or other suitable arrangement. All costs of the financial security shall be borne by the applicant.
13. **Ownership Changes.** If the owner of the battery energy storage system changes or the owner of the property changes, the special use permit shall remain in effect, provided that the successor owner or operator assumes in writing all of the obligations of the special use permit, site plan approval, and decommissioning plan.

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A new owner or operator of the battery energy storage system shall notify the Township in writing of such change in ownership or operator within 30 days of the ownership change. The special use permit and all other local approvals for the battery energy storage system ~~shall be void~~ may be revoked, upon notice and a public hearing, if a new owner or operator fails to provide written notification to the Township in the required timeframe. Reinstatement of a void special use permit will be subject to the same review and approval processes for new applications under this Ordinance.

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PA 233 Parameters:

- Projects – Battery Storage: 50 megawatts [= 50,000 kWh] or more nameplate capacity [= aggregate energy capacity] and energy discharge capability of 200 megawatt hours or more
- Key Provisions – Section 226 (8)
 - Setbacks
 - 300 feet from nonparticipating occupied buildings
 - 50 feet from road right-of-way
 - 50 feet from shared property lines
 - Noise: 55 dBA average measured from nearest dwelling
 - Fire Safety: Must comply with National Fire Protection Agency code 855 re: energy storage systems
 - Lighting: “Dark sky-friendly lighting” required
- The draft ordinance would be considered a ‘non CREO - workable ordinance’ . . . only applicable to projects covered by PA 233 by choice of applicant.

Megawatt-hour to Kilowatt-hour Conversion Table

Megawatt-hour [MW*h]	Kilowatt-hour [kW*h]
0.01 MW*h	10 kW*h
0.1 MW*h	100 kW*h
1 MW*h	1000 kW*h
2 MW*h	2000 kW*h
3 MW*h	3000 kW*h
5 MW*h	5000 kW*h
10 MW*h	10000 kW*h
20 MW*h	20000 kW*h
50 MW*h	50000 kW*h
100 MW*h	100000 kW*h
1000 MW*h	1000000 kW*h