

**NOTICE OF REGULAR MEETING
COVERT TOWNSHIP PLANNING COMMISSION**

**Thursday, July 17, 2024, at 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
 : June 20, 2024
4. Public Comments (*3 minutes/person*)
5. New Business
 - A. Discussion – Summary of Master Plan Survey Results
6. Ongoing Business
 - A. Text Amendment - Battery Energy Storage Systems (BESS)
 - *Discussion - Draft #4*
 - *Technical Reviews – Township Attorney; Building Official*
 - *Discussion - Draft #1 – I-1 District Supplemental Setback Requirement*
 - *Schedule for Public Hearing*
 - B. Text Amendment – Shipping/Storage Containers
 - *Continued Discussion - Draft #1*
 - *Schedule for Public Hearing*
7. Communications
 - Distribute Draft MP/CMP
8. Public Comments (*3 minutes/person*)
9. 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 June 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, Luke Dennison, Austin Harding, Jena Johnson, Wayne Rendell, Lonzey Taylor

Members Absent: Tom Bury

Others Present: Rebecca Harvey, Township Planning Consultant

Approval of Agenda

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

Approval of Minutes – *May 15, 2024 Regular Meeting*

Motion by Taylor, seconded by Johnson, to approve the minutes of the May 15, 2024 regular meeting, as presented. Motion carried unanimously.

Public Comment

No public comment was offered.

New Business

Chair Rendell stated that the next matter to come before the Commission was the request by Suzanne Deneau of Wightman, representing Covert Township, for Site Plan Review of proposed

improvements within Covert Community Park. The subject site is located at the southwest corner of M 140/Lake Street and is within the VMU District.

Deneau provided an overview of the project, detailing the following proposed improvements: additional playground area, 1040 sq ft pavilion, drinking fountain, bike racks, access walkways, ADA parking and landscaping beds.

In response to Commission questions, Deneau confirmed the size/design of the proposed pavilion and indicated that the location of the proposed drinking fountain had not been finalized. Commission members commented that if the drinking fountain is located off-site, a pedestrian crossing should be provided to facilitate safe access.

Regarding the landscaping proposal, Deneau explained that no removal of existing trees is proposed and that the landscape beds reflected on the site plan will consist of native vegetation to be planted by the Township.

No public comment was offered on the matter.

Planning Commission review of the parking arrangement ensued wherein it was noted that the Zoning Ordinance does not specify parking standards for a 'public park' but that the 8 off-street parking spaces serving the site, in conjunction with the estimated 8-10 on-street parking spaces provided on M-140 and the approximately 15 parking spaces available at the nearby senior center, is adequate and consistent with Ordinance parking layout standards. It was suggested that signage directing users to additional parking areas may be desirable. The Commission agreed that the pedestrian access to the park is safe and adequate and will not be modified.

Following general discussion of the items noted in the staff report, motion by Dennison, seconded by Johnson, to grant site plan approval of the proposed improvements/amended site plan for the Covert Community Park based upon a finding that the proposal meets the criteria for site plan approval set forth in Section 23.09, Zoning Ordinance, and conditioned upon the following:

1. Any proposed signage shall be subject to review/approval through the sign permit process.

Motion carried unanimously.

Ongoing Business

Text Amendment: Battery Storage Facilities

Chair Rendell reminded that the Commission considered Draft #3 of proposed amendments to Section 2.02 – Definitions and Section 18.34 – Battery Energy Storage Systems (BESS) in May. Following discussion and a consensus of approval, the Planning Commission directed Harvey to coordinate a review of Draft #3 by the Township Attorney. It was agreed that the review comments would be considered at the next meeting and a public hearing on the draft text scheduled.

Harvey referenced the review comments received via email from Township Attorney Kaufman and provided to Commission members. A review of the comments proceeded, with the Commission responding to each question/observation made. The following modifications were requested:

- Amend the I-1 District to include a ‘supplemental setback requirement’ that would apply within the District when abutting residential zoning/land use. This would then apply to Tier 2 B.E.S.S. when located within the I-1 District.
- Modify 40 ft height standard to instead prohibit ‘stacking above the height of a single battery storage container’.
- Request Attorney Kaufman draft the suggested ‘decommissioning agreement’ provision and review the entirety of subsection 12. – Decommissioning for consistency with the ‘decommissioning agreement’ provision and in response to the applicant’s proposed modifications to the subsection.

The Planning Commission then directed Harvey to revise the draft text per the review comments and resubmit to the Township Attorney for the ‘decommissioning agreement’ text and for final review. Harvey indicated she would also follow up on her earlier request for review of the draft text by the Township Building Official. It was then agreed that the revised text and final review comments would be considered at the next meeting and a public hearing on the draft text scheduled.

Text Amendment: Shipping/Storage Containers

Chair Rendell reminded that the Commission considered background information and sample ordinances specific to the use of shipping containers for storage and for housing/retail space in May. Following discussion and a consensus of support for allowing the use of shipping containers only as an accessory use (e.g. storage) within the Township, Harvey was directed to prepare draft text using the Conway Township ordinance as a template for consideration in June.

Harvey provided an overview of Draft #1 – ‘Shipping Containers as Accessory Structures’ which contains the addition of definitions for ‘cargo container’ and ‘portable storage container’ and an amendment of Section 18.14 so as to include regulations for both.

Lengthy Commission discussion ensued regarding the reasons for allowing shipping containers as accessory structures; the distinction between ‘cargo containers’ and ‘portable storage containers’; and, the format and substance of the proposed regulations.

It was agreed that the Commission would study further the draft text for continued consideration at the next meeting.

Communications

Johnson requested that time be allocated on next month’s agenda to allow for discussion of the summary of the survey results received in connection with the Master Plan/Coastal Management Plan project. The Planning Commission agreed.

Public Comments

No public comment was offered.

Adjournment

There being no further business to come before the Commission, the meeting was adjourned at 8:30 p.m.

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

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 (0.6 MWh) and, if located within a structure, consist of only a single energy storage system technology. [These typically include home battery systems and systems for individual users such as a farm, school or commercial use.]

Tier 2 Battery Energy Storage Systems have an aggregate energy capacity greater than 600kWh (0.6 MWh) or are comprised of more than one storage battery technology.

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 not be stacked above the height of a single battery storage device.

 - 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 comply with the Covert Township Anti-Noise and Public Nuisance Ordinance (Ordinance No. 39, as amended). Established maximum decibel levels shall not apply to common lot lines of participating lots. 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 boundaries of the participating lots 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 an 8-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 Agreement.** *(to be drafted by Twn Atty)*

c. **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,

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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.

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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Zoning Ordinance Amendment – I Industrial District

Article 15 SCHEDULE OF REGULATIONS

Amend:

Section 15.01 Table of Dimensions

ARTICLE 15 SCHEDULE OF REGULATIONS											
Section 15.01 Table of Dimensions											
Zoning District	Min Lot Area	Min Frontg	Max Covg	Front Setback	Rear Setback	Side Setback	WF Setback	Min Bldg Size	Max Bldg Ht	Max Bldg Stories	Total Lot Covg
I	20,000 sq ft	100 ft	60%	50 (9)	40 (10)	20 (10)	(4)	---	40 ft	3	30%

Add:

Section 15.02 Notes to Schedule of Regulations

10. In the I District, where a side yard or rear yard abuts property within the AG District or any residential district, the minimum side yard and rear yard setback requirements shall be 100 feet.

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Zoning Ordinance Amendment – Shipping Containers as Accessory Structures

Article 2 CONSTRUCTION OF LANGUAGE AND DEFINITIONS

Section 2.02 Definitions

Cargo Container: Any metal or primarily metal container originally designed for or used in the packing, shipping, movement or transportation of freight, articles, goods or commodities; and/or generally capable of being mounted or moved by rail, truck or ship by means of being mounted on a chassis or similar transport device. This definition includes the terms ‘transport containers’, ‘shipping containers’.



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



Article 18 GENERAL PROVISIONS

Section 18.14 – Use of Containers, Semi-Trailers, Mobile/Manufactured Home or Recreational Vehicles for Storage Prohibited

1. *No change*

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~~2. No storage container or semi trailer may be used as an accessory use storage building in any district except the I Industrial zoning district or in the AG Agriculture zoning district when used in support of commercial agricultural business operations. For this section, commercial agricultural business operations is defined as any agricultural business activity defined as agriculture pursuant to the definition found in Article II, Section 2.02 of this ordinance and contributing no less than thirty three (33) percent of the total household income of the property owner(s) residing upon the land in active and continuous agricultural production.~~

Cargo containers and portable storage containers shall be allowed in all zoning districts as accessory uses, subject to the following requirements:

A. All Cargo Containers.

1) *Location:*

- a. Cargo containers shall be located in the side or rear yard.
- b. Cargo containers shall not occupy required off-street parking, fire lanes, loading/unloading areas or landscape areas nor shall they be located where they may cause hazardous conditions or constitute a threat to public safety.

2) *Setbacks:* Cargo containers shall be subject to the setback requirements applicable to accessory buildings established by Section 18.12.

3) *Height:* Cargo containers shall not be stacked above the height of a single container.

4) *Lot Coverage:* The surface area covered by the cargo container(s) shall be included in the lot coverage calculations for the lot, unless it is sited over an existing impervious surface.

5) *Utilities:* Cargo containers shall not be provided plumbing service.

6) *Use:* Cargo containers shall not be used as living quarters nor as housing for livestock or pets.

7) *Modifications:* No structural modifications may be made to cargo containers.

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- 8) Nonconforming Lot/Use: The placement of a cargo container on a nonconforming lot or to serve a nonconforming use shall not be considered an expansion of the nonconformity.
- B. Permanent Use of Cargo Containers. Cargo containers may be permanently placed on property for storage purposes, subject to the following requirements:
- 1) All applicable building regulations shall apply.
 - 2) A solid foundation (road base material/gravel or better) shall be provided.
 - 3) Cargo containers shall not be used as signage or for advertising and shall be kept free of all alphanumeric signage and writing.
 - 4) Any writing or graffiti placed on the container shall be the responsibility of the property owner and shall be removed.
 - 5) A Zoning Compliance Permit is required and shall be obtained from the Township Zoning Administrator in accordance with Section 27.05.
- C. Temporary Use of Cargo Containers. Cargo containers may be temporarily placed on property for storage purposes, subject to the following requirements:
- 1) Section 18.15 shall apply to the temporary use of cargo containers associated with construction sites.
 - 2) A Zoning Compliance Permit is required and shall be obtained from the Township Zoning Administrator in accordance with Section 27.05.
 - 3) Cargo containers shall be removed from the property within 180 calendar days from the date of initial placement. One (1) extension of up to 180 calendar days may be approved by the Zoning Administrator.
- D. Portable Storage Containers. Portable storage containers may be temporarily placed on property for storage purposes, subject to the following requirements:
- 1) *Location.*
 - a. Portable storage containers used within a residential district or associated with a residential use shall be located on a driveway or paved area.

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- b. Portable storage containers used in a non-residential district or associated with a non-residential use shall not occupy required off-street parking, fire lanes, loading/unloading areas or landscape areas nor shall they be located where they may cause hazardous conditions or constitute a threat to public safety.
 - c. Portable storage containers may not be located on a vacant lot, unless the lot is associated with an approved building construction project.
- 2) *Height:* Portable storage containers shall not be stacked above the height of a single container.
 - 3) *Utilities:* Portable storage containers shall not be provided electrical or plumbing service.
 - 4) *Use:* Portable storage containers shall not be used as living quarters nor as housing for livestock or pets.
 - 5) *Permit:* A Zoning Compliance Permit is required and shall be obtained from the Township Zoning Administrator in accordance with Section 27.05.
 - 6) *Time Limits:* Portable storage containers shall be removed from the property within 180 calendar days from the date of initial placement. One (1) extension of up to 180 calendar days may be approved by the Zoning Administrator.