

# Letter

---

To: Charter Township of Midland Planning Commission

---

From: Wes Shaffer, AICP; ESA (The Applicant)

---

Re: Proposed Conditions of Approval for Midland BESS SUP Application

---

Date: October 31, 2024

---

## Dear Planning Commission,

We are excited to present our proposal for the Midland Battery Energy Storage System (BESS) project. We appreciate your help in making this project beneficial to the community.

## Understanding Your Concerns

We recognize community concerns about the lack of zoning guidance for BESS projects in R-1 zones. Specifically, issues like noise, construction traffic, safety hazards, emergency response, and decommissioning are important to address. We share these concerns and are committed to resolving them.

We believe the Township's Special Use Permit process (§ 300-61A) offers a suitable pathway to address these concerns. This process allows us to establish specific conditions meant to protect community health, safety, and welfare.

## Benefits of Local Approval

We prefer to work directly with the Township rather than seeking state-level approval, as it fosters better alignment with local needs. By permitting the project locally, the Township stands to gain significant benefits:

- **Local Control.** Local permitting allows the Township to maintain greater authority over the project, ensuring compliance with local codes and conditions throughout its life.
- **Financial Incentive.** The Michigan Department of Environment, Great Lakes, and Energy (EGLE) offers grants of **\$5,000 per megawatt (MW)** of approved renewable power capacity. For our 150 MW project, this means the Township could receive a grant of **\$750,000**. This is on top of the **\$300,000** we will offer through a **Host Community Agreement**, all of which can be used as determined by the Township for police, fire, public safety, and other infrastructure projects.

## Our Commitment

We want to work collaboratively with the Township and the community to ensure this project aligns with local needs. By incorporating the conditions outlined on page 2, we can develop a project that not only meets but exceeds the State's siting requirements. We look forward to discussing our proposal further and answering any questions you may have.

## Proposed Conditions

1. **Permit Term.** The special use permit and site plan shall be valid for an initial period of three (3) years from the date of approval. The applicant may request up to two (2) one-year extensions through administrative approval by the Building Inspector and/or Zoning Administrator, provided that adequate progress toward completion is demonstrated. If, after construction and commencement of operation, the use established under this special use permit is discontinued for a period of one (1) year, the permit shall expire unless an extension is granted.
2. **General Compliance.** Prior to the issuance of any building permits, the applicant shall demonstrate compliance with all conditions of this special use permit that are required to be satisfied before building permit issuance, as specified herein. The Township Building Inspector shall verify that all such pre-construction conditions have been met or are being adequately addressed.
3. **Modifications.** The applicant may make minor modifications to the approved site plan without requiring additional review or approval from the Township Planning Commission or Board, provided that such modifications do not materially decrease the project setbacks, or materially alter the nature, scope, or impact of the project as originally approved and remain in compliance with all conditions of this special use permit. Minor modifications shall be reviewed and approved in writing by the Building Inspector and/or Zoning Administrator to ensure consistency with this condition pursuant to § 300-78(E)(4)(d). Any proposed changes to the conditions of this special use permit, or major modifications to the approved site plan shall require prior approval by the Township Board upon recommendation from the Planning Commission, following the procedures outlined in Article XII of the Township's zoning ordinance.
4. **Host Community Agreement.** Prior to the commencement of operations, the applicant shall enter into a Host Community Agreement with the Charter Township of Midland, consistent with Section 227 of 2023 PA 233, and which shall be negotiated in good faith. This agreement shall require that the energy facility owner provide a one-time payment of **\$2,000 per megawatt of nameplate capacity**, paid within thirty (30) days of commencement of operation. This payment shall be used as determined by the Township for police, fire, public safety, other infrastructure, or other projects as agreed upon by the Township and the applicant. In consideration of the mutual promises hereunder, the Township shall cooperate with and provide all reasonable assistance to the developer in obtaining and maintaining all permits, licenses, and other approvals required for the continuous operation of the Solar Project under applicable law and this Agreement.

5. **Interconnection Agreement.** Prior to the issuance of building permits, the applicant shall provide the Township with confirmation of an executed Interconnection Agreement with the Midcontinent Independent System Operator (MISO) or relevant utility provider, which fully authorizes the applicant to furnish electricity services to the public. The applicant shall comply with all requirements outlined in the Interconnection Agreement throughout the operation of the BESS facility.
6. **Contact Information.** The applicant shall establish a complaint resolution process, including providing a dedicated phone number and email address to address any community concerns promptly. The applicant shall provide emergency contact information to the Township and local first responders prior to commencing operations and shall update this information annually or whenever ownership and/or personnel changes occur.
7. **Construction Activity and Traffic.** To minimize impacts on neighboring residents, construction activities associated with the BESS facility shall be limited to Monday through Saturday, between the hours of 8:00 AM and 7:00 PM. No construction activities shall occur on Sundays or legal holidays unless expressly authorized in writing by the Township Board upon a showing of good cause. All construction-related traffic shall be routed exclusively via Milner Road to minimize traffic impacts on neighboring properties along Bus Road.
8. **Safety Compliance.** The applicant shall ensure and demonstrate that the Battery Energy Storage System (BESS) installation complies with all applicable safety codes and standards, including but not limited to NFPA 1 Fire Code, NFPA 70 National Electric Code, and NFPA 855 Standard for the Installation of Stationary Energy Storage Systems. Compliance shall be demonstrated by submitting certified documentation from a qualified engineer to the Township prior to the issuance of building permits.
9. **System Certification.** The applicant shall ensure that all Battery Energy Storage Systems (BESS) and equipment are listed by a Nationally Recognized Testing Laboratory (NRTL) in accordance with UL 9540 (Standard for Battery Energy Storage Systems and Equipment) or an approved equivalent standard. All subcomponents of the BESS shall meet the applicable standards, including UL 1973 (Standard for Batteries for Use in Stationary, Vehicle Auxiliary Power, and Light Electric Rail Applications) and either UL 1741 or UL 62109 (Standards for Inverters and Power Converters). The BESS and its subcomponents shall be certified under all applicable electrical, building, and fire prevention codes as required. The applicant shall submit a report on fire and explosion testing conducted in accordance with UL 9540A. Additionally, a field evaluation by an approved testing laboratory for compliance with UL 9540 and applicable codes, regulations, and safety standards may be used to meet system certification requirements.

10. **Emergency Response Planning.** The applicant shall develop an emergency response plan for the BESS facility in coordination with local first responders and submit the plan to the Township prior to Certificate of Occupancy. The applicant shall provide, at their expense, training for local fire departments and other first responders on battery firefighting techniques and standards before the facility becomes operational and shall offer refresher training annually or upon request.
11. **Setbacks.** Setback distances shall be measured from the nearest edge of the perimeter fencing. The following minimum setback distances shall apply:
  - a. **500 feet** from any occupied dwellings on a non-participating property measured from the nearest point on the outer wall.
  - b. **50 feet** from the nearest edge of a public road right-of-way.
  - c. **50 feet** from the property line of a non-participating property.
12. **Decommissioning.** Prior to the issuance of building permits, the applicant shall submit a decommissioning plan and agreement consistent with Michigan state laws and regulations. The applicant shall provide financial assurance in the form of a bond or irrevocable letter of credit, sufficient to cover the full cost of decommissioning and site restoration, after accounting for the salvage value of equipment and materials. This amount shall be calculated by a licensed professional engineer and adjusted every three (3) years, or as required by state law, to ensure adequacy. Decommissioning activities shall commence within one (1) year after the cessation of operations and be completed within one (1) year, as specified in the decommissioning plan and in accordance with applicable laws. The financial assurance shall be provided to the Township according to the following schedule, based on the total estimated decommissioning cost:
  - a. **25%** of the total amount at the start of full commercial operation.
  - b. **55%** (an additional 30%) by the start of the fifth (5th) year of operation.
  - c. **100%** (an additional 45%) by the start of the tenth (10th) year of operation.
13. **Road Use Agreement.** Prior to the commencement of construction, the applicant shall make good faith efforts to enter into an agreement with the Midland County Road Commission regarding the repair and restoration of any local roads that may be damaged due to the construction or operation of the BESS facility, or applicant's payment of the actual costs for such repair and restoration.

*[conditions continue page 5]*

14. **Noise.** The sound pressure level shall not exceed a noise level of 55 dBA (Leq (1-hour)) or the existing ambient noise level, whichever is greater, modeled at the nearest outer wall of the nearest dwelling located on a non-participating property. Decibel modeling shall use the A-weighted scale as designed by the American National Standards Institute. The applicant shall conduct a noise study assessing potential noise impacts of the BESS facility on surrounding properties and submit the study to the Township prior to the issuance of building permits, and the applicant shall implement mitigation measures as necessary to maintain compliance.
15. **Lighting.** The BESS shall implement dark sky-friendly lighting solutions that are designed to minimize the amount of light that escapes upward into the sky. Lighting fixtures must be shielded to direct light downward, minimizing skyglow and potential disturbances to neighboring properties. To reduce unnecessary lighting at night, any security lighting should be equipped with motion sensors, ensuring activation only when triggered. The applicant shall submit a landscaping plan to the Township for approval prior to the issuance of building permits.
16. **Landscaping Plan and Maintenance.** The applicant shall submit a landscaping plan to the Township for approval prior to the issuance of building permits, which includes measures to screen the BESS facility from adjacent properties and roadways, utilizing native and non-invasive plant species where feasible. The applicant shall install the approved landscaping prior to commencing operations and shall maintain all landscaping in good condition for the life of the facility, replacing any dead or diseased vegetation within the next planting season after receiving written notice of the dead or diseased vegetation.