

**THE MEETING OF THE CHEBOYGAN COUNTY PLANNING COMMISSION
SCHEDULED FOR WEDNESDAY, JULY 15, 2020 at (7:00 P.M.)
at 870 S. Main Street, Cheboygan, Michigan
will be conducted via Telephonic Attendance by Cheboygan
County Resolution 2020-06 and Executive Order 2020-75**

In accordance with Gov. Gretchen Whitmer and the Michigan Department of Health and Human Services's recommendations designed to help prevent the spread of Coronavirus Disease 2019 (COVID-19) and Executive Order 2020-75 declaring public bodies subject to the Open Meetings Act can use telephone conferencing technology to meet and conduct business, the Cheboygan County Planning Commission will hold a meeting via telephone/video conferencing at **7:00 P.M. on Wednesday, July 15, 2020.**

Please join our meeting from your computer, tablet or smartphone.

<https://global.gotomeeting.com/join/391131149>

The public may access the meeting by calling:

United States (Toll Free): [1 866 899 4679](tel:18668994679)

Access Code: 391-131-149

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Those that are hearing impaired may dial 7-1-1. Please provide the operator the toll free number and meeting access code to be connected to the phone call with help from MI Relay. If other aids and services are needed for individuals with disabilities please contact the County Clerk. The Planning Commission packet is available for download at: www.cheboygancounty.net.

TELEPHONIC/ELECTRONIC PLANNING COMMISSION MEETING PARTICIPATION

The public will be asked to identify themselves. When you call please state your name until acknowledged for the record.

- Public comment—will be taken only during the Public Comment portion of the meeting agenda.
- Please make your public comment when called upon to do so or state no comment.
- The time limit for an individual's public comments shall be 3 minutes.

The following Planning Commission members will be attending the meeting remotely:

- Patty Croft, pmattson@freeway.net
- Harold Borowicz, hborowicz@yahoo.com
- Michael Kavanaugh, kavandann@gmail.com
- Stuart Bartlett, sbartlett@cheboygancounty.net
- Sharon Lyon, sjl07@juno.com
- Karen Johnson, karenjohnson@sbcglobal.net
- Ed Delana, edelana@cheboygancounty.net
- Charles Freese
- Chum Ostwald
- Cheboygan County Director of Planning and Zoning – Michael Turisk mturisk@cheboygancounty.net



CHEBOYGAN COUNTY PLANNING COMMISSION

870 SOUTH MAIN ST. ■ PO Box 70 ■ CHEBOYGAN, MI 49721
PHONE: (231) 627-8489 ■ FAX: (231) 627-3646

CHEBOYGAN COUNTY PLANNING COMMISSION MEETING
WEDNESDAY, JULY 15, 2020 AT 7:00 PM
ROOM 135 - COMMISSIONERS ROOM
CHEBOYGAN COUNTY BUILDING, 870 S. MAIN ST., CHEBOYGAN, MI 49721

AGENDA

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

APPROVAL OF AGENDA

APPROVAL OF MINUTES

SCHEDULED PUBLIC HEARINGS

UNFINISHED BUSINESS

1. Orion Renewable Energy Group, LLC - The applicant requests a Special Use Permit for a Level 3 Solar Energy System - Photovoltaic (SES-PV), per Sections 9.3.27 and 10.3.16 of the Zoning Ordinance for construction of a "solar farm"/utility-scale solar energy generating facility in Grant Township. The subject properties are zoned Agriculture and Forestry Management (M-AF) and Lake and Stream Protection (P-LS) and are located approximately 13 miles southeast of the City of Cheboygan, along N. Black River Road, south of Twin Lakes Road and bounded by Ross Road to the south and Page Road to the north, Chamberlin Road to the east and Trudeau Road to the west. The subject properties are in sections 4, 5, 6, 8 and 9 and encompass approximately 1,572 acres on 31 parcels, tax parcel id numbers:

- | | | |
|------------------------|------------------------|------------------------|
| 1. 151-009-200-001-05 | 12. 151-008-300-007-00 | 23. 151-009-400-002-00 |
| 2. 151-006-100-004-00 | 13. 151-008-400-001-00 | 24. 151-009-200-002-00 |
| 3. 151-006-300-001-02 | 14. 151-008-200-001-02 | 25. 151-009-400-001-00 |
| 4. 151-006-100-005-00 | 15. 151-009-300-001-00 | 26. 151-009-200-003-00 |
| 5. 151-006-200-003-00 | 16. 151-009-100-003-00 | 27. 151-004-401-001-00 |
| 6. 151-006-200-005-00 | 17. 151-009-300-004-00 | 28. 151-005-100-001-00 |
| 7. 151-006-400-001-05 | 18. 151-009-400-004-00 | 29. 151-005-300-004-00 |
| 8. 151-008-400-003-00 | 19. 151-009-400-003-00 | 30. 151-005-300-008-00 |
| 9. 151-008-400-004-00 | 20. 151-009-200-001-07 | 31. 151-006-200-002-00 |
| 10. 151-008-100-004-00 | 21. 151-009-300-003-00 | |
| 11. 151-008-300-006-00 | 22. 151-009-100-004-03 | |

NEW BUSINESS

STAFF REPORT WITH UPDATE ON MASTER PLAN REVISION

PLANNING COMMISSION COMMENTS

PUBLIC COMMENTS

ADJOURNMENT



CHEBOYGAN COUNTY PLANNING COMMISSION

870 SOUTH MAIN ST., ROOM 103 ■ PO BOX 70 ■ CHEBOYGAN, MI 49721
PHONE: (231)627-8489 ■ TDD: (800)649-3777

CHEBOYGAN COUNTY PLANNING COMMISSION MEETING & PUBLIC HEARING WEDNESDAY, JUNE 17, 2020 AT 7:00 P.M. ROOM 135 – COMMISSIONER’S ROOM - CHEBOYGAN COUNTY BUILDING

PRESENT: Bartlett, Freese, Kavanaugh, Borowicz, Croft, Ostwald, Lyon, Johnson, Delana

ABSENT: None

STAFF: Mike Turisk, Jen Merk

GUESTS: Peter Wendling, Lori Stelmaszek, Ryan McGraw, Gil Archambo, David Bona

The meeting was called to order by Chairperson Croft at 7:00pm.

PLEDGE OF ALLEGIANCE

Chairperson Croft led the Pledge of Allegiance.

APPROVAL OF AGENDA

The meeting agenda was presented. **Motion** by Mr. Kavanaugh, seconded by Mr. Freese, to approve the agenda as presented. Motion carried unanimously.

APPROVAL OF MINUTES

The May 20, 2020 Planning Commission minutes were presented. **Motion** by Mr. Kavanaugh, seconded by Mr. Freese, to approve the meeting minutes as presented. Motion carried unanimously.

The June 3, 2020 Planning Commission minutes were presented. **Motion** by Mr. Borowicz, seconded by Mr. Kavanaugh, to approve the meeting minutes as presented. Motion carried unanimously.

PUBLIC HEARING AND ACTION ON REQUESTS

Bona Architect/Ann Arbor YMCA - Requests an amendment to a Special Use Permit per section 18.11 of the Zoning Ordinance for reconstruction of a kitchen addition onto an existing dining hall, and reconstruction of a lodge for administrative offices and sleeping quarters for an existing YMCA camp per section 10.3.2. The property is located at 9728 W. Highway M-68, Tuscarora Township, section 16, parcel # 161-016-300-001-00. The property is zoned both Lake and Stream Protection (P-LS) and Agriculture and Forestry Management (M-AF), however the project site is within the P-LS zoning district.

Ms. Merk reviewed the background information contained in the staff report.

Ms. Croft asked for Planning Commission comments. Ms. Lyon asked if there are any changes to the high water mark. Mr. Freese stated the ordinary high water mark on the interior lakes have not changed much but the ordinary high water mark for the Great Lakes are fluctuating higher. Discussion was held. Mr. Freese stated that the ordinary high water mark is delineated by the vegetation change from the shoreline vegetation to the upper elevation vegetation mark. Mr. Freese stated that the high water mark is a mark where the vegetation changes due to the impact of the wave action on the shore. Mr. Freese stated that if the shoreline erodes due to the wave action, the ordinary high water mark will change. Ms. Lyon referred to the public comment that was submitted and stated that she believes that there is a legitimate concern. Mr. Freese stated that the person who wrote the letter was concerned about the building being closer to the water than the existing building. Mr. Freese stated that the proposed building is further away by 10 inches. Mr. Freese stated that he looked at the shoreline during the site inspection and he did not see any erosion.

Mr. Kavanaugh noted that the applicant submitted a complete set of plans.

Mr. Freese stated that he likes the north lodge is being built along the same line as what they had previously. Mr. Freese asked Mr. Bona if the east elevation is designated as the west elevation for the kitchen on drawing 2.0. Mr. Bona stated that is incorrect and the west elevation is actually the east elevation which faces Burt Lake.

Ms. Croft asked for public comments. There were no public comments. Public comment closed.

The Planning Commission reviewed the General Findings and added "The proposed location of the North Lodge is 10 inches further from the ordinary high water mark than the existing North Lodge." as General Finding #15. The Planning Commission reviewed the Finding of Fact Under Section 18.7 and the Specific Findings of Fact Under Section 20.10. **Motion** by Mr. Kavanaugh, seconded by Mr. Freese, to approve the special use permit based on the General Findings, Finding of Fact Under Section 18.7 and the Specific Findings of Fact Under Section 20.10 with the following conditions:

1. Prior to construction, the applicant shall obtain a Soil Erosion and Sedimentation Control Permit.
2. Prior to construction, the applicant shall obtain building permits as applicable from the County's Department of Building Safety.
3. Applicant must meet all applicant requirements of District Health Department #4
4. The applicant shall provide the Planning and Zoning Department the Acceptance of Conditions form to be attached to the special land use amendment approval letter within thirty (30) calendar days from the date of the approval letter. This form shall be signed by the owner(s) of the subject property. The applicable building permit application(s) shall include a site plan in conformance with this special land use amendment that meets all applicable site development standards (such as minimum required setbacks from property boundaries) and appropriate building permit fees, as applicable. Permits must be issued within twelve (12) months from the date of the special land use amendment approval letter (unless an extension request is approved, pursuant to Section 18.12.a., as amended), otherwise the special land use amendment may be deemed void upon thirty (30) days written notification to the applicant.
5. Any changes to the approved special use amendment shall be subject to review by the Planning and Zoning Department and may require approval by the Planning Commission.
6. It is the applicant's responsibility to obtain any additional permits or meet additional conditions, if any, that may be applicable to the land use pursuant to other federal, state, or local laws or regulations.

Motion carried unanimously.

UNFINISHED BUSINESS

Orion Renewable Energy Group, LLC – The applicant requests a Special Use Permit for a Level 3 Solar Energy System – Photovoltaic (SES-PV), per Sections 9.3.27 and 10.3.16 of the Zoning Ordinance for construction of a "solar farm"/utility-scale solar energy generating facility in Grant Township. The subject properties are zoned Agriculture and Forestry Management (M-AF) and Lake and Stream Protection (P-LS) and are located approximately 13 miles southeast of the City of Cheboygan, along N. Black River Road, south of Twin Lakes Road and bounded by Ross Road to the south and Page Road to the north, Chamberlin Road to the east and Trudeau Road to the west. The subject properties are in sections 4, 5, 6, 8 and 9 and encompass approximately 1,572 acres on 31 parcels, tax parcel id numbers:

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| 10. 151-008-100-004-00 | 21. 151-009-300-003-00 | |
| 11. 151-008-300-006-00 | 22. 151-009-100-004-03 | |

Mr. Wendling stated that at the June 3, 2020 meeting there was a public hearing on this matter. Mr. Wendling stated that during the public hearing information was presented by the applicant and public comments and materials were received up to an including the meeting itself. Mr. Wendling stated that during the meeting, there were some members of the public who were logged in and were otherwise unable, due to technical difficulties, to have their input heard during the public hearing. Mr. Wendling stated that the Planning Commission is opening a limited public hearing solely for the purpose of allowing these individuals an opportunity to participate and finish the public hearing if they were logged in on June 3, 2020, either by

telephone or computer, but were unable to participate. Mr. Wendling asked Mr. Turisk if he has the call list from the June 3, 2020 meeting and if it can be matched up to anyone that is present today and who did not have an opportunity to make comments during the public hearing. Mr. Wendling stated that if they did not have an opportunity to make comments during the public hearing, now is the time that they can do so. Mr. Wendling stated that at the end of the public hearing the Planning Commission closed the record and the only additional items on the record are materials that were requested by the Planning Commission, either directly or through staff at the end of the public hearing and thereafter. Mr. Wendling stated that this is a limited form of a public hearing and is only open to those who logged in and were unable to participate on June 3, 2020. Mr. Wendling stated this is different from public comment which is on the Planning Commission's agenda and is separate from this limited public hearing. Mr. Wendling asked Mr. Turisk to look at the list of people who were logged in on June 3, 2020 and compare it to who is currently logged in and asked if they were not able to comment on June 3, 2020 and if they wish to do so now. Mr. Turisk stated that after comparing the list from the June 3, 2020 meeting to the list for this meeting, the only one that he can identify is Gil Archambo.

Mr. Turisk asked Mr. Wendling if this item has to be removed from the table. Mr. Wendling stated yes, because the Planning Commission did table it. Mr. Wendling stated that you want to remove it from the table and then conduct a limited public hearing and then continue with any deliberations or questions on the part of the Planning Commission. **Motion** by Mr. Freese, seconded by Mr. Kavanaugh, that the item be removed from being tabled. Motion carried unanimously.

Mr. Wendling stated that the Planning Commission can reopen the limited public hearing and Mr. Turisk can ask for comments from those that are logged in now and who were also logged in on June 3, 2020 and were not able to participate. **Motion** by Mr. Kavanaugh, seconded by Mr. Borowicz, to reopen the limited public hearing from the June 3, 2020 meeting for Orion Renewable Energy LLC. Motion carried unanimously.

Mr. Turisk stated that after comparing the list from the June 3, 2020 meeting to the list for tonight's meeting, the only one that he identified is Gil Archambo. Mr. Turisk stated that due to technical difficulties, Mr. Archambo was unable to provide public comments. Mr. Archambo stated that his questions were answered by Mr. Kavanaugh and Mr. Freese. Mr. Archambo stated that he believed the bond was to be renewed in five year increments. Mr. Archambo stated that after talking to Mr. Freese that is not correct and he is comfortable with the way that it is now as long as the bond is good for the entire length of the solar project itself, which is 25 years.

Mr. Turisk stated that by looking over the list from the June 3, 2020 meeting, he does not see anyone else matching up to the list of people attending the meeting this evening. Ms. Croft questioned if other members of the public were like Mr. Archambo and tried to make comments and could not. Ms. Croft stated that the Planning Commission would not have any idea unless they identified themselves. Ms. Stelmaszek stated that she would like to speak. Mr. Turisk stated that Ms. Stelmaszek's name is on the list from the June 3, 2020 meeting. Ms. Croft stated that she knows that Ms. Stelmaszek did not speak at the meeting. Mr. Wendling stated that if someone is calling in tonight and they also called in on June 3, 2020 but did not speak you can ask them if they had an opportunity to speak or not. Mr. Wendling stated that if their answer is no they will be given an opportunity to speak now. Ms. Croft asked Ms. Stelmaszek if she had an opportunity to speak on June 3, 2020. Ms. Stelmaszek stated that she was not aware of the option of pressing star six to unmute the phone. Ms. Croft asked Ms. Stelmaszek if she wanted to speak tonight. Ms. Stelmaszek stated yes. Ms. Stelmaszek stated that at the last meeting there were concerns regarding the current location of the substation. Ms. Stelmaszek stated that she would like to offer an alternate location. Ms. Stelmaszek suggested parcels #151-009-400-002-00 and #151-009-400-001-00 which are on the corner of Hanson Road and Chamberlain Road. Ms. Stelmaszek stated that this is a more secluded location and it is not in close proximity to a home. Ms. Stelmaszek stated that it does follow along the power line corridor and there are existing trees and woods to the east and to the west there are barns and trees. Ms. Stelmaszek stated that this is a less traveled area and it is more out of sight. Ms. Stelmaszek stated that she would rather look at solar panels than a substation. Ms. Stelmaszek stated there would be less noise or disturbance to the homeowners. Ms. Stelmaszek stated that this will be a huge eyesore in the field by Owens road. Ms. Stelmaszek stated this would be a more secluded hidden location for the substation. Ms. Stelmaszek stated that she believes this would be a savings for Orion as they would not have to plant so many trees to reduce the noise level. Ms. Stelmaszek stated that Owens Road would be more suited to solar panels as it is more wide open. Ms. Croft stated that this information will be passed on to Orion so they can check the location.

Ms. Croft asked if there is anyone else that attended the June 3, 2020 meeting that could not speak. Ms. Croft stated that she did not hear any additional responses from the public that they were not able to speak on June 3, 2020. Ms. Croft stated that if it is appropriate she would like to close the public hearing. **Motion** by Mr. Freese, seconded by Mr. Kavanaugh, to close the public hearing. Motion carried unanimously.

Mr. Wendling stated that the Planning Commission can ask additional questions about any of the materials that were received, as requested from Orion at the June 3, 2020 meeting. Ms. Croft stated that the Planning Commission members have not received the requested items. Mr. Wendling stated that the findings of fact are in draft form. Ms. Croft asked Mr. Wendling when he believes the findings of fact will be completed. Mr. Wendling stated he will be working on them with staff and they should be ready within a week to 10 days. Mr. Freese stated that the Planning Commission still does not have the package from Orion addressing the questions that were already posed. Mr. Freese stated that the draft findings of fact will need to include the Planning Commission's input from the answers to those questions.

Mr. Turisk agreed with Mr. Freese and stated that we do need to look at the amended materials to craft the findings of fact. Mr. Turisk stated that when speaking with Amanda Hoffman from Orion, she indicated that they have been mailed packages to the Planning Commission members. Mr. Turisk stated that staff received a package today. Mr. Turisk stated that staff is waiting for the Planning Commission to receive their packets prior to posting the information online for the public. Ms. Croft stated that the Planning Commission needs the final amended information from Orion before they can proceed.

Mr. Turisk stated that staff will need a reasonable measure of time to compile the changes or the amendments that were made that came out of the June 3, 2020 public hearing. Mr. Turisk stated that Mr. Wendling suggested allowing for a minimum of 12 to 14 days. Ms. Croft stated that 14 days would put it at the July 1, 2020 meeting. Ms. Croft noted that this agenda is full. Mr. Wendling stated that he also discussed June 30, 2020 with Mr. Turisk. Mr. Kavanaugh stated that the Planning Commission will need to review Orion's amendments and they will need enough time to see if the questions that were asked were properly answered. Mr. Kavanaugh stated that the findings of fact will need to be prepared. Mr. Kavanaugh stated that it is not the Planning Commission's fault that they didn't receive them for this meeting. Mr. Kavanaugh stated that the Planning Commission wants to make sure they have enough time to have everything in order. Mr. Kavanaugh stated that he is not sure that June 30, 2020 will allow for enough time. Mr. Freese suggested holding a special meeting after this date. Mr. Turisk asked Mr. Wendling if the applicant would incur the special meeting fee if they request a special meeting. Mr. Wendling stated yes, pursuant to your policy, if an applicant requests a special meeting, it does add costs and they have to cover the cost of the meeting. Discussion was held. Mr. Wendling stated that staff can work with the applicant and the Planning Commission to determine a date in the next three to four weeks. Mr. Freese asked if this request should be tabled to a specific date and time. Discussion was held. **Motion** by Mr. Kavanaugh, seconded by Mr. Freese, to table the request until July 15, 2020 to allow the Planning Commission an opportunity to review the forthcoming information and for the findings of fact to be constructed. Motion carried unanimously.

NEW BUSINESS

Mr. Turisk stated that he looking at holding a meeting in a physical space, with social distancing guidelines in mind. Mr. Turisk stated that it is quite possible for the July 15, 2020 meeting the Planning Commission could be holding the meeting in a single physical setting. Mr. Turisk stated that staff is trying to coordinate a meeting location so as to ensure enough space for social distancing to accommodate those who wish to attend.

STAFF REPORT

Mr. Turisk stated that there will be two Zoning Ordinance Amendments and a conditional rezoning application on July 1, 2020 agenda.

PLANNING COMMISSION COMMENTS

Ms. Johnson stated that staff should review the findings of fact that were presented in the past. Ms. Johnson stated that staff should use that format. Ms. Johnson stated that the findings of facts that were presented tonight, do not list both sides. Ms. Johnson stated that the findings of fact list should be presented from both sides, not just one. Mr. Kavanaugh stated that this has been brought up in at a few past meetings. Mr. Kavanaugh stated that staff may think noise isn't a problem, but a neighbor may feel that it is a problem. Mr. Kavanaugh stated that there should be a pro and a con on just about every finding of fact. Mr. Kavanaugh stated that this should start again on all applications.

Mr. Turisk stated that staff did recognize the Planning Commission's collective wish to go back to the old format, but due to the nature of this request, staff didn't see a lot of opposing factors. Mr. Turisk noted that there are opposing findings in regards to site drainage. Mr. Turisk stated that staff will continue to do so moving forward, but some applications will generate more factors (for and against) than others. Mr. Turisk stated that the YMCA application was a comparatively benign application and it didn't generate a tremendous list of opposing factors.

Ms. Merk asked the Planning Commission what they are looking for in the findings of fact. Discussion was held. Mr. Turisk stated that staff has reviewed past findings of fact and there has been some discussion about reworking the structure of the findings to make them more user friendly and more readily understood.

Mr. Freese stated that he has run into this now for a long time, both from a Zoning Board of Appeals standpoint and from a Planning Commission standpoint. Mr. Freese stated that it can be very difficult to find something in opposition to each factor. Mr. Freese stated that you can come up with some tenuous thought such as in the case of sound regarding the YMCA application. Mr. Freese stated that the number of kids and staff will prove to produce a lot of noise. Mr. Freese stated that there is a lot of activity, which could be presented as one of the factors against but a factor in favor of it would be the site is over 1000 feet from the nearest neighbor and therefore the noise generated by that congregation of people is not going to be detrimental to the use and enjoyment of the adjoining properties. Mr. Turisk stated the YMCA application is comparatively benign and it is a little difficult to come up with a strong list of factors against. Mr. Turisk referred to 20.10.C regarding site drainage and stated the existing drainage flows will not be disturbed and the drain flows will not be impacted.

Mr. Wendling stated that the Planning Commission should remember that a special use permit must be granted if all the standards have been met. Mr. Wendling stated that with a variance it is very difficult to meet the standards so it is a little more lenient because the use is actually allowed as long as the applicant meets the conditions set forth in the Zoning Ordinance. Mr. Wendling stated that often you may not have many factors, or any at all, that are contrary to the standards contained for special use. Mr. Wendling stated that sometimes you have more of a vigorous opposition, such as expert testimony, internal experts or the county engineer that comes up with concerns and then those will be raised as potential negative findings. Mr. Wendling stated that the general rule is if a standard has been met for special use, the permit must be granted.

Ms. Johnson stated that she brought this concern up because it appears as if the Zoning Department is making the decision on whether the standard has or has not been met when it is presented this way. Ms. Johnson stated the Zoning Department should not make this decision. Ms. Johnson stated that the Planning Commission should be able to say whether or not the finding has been met. Ms. Johnson stated that the Planning Commission should have both options available. Ms. Johnson stated that the Zoning Department is presenting it to the Planning Commission as if they have already made the decision. Ms. Johnson stated that the Zoning Department is not giving the Planning Commission the opportunity to make the decisions themselves. Ms. Johnson stated that she understands that the Planning Commission has the opportunity to interject and add things, but she feels that this is being persuasive. Discussion was held. Mr. Wendling stated that this is more of a preparation duty for staff than necessarily the final decision, which of course is made by the Planning Commission.

Ms. Lyon stated that when she reads what is presented, she feels that staff is telling the Planning Commission the facts that are in the project and that she has to compare that with what she sees and what she has read to see if she believes it will meet the standard. Ms. Lyon stated that staff is presenting facts to help her make a decision on whether or not the standard has been met. Ms. Lyon stated that she doesn't think staff is telling her what she has to decide.

Mr. Kavanaugh stated that it is really important to look at all of these. Mr. Kavanaugh stated that regarding site drainage, just because no one is able to provide any evidence to the Zoning Department does not mean that there can't be a problem with drainage. Mr. Kavanaugh explained that it is important to look at both sides. Mr. Kavanaugh stated that he agrees with Ms. Johnson.

Mr. Freese stated that he interjects facts that he doesn't feel are in consonance with what has been presented. Mr. Freese stated that it is up to the members of the Planning Commission to do their own analyzing of the facts that are presented. Mr. Freese stated that if the factors that are supporting the decision are not adequate it's up to the Planning Commission to say something and put that into the consideration. Mr. Freese stated that he does this all the time for the Planning Commission and Zoning Board of Appeals and he considers it part of his homework in looking at the project. Mr. Freese stated that staff is not omnipotent. Mr. Freese stated that staff is probably more of an expert than most of the Planning Commission and they know the regulation better than most of the Planning Commission. Mr. Freese stated that staff can't anticipate every single thing that could be a factor. Mr. Freese stated that if there is something that the Planning Commission believes it wrong, it is their job to speak up.

Mr. Turisk agreed with Mr. Freese and stated that staff can't envision every scenario and he believes that the Planning Commission can fill in the gaps. Mr. Turisk stated that staff does not make recommendations to the Planning Commission. Mr. Turisk stated that in many communities the planning staff does render recommendations to the Planning Commission. Mr. Turisk stated that staff has stopped short of even making a recommendation to the Planning Commission so that suggests that the authority is in the Planning Commission's hands to identify findings and appropriate conditions as deemed appropriate. Mr. Turisk stated that one could argue that staff is steering the Planning Commission and it may seem that way, but that isn't the intent.

PUBLIC COMMENTS

Mr. McGraw, Vice President of Development for Orion Renewable Energy Group, stated that he would like to address two topics. Mr. McGraw apologized that they were not able to get all the new materials and responses to the Planning Commission in hard copy more quickly. Mr. McGraw stated that regarding moving the substation, they unfortunately can't move the substation and the reason being is that they have signed an agreement with the transmission owner and that agreement dictates the location of the substation. Mr. McGraw stated it would not be possible to change that agreement.

ADJOURN

Motion by Kavanaugh to adjourn. Motion carried. Meeting was adjourned at 8:23pm.

Charles Freese
Planning Commission Secretary

DRAFT



CHEBOYGAN COUNTY PLANNING COMMISSION

870 SOUTH MAIN ST., ROOM 103 ■ PO BOX 70 ■ CHEBOYGAN, MI 49721
PHONE: (231)627-8489 ■ TDD: (800)649-3777

CHEBOYGAN COUNTY PLANNING COMMISSION MEETING & PUBLIC HEARING WEDNESDAY, JULY 1, 2020 AT 7:00 P.M. ROOM 135 – COMMISSIONER’S ROOM - CHEBOYGAN COUNTY BUILDING

PRESENT: Bartlett, Freese, Kavanaugh, Borowicz, Croft, Ostwald, Lyon, Johnson, Delana

ABSENT: None

STAFF: Mike Turisk, Jen Merk

GUESTS: Ann Couture, Craig Tews, Roger Houghton, Stephanie Marsh, Mike McCarty, Russ Crawford, Cheryl Crawford, Janice Morrow, Jennifer Atkins, John Moore, Chuck Beckwith, Erling Johnson,

The meeting was called to order by Chairperson Croft at 7:00pm.

PLEDGE OF ALLEGIANCE

Chairperson Croft led the Pledge of Allegiance.

APPROVAL OF AGENDA

The meeting agenda was presented. **Motion** by Mr. Borowicz, seconded by Mr. Kavanaugh, to approve the agenda as presented. Motion carried unanimously.

APPROVAL OF MINUTES

The June 10, 2020 Planning Commission minutes were presented. **Motion** by Mr. Kavanaugh, seconded by Mr. Borowicz, to approve the meeting minutes as presented. Motion carried unanimously.

PUBLIC HEARING AND ACTION ON REQUESTS

Amendment #157 - An Ordinance that would amend Section 18.12 (Expiration of Special Use), Section 20.16 (Expiration of Site Plan Review) and Section 21.4 (Expiration of a Zoning Permit) of Cheboygan County Zoning Ordinance No. 200 to allow expanded authority for the Zoning Administrator to grant administrative extensions of approved permits.

Mr. Turisk stated the proposed amendment would amend section 18.12, section 20.16 and section 21.4 of the Zoning Ordinance. Mr. Turisk stated that the proposed amendment allows for expanded authority for the Zoning Administrator to grant administrative extensions of approved permits. Mr. Turisk stated that the Planning Commission currently has sole authority to grant extensions of approved site plan reviews and special use permits. Mr. Turisk stated that the proposed amendment would allow the Zoning Administrator to grant an administrative one year extension of an approved site plan review or a special use permit. Mr. Turisk stated that it also allows for an additional extension beyond that one year, however, the authority for that additional extension would be held by the Planning Commission. Mr. Turisk stated that there are two conditions that would need to be demonstrated to grant the administrative approval. Mr. Turisk stated that the first condition requires the property owner or the applicant to present reasonable evidence that the development has encountered unforeseen difficulties beyond the control of the property owner. Mr. Turisk stated that the second condition is if there has not been a significant change to any regulation applicable to the development then the Zoning Administrator would be able to approve the one year administrative extension. Mr. Turisk stated that proposed Amendments #157 and #158 has been reviewed by legal counsel.

Mr. Turisk stated that Amendment #157 also proposes an extension of approved zoning permits. Mr. Turisk stated that currently, zoning permits are valid for six months from the date of approval and that is not in harmony with the Department of Buildings Safety building permits which are valid for one year. Mr. Turisk stated that it makes perfect sense to align the expirations of the permits because of the problems and confusion it causes for applicants. Mr. Turisk stated the Zoning Administrator would be required to receive a written request for the permit extension.

Ms. Croft asked for Planning Commission comments. Ms. Johnson stated that at the previous meeting the Planning Commission discussed adding language about not extending the permit if any violations have occurred. Ms. Johnson stated that is not included in the proposed amendment. Mr. Turisk stated that language can be crafted this evening as it is a simple addition. Mr. Freese asked if Ms. Johnson is talking about a violation that the property owner may have had on the parcel which is not related to the uses relating to the special use permit or site plan in question, and if it is only an extension of the zoning permit, then there would not have been a violation from that standpoint. Mr. Freese stated that the reason for applying for an extension for a special use permit or site plan review could be due to a violation that was there in the first place. Ms. Johnson stated that if the applicant is coming in because of enforcement issues and they're in violation it should not be extended again. Ms. Johnson stated if they have not made any attempt to remedy the situation they should not be granted an extension. Ms. Johnson stated that if they are working on it, that is a different story. Ms. Johnson stated that if there are blatant violations because of what was proposed and they take a different track, they assume it's given them more freedoms than what the special use permit actually states. Ms. Johnson stated these are violations. Ms. Johnson stated that if there are other things that they do than what was proposed for the special use permit those would be violations potentially. Mr. Delana asked Mr. Johnson if she is saying specifically violations of conditions to a previous permit that an applicant is asking to have extended. Ms. Johnson noted that it is a violation if an applicant requests an extension for a special use permit and they are utilizing it for another use that is not approved. Mr. Turisk stated that under the circumstances that Ms. Johnson proposed, there would be a stay on the activity that's identified as being in violation until we get a voluntary compliance. Mr. Turisk stated that we do not want to treat anybody differently. Mr. Turisk stated that if they're voluntarily working through the process, and they've demonstrated that there's been some difficulty in following through on the approved site plan review or special use permit, then there should be consideration as to why we treat them differently if they are working towards compliance. Ms. Johnson stated that working towards compliance and violating a special use permit are two different things. Ms. Johnson stated that we have existing situations in Cheboygan County where a special use permit has expired and people are still doing what they're not supposed to be doing and Cheboygan County has chosen not to enforce that. Mr. Turisk stated that he would disagree with Ms. Johnson and stated that the Zoning Enforcement Officer Michael Peltier has done an admirable job. Ms. Johnson stated that she agrees that the Zoning Enforcement Officer has done an admirable job, but Cheboygan County is where the stopping is, and she does not want to see other people go through that same situation. Ms. Johnson stated that when a special use permit is approved, the applicant has an allotted amount of time in order to meet the conditions and you would not expect that there would be violations during that first year time frame if they are working towards meeting all the conditions. Ms. Johnson stated there should not be any violations on the site. Mr. Turisk stated that we should be careful of combining one violation with another violation related to a site plan review. Mr. Turisk stated that we have to keep those distinct. Ms. Johnson stated that we may need legal counsel's advice as to how to word this properly. Mr. Kavanaugh stated that language should be included in the proposed amendment to reinforce the conditions and the requirements. Mr. Kavanaugh stated it is disturbing to see an applicant obtain approval for a special use permit and have violations before they ever meet the standards. Mr. Borowicz stated that it seems that we're a little off the course here as we're talking about a special use permit where the applicant has not begun substantial construction on the project. Mr. Borowicz stated that if the applicant is making progress on the project they do not have to apply for an extension. Ms. Johnson stated that if they are operating the business without the approval of the special use permit it creates a violation. Mr. Borowicz stated that is not related to the extension of a special use permit. Mr. Borowicz stated that is simply a violation. Mr. Turisk stated that if there is an established violation you would not be able to get a permit unless you meet compliance with a permit application and the same holds. Ms. Croft stated the same should hold true for an extension. Mr. Freese stated that the Planning Commission can not come up with a language to get that intent into the regulation and legal counsel will have to help draft the language. **Motion** by Mr. Freese, seconded by Mr. Kavanaugh, to forward the proposed amendment to legal counsel. Motion carried unanimously.

Amendment #158 - An Ordinance imposing a moratorium authorizing temporary relief from and authorizing temporary land uses under the Cheboygan County Zoning Ordinance No. 200 in response to the COVID-19 pandemic.

Mr. Turisk stated Amendment #158 is legally a moratorium ordinance. Mr. Turisk stated that is an effort to provide some measure of regulatory relief, particularly to business owners. Mr. Turisk stated that on June 10, 2020 the Planning Commission discussed retail uses, the use of dedicated off street parking for an approved use to be used in part for outdoor seating areas so that patrons can honor minimum social visits and guidelines. Mr. Turisk stated that the Planning Commission discussed temporary signage and mobile food units. Mr. Turisk stated that the Planning Commission talked about allowing mobile food units to operate only on properties that have permitted established brick and mortar restaurants.

Mr. Freese referred to Section 2.A.3a and not that it should be 32 square feet instead of 33 square feet. Mr. Freese referred to Section 2.A.4.a and requested using the use that is listed in the Zoning Ordinance which is "bar and restaurant, carry out restaurant drive in restaurants and fast food restaurant" instead of "brick and mortar restaurant".

Ms. Croft asked for public comments. There were no public comments. Public comment closed.

Mr. Turisk stated that Tuscarora Township Supervisor, Mike Ridley, supports this amendment.

Motion by Mr. Freese, seconded by Mr. Kavanaugh, to forward Amendment #158 with the two amendments to the Cheboygan County Board of Commissioners with a recommendation for approval. Motion carried unanimously.

Amendment #159 (DGOGCheboyganmi040120, LLC/Holifield/Sova) – A request for conditional rezoning under the Michigan Zoning Enabling Act, MCL 125.3405 (P.A. 110 of 2006). The subject properties are currently zoned Agriculture and Forestry Management (M-AF) and Lake and Stream Protection (P-LS). The applicant requests a conditional rezoning/zoning amendment for Commercial Development (D-CM) zoning for entirely one property (Parcel ID 104-035-200-025-02) and a portion of an adjacent property (Parcel ID 104-035-200-028-00). If approved the land use would be limited to the following: Retail sales establishment, General, per section 6.2.17 of Zoning Ordinance #200. Retail sales establishment, General is not an allowed land use in the M-AF or P-LS zoning districts. However, should the conditional rezoning application be approved the land use would be allowed with approval of a site plan review application by the Planning Commission under Article 20 of Cheboygan County Zoning Ordinance #200. The subject properties are located at 6647 and 6725 N. Black River Rd. in Benton Township, parcel ID nos. 104-035-200-025-02 and 104-035-200-028-00 in Section 35.

Mr. Turisk reviewed the background information contained in the staff report (Exhibit 13).

Mr. Freese stated that he does not look at the Rural Commercial Nodes the same way that Mr. Turisk is looking at them.. Mr. Freese stated that the reason the Planning Commission came up with those designations and the locations was because they were potential sites for development other than the Agriculture and Forestry Management uses that are now allowed. Mr. Freese stated that townships and incorporated cities can they have their own zoning. Mr. Freese stated that the only reason Cheboygan County has the zoning authority is because the townships have elected not to have their own zoning. Mr. Freese stated that the Planning and Zoning Enabling Act recognizes the fact that the decisions for development are authorized at the city and township level. Mr. Freese stated that when the Planning Commission had discussions with each of the townships when updating the Master Plan, we tried to identify areas that the townships might be interested in developing for uses other than Lake and Stream Protection uses and Agriculture and Forestry Management uses. Mr. Freese stated that there was no restriction on the size of that Rural Commercial Node. Mr. Freese stated that if Cheboygan County is to continue to grow, there would be a basis and reason for expanding some of these Rural Commercial Nodes. Mr. Freese stated that unfortunately, the way things have gone in the last six months, he does not really see Cheboygan County growing. Mr. Freese stated that it is the Planning Commission's responsibility to look at the desires of the township. Mr. Freese stated that the Planning Commission should look to see if the township desires to have some of these Rural Commercial Nodes expanded and used for the purpose that was established. Mr. Freese stated that these areas were identified originally because there had been previously, or there were now, existing stores or commercial establishments in these locations. Mr. Freese stated that there were a lot of towns in Cheboygan County that nobody recognizes anymore such as Rondo, Wildwood, Freedom, Hackwood, Manning and LeGrand. Mr. Freese stated that now we have Afton, Tower, Indian River, Cheboygan, Aloha and Mackinaw City. Mr. Freese stated that Alverno and Topinabee have the potential to grow. Mr. Freese stated that the Planning Commission should keep an open mind on opening up the Rural Commercial Nodes to commercial uses. Mr. Freese stated that he is not saying that this one should be expanded at this point, but it is probably one of the best locations that could grow. Mr. Freese stated that the Alverno Fire Department serves a much greater area than just Benton Township. Mr. Freese stated that the Benton Township Hall and the recreational facilities have expanded. Mr. Freese stated that the old firehouse has been relocated to a much bigger fire hall. Mr. Freese stated that Alverno one of the few places that has really grown. Mr. Freese stated that when the public weighs in on this application tonight the Planning Commission will get some consensus whether they want to grow their area or not. Mr. Freese stated that the Planning Commission should probably lean toward what the public wants for their area.

Mr. Kavanaugh stated that he was involved in the future land use plan and the Planning Commission looked at these nodes and most of the structures already existed. Mr. Kavanaugh stated that the Planning Commission expected the nodes at crossroads like it is now with Collins Grocery, the Fire Department and the Benton Township Hall. Mr. Kavanaugh stated that at that point no one, including Benton Township, had an interest in extending it a mile because there are beautiful homes in this area. Mr. Kavanaugh stated that no Planning Commission members involved expected to stretch the Rural Commercial Node a mile in each direction. Mr. Kavanaugh stated that the Planning Commission should take a good look at this proposed change and see if that's the kind of expansion that everybody expected. Mr. Kavanaugh stated that this is not allowed in the Future land Use Plan. Mr. Kavanaugh stated that this is spot zoning in his opinion. Mr. Kavanaugh stated that the Planning Commission should receive comments from the audience and see what they think.

Ms. Croft asked for public comments.

Ms. Couture noted that directly across the street from the parcels that are proposed to be rezoned is an excavating company. Ms. Couture stated that there is a gravel pit in this area that is used commercially and a small business repair shop that is within a half mile. Ms. Couture stated that within two miles there is also a bar/restaurant. Ms. Couture stated that this is not just a small commercial thing as there are other commercial businesses that are being run in that area. Mr. Borowicz stated that the corner of Black River Road and Twin Lakes Road has been identified as another Rural Commercial Node. Mr. Kavanaugh stated that some uses are allowed in Agriculture and Forestry Management which have been approved for a special use permit. Mr. Kavanaugh stated that the other uses are probably home occupations which are allowed in all zoning districts. Mr. Kavanaugh stated that he would have rather seen this rezoning request adjacent to the node instead of 1000-2000 feet down the road.

Mr. Tews stated that this is a nice little community. Mr. Tews stated his concerns about a national chain, if the store does not show a profit, shutting down the store. Mr. Tews stated that there will be an empty commercial building on the property.

Ms. Atkins stated that she is a resident of Benton Township and is also a local pediatrician in the Indian River area. Ms. Atkins stated she is concerned with the location given that there is a bend in the road and a downhill slope. Ms. Atkins stated her concern is about the safety of the families and kids in the area from a large commercial business with a parking lot and lighting and inconsistencies of that type of business with those local ones that were mentioned in the Rural Commercial Nodes. Ms. Atkins stated that this is definitely out of place. Ms. Atkins stated her concerns regarding the safety of the hill and noted that it can get tricky in the winter.

Ms. Marsh stated that she is probably the property owner who will be most affected by this as she her dwelling is on an adjacent parcel. Ms. Marsh stated that when the drilling was done for the perk test for the potential business her house shook the whole day. Ms. Marsh stated she will be affected day in and day out if this is approved. Ms. Marsh stated that she has a son and a daughter on the spectrum and her son paced and cried and she can not have that for her son. Ms. Marsh stated that they would have to do something. Ms. Marsh stated that there are days when she can barely get out of the driveway and she does not ever back out of the driveway because of the curve, the hill and the 45 mile per hour speed limit. Ms. Marsh stated her concerns about not being able to get out of her driveway. Ms. Marsh stated that this has already affected her home and it has not even started.

Ms. Morrow stated that she lives on the hill of Alverno and the traffic is terrible. Ms. Morrow stated her concerns that there will be more accidents. Ms. Morrow stated that the cars in the area drive 75-80 miles per hour.

Mr. Johnson stated he lives around the corner. Mr. Johnson stated there is a problem with speeders. Mr. Johnson stated that this is a poor location for the proposed rezoning.

Ms. Croft closed public comment.

Mr. Bartlett stated that the old fire station, which is vacant, is located in the Rural Commercial Node.

Mr. Turisk noted that the applicant's representative, Mike McCarthy, is attending the meeting this evening.

Discussion was held regarding the location for the proposed rezoning. Mr. Delana asked why this property was chosen and targeted. Mr. McCarthy stated that other sites were looked at and eliminated due to topography, wetlands, or reluctance of the property owners to sell. Mr. Turisk stated that if the conditional rezoning is approved, the applicant will need to submit a site plan review application. Mr. Turisk stated that the Planning Commission would then have an opportunity to review basic development features. Mr. Turisk stated that the Planning Commission is focusing on the rezoning application tonight.

The Planning Commission reviewed the General Findings:

1. The Planning Commission finds the applicant proposes rezoning of certain real property in the applications from Agriculture and Forestry Management (M-AF) and Lake and Stream Protection (P-LS) to Commercial Development (D-CM). (See Exhibits 3 and 13)
2. The Planning Commission finds the applications are made by DGOGCheboyganmi040120, LLC. (See Exhibit 3 and 13)

3. The Planning Commission finds the parcels to the north are zoned Agriculture and Forestry Management (M-AF). Furthermore, the parcels to the east are zoned and Lake and Stream Protection (P-LS) and Agriculture and Forestry Management (M-AF), the parcels to the south are zoned Lake and Stream Protection (P-LS), and the parcels to the west are zoned Agriculture and Forestry Management (M-AF) and Lake and Stream Protection (P-LS). (see Exhibit 5)
4. The Cheboygan County Master Plan and Future Land Use Map designate the area in which the subject properties are located as Forest/Agricultural and Lake, River and Stream Protection. (See Exhibits 2 and 13)
5. The Planning Commission finds that the subject properties are located approximately 2,000 linear feet south of the *Alverno Commercial Node* at the intersection of North Black River Road and Orchard Beach Road. (See Exhibits 2, 4 and 13)

The Planning Commission reviewed the Rezoning Factors:

1. Is the proposed conditional rezoning reasonably consistent with surrounding uses?

- A. The Planning Commission finds that the surrounding land uses are in the M-AF and P-LS zoning districts, with residential land use predominate and therefore, the proposed conditional rezoning is not reasonably consistent with surrounding land uses. (See Exhibits 1, 2, 4, 6, 7, 8 and 13)
- B. The Planning Commission finds that based upon the information provided in the staff report that indicates that the property is designated Forest/Agricultural and Lake, River and Stream Protection by the Cheboygan County Master Plan and Future Land Use Map. See Exhibits 2 and 13)

Motion by Mr. Kavanaugh, seconded by Mr. Borowicz, that the standard has not been met. Motion carried unanimously.

2. Will there be an adverse physical impact on surrounding properties?

- A. The Planning Commission finds that there is evidence that the proposed conditional rezoning in and of itself would result in adverse physical impact on surrounding properties, as the activities which could occur would physically disturb the properties surrounding the land proposed for the rezoning. (See Exhibits 1, 2, 4, 6, 7, 8 and 13)

Motion by Mr. Kavanaugh, seconded by Ms. Johnson, that the standard has not been met. Motion carried. 8 Ayes (Kavanaugh, Johnson, Croft, Borowicz, Freese, Ostwald, Bartlett, Lyon) 1 Nay (Delana), 0 Absent

3. Will there be an adverse effect on property values in the adjacent area?

- A. None identified.

Motion by Mr. Freese, seconded by Mr. Borowicz, that the standard has been met. Motion carried unanimously.

4. Have there been changes in land use or other conditions in the immediate area or in the community in general that justifies rezoning?

- A. The Planning Commission finds that minimal changes have occurred in the vicinity of the subject properties and that much of the area remains largely residential (as opposed to accommodating commercial uses). (See Exhibits 4 and 13)

Motion by Mr. Kavanaugh, seconded by Ms. Johnson, that the standard has not been met. Motion carried. 8 Ayes (Kavanaugh, Johnson, Croft, Borowicz, Delana, Ostwald, Bartlett, Lyon) 1 Nay (Freese), 0 Absent

5. Will rezoning create a deterrent to the improvement or development of adjacent property in accordance with

existing regulations?

- A. The Planning Commission finds that given surrounding properties (that are not subject to the conditional rezoning applications), no evidence exists that the conditional rezoning would deter the improvement or development of adjacent properties in accordance with existing regulations, much less future land use plans, per the County's Master Plan and Future Land Use Map. See Exhibits 1, 7 and 8.

Motion by Mr. Freese, seconded by Mr. Delana, that the standard has been met. Motion carried unanimously.

6. Will rezoning grant a special privilege to an individual property owner when contrasted with other property owners in the area or the general public (i.e. will rezoning result in spot zoning?)

- A. The Planning Commission finds that conditionally rezoning the property as proposed does create a special privilege or result in spot zoning because of the homogeneous residential/"rural residential" character of the area and the lack of commercial zoning or a mix of zoning. (See Exhibits 2, 4 and 13)

Motion by Mr. Kavanaugh, seconded by Mr. Borowicz, that the standard has not been met. Motion carried unanimously.

7. Are there substantial reasons why the property cannot be used in accordance with its present zoning classifications?

- A. The Planning Commission finds that the subject properties can be used for all purposes listed under their current zoning classifications. (See Exhibits 1, 7 and 8)

Motion by Mr. Freese, seconded by Mr. Delana, that the standard has not been met. Motion carried unanimously.

8. Is the rezoning in conflict with the planned use for the property as reflected in the Master Plan?

- A. None identified.

Motion by Mr. Kavanaugh, seconded by Ms. Johnson, that the standard has not been met. 8 Ayes (Kavanaugh, Johnson, Croft, Borowicz, Delana, Ostwald, Bartlett, Lyon) 1 Nay (Freese), 0 Absent

9. Is the site served by adequate public facilities or is the applicant able to provide them?

- A. The Planning Commission finds that the subject properties are or will be served by adequate public and private facilities by the applicant considering the type of use that may be permitted on the property.

Motion by Mr. Borowicz, seconded by Mr. Kavanaugh, that the standard has been met. Motion carried unanimously.

10. Are there sites nearby already properly zoned that can be used for the intended purposes?

- A. None identified.

Motion by Mr. Freese, seconded by Mr. Borowicz, that the standard has been met. 8 Ayes (Freese, Johnson, Croft, Borowicz, Delana, Ostwald, Bartlett, Lyon) 1 Nay (Kavanaugh), 0 Absent

Motion by Mr. Kavanaugh, seconded by Mr. Borowicz, to recommend denial of the conditional rezoning application to the Cheboygan County Board of Commissioners based on the General Findings and Rezoning Factors 1,2,4,6,7 and 8 which have not been met. Motion carried unanimously.

Mr. Turisk stated that the Planning Commission's recommendation will be forwarded to the Cheboygan County Board of Commissioners and may be reviewed at their second meeting of the month which is July 28, 2020. Discussion was held

regarding the property owner's within 300ft. of the subject property not receiving notification of the Cheboygan County Board of Commissioners meeting as it is not technically a public hearing. Ms. Johnson stated that the property owner's within 300ft. should look at the Cheboygan County Board of Commissioner's website as the agenda is posted one week before the meeting.

UNFINISHED BUSINESS

Ms. Johnson asked if it is possible to get a list of pending ordinances that the Planning Commission is working on. Ms. Johnson stated that there are a few that the Planning Commission has not revisited in a while. Mr. Turisk stated that the Planning Commission will be addressing Amendment #155 soon. Mr. Turisk stated that the Cheboygan County Board of Commissioners adopted Amendment #154 recently. Mr. Turisk stated that the Planning Commission will be revisiting Amendment #156 regarding signage. Mr. Borowicz noted that the Planning Commission should also discuss planned unit developments. Discussion was held. Mr. Turisk stated that he will update the Planning Commission regarding amendments during future meetings. Mr. Delana suggested creating a list of amendments for the Planning Commission to review.

NEW BUSINESS

No comments.

STAFF REPORT

Mr. Turisk reminded the Planning Commission members and audience to participate in the Census 2020.

PLANNING COMMISSION COMMENTS

Mr. Kavanaugh stated that he would have looked at the conditional rezoning request differently if the parcels were contiguous or adjacent instead of a half mile away from the node. Mr. Kavanaugh believes if the proposed conditional rezoning was adjacent to the node it would not have a negative impact on neighbors. Mr. Delana agreed with Mr. Kavanaugh and stated a half mile is not reasonable. Discussion was held.

PUBLIC COMMENTS

No comments.

ADJOURN

Motion by Mr. Borowicz to adjourn. Motion carried. Meeting was adjourned at 8:38pm.

Charles Freese
Planning Commission Secretary



CHEBOYGAN COUNTY

PLANNING AND ZONING DEPARTMENT

CHEBOYGAN COUNTY BUILDING ■ 870 S. MAIN STREET, PO BOX 70 ■ CHEBOYGAN, MI 49721
PHONE: (231) 627-8489 ■ FAX: (231) 627-3646
www.cheboygancounty.net/planning/

MEMORANDUM

Date: July 9, 2020 for the July 15, 2020 Planning Commission meeting

To: Planning Commissioners

From: Michael Turisk, Planning Director 

Re: Orion Renewable Energy, LLC -- Special Use Permit Application for a Level 3 Solar Energy System – Photovoltaic (SES-PV) in Grant Township

Planning Commissioners,

This memorandum intends to serve as a synopsis of the special use permit application review process to date regarding the Level 3 Solar Energy System – Photovoltaic (SES-PV) in Grant Township proposed by Orion Renewable Energy. Recall that on June 3, 2020 the Planning Commission initiated the application review and requisite public hearing. As you know a number of questions emerged that, since, the applicant has formally addressed with submittal of the following:

- June 3 Public Hearing Follow-up Questions (Orion Renewable Energy)
- Amended Site Plan, Sheets C-002; C-101 and C-102 (Orion Renewable Energy)
- Enlarged Panel View (Orion Renewable Energy)
- Additional Information on Solar Array Impact on Adjacent Real Estate (CohnReznick)
- Cheboygan Solar Project -- Summary of Proposed Site Plan Changes (Orion Renewable Energy)
- Memo RE: Site Plan Amendments (Orion Renewable Energy)
- Memo RE: Cheboygan Solar Project, MI Department of Natural Resources Consultation: Game Species (Shoener Environmental, Inc.)
- Amended Preliminary Vegetation Management Plan (Orion Renewable Energy)
- Glint and Glare Analysis (Capital Airspace Group, LLC)

****Note that these materials were previously provided to you in the latter half of June in both digital and hard copy formats.***

Recall, too, that the public hearing was subsequently reopened on June 17, per the direction of legal counsel, in order to provide opportunity for those June 3 remote meeting attendees who experienced technical difficulties to offer comments for the official record.

Note that the public hearing component of the special use permit review process is officially closed; therefore, the principal focus during our regular meeting on July 15 shall be to discuss the draft findings of fact and draft conditions of approval. (You will note a distinction between those findings of fact drafted by staff and those identified and drafted by the applicant, per the request of legal counsel).

The staff report that was prepared for the June 3 hearing has been modestly revised to reflect current dates and includes several project detail clarifications (e.g., project site acreage (1,566 acres [previously noted as 1,577 acres] and site conditions [RE: mean sea level]), as well as additional discussion in the public comments section.

****Finally, staff requests that the Planning Commissioners prepare and provide to staff any questions you might have prior to Wednesday's meeting.***

As always, feel free to contact me should you have questions.

Sincerely,

A handwritten signature in black ink that reads "Michael Turisk". The signature is written in a cursive, slightly slanted style.

Michael Turisk

Enclosure(s):

1. Revised staff report, including draft conditions of approval
2. Revised Exhibits list
3. Draft findings of fact
4. Michigan Department of Agriculture (MDARD) Policy for Allowing Commercial Solar Panel Development on PA 116 Lands



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STAFF REPORT

Item/Requested Action: A request for a Special use Permit for a Level 3 Solar Energy System - Photovoltaic (SES-PV) per Sections 9.3.27, 10.3.16 and 17.30.6.C of the Zoning Ordinance	Prepared by: Michael Turisk
Date: Revised July 6, 2020	Expected Meeting Date: July 15, 2020

GENERAL INFORMATION

Property Owners (per Exhibit A-1; *List of Parcels – previously distributed*):

- Tromble Bay Farms II, LLC
- Tromble Bay Farms III, LLC
- Rick and Michele Tromble
- Beethem Properties
- David and Michele Wolf
- Lisa A. Herron

Applicant:

Orion Renewable Energy Group, LLC

Contact and Phone:

Amanda Hoffman, Project Development Manager, Orion Renewable Energy Group, LLC; 503.476.4883

Property Location:

The subject properties are located in Grant Township and generally located 13 miles southeast of the City of Cheboygan along N. Black River Road, south of Twin Lakes Road and bounded by Ross Road to the south and Page Road to the north, Chamberlin Road to the east and Trudeau Road to the west.

BACKGROUND INFORMATION

The applicant requests a special ~~use permit to construct and operate a Level 3 Solar Energy System – Photovoltaic (SES-PV), per Sections 9.3.27, 10.3.16 and 17.30.6.C of the Zoning Ordinance.~~ The project site for the “Cheboygan Solar Project” (“Project”) is generally located 13 miles southeast of the City of Cheboygan in Grant Township. Broad characteristics of the Project (*see Exhibit A (Site Plan); Cover Sheet C-001*):

- Would encompass approximately 1,566 acres on 31 leased and private parcels zoned Agriculture and Forestry Management (M-AF) and Lake and Stream Protection (P-LS). (see *Exhibit A (Site Plan)*; *Sheet C-203*)
- Photovoltaic (PV) solar modules and supporting equipment and infrastructure would be located within a fenced, approximately 785-acre Project area of which approximately 212 acres would be covered by PV. (PV modules arrange individual PV cells and are grouped into an *array*.)
- The Project's arrays would be mounted on single-axis tracking systems (see *Exhibit A (Site Plan)*; *Sheet C-203*) that facilitate maximum solar absorption efficiency and productivity by allowing arrays to track the sun's path throughout the day (unlike stationary or static arrays). PV panels would reset to the east in the evening or early morning to receive sunlight at sunrise. The typical maximum height of PV arrays would be less than 10 feet and would not exceed the maximum 20-foot standard.
- The dimensions of PV arrays would vary. They would be oriented north-south given the use of single-axis tracking devices.
- PV generates direct current (DC) electricity; therefore, electricity generated by the Project would be fed underground to approximately 40, 3,550 kW (kilowatt) inverters that convert DC output to alternating current (AC). (see *Exhibit A (Site Plan)*; *Sheet C-202*)
- Transformer-generated power would be routed to a Project point-of-interconnect (POI) substation or switchyard that would be accessed via Owens Road. The Project substation would include a larger transformer that "steps up" medium voltage to the 138 kilovolts (kV) of the adjacent transmission line to facilitate distribution to the grid (see *Exhibit A (Site Plan)*; *Sheets C-206 and C-207*).
- An operations and maintenance (O & M) building would be constructed between Twin Lakes Road and Hanson Road, at the west side of Owens Road and near to the overhead electric right-of-way (see *Exhibit A (Site Plan)*; *Sheet C-204*). Typical operations and maintenance activities that would occur include, but would not limited to, liaison and remote monitoring; inverter operation; security and management; and repair and maintenance.
- The Project is designed to produce up to 91 megawatts (MW) of electricity at the point of interconnection to the grid and for distribution to a regional power provider. (The average number of homes powered per MW of PV varies from state to state due to several factors, including average sunshine [*insolation*] and average household electricity consumption. However, since 2012 the national average has ranged from 150 – 210 homes per MW).
- Modules would be specifically designed with light-trapping and antireflective characteristics to maximize light absorption efficiency, and minimize reflection and consequent significant glare potential.

- The primary component of the Project is expected to be constructed in approximately nine to 14 months, weather dependent. The Project may be built in phases if full capacity is not achieved in the first phase.
- Landscape Details, per *Exhibit A (Site Plan); Sheet L-101*, include four Plant Modules with Modules 1 and 2 to be installed and maintained to serve residential screening purposes and Modules 3 and 4 intended for public and private road rights-of-way screening.
- An emergency response plan would be prepared in coordination with local emergency service providers that would ensure 24/7 access and provide contact information for operations personnel. The emergency response plan would include lockboxes for access gates, with keys to be provided to emergency services personnel.
- Chain link and woven wire fencing would be installed as a security measure. (*See Exhibit A (Site Plan); Sheet C-205*).
- The Project would create approximately 200 construction jobs, and two to four full-time maintenance and operations jobs according to the applicant.
- Exhibit A (Site Plan); Sheet C-201 (*General Notes and Details*) provides plan notes regarding code compliance, electrical interconnection, height restrictions, landscaping, required and applicant-imposed setbacks and temporary staging/unloading areas. Further, details are provided for pole-mounted lighting fixtures, access road and gravel access road section.
- Once commissioned and operational, the anticipated useful Project life is 30 years at a minimum.
- A special use application/site plan waiver is requested from the requirement that site plans be drawn at 1 inch = 100 feet or less.

Surrounding Zoning and Land Uses:

The zoning of the subject properties and immediate area is Agriculture and Forestry Management (M-AF) and Lake and Stream Protection (P-LS). Land uses are predominately agricultural with scattered “rural-residential” home sites.

Environmentally Sensitive Areas (steep slopes, wetlands, woodlands, stream corridor, floodplain):

No identified environmentally sensitive areas of significance, such as Critical Habitat, occur within or near to the nearly 1,600-acre project site. Although the leased area encompasses almost 1,600 acres, solar modules (groups of photovoltaic cells), and supporting infrastructure would be within a fenced area of approximately 862 acres. The application indicates that effort would be made to minimize or avoid impacting wetlands and vegetation during clearing, grubbing, grading and construction within Lake and Stream Protection zoning. The applicant indicates that all requisite Federal and State permits would be obtained in order to comply with applicable environmental regulations.

Although not required by the Zoning Ordinance, the Project proposes native lawn and plant seed mixes and various “pollinator friendly” plantings that would enhance wildlife habitat and attract various pollinators. (See Exhibit H; *Preliminary Vegetative Management Plan*)

Historic Buildings/Features:

There are no known historic buildings or features on the subject properties.

Traffic Implications:

There will be a temporary, but likely noticeable influx of traffic movements during site preparation and construction. However, due to minimal maintenance requirements, this project is expected to generate negligible traffic impacts at the commissioning and operation phase. Traffic control would be used as needed to ensure that people are aware of the presence of crossing or slow-moving construction vehicles. A recommended condition of approval would require the repair of any damage to existing roadways caused by construction vehicles following construction, or during construction as necessary, to maintain safe driving conditions.

Access and street design: (secondary access, pedestrian access, sidewalks, residential buffer, ROW width, access to adjacent properties):

Construction, operations and maintenance personnel would primarily use Twin Lakes Road, Hanson Road and Owens Road (collectors) to arrive and depart via the Project’s proposed 21 access points (see *Overall Map C-002*):

- One access point along Page Road;
- Two access points along the east side of Trudeau Road;
- Two access points along Hanson Road;
- Two access points along Ross Road;
- Four access points along North Black River Road;
- Five access points along Twin Lakes Road; and
- Five access points along Owen Road.

Sheet C-201 provides detail regarding the proposed design and dimensional characteristics of access driveways and unimproved internal roads. The Project would be required to comply with all applicable minimum design standards for non-residential driveways and approaches.

Signs:

The Project will position construction-related signs so as not to interfere with driver visibility and vehicle safety, including positioning signs at least 25 feet from road intersections.

Setbacks:

Per Section 17.30.6.C., the minimum setbacks for Level 3 Solar Energy Systems – SES PV are as follows:

All Level 3 SES-PV Systems along with their supporting structures, inverters and supporting buildings and equipment (excluding fencing, vegetative screening, berms, roads, underground cables and generator system step-up transformer facilities) shall comply with:

- a) 100 feet from any dwelling. This setback may be waived or reduced if requested by the owner of the dwelling to be screened.**

The Project would be compliant with this setback standard as depicted by 100 foot radii surrounding existing residences in proximity to the Project.

- b) 50 feet from any Level 3 SES-PV Facility perimeter not abutting a private or public road unless requested to be waived by the property owner of the parcel to be screened.**

The Project would comply with this setback standard as depicted by the 50 foot setback line as depicted by the single dash line surrounding existing residences in proximity to the Project and shown in Exhibit A; (*Sheets C-002; C-101 and C-102*).

- c) 50 feet from any public or private road right of way.**

The Project would comply with this setback standard by the 50-foot setback line as depicted by the two dash line shown along the 66 foot road rights-of-way in Exhibit A (*Sheets C-002, C-101 and C-102*).

- d) 500 feet from any major body of water as listed in section 10.1.2.**

Not applicable

- e) 40 feet from any perennial stream, other than those listed in Section 10.1.2, shown as part of the P-LS zoning district. However, underground cables may be allowed if permitted by the Michigan Department of Environmental Quality (MDEQ) and the Army Corps of Engineers.**

The Project would comply with this setback standard as depicted by the delineated wetlands and streams/50-foot buffer shown in Exhibit A (*Sheets C-002, C-101 and C-102*).

ii. The generator system step-up transformer facility and any electrical storage facility shall meet the following setbacks:

- a) 500 feet from any dwelling.**

The Project would comply with this setback standard as depicted by the *Proposed Substation Footprint* shown in Exhibit A (*Sheets C-002, C-101 and C-102*).

- b) 250 feet from any public or private road abutting the Level 3 SES-PV Facility perimeter of or bisecting the project.**

The Project would comply with this setback standard as shown in Exhibit A (*Sheets C-002, C-101 and C-*

102).

- c) **500 feet from the ordinary high water mark of any body of water listed in Section 10.1.2.**

Not applicable

iii. All tree plantings utilized for screening shall have setbacks of seven (7) feet from any property line, public or private road right(s)-of-way, utility or driveway easement(s) or the Level 3 SES-PV Facility perimeter. The seven (7) foot setback shall be measured at the time of planting from the center of the trunks of the trees used for screening.

The Project would comply with this setback standard as shown in Exhibit A (*Sheets C-002, C-101 and C-102*).

iv. Fencing shall be no closer than one (1) foot from any property line, public road right(s)-of-way, utility or driveway easement(s) or the established Level 3 SES-PV Facility perimeter. Fencing is considered a security measure and cannot be considered as adequate screening for a Level 3 SES-PV System.

Note that *Exhibit A; Sheet C-201* indicates two distinct applicant-imposed setbacks, including 50 feet from any delineated wetland or stream, and 250 feet from existing dwellings (100 feet is the minimum standard).

Noise:

Photovoltaic (PV) arrays do not generate sound alone; however, supporting hardware, such as tracking motors, integrated inverters (via cooling fans, for example), and medium- and high-voltage transformers, do so. (Given that PV arrays alone do not generate electricity in the absence of sunlight, minimal noise impacts would be experienced during nighttime hours and overcast conditions).

Sound propagation modeling was performed (see Exhibit D; *Sound Simulations*) to determine Project compliance with the maximum allowable 60 dBA (A-weighted decibels) standard, per Section 17.30.6.C. Results indicate that maximum sound from a given property line would be 49 dBA, near to the proposed Project substation at the west side of Owens Road (south of its intersection with Twin Lakes road). The nearest residence would be approximately 260 feet from any tracking motor, with 45 dBA documented as the maximum. The nearest residence would be approximately 670 feet from any inverter and approximately 850 feet from the high-voltage transformer. (See Exhibit D [*Sound Simulations*]; Figure 4: *A Scale of Sound Pressure Levels for Typical Sound Sources*). This is a useful reference in that it offers examples of common sounds and their respective decibels.

Fence/Hedge/Buffer/Screening:

Landscaping and screening are required project elements for Level 3 Solar Energy Systems - Photovoltaic (SES-PV), per Section 17.30.6.C. As noted in Exhibit A (Sheet L-101; *Landscape Details*), the applicant proposes four distinct Plant Modules that would be sited according to current conditions and anticipated build-out conditions to serve as screening the Project from public rights-of-way and residential uses, in

particular, as well as to maintain and enhance landscape aesthetics and wildlife habitat. Existing vegetation would be maintained and integrated where appropriate with landscaping/Plant Modules.

Photo simulations have been provided to depict the Project's appearance from eight locations or simulation points around the Project site, and at different stages of woody vegetation growth.

Photo simulations include required setbacks and three simulations include landscaping at the time of planting and at the 10-year mark. (See *Exhibit E*):

ViewPoint 1 - Twin Lakes Road just east of North Black River Road looking southeast

ViewPoint 2 - Hanson Road just west of Chamberlain Road looking south

ViewPoint 3 - Intersection of Hanson Road and Owens Road looking northeast

ViewPoint 4 - Ross Road just east of Owens Road looking north

ViewPoint 5 - Twin Lakes Road just west of Chamberlain looking northwest

ViewPoint 6 - Twin Lakes Road between North Black River Road and Owens Road looking southeast

ViewPoint 7 - Twin Lakes Road just east of North Black River Road looking northeast

ViewPoint 8 - North Black River Road, north of Twin Lakes Road looking northwest

Parking:

Three temporary staging areas to allow for unloading equipment, materials and provide construction-related and employee vehicle parking would be located just west of North Black River Road, at the north side of Twin Lakes Road (east of its intersection with Trudeau Road), and at the east side of Trudeau Road (near to the western terminus of the Project Area). These staging areas would be restored after construction is completed.

There are no parking requirements for this use. However, the Zoning Ordinance requires one space per two employees. Two to four full-time operational maintenance and security personnel are expected at the time of commission and operation; therefore, a minimum of two parking spaces would be required.

Lighting:

The Applicant has indicated that the Project would be in full compliance with the applicable standards as set forth in Sections 3.7 and 20.10 of the Zoning Ordinance. Exhibit A shows the locations of all lighting within the proposed facility and Sheet C-201 (General Notes and Details) indicated that pole-mounted fixtures would be 18 feet in height from grade. During operations, lighting would not be needed under typical nighttime periods. It would be only during occasional unscheduled maintenance situations will motion- and/or manually-activated illumination be needed. Since maintenance activities are not typically carried out during the evening hours, lights will only be turned on as needed.

Localized security lighting may also be employed during construction and operations. Perimeter and safety lights will be installed and used only on an as-needed basis for emergencies or security. Manually or motion activated lighting would be provided at points of site ingress and egress, any operations and maintenance, and the Project substation.

The on-site Project substation will include lighting to allow for safety inspections or maintenance that may be required during nighttime hours. Lighting would also be provided adjacent to the operations and maintenance building and mounted at the site entrance gates to allow for safe entry and exit. All lighting will be shielded and downward-directional to minimize light trespass.

Stormwater Management:

Relatively flat sites are ideal for Level 3 Solar Energy Systems/utility-scale solar energy development. The topography within the Project site is generally consistent, ranging from approximately 185 feet to 200 feet above mean sea level.

The greatest elevations occur at the northwestern to the southeast corners of the Project area. Lower elevations occur at the southwestern Project area where the land slopes gently downward toward the Black River. The *Preliminary Vegetative Management Plan (Exhibit H)* presents an overview of methods or best management practices for stormwater management, through minimizing erosion and sedimentation loads into nearby waterways and improving soil conditions. The primary objectives of the Vegetative Management Plan are to preserve and enhance aesthetic value of the project site and preserve and restore natural habitats that would be resistant to invasive species, particularly herbaceous plants. The Plan also articulates the site enhancements that intend to create habitats to attract various pollinators (e.g., bees; butterflies) and how vegetative corridors would be maintained along on-site streams to the greatest extent practicable. Ultimately, a final, detailed vegetation management plan would be developed based on the preliminary plan to help to guide the implementation of vegetation management efforts during construction, operations and maintenance.

The Final Vegetative Management Plan would also acknowledge the requirement to comply with the Department of Environment, Great Lakes and Energy (EGLE) Soil Erosion and Sedimentation Control Program, Part 91. To minimize negative hydrological impacts, a proposed condition of approval speaks to restoring development-impacted on-site watercourses to pre-development conditions following construction, except for drainage features specifically designed to mitigate drainage impacts.

Long-term maintenance protocols to manage cover would include mowing to preclude woody plant and noxious weed encroachment, with controls using mechanical and herbicidal methods. The project site would be evaluated annually for replanting/reseeding in order to maintain adequate and viable ground cover throughout the Project's life cycle.

Master Plan and Future Land Use Map:

The project site/subject properties are within designated Forest/Agriculture on the Cheboygan County Future Land Use Map. A land use goal identified in the County's Master Plan ("Plan") is to "provide opportunities for safe and efficient use and transport of energy sources."

Relevant strategies identified in the Plan for meeting said goal include "*allow for appropriate use and transport of all forms of energy*" and "*ensure opportunities for development of renewable energy that maximizes sustainable use of natural resources and retains energy dollars in the local economy.*"

Public Comment:

Prior to application submittal, the applicant hosted an open house at the Cheboygan Public Library on February 10, 2020. In response to feedback received. The site plans presented at the open house were amended to show the removal of a row of PV at the south side of the Project along Ross Road in order to provide additional buffer for nearby residents.

The Planning and Zoning Department mailed Notices of Hearing on March 3, 2020 and May 19, 2020 to surrounding property owners within 300 feet of the subject properties. As of July 6, 2020, a letter of support has been received by the President of the Cheboygan Economic Development Group (Exhibit 23 – previously distributed), as well as three (3) written responses from property owners in the vicinity of the site , including an email/ letter with a list of project-related questions submitted, with the second letter including an analysis of the proposed project. Concerns expressed during the public hearings on June 3 and 17 include:

- The potential for property values to be negatively impacted.
- The potential for negative visual impacts.
- The potential for radiation that might harm people and domestic and wild animals.
- The potential for pesticides and chemicals to impact ground water resources.
- The potential for impact upon wireless reception in the area.
- The proposed location of the Project substation off of Owens Road.

The applicant addresses a number of communicated concerns in the submitted *June 3 Public Hearing Follow-up Questions for Orion Renewable Energy Group*. (Exhibit 29 – previously distributed)

Review or permits from other government agencies:

The applications, site plans and supporting documents were provided to the Grant Township Supervisor, County Road Commission, District Health Department No. 4, Michigan Department of Transportation (MDOT), Alverno Fire Department, the County Administrator, the County Building Official, the Michigan Department of Natural Resources. As of the date of this revised memorandum, staff has received comments from the County Road Commission (Exhibit 20 – previously distributed) regarding the need for driveway permits for all access points and review of the vegetative screening/Vegetative Management Plan prior to commencing work. In addition, the District Health Department No. 4 (Exhibit 21 – previously distributed) indicated that a commercial on-site sewage disposal permit for the operations and maintenance building is required.

In their letter to the Planning Commission dated June 9, 2020, Schoener Environmental, Inc. indicates that various staff with the Michigan Department of Natural Resources (MDNR) were contacted about the potential impacts on wildlife corridors and big game species such as white-tailed deer and black bear. According to the letter dated June 19, 2020, the MDNR does not generally comment on potential impacts to game species for projects on private property. The letter also indicates a phone conversation with MDNR staff that suggested minimal potential impact to wildlife movements from utility-scale solar development. (Exhibit 36 – previously distributed)

Recommendations (proposed draft conditions of approval):

1. The applicant shall comply with requirements for Level 3 Solar Energy Systems – SES-PV, per Section 17.20 of the Zoning Ordinance, as applicable.
2. Prior to issuance of any County Department of Building Safety building permits, the Project shall be in compliance with the Department of Environment, Great Lakes and Energy's (EGLE) Soil Erosion and Sedimentation Control Program, Part 91, as applicable.
3. Prior to construction or commencing with construction preparation activities including, but not limited to, land clearing, grubbing and/or grading, the applicant shall obtain County Department of Building Safety permits, as applicable.
4. Prior to construction, the applicant shall obtain all County Road Commission permits, as applicable, and submit written confirmation of compliance with County Road Commission requirements with regard to fencing and screening installations.
5. The applicant shall repair any damage to existing roadways caused by construction vehicles following construction, or during construction as necessary, to maintain safe driving conditions.
6. To minimize negative hydrological impacts, the applicant shall restore development-impacted on-site watercourses to pre-development conditions following construction (except for drainage features specifically designed to mitigate drainage impacts).
7. The Project shall comply with District Health Department No. 4 requirements, as applicable.
8. Herbaceous and woody vegetation installed and utilized as ground cover and screening purposes shall be maintained for the duration of the useful life of the Project. In addition, dead, dying and diseased herbaceous and woody vegetation shall be replaced as needed for the duration of the useful life of the Project.
9. Transformers that will serve the project shall be specified to be 5 dBA lower than the National Electrical Manufacturer's Association (NEMA) TR-1 standard sound levels.
10. Prior to building permit issuance the applicant shall provide a crossing agreement with the utility holding the power line easement for that portion of Section 6 along North Black River Rd. where an access point is proposed.
11. Prior to beginning construction or commencing with site preparation activities, including, but not limited to, land clearing, grubbing and/or grading, a performance guarantee shall be furnished to the County by the owner(s) of the Level 3 Solar Energy System – SES-PV in the form of a cash deposit, certified check, irrevocable letter of credit or surety bond acceptable to the County in an amount equal to the estimated costs associated with removal of the Level 3 Solar Energy System – SES-PV, including all solar panels, supporting structures, inverters, transformers and all associated equipment in accordance with the decommissioning and restoration plan per Section 17.30.3.3.M.

The performance guarantee shall be approved by the County prior to beginning construction or commencing with site preparation activities, including, but not limited to, land clearing, grubbing and/or grading.

12. The applicant shall provide the Planning and Zoning Department the Acceptance of Conditions form to be attached to the special land use approval letter within thirty (30) calendar days from the date of the approval letter. This form shall be signed by the owner(s) of the Level 3 Solar Energy System - Photovoltaic (SES-PV). The applicable building permit application(s) shall include a site plan in conformance with this special land use that meets all applicable site development standards (such as minimum required setbacks from property boundaries) and appropriate building permit fees, as applicable. Permits must be issued within twelve (12) months from the date of the special land use approval letter (unless a special use extension request is approved by the Planning Commission, pursuant to Section 18.12.a., as amended), otherwise the special land use may be deemed void upon thirty (30) days written notification to the applicant.
13. Any changes to the approved special use shall be subject to review by the Planning and Zoning Department and may require an application for special use amendment and approval by the Planning Commission.
14. It is the applicant's responsibility to obtain any additional permits or meet additional conditions, if any, that may be applicable to the proposed land use pursuant to other federal, state, or local laws or regulations.

CHEBOYGAN COUNTY PLANNING COMMISSION

Orion Renewable Energy Group, LLC

REVISED Exhibits List

****Note that Exhibits numbered 3 – 28 were previously distributed to the Planning Commission
(prior to the June 3 meeting/public hearing)***

****Exhibits numbered 29-37 were also previously distributed to the Planning Commission
(after the June 3 meeting/public hearing)***

****Exhibits 38, 39 and 40 are included in this meeting packet***

1. Cheboygan County Zoning Ordinance
2. Cheboygan County Master Plan and Future Land Use Map
3. Site Plan Review Application (9 Pages)
4. Special Use Permit Application (9 Pages)
5. Lease Agreements (37 Pages)
6. Applicant Letter with Applications Responses dated February 25, 2020 (22 Pages)
7. Exhibit A – Site Plan (12 Pages; 22-in. x 33-in.)
8. Exhibit A-1 – List of Parcels (1 Page)
9. Exhibit B – Health and Safety Impacts of Solar Photovoltaics (19 Pages)
10. Exhibit C – Zoning Overlay Detail Map (1 Page)
11. Exhibit D – Sound Simulations (28 Pages)
12. Exhibit E – Visual Simulations (14 Pages)
13. Exhibit F – Property Valuation Report (108 Pages)
14. Exhibit G – Emergency Safety and Fire Plan (2 Pages)
15. Exhibit H – Preliminary Vegetative Management Plan (6 Pages)
16. Exhibit I – Structural Specifications (40 Pages)
17. Exhibit J – Decommissioning and Final Reclamation Plan (2 Pages)
18. Exhibit K – Property Tax Contribution (1 Page)
19. Mailing List (8 Pages)
20. Email from Brent Shank, Cheboygan County Road Commission dated March 9, 2020 (1 Page)
21. Email from Kyle Keller, Environmental Sanitarian, District Health Dept. No. 4, dated March 13, 2020 (1 Page)

22. Letter from Amanda Hoffman, Project Development Manager, Orion Renewable Energy, LLC, dated April 23, 2020 (2 Pages)
23. Email from Sharen Lange, President, Cheboygan Economic Development Group, dated April 28, 2020 (2 Pages)
24. Email from Amanda Hoffman, Project Development Manager, Orion Renewable Energy, LLC, dated April 29, 2020 (1 Page)
25. Letter and associated documents from Eryn Eustice dated May 1, 2020 (44 Pages)
26. Email from Bill E. Wisniewski dated May 10, 2020 (2 Pages)
27. Email from Eric Boyd dated June 3, 2020 (1 Page)
28. Hard copy of PowerPoint presentation, Orion Renewable Energy Group, LLC (25 Pages)
29. Orion Renewable Energy Group, LLC - June 3 Public Hearing Follow-up Questions for Orion Renewable Energy Group (6 Pages)
30. Orion Renewable Energy Group, LLC - Amended Site Plan, Sheets C-002; C-101 and C-102 (Exhibit A)(3 Pages)
31. Orion Renewable Energy Group, LLC - Enlarged Panel View (1 Page)
32. Orion Renewable Energy Group, LLC - Glint and Glare Analysis dated June 9, 2020 (5 Pages)
33. Orion Renewable Energy Group, LLC - Revised Preliminary Vegetation Management Plan (Exhibit H) dated June 10, 2020 (4 Pages)
34. Orion Renewable Energy Group, LLC - Revised Page 2 of Property Valuation Report (Exhibit F)(1 Page)
35. Orion Renewable Energy Group, LLC/Cohn Reznick - Additional Information on Solar Array Impact on Adjacent Real Estate (Exhibit F) dated June 16, 2020 (11 Pages)
36. Orion Renewable Energy Group, LLC/Schoener Environmental, Inc. – Michigan Department of Natural Resources Consultation: Game Species dated June 19, 2020 (1 Page)
37. Orion Renewable Energy Group, LLC – Summary of Proposed Site Plan Changes dated June 19, 2020 (6 Pages)
38. Michigan Department of Agriculture and Rural Development (MDARD) Policy for Allowing Commercial Solar Panel Development on PA 116 Lands (4 Pages)
39. Staff Report (11 Pages)
40. Draft Findings of Fact (33 Pages)

Note: Planning Commission members also have Exhibits 1 (Cheboygan County Zoning Ordinance No. 200) and 2 (Cheboygan County Master Plan and Future Land Use Map)

**CHEBOYGAN COUNTY
PLANNING COMMISSION
SPECIAL USE PERMIT REQUEST**

Applicant: Orion Renewable Energy Group, LLC
155 Grand Avenue; Suite 706
Oakland, CA 94612

Owners: Tromble Bay Farms II, LLC
Tromble Bay Farms III, LLC
Rick and Michele Tromble
Beethem Properties
David and Michele Wolf
Lisa A. Herron

Parcel(s): Grant Township, Sections 4, 5, 6, 8 and 9

- | | | |
|------------------------|------------------------|------------------------|
| 1. 151-009-200-001-05 | 12. 151-008-300-007-00 | 23. 151-009-400-002-00 |
| 2. 151-006-100-004-00 | 13. 151-008-400-001-00 | 24. 151-009-200-002-00 |
| 3. 151-006-300-001-02 | 14. 151-008-200-001-02 | 25. 151-009-400-001-00 |
| 4. 151-006-100-005-00 | 15. 151-009-300-001-00 | 26. 151-009-200-003-00 |
| 5. 151-006-200-003-00 | 16. 151-009-100-003-00 | 27. 151-004-401-001-00 |
| 6. 151-006-200-005-00 | 17. 151-009-300-004-00 | 28. 151-005-100-001-00 |
| 7. 151-006-400-001-05 | 18. 151-009-400-004-00 | 29. 151-005-300-004-00 |
| 8. 151-008-400-003-00 | 19. 151-009-400-003-00 | 30. 151-005-300-008-00 |
| 9. 151-008-400-004-00 | 20. 151-009-200-001-07 | 31. 151-006-200-002-00 |
| 10. 151-008-100-004-00 | 21. 151-009-300-003-00 | |
| 11. 151-008-300-006-00 | 22. 151-009-100-004-03 | |

Hearing Date: Wednesday, July 15, 2020; 7:00 PM

APPLICATION

The Applicant seeks approval for a Special Use Permit for a Level 3 Solar Energy System - Photovoltaic (SES-PV), per Sections 9.3.27 and 10.3.16 and 17.30.6.C of the Zoning Ordinance.

GENERAL FINDINGS OF FACT

1. The applicant requests a Special Use Permit for a Level 3 Solar Energy System – Photovoltaic (SES-PV) on leased, private land in Grant Township. (See Exhibits 1,3, 4 and 7)
2. The subject properties for the proposed Level 3 Solar Energy System – Photovoltaic (SES-PV) are zoned Agriculture and Forestry Management (M-AF) and Lake and Stream Protection (P-LS) and encompass 1,566 acres on 31 parcels. (See Exhibits 3, 4, 5, 7, 29, and 31)

3. Photovoltaic (PV) solar modules and supporting equipment and infrastructure would be located within a fenced, approximately 830-acre Project area of which approximately 230 acres would be covered by PV. (See Exhibits 3, 4, 5, 7, 30 and 31)
4. Level 3 Solar Energy Systems– Photovoltaic (SES-PV) are permitted by special use in the Agriculture and Forestry Management (M-AF) and Lake and Stream Protection (P-LS) zoning districts pursuant to Sections 9.3.27, 10.3.16, and 17.3.D.6.C. respectively, of the Zoning Ordinance. (See Exhibits 1, 3, 4, 5, 7, 30 and 31)
5. Level 3 Solar Energy Systems– Photovoltaic (SES-PV) require a special use permit in accordance with Section 18.7., and a site plan review in accordance with Section 20.10 of the Zoning Ordinance. (See Exhibits 1, 3, 4, 5, 7, 30 and 31)
6. A Project substation and operations and maintenance (O & M) building would be constructed between Twin Lakes Road and Hanson Road, at the west side of Owens Road and near to the overhead electric right-of-way. (See Exhibits 3, 4, 5, 7, 30 and 31)
7. Upon completion, the Level 3 Solar Energy Systems– Photovoltaic (SES-PV) would generate up to 91 megawatts (MW) of electricity for distribution to a regional power provider. (See Exhibits 3, 4, 5, 7, 28, 30 and 31)
8. Because of the size of the project (1,566 acres), the Applicant has requested a waiver of the requirement that site plans be drawn to a scale of 1 inch = 100 feet or less and to allow a scale of 1 inch = 400 feet. (See Exhibits 3 and 4)

GENERAL FINDINGS OF FACT SUBMITTED BY ORION RENEWABLE ENERGY GROUP
(ITALICIZED)

1. *Applicant submitted its Initial Solar Project Application for Site Plan Approval And Special Use Permit on February 25, 2020. The application consisted of:*
 - a. *The Cheboygan County Planning Commission (“PC”) site plan review Application (9 pages)*
 - b. *The Cheboygan County Planning Commission (“PC”) special use permit application (9 pages)*
 - c. *A letter dated February 25, 2020, consisting of a narrative explaining how the zoning ordinance requirements are met (22 pages)*
 - d. *Attachment to the County form consisting of leases and easements of the project area (37 pages)*
 - e. *Exhibits to the site plan and special use application consisting of:*
 - i. *Exhibit 3 — Site Plan (12 pages)*
 - ii. *Exhibit 9 — Health and Safety Impacts of Photovoltaic (sic) (19 pages)*
 - iii. *Exhibit 10 — Zoning Overlay Detail Map (1 page)*
 - iv. *Exhibit 11 — Sound Modeling of Cheboygan Solar (RSG) (22 pages)*
 - v. *Exhibit 12 — Visual Simulations (12 pages)*

- vi. *Exhibit 13 — Property Valuation Report (CohnReznick) (108 pages)*
 - vii. *Exhibit 14 — Emergency Safety and Fire Plan (2 pages)*
 - viii. *Exhibit 15 — Vegetative Management Plan (Shoener) (6 pages)*
 - ix. *Exhibit 16 — Structural Specifications (Jinko Solar) (27 pages)*
 - x. *Exhibit 17 — Decommissioning and Final Reclamation Plan (2 pages);*
 - xi. *Exhibit 18 — Property Tax Contribution Chart (1 page)*
2. *The Cheboygan County Planning and Zoning Department determined that the application was administratively complete in that it provided everything required and addressed each of the site plan and special land use standards from the Cheboygan County Zoning Ordinance (“Zoning Ordinance”). Thus, on March 3, 2020, the PC scheduled a public hearing on applicant’s application for March 18, 2020. (See Exhibit 6)*
 3. *Governor Whitmer’s Executive Order No. 2020-15 issued on March 18, 2020, temporarily authorized governmental meetings to be held electronically, but prohibited in-person meetings. The PC adjourned the proposed meeting.*
 4. *On June 1, 2020, Governor Whitmer’s Executive Order No. 2020-110 was issued and continued to prohibit local government meetings of more than 10 people indoors.*
 5. *On June 3, 2020, the PC held the public hearing on applicant’s request electronically. Following applicant’s presentation, a public hearing was held at which several people made comments. Following the close of the public hearing, the PC engaged in some discussion. It then adjourned the consideration of the application until its June 17, 2020, meeting. (See Exhibit 37)*
 6. *On June 17, 2020, applicant provided a letter responding to PC questions from its June 3, 2020, meeting, a revised site plan, and a glint and glare study. (See Exhibit 37)*
 7. *At its June 17, 2020, meeting, the PC re-opened the public hearing in a limited fashion to enable people who had attended the June 3, 2020, PC meeting, but because of electronic difficulty were not able to participate. Following the limited public hearing, the PC engaged in discussion on the application. It then adjourned the consideration of the application to its July 15, 2020, meeting. (See Exhibit 37)*
 8. *On June 22, 2020, applicant supplied the PC with a site plan comparison, a supplemental memorandum to the property valuation report, and a memorandum regarding MDNR comments on the project. In this submittal, applicant requested that the PC hold a special meeting on June 30, 2020, to continue its discussion on the application. (See Exhibit 37)*

FINDINGS OF FACT UNDER SECTION 17.30.6.C OF THE ZONING ORDINANCE

A. Setbacks:

i. All Level 3 SES-PV Systems along with their supporting structures, inverters and supporting buildings and equipment (excluding fencing, vegetative screening, berms, roads, underground cables and generator systems step-up transformer facilities) shall comply with the following setbacks:

- a) 100 feet from any dwelling. This setback may be waived or reduced if requested by the owner of the dwelling to be screened.
- b) 50 feet from any Level 3 SES-PV Facility perimeter not abutting a private or public road unless requested to be waived by the property owner of the parcel to be screened.
- c) 50 feet from any public or private road right-of-way.
- d) 500 feet from any major body of water as listed in Section 10.1.2.
- e) 40 feet from any perennial stream, other than those listed in Section 10.1.2, shown as part of the P-LS zoning district. However, underground cables may be allowed if permitted by the Michigan Department of Environmental Quality (MDEQ) and the Army Corps of Engineers.

ii. The generator system step-up transformer facility and any electrical storage facility shall meet the following setbacks:

- a) 500 feet from any dwelling.
- b) 250 feet from any public or private road abutting the Level 3 SES-PV Facility perimeter of or bisecting the project.
- c) 500 feet from the ordinary high water mark of any body of water listed in Section 10.1.2.

iii. All tree plantings utilized for screening shall have setbacks of seven (7) feet from any property line, public or private road right(s)-of-way, utility or driveway easement(s) or the Level 3 SES-PV Facility perimeter. The seven (7) foot setback shall be measured at the time of planting from the center of the trunks of the trees used for screening.

iv. Fencing shall be no closer than one (1) foot from any property line, public road right(s)-of-way, utility or driveway easement(s) or the established Level 3 SES-PV Facility perimeter. Fencing is considered a security measure and cannot be considered as adequate screening for a Level 3 SES-PV System.

1. The Planning Commissions finds that the Project would comply with the applicable minimum setback requirements, above. (See Exhibits 1, 3, 4, 12, 15, 16, 30 and 37)
2. The Planning Commission finds that the Project will exceed setback requirements around dwellings by maintaining a 250-foot setback and a 50-foot setback from perennial streams other than those listed in Section 10.1.2. (See Exhibits 1, 3, 4, 12, 15, 16, 30 and 37)
3. Standard has been met.

OR

1. None found.
2. Standard has not been met.

**A. FINDINGS OF FACT UNDER SECTION 17.30.6.C OF THE ZONING ORDINANCE
SUBMITTED BY ORION RENEWABLE ENERGY GROUP (ITALICIZED)**

1. *The Planning Commission finds that all Level 3 SES-PV panels, inverters, supporting structures, buildings and equipment will be set back at least, and in many cases substantially greater than, 100 feet from all dwellings, 50 feet from the facility perimeter, 50 feet from all public and private road rights-of-way, 500 feet from any major body of water, and 40 feet from any perennial stream. The Planning Commission further finds that in many instances, the Level 3 SES-PV equipment will be set back substantially further than the ordinance minimum distances. (See Exhibits 3, 7, 16, 30 and 37)*
2. *The Planning Commission finds that the generator system step-up transformer and all electrical storage facilities will be over 500 feet from any dwelling, over 250 feet from any public or private road abutting the facility perimeter, and over 500 feet from the ordinary high water mark of any body of water. The Planning Commission further finds that, in fact, in many instances, the generator system transformer and electrical storage facilities are set back substantially further than these minimum distances. (See Exhibits 3, 7, 16, 30 and 37)*
3. *The Planning Commission finds that all tree plantings utilized for screening will setback at least seven (7) feet from any property line, public or private right-of-way, utility or driveway easement(s) or the facility perimeter. The Planning Commission further finds that, in fact, in many instances the tree plantings are set back substantially more than these minimums. (See Exhibits 7, 15, 33 and 37)*
4. *The Planning Commission finds that all proposed fencing will be greater than 1 foot from all property lines, public road right(s)-of-way, utility and driveway easement(s) and the facility perimeter. (See Exhibit 7)*

B. Vegetative Screening and Landscaping:

- i. Level 3 SES-PV facilities abutting a public or private road or property line of an adjacent parcel shall comply with the following requirements:
 - a) Screening shall be required along any public or private road right(s)-of-way and opposite any dwelling on the same or adjacent parcels unless the owner of the dwelling to be screened requests in writing otherwise.

b) Evergreen coniferous trees or a combination of trees and berms shall be the minimum acceptable methods of screening wherever screening is required.

c) Minimum height at time of planting requirements for trees utilized for screening are as follows:

1. Trees planted opposite a dwelling shall be a minimum of eight (8) feet tall at the time of planting. The tree height may be reduced by one (1) foot for each one (1) foot in the height of the berm on which it is planted, i.e., the total of the berm and tree height must be a minimum of eight (8) feet in height. If the road bed is elevated above the surrounding land surface at the location requiring screening, tree tops shall be at least eight (8) feet above the road surface.

2. Tree height at the time of planting shall not be allowed to be reduced below four (4) feet in height regardless of berm height (see Figure 2).

3. Trees planted for screening along road right(s)-of-way not opposite a dwelling shall require a minimum height at the time of planting of five (5) feet.

ii. Buried electrical cables within easements used to connect noncontiguous parcels with the Level 3 SES-PV facility, although an integral part of the facility, shall not require screening regardless of proximity to any dwelling.

iii. All tree plantings or combination of trees and berms utilized for screening opposite a dwelling shall extend 100 feet in either direction from a point on the Level 3 SES-PV facility perimeter directly opposite the midpoint of the opposing dwelling.

iv. In the event a property line lies within the road right(s)-of-way, setbacks shall be measured from the edge of the road right(s)-of-way.

v. At road or driveway intersections, vegetative screening or combination of trees and berms or fences shall be established or maintained in a manner that does not obstruct the view of vehicular traffic in any direction. All right-of-way intersections shall be provided and maintained with a clear unobstructed vision corner extending not less than 20 feet from all right-of-way line intersections along said right-of-way line in the form of a triangle.

vi. Natural vegetative screening is encouraged to be incorporated and maintained into the evergreen coniferous tree screening requirements per Section 17.30.6.C.B. However, natural vegetative screening shall be considered an addition to, and not a replacement for, the evergreen coniferous tree screening requirements.

vii. All trees planted for screening shall be maintained in good condition for the life of the project. All dead, dying or diseased trees shall be replaced within one (1) year with trees in compliance with the standards set forth in this Section.

1. The Planning Commission finds that the Project would comply with the minimum vegetative screening and landscaping requirements, above. (See Exhibits 7, 15, 30 and 33)
2. The Planning Commission finds that the applicant plans to exceed the 5 foot height requirement of B.i.(c)3 by having all trees used for screening be 9 feet in height. (See Exhibits 7, 15, 30 and 33)
3. Standard has been met.

OR

- 1.
2. Standard has not been met.

B. FINDINGS OF FACT UNDER SECTION 17.30.6.C OF THE ZONING ORDINANCE SUBMITTED BY ORION RENEWABLE ENERGY GROUP (ITALICIZED)

1. *The Planning Commission finds that screening is proposed along all public and private road right(s)-of-way and opposite all dwellings on the same or adjacent parcels. The Planning Commission further finds that the screening is proposed to be a combination of evergreen coniferous trees and berms. The Planning Commission further finds that the trees are proposed to be a minimum of eight (8) feet tall at the time of planting. (See Exhibits 7, 15, 30, 33 and 37)*
2. *The Planning Commission finds that all screening and landscaping is proposed to extend a minimum of 100 feet in both directions from a point on the facility perimeter directly opposite the midpoint of the opposing dwelling. (See Exhibits 7, 15, 30, 33 and 37)*
3. *The Planning Commission finds that all setbacks are measured from the edge of all road rights-of-way. (See Exhibits 7, 10, 30 and 37)*
4. *The Planning Commission finds that at road or driveway intersections, vegetative screening and fencing will not obstruct the view of vehicular traffic in any direction, and clear unobstructed vision corners will be preserved not less than 20 feet from all right-of-way lines. (See Exhibits 7, 10, 28, 30 and 37)*

C. Noise:

No level 3 SES-V facility shall generate noise that, when measured at the Level 3 SES-PV Facility's perimeter, shall exceed 60 decibels (dBA). This standard does not apply during construction, routine equipment maintenance, repair or replacement, or at the time of decommissioning and reclamation.

1. The Planning commission finds that the Project would comply with the maximum dBA standard, as sound simulations performed at various locations in the Project site demonstrate compliance. (See Exhibits 7, 11, 38 and 39)
2. The Planning Commission finds that Exhibit D, Sound Simulations indicates that the highest sound level at the Project boundary line is 49 dBA and the highest sound level at any residence is 45 dBA. (See Exhibits 7, 11, 37 and 39)
3. Standard has been met.

OR

1. None found.
2. Standard has not been met.

**C. FINDINGS OF FACT UNDER SECTION 17.30.6.C OF THE ZONING ORDINANCE
SUBMITTED BY ORION RENEWABLE ENERGY GROUP (ITALICIZED)**

1. *The Planning Commission finds that the facility will generate noise less than 60 dBA at the perimeter. The Planning Commission further finds that RSG in its Sound Modeling of Cheboygan Solar report dated February 13, 2020 modeled the predicted noise levels at the facility boundaries using actual site conditions and project equipment in accordance with ISO 9613-2 standards. The Planning Commission further finds that this procedure takes into account source sound power levels, ground surface reflection and absorption, geometric divergence, meteorological conditions, walls, barriers, berms and terrain. The Planning Commission further finds that the study assumes downwind sound propagation between every source and every receiver, and assumes weather conditions favorable to sound propagation, and thus is conservative in its approach. (See Exhibits 7, 11, 38 and 39)*
2. *The Planning Commission finds that the modeling software is widely used by sound professionals in the U.S. (See Exhibits 7 and 11)*
3. *The Planning Commission finds that the results of the modeling are that the maximum property line sound level will be 49 dBA, which is 11 dBA below the standard. (See Exhibits 7 and 11)*

D. Electrical Interconnections:

All electrical interconnections or distribution lines shall comply with all applicable codes and standards. Only existing above-ground transmission lines as well as above-ground transmission lines from the project generation station step-up transformer facility to the point of interconnection with transmission lines are permitted above ground. All other electrical interconnections shall be buried unless other requirements are determined at the time of building permit review.

1. The Planning Commission finds that the Project would comply with the aforementioned requirements with the only overhead lines located from the step-up transformer site to the transmission line immediately next to the transformer facility. (See Exhibits 7, 28, 30 and 37)

2.

3. Standard has been met.

OR

1. None found.
2. Standard has not been met.

D. FINDINGS OF FACT UNDER SECTION 17.30.6.C OF THE ZONING ORDINANCE SUBMITTED BY ORION RENEWABLE ENERGY GROUP (ITALICIZED)

1. *The Planning Commission finds that all electrical interconnections from the project to the substation will comply with existing codes. (See Exhibits 7, 28, 30 and 37)*
2. *The Planning Commission finds that all electrical transmission lines from the solar panels to the substation will be buried. The Planning Commission further finds that only the transmission lines from the project generator station step-up transformer facility to the existing overhead transmission lines will be above ground. (See Exhibits 7, 28, 30 and 37)*

E. Height Restriction:

Level 3 SES-PV solar collection panels with their support structures shall not exceed 20 feet in height when oriented at maximum tilt. All other structures except those within the generation station step-up transformer facility and associated transmission towers shall be limited to thirty-five (35) feet. Equipment within the generation station step-up transformer facility shall be exempt from height restrictions.

1. The Planning Commission finds that as shown in the Site Plan (See Exhibits 7, 28, 29, 30 and 37), the typical maximum height of PV panels is less than 10 feet. The inverters are 7.5 feet high and the utility building is 27.2 feet high.
- 2.
3. Standard has been met.

OR

1. None found.
2. Standard has not been met.

**E. FINDINGS OF FACT UNDER SECTION 17.30.6.C OF THE ZONING ORDINANCE
SUBMITTED BY ORION RENEWABLE ENERGY GROUP (ITALICIZED)**

1. *The Planning Commission finds that the project's solar collection panels with their support structures will be between 8' – 10' high, depending on their tilt. The Planning Commission further finds that the project anemometers will be 10' high. The Planning Commission further finds that the project inverters will be 7' - 5 1/4" high. (See Exhibit 8, Sheets C-202 and C-203, and Exhibit 16, 28, 30 and 37)*
2. *The Planning Commission finds that the project's O&M building will be 16'-6" to the eaves and 26'-6" to the peak. (See Orion Exhibit 7, sheet C-204 and Exhibits 30 and 37)*

F. Performance Guarantee:

In conjunction with the approval of a Level 3 SES-PV System the Planning Commission shall require the owner of the Level 3 SES-PV System to furnish the County with a performance guarantee in the form of a cash deposit, certified check, irrevocable letter of credit or surety bond acceptable to the County in an amount equal to the estimated costs associated with removal of the Level 3 SES-PV facility, including all solar panels, supporting structures, inverters, transformers and all associated equipment in accordance with the decommissioning and restoration plan in Section 17.30.3.3.M.

This performance guarantee shall be furnished prior to the construction of the Level 3 SES-PV System and may be combined with any performance guarantee required to be given to the owner of the site.

1. The Planning Commission finds that a Performance Guarantee would be furnished after issuance of zoning permits and prior to construction. Applicant understands this requirement for a performance guarantee and will comply with it. (See Exhibits 1, 6 and 17)
- 2.
3. Standard has been met.

OR

1. None found.
2. Standard has not been met.

**F. FINDINGS OF FACT UNDER SECTION 17.30.6.C OF THE ZONING ORDINANCE
SUBMITTED BY ORION RENEWABLE ENERGY GROUP (ITALICIZED)**

1. *The Planning Commission finds that the applicant proposes to provide a description of the financial security guaranteeing the removal of the system. The Planning Commission further finds that it shall be in the form*

acceptable to the County Board, based on the net removal cost, and will the County as beneficiary. (See Exhibits 1 and 17)

2. *The Planning Commission finds that the amount will be estimated by the project engineer. The Planning Commission further finds that the estimate will be updated every 5 years and be subject to County approval. (See Exhibits 1 and 17)*

G. Final Reclamation:

Any Level 3 SES-PV System not operated for a continuous period of twelve (12) months shall be considered abandoned. The owner of any Level 3 SES-PV System that is abandoned as provided herein shall be removed from the property upon receipt of notice from the Zoning Administrator of such abandonment, or the end of operation under the terms and conditions of this subsection. The timeframe for final reclamation shall be determined and approved by the Planning Commission and made a condition of approval of the special use permit. Except as provided herein, the Level 3 SES-PV System shall be removed from the property by the owner of the Level 3 SES-PV System, including all structures, equipment, components, and subsystems, except underground cables buried at a depth greater than three (3) feet. Berms and trees, service roads and fencing, however, if requested by the owner of the property on which the Level 3 SES-PV System is located, shall be permitted to remain.

Furthermore, the property owner may request that the property on which the Level 3 SES-PV System functioned remain unvegetated.

1. The Planning Commission finds that the Applicant has communicated understanding of the final reclamation requirements and will comply with them as needed. (See Exhibits 1, 6 and 17)
- 2.
3. Standard has been met.

OR

1. None found.
2. Standard has not been met.

G. FINDINGS OF FACT UNDER SECTION 17.30.6.C OF THE ZONING ORDINANCE SUBMITTED BY ORION RENEWABLE ENERGY GROUP (ITALICIZED)

1. *The Planning Commission finds that the applicant proposes to remove all non-utility owned equipment, including conduit buried at less than three feet, structures, fencing, roads and foundations. (See Exhibits 7 and 17)*
2. *The Planning Commission finds that the applicant proposes to restore the property to its original condition, unless directed otherwise by the Lessor of the property. (See Exhibits 7 and 17)*

FINDINGS OF FACT UNDER SECTION 18.7 OF THE ZONING ORDINANCE

The Planning Commission makes the following findings of fact as required by Section 18.7 of the Zoning Ordinance for each of the following standards listed in that section:

- a. The property subject to the application is located in a zoning district in which the proposed special land use is allowed.
1. The Planning Commission finds that the Applicant requests a special use permit for a Level 3 Solar Energy System – Photovoltaic (SES-PV) on leased, private land in Grant Township. (See Exhibits 4, 6, 7 and 30)
 2. The Planning Commission finds that the subject properties are zoned Agriculture and Forestry Management (M-AF) and Lake and Stream Protection (P-LS). (See Exhibits 3, 4, 7 and 30)
 3. The Planning Commission finds that the Level 3 Solar Energy Systems – Photovoltaic (SES-PV) is a land use that requires a special use permit in the Agriculture and Forestry Management (M-AF) and Lake and Stream Protection (P-LS) zoning districts, pursuant to Sections 9.3.27 and 10.3.16, respectively, of the Zoning Ordinance. (See Exhibit 1)
 - 4.
 5. Standard has been met.

OR

1. The Planning Commission finds that uses classified as special land uses are recognized as possessing unique characteristics (relative to location, design, size, public infrastructure needs, and other similar characteristics) which require individual review and approval standards in order to safeguard the general health, safety, and welfare of the County.
2. The Planning Commission finds that special land uses have been determined to have such characteristics that a discretionary, site-specific review by the Planning Commission is necessary to evaluate whether the particular use, as proposed, is compatible, or can be made compatible, with neighboring land uses and other uses permitted in the zoning district. Special land uses may not be appropriate at all locations within a particular zoning district.
4. Standard has not been met.

a. **FINDINGS OF FACT UNDER SECTION 18.7 OF THE ZONING ORDINANCE
SUBMITTED BY ORION RENEWABLE ENERGY GROUP (ITALICIZED)**

1. *The Planning Commission finds that the property within 500-feet of a river or stream is located in the P-LS district which allows Level 3 SES-PV by special land use permit. The Planning Commission further finds that*

property more than 500-feet from streams is located in the M-AF district which allows Level 3 SES-PV by special land use permit. (See Exhibits 1, 3, 4, 7, 10, 28 30 and 37)

2. *Standard has been met.*

b. The proposed special land use will not involve uses, activities, processes, materials, or equipment that will create a substantially negative impact on the natural resources of the County or the natural environment as a whole.

1. The Planning Commission finds that the subject parcels are zoned Agriculture and Forestry Management (M-AF) and Lake and Stream Protection (P-LS). (See Exhibits 3, 4, 7, 10 and 30)
2. The Planning Commission finds that the Level 3 Solar Energy System – Photovoltaic (SES-PV) would operate every day and for 24 hours per day during operation phase. (See Exhibits 4, 5, 7, 28, and 30)
3. The Planning Commission finds that the subject properties for the proposed Level 3 Solar Energy System – Photovoltaic (SES-PV) are zoned Agriculture and Forestry Management (M-AF) and Lake and Stream Protection (P-LS) and encompass approximately 1,566 acres on 31 parcels. (See Exhibits 4, 5, 6, 7, 10, 29 and 30)
4. The Planning Commission finds that Level 3 Solar Energy Systems - Photovoltaic (SES-PV) are permitted by special use in the Agriculture and Forestry Management (M-AF) and Lake and Stream Protection (P-LS) zoning districts pursuant to Sections 9.3.27 and 10.3.16, respectively, of the Zoning Ordinance. (See Exhibits 1, 4, 5, 7, 10 and 30)
5. The Planning Commission finds that Level 3 Solar Energy Systems– Photovoltaic (SES-PV) require a special use permit in accordance with Section 18.7., and a site plan review in accordance with Section 20.10 of the Zoning Ordinance. (See Exhibits 1, 3, 4, 7, 10 and 30)
6. The Planning Commission finds that the Project is designed and would be constructed to avoid sensitive natural resources, such as wetlands, riparian areas and trees. The Project site is not known to lie within critical habitat for endangered, threatened or sensitive species. (See Exhibits 7, 15, 28, 30, 33 and 37)
7. Furthermore, the Planning Commission finds that the location of the Project avoids any designated conservation areas or preserves. (See Exhibits 6, 7, 15, 28, 30 and 33)
8. The Planning Commission finds that the native seed mixes and pollinator-friendly vegetation would be planted and maintained that would enhance habitat for pollinating insects, birds and other wildlife. These

activities would be helpful to continued agricultural activities in and around the Project site, and support the natural resources in and surrounding the site. (See Exhibits 7, 15, 28, 30 and 33)

9. The Planning Commission finds that fencing of solar panel location is proposed to be fifty (50) feet from all streams and wetland which allows natural wildlife corridors and habitat for indigenous and migratory wildlife. The type of fencing used will allow small wildlife to pass through it and will not prevent deer from jumping over it. (See Exhibits 7, 15, 28, 30, 33, 36, and 37)
10. The Planning Commission finds that electromagnetic fields generated by solar farms do not pose a hazard to human health or to plant and animal wildlife. A 1997 study by the National Academy of Science which was directed by Congress found: "Based on a comprehensive evaluation of published studies relating to the effects of power-frequency electric and magnetic fields of cells, tissues and organisms (including humans), the conclusion of the committee is that the current body of evidence does not show that exposure to these fields presents a human-health hazard." (See Exhibits 6, 9, 29 and 30)
11. Standard has been met.

OR

1. The Planning Commission finds that fencing will alter wildlife travel patterns and will be detrimental to hunting in the area.
2. The Planning Commission finds that the Project as proposed would encompass approximately 1,566 acres, so there is the potential for observable negative impacts upon, for example, viewsheds, wildlife corridors and habitats, hydrologic systems and agricultural resources.
3. Standard has not been met.

**b. FINDINGS OF FACT UNDER SECTION 18.7 OF THE ZONING ORDINANCE
SUBMITTED BY ORION RENEWABLE ENERGY GROUP (ITALICIZED)**

1. *The Planning Commission finds that the Applicant is seeking a special use permit for a Level 3 SES-PV use. (See Exhibits 1, 3, 4 and 7)*
2. *The Planning Commission finds that the solar panels are spaced and fenced so as to preserve open areas that allows the free movement of wildlife. (See Exhibits 7, 9, 12, 15, 16, 28, 32, 36 and 37)*
3. *The Planning Commission finds that the Michigan Department of Natural Resources has indicated that it is unaware of any potentially significant impacts to the movement of large game species as a result of the*

installation of utility-scale solar projects, and that this has not been an issue for other types of development projects, including those with fragmented fenced areas (See Exhibit 36)

4. *The Planning Commission finds that once constructed, solar facilities do not create odors, sound above County standards, waste, unreasonable amounts of traffic, glare, smoke, or vapors that might negatively impact the County's natural resources or natural environment, nor do they use County's natural resources to generate electricity. (See Exhibits 7, 9, 14, 15, 17, 28, 30, 32 and 36)*
5. *The standard has been met.*

c. The proposed special land use will not involve uses, activities, processes, materials, or equipment, or hours of operation that will create a substantially negative impact on other conforming properties in the area by reason of traffic, noise, smoke, fumes, glare, odors, or the accumulation of scrap material that can be seen from any public or private highway or seen from any adjoining land owned by another person.

1. The Planning Commission finds that Level 3 Solar Energy System – Photovoltaic (SES-PV) would operate every day and for 24 hours per day during operation phase. (See Exhibits 6, 7, 9, 12, 16, 28, 30, 32 and 37)
2. The Planning Commission finds that the Project would comply given that anticipated traffic counts post-construction and during operations would be minor, generating approximately 10 vehicle trips per day by 2-4 full-time employees. Maintenance efforts would enlist up to 20 employees that would generate approximately 50 vehicle trips per day. (See Exhibits 6, 7, 9, 17, 28, 30 and 37)
3. The Planning Commission finds that sound simulations demonstrate that the Project would not generate more than 60 dBA as measured at the property line. (See Exhibits 6, 7, 11, 28, 29, 30 and 37)
4. In addition, the Planning Commission finds that:
 - PV does not generate appreciable noise during nighttime, storms and heavy overcast periods;
 - PV does not generate odors, smoke and/or other pollutants during operation and maintenance;
 - PV is designed to be highly absorptive of photons (sunlight) in order to maximize efficiency, thereby minimizing potential disruptive glare; and
 - PV does not generate scrap or other waste materials during operation.(See Exhibits 6, 7, 9, 16, 28, 29, 30 and 37)
5. A glint and glare analysis was submitted by the applicant (See Exhibit 32)
6. Standard has been met.

OR

1. The Planning Commission finds that the Project as proposed would encompass approximately 1,566 acres, so there is the potential for observable negative impacts upon, for example, viewsheds, wildlife corridors and habitats, hydrologic systems and agricultural resources.
2. The Planning Commission finds that noise generation, particularly from the point-of-interconnect substation, has the potential to compromise quality of life for those residents that live in proximity to the project site.
3. None found.
4. Standard has not been met.

**c. FINDINGS OF FACT UNDER SECTION 18.7 OF THE ZONING ORDINANCE
SUBMITTED BY ORION RENEWABLE ENERGY GROUP (ITALICIZED)**

1. *The Planning Commission finds that the applicant is seeking a special use permit for a Level 3 SES-PV use. (See Exhibits 3, 4, 7-18, 28, 30 and 37)*
2. *The Planning Commission finds that the proposed use would not involve equipment or processes which would generate noise or traffic which is incompatible with the surrounding land uses. The Planning Commission further finds that no smoke, glare, fumes, odors or scrap material would be produced by the Level 3 SES-PV solar panels. (See Exhibits 3, 4, 7-18, 28, 30, 32 and 37)*
3. *The Planning Commission finds that the glint and glare study does not predict any glare occurrences for nearby residences at either single story or second story viewing heights. The Planning Commission finds in addition, that it does not predict any glare occurrences for Hoffman's Black Mountain Aerodrome (2M7) Airport Runway 15/33 approaches. (See Exhibits 3, 4, 7-18, 28, 30, 32 and 37)*
3. *The Planning Commission finds that the RSG sound modeling analysis demonstrated that the noise generated by the solar panels, substation transmission lines and related equipment is well within the County's sound limits. (See Exhibits 11, 28 and 38)*
4. *The Planning Commission finds that the Project will be adequately landscaped and screened in accordance with the Zoning Ordinance requirements, and in some areas going beyond the minimum standards of what the Zoning Ordinance requires. (See Exhibit 7, pages C-101 and 102 and Exhibits 1, 15, 30 37 and 38)*
5. *The Planning Commission finds that a few people expressed concerns at the public hearing about the radiation levels and safety of the Project. The Planning Commission finds that the applicant's Health and Safety Impacts*

of Solar Photovoltaics explained that photovoltaic technology and solar inverters are not known to pose any significant health dangers (See Exhibits 9, 10 and 11). The Planning Commission further finds that the Project areas are already subject to high voltage transmission lines that likely produce substantially more radiation than will the project.

6. *The standard has been met.*

d. The proposed special land use will be designed, constructed, operated, and maintained so as not to diminish the opportunity for surrounding properties to be used and developed as zoned.

1. The Planning Commission finds that Level 3 Solar Energy System – Photovoltaic (SES-PV) would operate every day and for 24 hours per day during the operation phase. (See Exhibits 6-18, 30, 37)
2. The Planning Commission finds that the Project would comply given that anticipated traffic counts post-construction and during operations would be minor, generating approximately 10 vehicle trips per day by 2-4 full-time employees.

Maintenance efforts would enlist up to 20 employees that would generate approximately 50 vehicle trips per day. (See Exhibits 6-18, 28 and 30)

3. The Planning Commission finds that the design, construction, operation, and maintenance of the proposed Project would not diminish opportunities for surrounding property owners to use and develop their properties as zoned. As noted above, the Project would not generate negative off-site impacts from traffic, noise, smoke, fumes, glare, odors, or waste materials that would negatively impact the ability to use or develop surrounding properties. The Project's design complies with the minimum applicable zoning standards (e.g., setback; screening) to help minimize the potential for negative off-site impacts. (See Applications (Exhibits 3 and 4); Project Narrative (Exhibit 6) and Exhibits 7, 9, 11, 12, 14, 15, 28, 29, 30, 32, 33 and 37)
4. The Planning Commission finds that the primary uses of surrounding parcels are farming and residential which are uses that would not be diminished by a solar farm. (See Exhibits 6-18, 28, 30, 32, 35 and 37)
5. The Planning Commission finds that wildlife corridors are provided along all perennial streams and wetlands within the Project despite fenced farms. (See Exhibits 6, 7, 28, 33 and 36)
6. Standard has been met.

OR

1. The Planning Commission finds that the Project as proposed would encompass a large area - approximately 1,566 acres - so there is potential

for observable negative impacts upon, for example, viewsheds, wildlife corridors and habitats, hydrologic systems and agricultural resources.

2. The Planning Commission finds that noise generation, particularly from the point-of-interconnect substation, has the potential to compromise quality of life for those residents that live in proximity to the project site.
3. The Planning Commission finds that some parcels in the area are used for hunting and the fencing of large tracts might alter the travel routes for some wildlife species.
4. Standard has not been met.

**d. FINDINGS OF FACT UNDER SECTION 18.7 OF THE ZONING ORDINANCE
SUBMITTED BY ORION RENEWABLE ENERGY GROUP (ITALICIZED)**

1. *The Planning Commission finds that the applicant is seeking a special use permit for a Level 3 SES-PV use. (See Exhibits 7-18, 28, 30 and 37)*
2. *The Planning Commission finds that the proposed use will not diminish the opportunities for surrounding properties to develop as zoned. The Planning Commission further finds that it is consistent with agricultural uses as previously determined by the Michigan Department of agriculture and Rural Development in its guidance entitled "Policy for Allowing Commercial Solar Panel Development on PA 116 Lands". The Planning Commission further finds that PA 116 is the farmland preservation statute. The Planning Commission further finds that Level 3 SES-PV solar panels do not impact residential or natural resources in protection areas. (See Exhibits 7, 8, 9, 10, 11, 13, 14, 15, 17, 28, 30, 32, 34 and 37)*
3. *The Planning Commission finds that the CohnReznick Property Value Impact Study demonstrated that there is no measurable and consistent difference in property value for properties adjacent to solar farms. The Planning Commission further finds that this was supported by interviews with local real estate brokers who stated that there is no difference in price, marketing periods, or demand for homes directly adjacent to solar farm facilities in Michigan. (See Exhibits 5, 10 and 34)*
4. *The Planning Commission finds that while a few people at the public hearing expressed concerns about the impacts to property values, they presented no empirical data to support their concerns. (See Exhibits 38 and 39)*
5. *The Planning Commission finds that as a result of concerns expressed at the public hearing, the applicant removed numerous proposed solar panels, so as to provide additional setbacks from the people expressing those concerns. (See Exhibits 30, 32, 33 and 37)*
6. *The standard has been met.*

e. The proposed special land use will not place demands on fire, police, or other public resources in excess of current capacity nor increase hazards from fire or other dangers to the subject property or adjacent properties.

1. The Planning Commission finds that the Project would not require public resources greater than current capacity, nor increase hazards from fire or other dangers. (See Applications (Exhibits 3 and 4); Project Narrative (Exhibit 6) and Exhibits 7,9,14, 17, 28, 30, 32 and 37)
2. The Planning Commission finds that the Project site incorporates a variety of security features and will pose minimal fire risk. The Project site is accessible from both a primary and secondary access driveway. These driveways are each provided with 30-foot double swing gates with "Knox Box" for keyed entry. Internal roads are proposed between arrays, as well as around the Project site inside the perimeter security fence to provide access for operational and emergency vehicles. (See Exhibits 6, 7, 14, 16, 28, 30 and 37)
3. The Planning Commission finds that the Level 3 Solar Energy System – Photovoltaic (SES-PV) would operate every day and for 24 hours per day during operation phase. (See Exhibits 6, 7, 28, 30 and 37)
4. The Planning Commission finds that the Project would comply given that anticipated traffic counts post-construction and during operations would be minor, generating approximately 10 vehicle trips per day by 2-4 full-time employees. Maintenance efforts would enlist up to 20 employees that would generate approximately 50 vehicle trips per day. (See Exhibits 4, 6, 7, 28, and 30)
5. The project site is served by the Alverno Fire Department and Cheboygan County Sheriff's Department. (See Exhibits 6, 7 and 14)
6. Standard has been met.

OR

- 1.
2. Standard has not been met.

e. FINDINGS OF FACT UNDER SECTION 18.7 OF THE ZONING ORDINANCESUBMITTED BY ORION RENEWABLE ENERGY GROUP (ITALICIZED)

1. The Planning Commission finds that the applicant is seeking a special use permit for a Level 3 SES-PV use. (See Exhibits 3, 4 and 7)
2. The Planning Commission finds that the use would not place additional demands on police or other public resources in excess of current capacity, as the property will be largely unoccupied (other than maintenance activities)

3. Applicant will provide an emergency response plan to the County at or prior to the time of seeking building permits, which will be agreed to by the local fire department. (See Exhibits 7, 14, 16, 28, 30, 37 and 38)
4. The Planning Commission finds that the Project will provide over \$7 million in property taxes, which far exceeds the cost of demands that the project will place on public resources. (See Exhibit 18)
5. The standard has been met.

f. The proposed special land use shall not increase traffic hazards or cause congestion on the public or private highways and streets of the area in excess of current capacity. Adequate access to the site shall be furnished either by existing roads and highways or proposed roads and highways. Signs, buildings, plantings, or other elements of the proposed project shall not interfere with driver visibility or safe vehicle operation. Entrance drives to the use and to off-street parking areas shall be no less than 25 feet from a street intersection (measured from the road right-of-way) or from the boundary of a different zoning district.

1. The Planning Commission finds that the Project would not create traffic congestion or increase traffic-related hazards adjacent to (and in the vicinity of) the Project site, located in an area of the County with an established circulation system with conditions that allow easy access with minimal, if any, changes to existing circulation or traffic patterns anticipated during facility operation. (See Exhibits 4, 6, 7, 14, 16, 28, 30, 37 and 38)
2. The Planning Commission finds that given negligible trip generation during facility operation, associated traffic would be negligible given only 2-4 full-time employees. Points of ingress/egress and off-street parking would be 25 feet at a minimum from intersections. (See Exhibits 7, 14, 28, and 30)
3. The Planning Commission finds that the subject properties are located in Grant Township and generally located 13 miles southeast of the City of Cheboygan along North Black River Road, south of Twin Lakes Road and bounded by Ross Road to the south and Page Road to the north, Chamberlin Road to the east and Trudeau Road to the west. (See Exhibits 6, 7, 10, 28 and 30)
4. The Planning Commission finds that the Level 3 Solar Energy System – Photovoltaic (SES-PV) does not require water service to operate. (See Exhibits 6, 7, 28 and 30)
5. The Planning Commission finds that collector roads would serve the Project and offer an adequate level of service capacity. Given negligible trip generation at operation, associated traffic would likely be unnoticeable given 2-4 full-time employees. Points of ingress and egress and off-street parking would be 25 feet at a minimum from intersections. (See Exhibits 6, 7, 10, 28, 30 and 37). The Planning Commission also finds that the Applicant would coordinate with the County Road Commission in order to minimize potential roadway conflict during construction. (See Exhibits 6 and 20)

6. The Planning Commission finds that traffic during the construction phase would average less than 500 per day, and approximately 10 per day during normal operations. (See Orion letter dated February 25, 2020, page 14 (Exhibit 6) and Exhibits 7, 14, 28 and 30)
7. Standard has been met.

OR

1. The Planning Commission finds that the Project could create traffic congestion or increase traffic-related hazards adjacent to (and in the vicinity of) the Project site, particularly during construction phases. (See Exhibits 6, 7, 14, 28, 30, and 37)
2. Standard has not been met.

f. FINDINGS OF FACT UNDER SECTION 18.7 OF THE ZONING ORDINANCE SUBMITTED BY ORION RENEWABLE ENERGY GROUP (ITALICIZED)

1. *The Planning Commission finds that access to the site is provided by driveways from Trudeau Rd (2), N. Beach River Road, Black River Road (2), Page Road, Twin Lakes Road (5), Owens Road (5), Hansen Road (4) and Ross Road (2) (See Exhibit 7, Sheet C-002 and Exhibits 30, 37 and 38).*
2. *The Planning Commission finds that these access driveways are adequately spaced from existing driveways and intersections, or are directly across from each other, so as to not create traffic hazards given the infrequent use anticipated for them. (See Exhibits 7, 30, 37 and 38)*
3. *The standard has been met.*

g. The proposed special land use will be adequately served by water and sewer facilities, and refuse collection and disposal services.

1. The Planning Commission finds that operations and maintenance building would be served by well and septic.

The Project would not utilize significant volumes of water when operational (groundwater would not be used to clean solar modules), but newly planted herbaceous and woody plants and seeds would require regular watering until established. Trash and other refuse would be hauled offsite to an authorized area landfill. (See Exhibits 6, 7, 16, 28, 30 and 33)
2. Standard has been met.

OR

- 1.
2. Standard has not been met.

g. FINDINGS OF FACT UNDER SECTION 18.7 OF THE ZONING ORDINANCE SUBMITTED BY ORION RENEWABLE ENERGY GROUP (ITALICIZED)

1. *The Planning Commission finds that the site will be adequately served by on-site water and sewer facilities as well as refuse collection and disposal for the only portions of the use that will have short-term human use. The Planning Commission further finds that the vast majority of the project (the Level 3 SES-PV panels) do not require water or sewer facilities, nor do these generate refuse. (See Exhibits 7, 16, 28, 30, 37 and 38)*
2. *The standard has been met.*

h. The proposed special land use will comply with all specific standards required under this Ordinance applicable to it.

1. The Planning Commission finds that the Project will meet or exceed all specific standards required under the Zoning Ordinance, including the standards for granting site plan approval in Section 20.10 and the standards applicable to Level 3 SES-PV Systems in Section 17.30.6.C. of the Zoning Ordinance, including minimum building setbacks, screening requirements, parking and maximum height. (See Project Narrative (Exhibit 6); Exhibits 1, 7-18, 28, 30, 33 and 37)
2. The Planning Commission finds that future land uses per the Cheboygan County Master Plan include Farm/Agricultural and Public Interest Land. (See Exhibit 2)
3. Standard has been met.

OR

1. The Planning Commission finds that the Project as proposed would encompass a large area - approximately 1,566 acres - so there is potential for observable negative impacts upon, for example, viewsheds, wildlife corridors and habitats, hydrologic systems and agricultural resources.
2. The Planning Commission finds that noise generation, particularly from the point-of-interconnect substation, has the potential to compromise quality of life for those residents that live in proximity to the project site.
3. Standard has not been met.

**h. FINDINGS OF FACT UNDER SECTION 18.7 OF THE ZONING ORDINANCE
SUBMITTED BY ORION RENEWABLE ENERGY GROUP (ITALICIZED)**

1. *The Planning Commission finds that the special land use will comply with all relevant standards required under the ordinance. (See Exhibits 8-18, 28, 30, 37 and 38)*
2. *The standard has been met.*

SPECIFIC FINDINGS OF FACT UNDER SECTION 20.10 OF THE ZONING ORDINANCE

The Planning Commission makes the following findings of fact as required by Section 20.10 of the Zoning Ordinance for each of the following standards listed in that Section:

a. The site plan shall be designed so that there is a limited amount of change in the overall natural contours of the site and shall minimize reshaping in favor of designing the project to respect existing features of the site in relation to topography, the size and type of the lot, the character of adjoining property and the type and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this Ordinance.

1. The Planning Commission finds that utility-scale PV or "solar farms" are typically sited on terrain with little slope, as is the case with the Project site, and therefore minimal changes to the natural contours would occur during site preparation and construction. (See Exhibits 6, 7, 8, 12, 15, 16, 28, 30, 31 and 37)
2. The Planning Commission finds that although site grading, as well as tree and vegetation grubbing, would occur as part of site preparation, effort would be made to maintain existing, viable trees and vegetation to maintain landscape aesthetic, enhance proposed vegetative screening and stabilize soils. Trees and various varieties of native plants would be planted post-construction and maintained during operation; doing so would help in remediating pre-construction tree and vegetation removal. (See Exhibits 6, 7, 12, 15, 28, 30, 32, 33 and 37)
3. The Planning Commission finds that minimal changes to natural contours of the site would occur during site preparation and construction given level terrain. (See Project Narrative (Exhibit 6); Exhibits 7, 15, 28, 33 and 37)
4. Standard has been met.

OR

1. None found.
2. Standard has not been met.

a. **SPECIFIC FINDINGS OF FACT UNDER SECTION 20.10 OF THE ZONING ORDINANCE SUBMITTED BY ORION RENEWABLE ENERGY GROUP (ITALICIZED)**

1. *The Planning Commission finds that the property area is relatively flat. The Planning Commission further finds that it has been use historically for agriculture. (See Exhibits 7, 10, 15, 28, 33, 37 and 38)*
2. *The Planning Commission finds that there will be only minor change in natural contours of the site and the proposed addition of Level 3 SES-PV panels will not impede the normal and orderly development or improvements of surrounding property. It is consistent with agricultural*

uses as previously determined by the Michigan Department of agriculture and Rural Development in its guidance document entitled "Policy for Allowing Commercial Solar Panel Development on PA 116 Lands". The Planning Commission further finds that PA 116 the farmland preservation statute.

3. *The Planning Commission finds that Level 3 SES-PV solar panels and related equipment do not impact residential uses or natural resources in protection areas. (See Exhibits 7, 9, 10, 12, 14, 15, 16, 17, 23, 28, 30, 33, 37 and 38)*
4. *The standard has been met.*

b. The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and by topographic modifications which result in smooth natural appearing slopes as opposed to abrupt changes in grade between the project and adjacent areas.

1. The Planning Commission finds that utility-scale PV or "solar farms" are typically sited on terrain with little slope, as is the case with the Project site, and therefore minimal changes to the natural contours would occur during site preparation and construction. (See Project Narrative; Exhibit A) The Planning Commission also finds that the Project site ranges in 620-680 above mean sea level 680 feet at the Northwest corner to 620 feet at the Southeast corner over three (3) miles away. (See Exhibits C101 and C102).
2. The Planning commission finds that although site grading, as well as tree and vegetation grubbing, would occur as part of site preparation, effort would be made to maintain existing, viable trees and vegetation to maintain landscape aesthetic, enhance proposed vegetative screening and stabilize soils. Trees and various varieties of native plants would be planted post-construction and maintained during operation; doing so would help in remediating pre-construction tree and vegetation removal. (See Exhibits 6, 7, 15, 30, 33 and 37)
3. The Planning Commission finds that fenced portions of the project area are located primarily on land which had previously been used for farming and was already cleared therefore eliminating the need for further clearing or grading. (See Exhibit 6, 7, (pp. 101 and 102) and Exhibits 15, 28, 30, 33 and 37)
4. Standard has been met.

OR

1. The Planning Commission finds that some clearing and grading will occur in the construction phase.
2. Standard has not been met.

b. SPECIFIC FINDINGS OF FACT UNDER SECTION 20.10 OF THE ZONING ORDINANCE SUBMITTED BY ORION RENEWABLE ENERGY GROUP (ITALICIZED)

1. *The Planning Commission finds that there will be only minor changes in slope or grade on the property in question. The Planning Commission further finds that native soil will be kept in place and preserved for future uses. The Planning Commission further finds that the property's natural state relative to adjacent properties would be largely preserved. (See Exhibits 7, 9, 10, 11, 13, 14, 15, 28, 30, 33, 37 and 38)*
 2. *The Planning Commission finds that the property areas have mainly been used historically for agriculture, thus substantially minimizing tree removal. (See Exhibits 7, 10, 28, 30, 37 and 38)*
 3. *The Planning Commission finds that the Shoener Vegetative Management Plan is designed to avoid, minimize and/or mitigate impacts related to stormwater runoff/retention, soil quality and vegetative resources. (See Exhibits 7, 9, 15 and 33)*
 4. *The standard has been met.*
-

c. Special attention shall be given to proper site drainage so that removal of storm waters will not adversely affect neighboring properties.

1. The Planning Commission finds that stormwater would be maintained on the Project site. The Preliminary Vegetative Management Plan is designed to reduce stormwater runoff, improve soils, and create habitat for various pollinators, namely bees and butterflies. Fenced solar panel locations will not adversely affect storm water runoff, due to the fact that solar panels are not considered impervious. (See Exhibits 6, 7, 12, 30, 33)
2. The Planning Commission finds that step-up transformer site composing 52,370 square feet exceeds the 8,000 square feet impervious service limitation and will be covered by the storm water management plan. (See Exhibits 6, 7, 14, 28, 29, 30, 33 and 37)
3. Standard has been met.

OR

1. The Planning Commission finds that the step-up transformer site (52,370 square feet) exceeds the 8,000 square feet impervious surface requirement.
 2. Standard has not been met.
-

c. SPECIFIC FINDINGS OF FACT UNDER SECTION 20.10 OF THE ZONING ORDINANCE SUBMITTED BY ORION RENEWABLE ENERGY GROUP (ITALICIZED)

1. *The Planning Commission finds that stormwater drainage would not be diverted to neighboring properties. The Planning Commission further finds that the Project will obtain a Part 91 (Soil Erosion and Sedimentation Control) permit. The Planning Commission further finds that the applicant will also receive Drain Commission approval at or prior to the time of seeking building permits. (See Exhibits 7, 28, 30, 37 and 38)*
2. *The standard has been met.*

d. The site plan shall provide reasonable, visual and sound privacy for all dwelling units located therein. Fences, walls, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.

Not applicable, as no dwelling units are proposed.

d. SPECIFIC FINDINGS OF FACT UNDER SECTION 20.10 OF THE ZONING ORDINANCE SUBMITTED BY ORION RENEWABLE ENERGY GROUP (ITALICIZED)

1. *The Planning Commission finds that no dwellings are proposed for the site. The Planning Commission further finds that landscaping and screening will be provided in accordance with the Zoning Ordinance requirements to shield off-site dwellings. (See Exhibits 7, 10, 12, 15, 28, 30, 33, 37 and 38)*

e. All buildings or groups of buildings should be so arranged as to permit emergency vehicle access by some practical means.

1. The Planning Commission finds that a practical means for access by emergency vehicles is provided via numerous access points via local collector roads and internal operations and maintenance roads. (See Exhibits 6, 7, 14, 28, 30, 33, and 37)
2. The Planning Commission finds that the project substation and maintenance building which has direct access off Owens Road. (See Exhibits 6, 7, 14, 28, 30 and 37)
3. Standard has been met.

OR

1. None found.
2. Standard has not been met.

e. SPECIFIC FINDINGS OF FACT UNDER SECTION 20.10 OF THE ZONING ORDINANCE SUBMITTED BY ORION RENEWABLE ENERGY GROUP (ITALICIZED)

1. *The Planning Commission finds that the site plan provides full access by emergency vehicles to all Level 3 SES-PV solar panels, the substation and maintenance building. (See Exhibits 7, 28, 30, 37 and 38)*
2. *The standard has been met.*

f. Every structure or dwelling unit shall have access to a public street, walkway or other area dedicated to common use.

1. The Planning Commission finds that the onsite project substation and operations and maintenance building would have access to public roadways, principally Owens Road. (See Project Narrative (Exhibit 6); Exhibits 7, 14, 28, 30 and 37)
2. Standard has been met.

OR

1. None found.
2. Standard has not been met.

f. SPECIFIC FINDINGS OF FACT UNDER SECTION 20.10 OF THE ZONING ORDINANCE SUBMITTED BY ORION RENEWABLE ENERGY GROUP (ITALICIZED)

1. *The Planning Commission finds that there are no dwellings proposed for the project. The Planning Commission further finds that Level 3 SES-PV solar panels will be accessible by the access drives identified in subsection f of Section 18.7 above. (See Exhibits 7, 10, 12, 14, 16, 28, 30, 37 and 38)*
2. *The standard has been met.*

g. For subdivision plats and subdivision condominiums, there shall be a pedestrian circulation system as approved by the Planning Commission.

Not applicable, as no subdivision condominiums or subdivision plats are proposed.

h. Exterior lighting shall be arranged as follows: a. It is deflected away from adjacent properties, b. It does not impede the vision of traffic along adjacent streets and c. It does not unnecessarily illuminate night skies.

1. The Planning Commission finds that the Project would comply with the lighting standards as provided in Sections 3.7.1 and 20.10 of the Zoning Ordinance. For example, per the submitted application, all lighting, including for access, maintenance and security purposes, would be shielded and directed downward to minimize light trespass or light pollution. The on-site Project substation or switchyard will include manually- and/or motion-activated lighting to allow for inspections or maintenance as may be required during evening hours. (However, maintenance is not typically performed during nighttime hours). Project perimeter and security lighting would be installed and illuminated only on an as-needed basis for emergencies or security breaches. (See Exhibits 6, 7, 14, 28, 30 and 37)
- 2.
3. Standard has been met.

OR

1. None found.
2. Standard has not been met.

h. SPECIFIC FINDINGS OF FACT UNDER SECTION 20.10 OF THE ZONING ORDINANCE SUBMITTED BY ORION RENEWABLE ENERGY GROUP (ITALICIZED)

1. *The Planning Commission finds some localized security-related lighting may also be required during construction and/or operations. The Planning Commission further finds that perimeter and safety lights will be installed and used only on an as-needed basis for emergencies or protection against security breach. The Planning Commission further finds that lighting activated manually or by motion detection will be provided at points of site ingress and egress, any operations and maintenance, and the Project substation.*

The Planning Commission further finds that the on-site Project substation or switchyard will include lighting to allow for safety inspections or maintenance that may be required during the evening hours. The Planning Commission further finds that lighting will also be provided next to the entrance door to the operations and maintenance building and mounted at the site entrance gates to allow for safe entry and exit.

The Planning Commission further finds that since maintenance activities are not typically carried out during the evening hours, lights will only be turned on as needed.

The Planning Commission further finds that all lighting will be shielded and directed downward to minimize any effects to the surrounding area (adjacent properties and adjacent streets). (See Exhibits 7, 12, 14, 16, 28, 30, 37 and 38)

2. *The standard has been met.*

i. The arrangement of public or common ways for vehicular and pedestrian circulation shall respect the pattern of existing or planned streets and pedestrian or bicycle pathways in the area. Streets and drives which are part of an existing or planned street pattern which serves adjacent development shall be of a width appropriate to the traffic volume they will carry and shall have a dedicated right-of-way equal to that specified in the Master Plan.

Not applicable. No public common ways are proposed.

i. SPECIFIC FINDINGS OF FACT UNDER SECTION 20.10 OF THE ZONING ORDINANCE SUBMITTED BY ORION RENEWABLE ENERGY GROUP (ITALICIZED)

1. *The Planning Commission finds that vehicle traffic would use the driveway/private road system and established circulation pattern. The Planning Commission further finds that because of the limited amount of traffic, there will be no impact on existing public vehicular and pedestrian traffic circulation. (See Exhibits 7, 14, 28, 30, 37 and 38)*

j. Site plans shall conform to all applicable requirements of state and federal statutes and the Cheboygan County Master Plan.

1. The Planning Commission finds that the site plan conforms to the applicable requirements of state and federal statutes and the Cheboygan County Master Plan ("Plan"), as the Project would help the County to successfully attain the Plan goal that speaks to providing opportunities for safe and efficient use and transport of energy sources. To this end, strategies identified in the Plan for meeting said goal are to "allow for appropriate use and transport of all forms of energy" and "ensure opportunities for development of renewable energy that maximizes sustainable use of natural resources and retains energy dollars in the local economy." (See Exhibits 1, 2, 3, 7, 10, 28, 30 and 37)
2. Standard has been met.

OR

1. None found.
2. Standard has not been met.

j. SPECIFIC FINDINGS OF FACT UNDER SECTION 20.10 OF THE ZONING ORDINANCE SUBMITTED BY ORION RENEWABLE ENERGY GROUP (ITALICIZED)

1. *The Planning Commission finds that the proposed use conforms with the Cheboygan County Master Plan goals for preservation of agricultural land and for developing renewable energy. (See Exhibits 1, 2, 7, 10, 23, 28, 30, 37 and 38)*

2. *The Planning Commission finds that the proposed use meets the provisions of the Zoning Ordinance as an allowable use through the special use permit process. (See Exhibits 7-18, 28, 30, 37 and 38).*

DECISION

TIME PERIOD FOR JUDICIAL REVIEW

State law provides that a person having an interest affected by the zoning ordinance may appeal a decision of the Planning Commission to the Circuit Court. Pursuant to MCR 7.101 any appeal must be filed within twenty-one (21) days after this Decision and Order is adopted by the Planning Commission.

DATE DECISION AND ORDER ADOPTED

Wednesday, July 15, 2020

Patty Croft, Chairperson

Charles Freese, Secretary

Michigan Department of Agriculture and Rural Development

Policy for Allowing Commercial Solar Panel Development on PA 116 Lands

MDARD's overall goal is to positively address competing good land use issues. To achieve this, below are conditions under which MDARD may allow for solar panel operations on lands enrolled in the Farmland Development Rights Program. There are two major goals in this approach:

- To allow solar energy facilities to be placed on lands enrolled in the Farmland Development Rights Program.
- To preserve agricultural land for future use as intended by the Farmland and Open Space Preservation Act, MCL 324.36101 *et seq.*

MDARD may permit solar energy development on lands enrolled in the Farmland Development Rights Program as provided below.

Definitions

Amended Farmland Development Rights Agreement (Amended Agreement) - A signed agreement between a Landowner and MDARD for the State of Michigan. Contains the conditions required to allow a commercial solar power array.

Commercial Solar Agreement - This is the agreement entered into by the Landowner and the Solar Energy Developer. It must contain all conditions specifically identified here as the responsibility of the Solar Project Company.

Farmland Development Rights Agreement - The agreement between the Landowner and the State of Michigan that define conditions for participating in the Farmland Development Rights Program as required by MCL 324.36101 *et seq.*

Landowner - The property owner who has a signed and recorded Farmland Development Rights Agreement with MDARD for the State of Michigan.

Local Governing Body - The local unit of government with zoning responsibility. This would be a township unless the township does not zone and then the zoning authority would lie with the county.

Solar Project Company - The owner and/or operator of the solar project entity.

This policy establishes the expectations for responsibilities in carrying out the development, maintenance and decommissioning of a solar energy array on property enrolled in the Farmland Development Rights Program. The document will refer to the Solar Project Company as well as the Landowner. However, under MCL 324.36101 *et seq.*, the Landowner is responsible for complying with a Farmland Development Rights Agreement. As a result, the Amended Agreement between the Landowner and the State of Michigan will ascribe all responsibilities to the Landowner. Therefore, those responsibilities herein identified as the responsibility of the Solar Project Company should be addressed in the agreement between the Solar Project Company and the Landowner.

Administrative Approach

- Pursuant to the Farmland and Open Space Preservation Act, MCL 324.36101 *et seq.* (the Act) and Paragraph 2 of the Farmland Development Rights Agreement with the Landowner, MDARD, subject to appropriate permitting by the local governing body, may permit structures to be built on property enrolled in the program if the structures are consistent with farm operations. MDARD will work with the local governing body to determine appropriate bonding requirements.
- MDARD has determined that the placement of structures for commercial solar energy generation on property enrolled in the Farmland Development Rights Program is consistent with farming operations and is consistent with the purposes of the statute (MCL 324.36101; 324.36104 and 324.36104(a)) if the following conditions are met:
 - An Amended Agreement is entered into by the Landowner for the land where the solar facility is to be located. The Amended Agreement shall extend the existing Farmland Development Rights Agreement for a period of time that is equivalent to the amount of time the land is used to generate solar power combined with the remaining term of the Farmland Development Rights Agreement. This will result in no net change in the length of the Farmland Development Rights Agreement.
 - Tax credits are not claimed during the deferment period. The deferment period begins at the time of solar facility's construction and extends until all commercial solar panels and appurtenant structures are removed. The past seven years of tax credits are calculated at the time the Amended Farmland Development Rights Agreement is recorded and held until the land is returned to agricultural production at the end of the Commercial Solar Agreement. If a landowner chooses to leave the Farmland Development Rights Program at any time during the Commercial Solar Agreement, the calculated seven years tax credits would be payable.

- The site should be designed and planted to achieve a score of at least 76 on the [Michigan Pollinator Habitat Planning Scorecard for Solar Sites](#). The pollinator habitat area must allow for replanting when the usable life of the pollinator habitat expires. The ground cover is to be established and maintained. MDARD expects this will be the Solar Project Company's responsibility under the Commercial Solar Agreement.
- Any portion of the site not included in pollinator plantings must maintain United States Department of Agriculture -Natural Resource Conservation Service Conservation Cover Standard 327. Planting standards can be found at: <https://efotg.sc.egov.usda.gov/references/public/mi/sow327.pdf> and https://www.nrcs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb1263169.pdf
- A bond or irrevocable letter of credit as a surety tool is obtained and maintained in an amount sufficient enough to decommission the solar array and return the property to agricultural purposes. The financial surety must be in place for the entire deferment period. The amount of the financial surety shall be calculated by a licensed engineer and approved by MDARD. The surety must be payable to the State of Michigan. MDARD expects this will be the Solar Project Company's responsibility under the Commercial Solar Agreement.
- Both the establishment and maintenance of the site assures the land can be returned to agricultural uses at the end of the deferment period. Consistent with NRCS policy, an NRCS Certified Prior Converted (PC) exemption for agricultural land will not change if, for some reason, the land under a long-term Commercial Solar Agreement begins to exhibit wetland characteristics. But for those fields that are currently exempt under Parts 303 and 301 of the Michigan Natural Resources and Environmental Protection Act, the drainage infrastructure must be maintained during the deferment period. MDARD expects drainage infrastructure maintenance will be the Solar Project Company's responsibility under the Commercial Solar Agreement.
- The land is returned to agricultural use at the end of the deferment period and continues to be subject to the requirements of the Farmland Development Rights Agreement. Decommissioning the site must be completed in time for normal agricultural operations for the following growing season.

In all cases, conditions for exiting Farmland and Open Space Preservation Act, MCL 324.36111(a)) shall apply throughout the solar agreement and deferment period.

Contract Amendment

Amending the Farmland Development Rights Agreement will be a two-step process. The first step will result in a split of the original Farmland Development Rights Agreement, pursuant to MCL 324.36110(4). The split should divide the land into the portion that will be subject to development under a Commercial Solar Agreement and the portion that will continue to operate under the original Farmland Development Rights Agreement. The second step is that the Landowner shall enter into an Amended Farmland Development Rights Agreement for the portion of the land that will be in a Commercial Solar Agreement. The Amended Agreement will be filed with the register of deeds. The Amended Agreement will reflect all the conditions required to insure the placement of structures on the property 'is consistent with farming operations and is consistent with the purposes of the statute.' This Amended Agreement must be executed by the Landowner and MDARD 60 days prior to any construction.

In no event can the deferment period plus the remaining period in the original Farmland Development Rights Agreement exceed 90 years. Regardless of the length of any lease with a Solar Project Company, the deferment period is limited to 90 years minus the remaining term of the Farmland Development Rights Agreement. The Landowner may enter into a subsequent Amended Farmland Development Rights Agreement to provide for an additional deferment period.