

Working List To Do List

List of items per Carlisle Wortman that need to be added to our Zoning Book of Ordinances / General Ordinance Outside of the High Impact Land Use (HILU) Ordinance:

Please note: as soon as the High Impact Land Use (including Data Centers) Ordinance is complete, the moratorium is set to automatically lift, allowing them as a Special Use. The following items will need to be completely added to our Zoning Book of Ordinances or General Ordinances before the High Impact Land Use Ordinance is approved, or we risk creating legal loop holes / discrepancies within the ordinances.

Question: Are all of the edits being made outside of the high impact land use ordinance going to come before the planning commission for review/approval - including those that will reside outside of the Zoning Book of Ordinances, i.e. changes made to the General Ordinances? Also will all of the changes needed related to HILU be presented as a package for approval regardless of location - Zoning Book of Ordinances or General Ordinance?

- **Set fee(s) for HILU applications** and add to the fee schedule in the General Ordinances.
- **Set Township / General Ordinance policy** that bans **NDA's** - Cohoctah, MI has one for reference.
- **Set General Ordinance policy** that **no tax abatements** shall be offered for Data Centers or Cryptocurrency Mining Facilities - can be general in nature, example: no tax abatements will be offered for facilities with low on site job counts, and set a job count number. Holland, MI has one similar to this for reference.
- **Verify/add special land use application requirements** per article 16 as referenced by Carlisle Wortman (B.3 on page 6 of CW revised draft), will cover everything intended by the Subcommittee, and are adequate for HILU's.
- **Add parking requirements** for HILU's to section 18.02; it was discussed to require lower counts on number of parking due to large building size and few on-site employees.
- **Verify/add hours of allowable construction** in the noise section of the Zoning Book of Ordinances is worded to properly address HILU construction along with any potential pile driving and nighttime lighting. Right now it does not seem to have enough checks and balances, nor public input opportunities, for long duration heavy construction. If it is not felt to be adequate, then adding construction hours and an outlined process for extensions/weekend work approval along with construction lighting requirements into the HILU Ordinance. Another approach on this would be to add a separate ordinance for long duration construction itself - holding things such as night time lighting, machinery use, generator use, work hours and more to certain standards to limit resident impact and then set a time length for what long duration is, something along the line of: "any construction planned to continue for twelve (12) consecutive months or more shall be deemed long duration". This could be used for other developments then as well, and perhaps alleviate resident concerns that have been raised with current ongoing construction projects. Also discussed was differentiating between interior construction and exterior construction and applying limitations to only exterior construction.

- **Verify that the application items** flagged by Carlisle Wortman to be added outside of HILU Ordinance, make it where they need to be - this list has a good number of items to account for, please reference the full list provided in the first CW draft with RRC edits.
- **Verify compliance and ongoing reporting items** flagged by Carlisle Wortman to be added outside of the HILU Ordinance, make it where they need to be - this list also has a good number of items to account for, please reference the full list of compliance/on going reporting items from the first CW draft with RRC edits.
- **Verify list of site plan drawings** Carlisle Wortman said are covered in current Zoning Book of Ordinances site plan process section are adequate for HILU; update as needed, or if some are only wanted for HILU's then add something along the lines of: "meet all site plan requirements per the site plan section and provide the following additional drawings and information" to the HILU Ordinance.

List of Items Not Included in the Carlisle Wortman Memo (in RRC notes on the CW revised draft itself) These Were Not Covered at the 5/12 Subcommittee Meeting:

- **Review and Correct Definitions (pages 1-4)** as indicated in RRC notes.
- **Corrections to Amending Articles (pages 4 & 5)**
 - Draft says: Articles 4-13; correct to: 5 and 8-13.
 - Minor data centers will be allowed as Permitted Principal Special Uses with Conditions, subjected to the standards of Section 16.23, in the following districts if also located within the High Impact Land Use Overlay District:
 - Article 12- IF Industrial Flex Zone - Section 12.03 - **Remove**
 - Article 13- I Industrial District - Section 13.03

RRC Note: Minor data centers were originally considered to be potentially appropriate for industrial flex along with industrial zoning; however, after a planning commissioner pointed out the potential conflicts with the close proximity to residential uses that industrial flex zoning would allow, it was decided that removing industrial flex as a potential zoning district for any size data center was appropriate. However, the current draft still has industrial flex zoning listed as an allowable zone for minor data centers, and it should be removed so that only industrial zoning is listed for that size bracket, as it is for all the others (except ancillary).

- **Review and Correct Purpose and Intent (page 5)** as indicated in RRC notes.
- **Correct Section C, Districts Permitted (page 7)** remove principal use from list, should only read: "...as an accessory Use or Principal Special Use with Conditions..."
- **Section D, Application Requirements (page 7)**

RRC Notes: As mentioned at the Subcommittee Meeting, several analyses, such as Environmental Impact and Economic Impact, were omitted, and are being reviewed by the attorney. We wanted to be sure that Jim McEvoy's suggestion of including a Strategic Plan in the application requirements is also being reviewed by the attorney, and that it potentially gets added into this section if given approval, since it wasn't in the previous draft.

- **Section E, Dimensional Standards and Siting Requirements, Distancing Clarification Asterisks Missing (page 9)** There are missing asterisks from the minimum distancing from residential and sensitive receptor parcels numbers in the Table X Chart, the asterisks were beside each distancing number & below the table and stated: ****And if less than ten (10) residentially zoned and/or sensitive receptor parcels are located within the distance outlined above.**

RRC Note: The parcels in the industrial zone may have a very low number of residentially zoned parcels/sensitive receptor parcels within the distance provided preventing certain parcels from being suitable, the intent was to allow the parcel for use (or for a variance to be allowed) but only as long as the residential/sensitive receptor count was low. We do not want to create a situation where no parcels will be available/work with the distancing outlined. Simply shortening the distance would cause larger HILU's to be able to go in on parcels closer to higher residential zones like Jonathan's Landing. Another approach could be to only allow a variance for distancing, and only do so if no more than ten(10) residentially zoned and/or sensitive receptor parcels are located within the outline distancing for the desired parcel. The Subcommittee should discuss the best approach.

- **Section F.3.a. (page 9)** "Sound levels shall not exceed..."

RRC Note: Jim McEvoy's Noise Report had a chart at the beginning of his report, which was something we liked (it largely lined up with our own findings). The Subcommittee may wish to review Mr. McEvoy's suggestions, as they do vary slightly from the RRC information provided and as his report made some great points. We wanted to provide feedback that if Mr. McEvoy's limits are adopted for dBC and dBA, the dBZ limits from the RRC information provided ought to remain, as dBZ limits provide an additional layer of protection, especially for the problematic lower frequencies.

- **Section F.3.b. (page 9)**, "In the event pre-construction sound studies document pre-existing sound levels for A, C, and Z weightings that exceed the limits in this ordinance, then the pre-existing sound levels shall not be exceeded or amplified".

*RRC Note: This would allow sound levels to exceed the levels in the HILU noise ordinance, if the pre-existing ambient noise levels do. This was included to attempt to account for the existing noise, particularly from the freeway. Upon further review, sound studies can, should, and frequently do omit background noises, such as that from a nearby freeway, to isolate and measure just the sound coming from the source in question. As such, item F.3.b would be important to omit, as sound levels equal to the background noise of the freeway will be well over the safe thresholds noted in the research. Perhaps **replacing it with language specifying that background noise shall be removed from any sound studies** to ensure only the HILU's noise is being measured and studied would be a good alternative. The F.3.b language about pre-existing sound levels not being amplified may be good to still include, as that could still be a problem.*

- **Section F.3.e.iv. (page 10)**, "Sound study/routine sound surveillance schedule and additional requirements..."

RRC Notes: We liked Jim McEvoy's suggestion to monitor noise monthly for the first year to establish seasonal baselines, as weather conditions affect how sound

travels, and would like to provide feedback for consideration to include that requirement within this section and any other related monitoring/compliance sections.

- **Section F.6.a (page 11)**, “Lot coverage is limited to 50% for all impermeable surfaces”
RRC Note: We had originally included permeable and impermeable surfaces, as mechanical yards, substations, etc potentially account for a substantial amount of the site development, and may be on permeable gravel pads.
- **Section F.6.b. (page 11)**, “Setbacks: Minimum setback requirements for all structures and storage yards shall comply with Table X except that employee and visitor parking lots may be set back no less than 50 feet from all property lines”.
RRC Note: Table X refers to the distancing from a HILU property line to a Sensitive Receptor property line, akin to Adult Entertainment facilities not being permitted within a certain distance of schools, churches, etc, which may be thought of as an “exterior” setback. However, in this section, we had provided information outlining a setback distance of 100’, which was intended to mean all development within the parcel must be setback by that much distance from the property line; (4.b.i) allowing that distance to change (either larger or smaller) depending on the individual project and the parcel’s location and proximity to SR’s; and (4.d) outlined that no development (except for parking within 50’) should be located within those setbacks inside of the property line. Both 4.b.i and 4.d were omitted, but this may be something the Planning Commission wishes to discuss.
- **Section F.9.b.iii. (page 14)**, “If the applicant can provide documentation for another equipment cooling system which is equally or more efficient than liquid immersion cooling and zero-water direct-to-chip cooling in terms of energy and water consumption...”
RRC Note: It may be clearer to simply say, “...another equipment cooling system which results in a better PUE, TUE, and WUE than liquid immersion cooling...”
- **Section G.3.b., Renewable Energy Integration (page 16)**, “At least 25% of projected annual energy demand shall be demonstrated to be met through renewable energy sources, whether on site or through power purchase agreements, renewable energy credits, or utility green power programs”.
RRC Notes: We provided feedback striking this out. The reason is: 1, If a Data Center is receiving the state tax abatements, they are already held to this requirement. 2, This requirement, in Green Oak Township’s ordinance, received pushback at the Livingston County Planning Commission due to its land-use implications, which are related to our reason, 3, that, if we take the previously-proposed data center as an example, 25% of the 1000MW they projected, would be 250 MW. Howell Township’s neighbors in Conway and Cohoctah are embroiled in a heated land-use fight against an industrial solar project which will sit on approximately 2,500 acres of land. This project would provide an estimated 230MW of power. In other words: to require 25% of power coming from renewables could reasonably be predicted to mean that an additional 2500 acres of land will need to be converted to industrial solar, either within Howell Township, or imposed upon another township in the county or state. Granted, if the size limits (and especially MW caps) within this draft are used, the MW of renewables required to meet this target would be significantly smaller, and thus so would the acreage, but the

principal still stands. We hope the Planning Commission might discuss the merits and potential drawbacks of a renewable energy requirement. Should the renewables requirement be removed, then section G.7.a.iii will need to be revised to remove the "...progress toward renewables targets" language.

- **Section G.3.c. (page 17)**, "On-site solar generation components shall comply with the requirements for solar in section ___ of the ordinance".

RRC Notes: We assume this is referring to the townships Renewable Energy Ordinance, and if so, thought it might be good for the Subcommittee to review those requirements to ensure they are adequate for a High Impact Land Use as well, or if additional/different regulations are needed.

- **Section G.3.d. (page 17)**, "Energy storage systems shall be limited to Long-Duration Energy Storage (LDES). Battery Energy Storage Systems (BESS) are not permitted.

RRC Notes: As discussed in the RRC BESS Report, LDES is technically a type of BESS, so this language may not be appropriate. Furthermore, the intent was to protect the township from the risks associated with lithium-ion batteries, specifically- thermal runaway and the toxic fumes and runoff from such emergencies. Our report mentions there are emergency response plans that ought to be in place for notifying the public in the event an evacuation is needed, among other things. As such, we provided feedback that some revised language could help to help steer BESS in the direction of less-risky minerals. This updated language was not included, and we hope the Planning Commission will have a discussion about this before the language is settled on. If lithium-ion is permitted, a comprehensive BESS ordinance should be considered and put in place beforehand as well.

- **Section J.2. (page 22)**, "Triggers for Decommissioning"

RRC Notes: Items 1-3 seem to be both redundant and conflicting with Item 4, so this section needs a closer look. Additionally, item J.2.c seems to be redundant with item J.4.e, which is not a "Trigger for Decommissioning" at all, and the two items need to be reconciled so that perhaps one ought to be removed. Lastly, we had provided feedback that repeat violations of the ordinance be a trigger for revocation of the Special Use permit, and that a revocation of a Special Use permit should be a Trigger for Decommissioning". This was omitted, but ought to be reviewed and discussed by the Subcommittee.

- **Section J.4.d., Removal Standards (page 23)**, Alternative to full-removal

RRC Notes: Item d was included to provide an alternative to complete removal of all structures. This was suggested, in legal literature, to be a wise inclusion to avoid any conflict over a full-removal requirement. However, many data center ordinances do simply require full-removal, which the RRC feels is ideal. We included this alternative and had hoped the Subcommittee might discuss, perhaps with the attorney's input, whether they felt it would be important to include this or not. Further, it appears that item d may have the same intent as item J.5.b, in which case only one or the other should be kept, and the Subcommittee should discuss whether a more nuanced verbiage as in J.4.d would be more/less appropriate than the more simplistic verbiage in J.5.b.

- **Section ?, Inconsistent Ordinances**

RRC Notes: We wanted to provide feedback that while attempting to avoid to creating this situation at all in the first place, still including a clause addressing inconsistencies between the HILU ordinance, and other sections of the Ordinance Book, by adding something along the lines of “Where the requirements in this ordinance are inconsistent or in conflict with the provisions of other sections of the Ordinance Book, the stricter shall apply”. Similar language in a clause like this is found in the Township’s Union at Oak Grove Tax Exemption Ordinance.

Non-HILU Related Items Noted for Review/Correction in the Zoning Book of Ordinances:

- Sound table for zoning districts in section 14 (page 125) needs to be fixed. Any zoning allowable near residential zoning should strictly limit noise, example: something like 65dBA or less and only be permissible certain hours of the day such as 8am-6pm, Mon - Fri. Right now zoning abutting residential allows for 70dBA / 24hrs a day - this needs to be corrected. The Fort Pierce, FL ordinance cited in the RRC Decibel Limits and Noise Report may be something the full Planning Commission wishes to review, as it applies to their general ordinances, and includes dBA, C, and Z.
- Building heights for all zoning districts need to be limited to 50ft, right now some zoning allows for 70ft building heights abutting residential zoning.
- Billboards need more standardized requirements (perhaps black metal framing/supports, a size range they must fall within and be required to be of a certain height to prevent view obstructions) and they likely need increased setbacks, especially in certain zoning districts. Found when searching the ordinance book for application process requirements.