



Wade Trim Associates, Inc.
500 Griswold Street, Suite 2500 • Detroit, MI 48226
313.961.3650 • www.wadetrim.com

August 20, 2024

Fairgrove Township
5002 Center Street
Fairgrove, MI 48733

Attention: Planning Commission

Re: Special Land Use Permit Application Review
Tuscola II Energy Storage Project
Wade Trim Job No: FAG6001-25D, Task 100

Dear Commissioners:

The applicant, Tuscola II Energy Storage, LLC, a wholly owned independent subsidiary of NextEra Energy Resources, LLC, is requesting a Special Land Use permit and Site Plan Review approval to establish a 100-megawatt (MW) battery energy storage system (BESS) within Fairgrove Township. At present, the proposed site plan includes 32 acres of participating land within the project area. The project area includes the existing electrical substation, which would provide access to the high-voltage grid.

Background

In 2024, the Township developed “workable” BESS zoning regulations for projects choosing to locate within the Township. The Township Board of Trustees adopted Ordinance 012-2024 on December 2, 2024, which provided regulations that are more restrictive than those created in Public Act 235 of 2023. The applicant is requesting that the Township review its BESS facility proposal, utilizing these newly adopted regulations.

The applicant is proposing to develop a BESS system on 32 acres of land with approximately five acres of land within the security fencing. At commissioning, the project will have 100 MW capacity; however, additional battery modules will be required to be added during the project’s life cycle to maintain its design capacity.

At construction, the facility will have approximately 175 battery enclosures and 45 inverters within a centralized area along the southern edge of the proposed site. This area, immediately to the west of the existing transformer yard, will have a service road bisecting the rows of battery enclosures and inverters to provide both maintenance and emergency vehicle and first responder access. Immediately to the south is a proposed low stormwater detention basin, and a temporary construction “lay-down” yard will be built just to the north.

Special Land Use Permit and Site Plan Review Processes

The Township’s Special Land Use Permit process is detailed within Chapter 7 of the Fairgrove Township Zoning Ordinance. The intent of the process is to provide for special land uses that may be permitted within certain zoning districts but only after review and approval by the Planning Commission during the Special Land Use Permit process. Often more intensive than permitted uses,

this approval process typically includes unique requirements for these uses, and it permits the Planning Commission to add specific conditions to the approval of the land use or deny it altogether.

The Special Land Use Permit process is detailed in Chapter 7 of the Township's Zoning Ordinance. The process allows the Planning Commission to review these more intensive than permitted uses; noticing of adjacent properties; and focuses the process on maintaining the health, safety, comfort, and general welfare of the immediate neighbors and the community at large through added conditions if necessary. Per state statute, all property owners and residents within 300 feet of a proposed development requiring a special land use permit are to receive a public hearing notice, and the public hearing is held prior to the deliberation of the Special Land Use Permit by the Planning Commission.

The Township's Special Land Use process is a three-step process: 1) the Planning Commission shall hold a public hearing; 2) review of the application; and 3) consideration whether the Special Land Use Permit should be granted and what if any conditions should be attached to the Permit.

Granting of a Special Land Use Permit is separate from the Site Plan Review, and the Permit may be granted even if Site Plan Review approval is not granted. Our detailed Site Plan review is included in separate correspondence.

We have reviewed the July 9, 2025 proposal submitted by Tuscola II Energy Storage, LLC for Special Land Use Permit approval for compliance with the Fairgrove Township Zoning Ordinance and sound planning principles. We offer the following comments for the Planning Commission's consideration regarding compliance with the Township's Special Land Use Permit requirements:

Special Use Permit Review

Per the requirements in Section 7.28, the following items should be clarified by the applicant, and the Planning Commission should consider if additional information addresses the concerns or if a condition of approval may be warranted:

Application Review

- 1) Per Section 7.28.6.E, we would recommend that the applicant describe the types of special firefighting equipment that are typically used when fighting a fire at a BESS. This information is important to determine if a Special Land Use Permit condition is necessary to require the applicant to provide this equipment to the Fairgrove Fire Department. The applicant is the most familiar with the BESS systems and what approaches are necessary to fight fires at these facilities. Will there be a containment system on-site to prevent any contamination from spreading into the Township's stormwater network?
- 2) Per Section 7.28.13, we would recommend that the Planning Commission request the applicant to describe some of the typical complaints that occur during construction and operation of a BESS. So that the Township is informed of any complaints arising during the construction and start-up phases, we recommend that the applicant share the complaint log with the Township quarterly during construction and the first year of operation.
- 3) Per Section 7.28.15, the Decommissioning Plan does not describe how any damage to the existing drain tile system would be dealt with during decommissioning. We would request that the applicant address this concern during the Special Land Use Permit review. How likely will existing field drain tile be damaged during facility construction or decommissioning?
- 4) Per Section 7.28.15, the Decommissioning Plan is to ensure that the land is returned to pre-construction condition to support a return to agricultural production. How much of the existing topsoil will be removed during construction? The Decommissioning Plan describes

seeding the land after decommissioning, but it does not appear to provide sufficient dollars or effort to support a return to active farming.

Standards for Consideration for Reviewing Special Land Use Permits

Before approving or denying a Special Land Use permit application, the Planning Commission is to apply the standards found within Section 7.6.a, and it must find and record adequate data, information, and evidence illustrating that the use meets or does not meet four general standards:

1. *The proposed special use shall be harmonious with and in accordance with the general objectives, intent, and purpose of this Ordinance.*

Section 7.28 of the Township's Zoning Ordinance was adopted by the Fairgrove Township Board of Trustees on December 2, 2024 to regulate the development, operation, and decommissioning of BESS systems. This permit request has been made to determine if the applicant's proposed design meets the Township's requirements. The applicant has provided a very thorough application that accounts for most of the Township's requirements as described within Section 7.28 and other portions of the Township's Zoning Ordinance. Outstanding issues have been identified within this letter and the corresponding Site Plan Review letter prepared by Wade Trim.

2. *The proposed special use shall be designed, constructed, operated, maintained, and managed so as to be harmonious and appropriate in appearance with existing or intended character of the general vicinity.*

During the Planning Commission's deliberations regarding this request, it shall determine if the proposed BESS will be constructed, operated, maintained, and managed in a manner that is harmonious with the intended character of the community.

3. *The proposed special use shall be served adequately by essential public facilities and services, such as: highways, streets, police and fire protection, drainage structures, refuse disposal; or the persons or agencies responsible for the establishment of the proposed use shall be responsible to provide adequately any such services.*

Two issues related to public services have been identified as possible points of concern: 1) the potential need for specialized fire protection equipment and 2) potential drainage tile damage. If the applicant is able to satisfy the Planning Commission and/or the Fire Chief that these issues will be adequately addressed, it would be reasonable to assume that the BESS will be served by the Township's existing services.

4. *The proposed special use shall not create excessive additional requirements at public costs for public facilities and services.*

No additional costs for public facilities or services are anticipated by permitting the BESS as proposed.

Special Land Use Permit Deliberations

The applicant will be addressing several of the above issues in the week between the drafting of this review letter and the Planning Commission meeting to be held on Friday August 22, 2025. During the Special Land Use Permit deliberations, the Planning Commission should consider if and what conditions should be included with the Permit approval, if so approved. The contents of this review letter, comments from the public hearing, and any concerns identified by the Planning Commission A

In summary, we are suggesting that the following items be considered during the Planning Commission deliberations:

- 1) Is there additional firefighting equipment that may be required to fight a fire at a BESS facility and should it be incorporated as a Special Land Use Permit condition?
- 2) Should the Township be more frequently notified of complaints during construction and the first year of operation?
- 3) What damage will occur to existing drainage tile during construction and/or decommissioning?
- 4) What permanent impacts will occur that may prevent the site from returning to active farming after decommissioning?

Any and all Special Land Use Permit conditions must have a clear connection to the intent of the Township's Zoning Ordinance and all land use decisions should be in accord with the Township's Master Plan. Relevant goals and actions of Township's Master Plan includes the goal to retain the community's rural and natural character and an action item that seeks to ensure that appropriate buffers exist between land uses.

After the results of the Planning Commission deliberations and additional information from the applicant, it would be reasonable for the Planning Commission to make a decision relative this Special Land Use Permit application including the addition of reasonable conditions that meet the requirements found in Section 7.6.b.

If you have any questions, please do not hesitate to contact me at 313.961.3650 or by e mail at amullen@wadetrim.com.

Very truly yours,

Wade Trim Associates, Inc.

Arthur F. Mullen, AICP
Professional Planner and Preservation Planner

AFM:lkf
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Path/file

cc: Seth Koches, Bauckham, Thall, Seeber, Kaufman & Koches
Daniel P. Ettinger, Warner, Norcross & Judd, LLP