

Shelby County Plan Commission

September 24, 2024, at 7:00
PM

Table of Contents

Agenda.....	3
RZ 24-08 Unified Development Ordinance Text Amendment – SES-01 – Commercial Solar Energy Systems.	4
Staff Memo.....	4
Photographs Depicting Various Setbacks.....	7
Draft Ordinance Amendment.....	16
Explanation of Purpose of Ordinance Amendments.....	27

MEETING AGENDA

Shelby County Plan Commission
September 24, 2024, at 7:00 P.M.

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES

Minutes from the August 24, 2024, meeting.

OLD BUSINESS

None.

NEW BUSINESS

RZ 24-08 - Unified Development Ordinance Text Amendment – SES-01 – Commercial Solar Energy Systems.

DISCUSSION

None.

ADJOURNMENT

The next regular meeting of the Shelby County Plan Commission is scheduled for Tuesday, **October 22, 2024, at 7:00 PM.**

Shelby County Plan Commission

Memo

To: Shelby County Plan Commission

From: Desiree Calderella, Planning Director

RZ 24-08 Unified Development Ordinance Text Amendment – SES-01 – Commercial Solar Energy Systems.

The solar ordinance amendment recommended by the majority of the members of the Solar Ordinance Review Committee established by the Shelby County Commissioners, and explanation of the purpose of each amendment, are attached to this memo. The items in red reflect the changes made to the current ordinance.

The Plan Commission is tentatively scheduled to discuss the amendment at two public meetings. At the September meeting, the Planning Director will provide an overview of the draft amendment recommended by the Solar Ordinance Review Committee, the public will have the opportunity to comment on the amendment, and the Board will advise the Planning Director on any desired changes to the amendment. At the October meeting, the Planning Director will provide an overview of the final draft amendment, the public will again have the opportunity to comment on the amendment, and the Board will vote on a recommendation of the amendment to the County Commissioners. The County Commissioners will make the final decision on the amendment.

The Shelby County Commissioners have adopted a resolution imposing a moratorium on the acceptance of new applications for commercial solar energy development while the County reviews the County's commercial solar energy development standards. The moratorium specifically references the need for the County's regulations to align with the State legislation outlining minimum standards for commercial solar energy systems and to incorporate the most recent best practices associated with commercial solar energy installations, their construction, maintenance, and decommissioning.

The Shelby County Commissioners established a solar ordinance review committee to review the County's current standards. Members include Desiree Calderella (Planning Director), Don Parker (Commissioners' Representative), Kyle Barlow (Council Representative), Megan Hart (Plan Commission Representative), Jason Foltz (owner of property in proposed solar project), and Jason Clark (Plan Commission Attorney).

25 W Polk St, Shelbyville, IN 46176
T: 317-392-6338 W: <https://www.co.shelby.in.us/plan-commission/>

The Planning Director submitted a solar ordinance standard comparison analysis to the committee which compared the County's existing solar regulations to the State minimum standards, the recommended standards by the American Planning Association, and the recommended standards by the Indiana State Model Ordinance (sponsored by Indiana University). The Planning Director also compared the County's existing solar regulations to other Counties in the State using a study conducted by Purdue University. The County's existing standards met or exceeded most other standards. Notable standards lacking included noise restrictions and transportation plan requirements, which the committee chose to include in the updated regulations.

The Planning Director also conducted a site visit of the operational Bellflower Solar Energy Facility located in Rush & Henry Counties. The committee agreed to add a few additional regulations recommended by the Planning Director after her review of that project.

The committee came to a consensus on all amendments, other than four items. Staff recommends that the Plan Commission take these items into consideration before making a recommendation to the County Commissioners on the amendment.

Section D 1 – Updates the setback from the road from 100-feet to 500-feet.

The Planning Director recommended increasing the front setback after viewing the Bellflower Project because the front setback had the largest aesthetic impact on the area as a whole. However, this would result in Shelby County having the most restrictive front setback in the State. Also, the setback only serves the purpose of mitigating aesthetics, therefore if the County prefers to place less of an emphasis on aesthetics it should reduce the front setback. Photographs from the Bellflower Project showing alternative setbacks are attached to this memo.

Section D 2– Updates the required setback from 660-feet from a primary structure on non-participating property to 660-feet from the property line of non-participating property. Adds a clause that allows the non-participating property owner to waive this requirement.

This setback would also result in Shelby County imposing the most restrictive setback in the State. However, many other communities do not allow non-participating property owners to waive the setback. To accommodate the large setback, a solar company may acquire additional land, which would significantly increase the overall size of the project (Speedway Solar increased setbacks using this method). Although likely several non-participating property owners would agree to waive the setback requirement if offered compensation.

Section R 3 – Allows herbicides to be applied for weed control

Kyle suggested prohibiting the use of herbicides due to the argument that solar companies often make that solar projects will allow the land to rest from chemicals sprayed on crops. The committee had expressed concern that imposing this requirement would result in unmaintained groundcover.

Shifting the approval process from the BZA by Special Exception to the Plan Commission and County Commissioners by a rezoning.

The committee did not have a preference regarding this change in process. The change in process would require the establishment of a solar overlay district over each project site. A solar company would apply for a rezoning to the overlay district through the standard rezoning process, which requires a public hearing before the Plan Commission on the rezoning and final approval by the County Commissioners. All development standards applicable to the property in the underlying zoning district would apply in addition to the standards applicable to solar facilities. A few benefits of this change in process include:

- Review by a larger body of people, and review by people with related experience on the Plan Commission (Surveyor, Ag Extension, etc.)
- Final approval by officials directly elected by the public.
- Final approval by officials elected to office in the most recent election cycle. A BZA appointee at the end of a four-year term could have been appointed by previous elected officials.

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ORDINANCE NO 2024 -

AN ORDINANCE OF THE BOARD OF COMMISSIONERS OF SHELBY COUNTY, INDIANA, AMENDING THE SHELBY COUNTY UNIFIED DEVELOPMENT ORDINANCE - SPECIFICALLY ARTICLE 2: ZONING DISTRICTS AND ARTICLE 5, SECTION SES-01 – COMMERCIAL SOLAR ENERGY FACILITIES

WHEREAS, the Board of Commissioners of Shelby County, Indiana recognize the need for orderly growth and development within Shelby County and those areas within its planning jurisdiction;

WHEREAS, Shelby County has an existing Unified Development Ordinance that regulates development within its jurisdictional areas;

WHEREAS, Shelby County desires to update its development regulations to meet current economic conditions, current trends, and to promote quality growth;

WHEREAS, Public Notice was given for at least one public hearing as required by Indiana Code 36-7-4-604; and

WHEREAS, the Shelby County Plan Commission has recommended approval of the amendment to the Unified Development Ordinance as required by Indiana Code 36-7-4-605.

NOW, THEREFORE, BE IT ORDAINED, by the Board of Commissioners of Shelby County, Indiana as follows:

SECTION 1: Amendment of Article 5, Section SES-01 of the Unified Development Ordinance of Shelby County: **see attached**

SECTION 2: Amendment of Article 2.03 A1 District Intent, 2.05 A2 District Intent, 2.07 A3 District Intent, and 2.09 A4 District Intent to add: **see attached**

SECTION 3: Effective Date. This ordinance shall be in full force and effect from and after its adoption by the Board of Commissioners of Shelby County, Indiana.

SECTION 4: Repealable Provisions. All ordinances and parts of ordinances in conflict with the specific amendment herein are hereby repealed.

ADOPTED this ___th day of ___, 2024 by a vote of _____ ayes and _____ nays of members of the Board of Commissioners of Shelby County, Indiana.

Don Parker, President

Kevin Nigh, Member

Jason Abel, Member

ATTEST:

Amy Glackman, Auditor
Shelby County, Indiana

SES-01 – Commercial Solar Energy Systems

The Commercial Solar Energy Systems Standards apply to the following zoning districts: **A1, A2, A3, A4, C1, C2, I1, I2, HI**

The intent of these performance standards are to enable Shelby County to regulate the permitting of commercial solar energy systems; be informed of the placement of commercial solar energy systems; preserve and protect public health and safety; allow for the orderly development of land; and protect property values in Shelby County.

- A. Permitted Districts: Zoning approval required for a CSES is displayed in Table SES-A: CSES Permitted Districts.

Table SES-A: CSES Permitted Districts

	CSES Permitted Districts								
Zoning District	A1	A2	A3	A4	C1	C2	I1	I2	HI
CSES	SE	SE	SE	SE	SE	SE	D	D	D

SE-Special Exception D- Development Standards
 (To be added to the two-page layout in Article 02: Zoning Districts, for the applicable districts)

- B. Application Procedure and Land Use Approvals Required: Applications for CSES land use approvals and permits shall be filed on forms provided by the Zoning Administrator. The order of the approval process is as follows (1) If required, Special Exception and Development Standards Variance approval, (2) TAC Site Plan approval, (3) Improvement Location Permit approval. The following standards apply:
 1. Special Exception: For any CSES requiring a Special Exception: Refer to Shelby County U.D.O. *Section 9.13 Special Exception*. Additionally, the applicant shall submit the *Application and Supporting Information*, as listed in *Section 9.13*, to the governmental agencies listed below. Any written response from each agency received within thirty (30) days of submittal of the *Application and Supporting Information* shall be submitted with the Application for Special Exception. Approval of the project by each agency is not required, however the Board of Zoning Appeals may place conditions on approval of an application or deny an application based on the submitted written responses.
 - i. The following Divisions of the Indiana Department of Environmental Management (IDEM)
 - Office of Land Quality
 - Office of Water Quality
 - All other applicable Divisions as requested in writing by the Zoning Administrator
 - ii. The following Divisions of the Indiana Department of Natural Resources (IDNR)
 - Division of Forestry (if over one acre of forested land is disturbed)
 - Division of Historic Preservation & Archaeology
 - Division of Oil & Gas
 - Division of Water

- All other applicable Divisions as requested in writing by the Zoning Administrator
- iii. Local Indiana Department of Transportation District (if the perimeter boundary of the CSES is adjacent to a State Road, U.S. Road, or Interstate)
 - iv. Shelbyville Municipal Airport (if the perimeter boundary of the CSES is within 660 feet of the airport)
 - v. Telecommunications Infrastructure Owners & Operators within 2 miles of the CSES perimeter boundary
 - vi. Fire Department(s) having jurisdiction over the CSES
 - vii. Shelby County Sheriff's Department
 - viii. Shelby County Highway Department
 - ix. Office of the Shelby County Commissioners
 - x. Building Department of any Shelby County incorporated municipality within 2 miles of the CSES perimeter boundary
 - xi. Shelby County Emergency Management Service
 - xii. Shelby County Soil & Water Conservation District
 - xiii. Shelby County Purdue Extension Office
 - xiv. If any portion of the CSES is located in a Wellhead Protection Area(s), the water utility(s) that maintains the wellhead(s).
 - xv. Any other applicable governmental agency as requested in writing by the Zoning Administrator.
2. Development Standards Variance: For any CSES requiring a Development Standards Variance(s): Refer to Shelby County U.D.O *Section 9.17 Variance*.
 3. TAC Site Plan Approval: The applicant shall be required to submit a commercial site plan to the Shelby County Storm Drainage, Erosion and Sediment Control Ordinance Technical Advisory Committee (TAC) for review. The plan should be submitted in accordance with the Class 1 Site Plan requirements as listed in Table A of the Shelby County Storm Drainage, Erosion and Sediment Control Ordinance. In addition to the Class 1 Site Plan, the following supplementary documentation shall be required:
 1. The building envelope (i.e. the resulting developable area after applying setbacks).
 2. A calculation of the existing lot coverage expressed as a percentage.
 3. A calculation of the lot coverage as it would be upon completing the project, expressed as a percentage.
 4. Denotation of any existing structure on an adjacent parcel if within 660 feet of the subject parcel's property line.
 5. Denotation of adjacent zoning districts if different than the subject parcel.
 6. Denotation of wildlife corridors to allow wildlife to navigate through the CSES.

7. Landscape Plan **in accordance with U.D.O. Section SES-01 G** drawn and certified by a Registered Engineer or Landscape Architect.
 8. **Acoustic Assessment in accordance with U.D.O. Section SES-01 I.**
 9. Groundcover Plan in accordance with U.D.O. ~~Section SES-01 R~~. The Groundcover Plan may be incorporated into the Landscape Plan.
 10. **Road Use Agreement in accordance with U.D.O. Section SES-01 S 1.**
 11. Bond to cover costs associated with repair to County roads and roadway infrastructure in accordance with U.D.O. ~~Section SES-01 S 2.~~
 12. Decommissioning Plan in accordance with U.D.O. ~~Section SES-01 R-U.~~
 13. **Any written consent filed by a non-participating property owner in accordance with U.D.O. Section SES-01 D 3 and Section SES-01 G.**
 14. Any other information necessary to support a thorough review of the project as requested in writing by the Zoning Administrator, **including any additional information from any agencies listed in U.D.O. Section SES-01 B 1.**
4. Improvement Location Permit: The applicant shall be required to submit an application for an Improvement Location Permit (ILP) in accordance with Shelby County U.D.O. *Section 9.05 Improvement Location Permit*. In addition to the ILP Application, the following supplementary documentation shall be required:
1. Solar system specifications, including manufacturer and model. The manufacturer specifications for the key components of the solar energy system shall be submitted with the application.
 2. Array/module design **shall be submitted with the application.**
 3. Certification that layout, design, and installation conform to and comply with all applicable industry standards, such as:
 - i. National Electrical Code (NEC)(NFPA-70)
 - ii. American National Standards Institute (ANSI)
 - iii. Underwriter's Laboratories (UL)
 - iv. American Society for Testing & Materials (ASTM)
 - v. Institute of Electric & Electronic Engineers (IEEE)
 - vi. Solar Rating & Certification Corporation (SRCC)
 - vii. Electrical Testing Laboratory (ETL), and other similar certifying organizations
 - viii. Federal Aviation Administration (FAA)
 - ix. Indiana Building Code (IBC)
 4. The CSES applicant shall certify that they will comply with the utility notification requirements contained in Indiana law and accompanying regulations through the Indiana Public Utility Commission, unless the applicant intends, and so states on the application, that

the system will not be connected to the electricity grid.

5. Documented approval of any other permits as required by Shelby County.

C. Application Fees: The following fees shall accompany any CSES application:

1. Special Exception Application Fee: ~~\$450~~-\$5,650
2. Variance Fee: ~~\$375~~ \$4,750
3. TAC Site Plan Fee: ~~\$100~~-\$120 per hour of review
4. Improvement Location Permit Fee: ~~\$0.05 per pile plus \$0.05 per sq. ft. of substation area~~ 0.1% of the value of all property improvements.
5. Third-Party Review Fees: The applicant shall pay all attorney fees, costs associated with third-party review, and any other costs in the enforcement of the terms of this ordinance.

D. Setbacks: Any CSES ground mounted equipment **and buildings**, excluding any security fencing, poles, and wires necessary to connect to facilities of the electric utility, shall be located:

- ~~1. A minimum of 660 feet from any primary structure on adjoining property not owned by a person(s) and/or corporate entity owning land within the CSES.~~
- ~~2. A minimum of 150 feet from any adjoining property line which is a perimeter boundary line of the CSES.~~
- ~~3. A minimum of 100 feet from the edge of pavement of any public road.~~
1. A minimum of 500 feet from the centerline of any public road.
2. A minimum of 660-feet from the property line of any non-participating property, including the property line of properties not adjacent to the CSES. Any non-participating property owner may reduce or waive the setback requirement from their property lines by filing written consent with the Shelby County Recorder. Such consent, when recorded, shall run with the property in perpetuity. At a minimum, the written consent shall include:
 - a. The setback requirement agreed upon by the non-participating property owner and the applicant.
 - b. A legal description of the non-participating property and parcel number(s).
 - c. A property map showing all property lines and agreed upon setback lines.

E. Lot Coverage: Any CSES shall be exempt from the maximum lot coverage requirement of each zoning district.

F. Height: The height of any CSES ground mounted solar equipment is limited to 20 feet, as measured from the highest natural grade below each solar panel.

G. Landscape Buffer: ~~Any CSES shall be required to meet the landscape standards as listed in Shelby County U.D.O. Section 5.49 LA 07: Buffer Yard Landscaping Standards. All CSES installations shall require a minimum of a Buffer Yard "C" where the subject parcel abuts a parcel with an equal or lower intensive zoning category than the subject parcel. This shall not apply to any CSES property abutting land zoned A1.~~ Any CSES shall be required to install a landscape buffer along the side and rear property lines adjacent to the CSES of any adjacent non-participating property which includes a dwelling unit. Any non-participating property owner may reduce or waive the landscaping

requirement along their property lines by filing written consent with the Shelby County Recorder. Such consent, when recorded, shall run with the property in perpetuity. The landscape buffer shall be installed in accordance with the following requirements:

1. **Berm:** A six (6) foot tall undulating mound shall be installed within fifteen (15) feet of the property line.
 2. **Evergreen Trees:** One (1) evergreen tree shall be planted for every five (5) feet of contiguous boundary with the adjacent lot. Each tree shall be planted between the required berm and adjacent lot. All required evergreen trees shall be at least five (5) feet in height at the time of planting. Any tree designated by the Zoning Administrator as an invasive species or with poor characteristics for a location shall not be permitted.
- H. **Fencing:** Security fencing surrounding any CSES shall be agricultural fencing which is of woven wire composition and wood posts. Fencing shall be a minimum height of six (6) feet and shall not exceed a height of eight (8) feet. Razor wire shall be prohibited. If Federal or State requirements conflict with County fencing standards, the Federal or State requirements shall supersede.
- I. **Noise:** Sound attributable of any CSES shall not exceed an hourly average sound level of forty (40) A-weighted decibels, as modeled at the perimeter boundary line of the CSES.
- J. **Wireless Communication Signal Disturbance:** Any CSES shall be installed so as not to cause any wire or wireless communication signal disturbance.
- K. **Glare:** Any CSES shall be situated to eliminate concentrated glare onto abutting structures and roadways.
- L. **Electrical Wires & Utility Connections:** To the greatest practical extent, all electrical wires and utility connections for any CSES shall be installed underground, except for transformers, inverters, substations and controls. The Zoning Administrator shall take into consideration prohibitive costs and site limitations in making his/her determination.
- M. **Lighting:** Exterior lighting for any CSES shall be limited to that required for safety and operational purposes.
- N. **Signage:** All signs, other than the **facility maintenance contact information**, manufacturer's or installer's identification, appropriate warning signs, or owner identification on a solar panel array and/or modules, building, or other structure associated with any CSES shall be prohibited.
- O. **Storage:** Outdoor storage of equipment, machinery, and waste or scrap materials, other than materials used during construction of any CSES or actively engaged in routine maintenance of any CSES, shall be prohibited. On-site storage structures shall comply with all standards for accessory structures identified in the U.D.O. and have a concrete floor and perimeter foundation.
- P. **Proximity to Airport:** For any CSES located within 660 feet of an airport or within approach zones of an airport, the applicant must complete and provide the results of a glare analysis through a qualitative analysis of potential impact, field test demonstration, or geometric analysis of ocular impact in consultation with the Federal Aviation Administration (FAA) Office of Airports, consistent with the Interim Policy, FAA Review of Solar Energy Projects on Federally Obligated Airports, or most recent version adopted by the FAA.
- Q. **Security:** All ground-mounted electrical and control equipment for CSES shall be fenced and labeled or secured to prevent unauthorized access. The solar array and/or modules shall be designed and installed to prevent access by the public **with fencing in accordance with Section SES-01 H**, and

access to same shall be through a locked gate.

R. Groundcover: Groundcover within any CSES shall comply with the following standards:

1. Groundcover within any CSES shall be planted and maintained to be free of all invasive species prohibited by Indiana law.
2. No insecticide use is permitted. This provision does not apply to insecticide use in on-site buildings, in and around electrical boxes, or as otherwise may be deemed necessary to protect public health and safety.
3. Legally applied herbicides by a licensed applicator for the control of weeds is permitted.
4. Prime Farmland:
 - a. Within any CSES project area, management of groundcover located on land classified as *All Areas Are Prime Farmland* by the *National Cooperative Soil Survey*, is required to adhere to guidance set forth by the Purdue University Extension, or an Indiana state government agency, on pollinator-friendly management practices, except as permitted in *U.D.O Section SES-01 O 2 b*. If no such guidance is established, such sites shall meet the following best management practices for creating pollinator habitat:
 - i. Ground around and under solar panels and in project site buffer areas shall be planted, established, and maintained for the life of the solar project in perennial vegetated ground cover to the maximum extent feasible and economical.
 - ii. To the maximum extent feasible and economical, perennial vegetation ground cover shall be based on a diverse seed mix of native species, or in the alternative, based on guidance specific to the local area provided by the National Resources Conservation Service, Soil and Water Conservation District, or Conservation District.
 - iii. The site shall be planted and maintained to be free of all invasive species prohibited by Indiana law.
 - b. Within any CSES project area, other agronomic practices may be permitted on land classified as *All Areas Are Prime Farmland* by the *National Cooperative Soil Survey* in lieu of pollinator-friendly management practices as described in *U.D.O Section SES-01 O 2 a* at the discretion of the Zoning Administrator. The Zoning Administrator shall take into consideration prohibitive costs and site limitations in making his/her determination.
5. Groundcover Plan: The applicant for any CSES shall submit a groundcover plan approved by a DNR wildlife biologist, local Soil and Water Conservation District professional, or other qualified professional as determined by the Zoning Administrator.

S. County Roads:

1. The applicant for any CSES and the Shelby County Commissioners shall enter into a Road Use Agreement for the use, repair, and improvement of County roads for the duration of the development, construction, operation, and maintenance of the CSES. The Road Use Agreement shall comply with any standards for Road Use Agreements adopted by the County Commissioners and applicable laws.
2. The applicant for any CSES shall provide a financial assurance to cover any costs associated with repair to County roads and roadway infrastructure due to construction activity related to the CSES:

- a. The applicant shall provide financial assurance in an amount determined by a State licensed professional engineer chosen by the County.
 - b. The financial assurance shall be in the form of a performance bond or a surety bond issued by an AM Best Company having an A or A+ rating.
 - c. The bond shall name the Shelby County Commissioners as the beneficiary, and default to the applicable municipality should the CSES become annexed.
- T. Maintenance: The applicant for any CSES or its successor shall be responsible for regular maintenance of the CSES. Failure to maintain the CSES is a violation of the Unified Development Ordinance. At a minimum, regular maintenance includes:
1. Physical improvements, including but not limited to electric systems, buildings, cabling, electrical components, security barriers, roads, foundations, and pilings, shall be maintained in good working order at the cost of the applicant.
 2. Panels shall be repaired or replaced when either nonfunctional or in visible disrepair.
 3. Weed control, mowing, and removal of invasive species shall be performed routinely.
 4. Growth of vegetation, other than trees, shrubs, ornamental plants, agricultural crops, and vegetation to exceed ten (10) inches as part of an approved Groundcover Plan in accordance with U.D.O Section SES-01 R, shall not exceed ten (10) inches.
 5. All fences shall be maintained in accordance with U.D.O Section 5.23 D
 6. All landscaping shall be maintained in accordance with U.D.O Section 5.43 D
- U. Decommissioning: Any CSES which has ~~reached the end of its useful life~~ discontinued commercial operation or has ceased electrical power generation or transmission for at least six (6) consecutive months shall be removed at the expense of the applicant or its successor in compliance with a decommissioning plan approved by the County. The following standards apply:
1. Decommissioning Plan: The applicant shall submit a decommissioning plan to the County for approval in conjunction with application for TAC Site Plan approval. At a minimum, the decommissioning plan shall include:
 - a. Description of Implementation, including but not limited to:
 - i. Removal of all surface and subsurface physical improvements including but not limited to electric systems, buildings, cabling, electrical components, security barriers, roads, foundations, pilings, and fences. At the discretion of the Zoning Administrator, the plan may incorporate agreements between the applicant and owners of leased property with the CSES to allow access roads and/or fencing to remain in place.
 - ii. Restoration of surface grade, soil, and vegetation to pre-construction conditions.
 - iii. Disposal of all CSES equipment and materials in compliance with Federal, State, and Local laws at the time of decommissioning.
 - iv. Decommissioning Cost Estimate in accordance with U.D.O Section SES-01 U 2
 - v. Financial Assurance for Decommissioning in accordance with U.D.O Section SES-01 U 3

2. Decommissioning Cost Estimate:
 - a. The applicant shall submit a decommissioning cost estimate for the gross estimated cost to decommission the CSES in accordance with the decommissioning plan.
 - b. The cost estimate shall be prepared by a State licensed professional engineer chosen by the County.
 - c. The cost estimate shall be submitted in conjunction with the TAC Site Plan application and updated every five years by a State licensed professional engineer chosen by the County.
 - d. The applicant or its successor shall reimburse the County for any analysis by the State licensed engineer and any other third party of the initial and updated decommissioning cost estimates.
 - e. The decommissioning cost estimate shall not include any estimates or offsets for the resale or salvage values of the CSES equipment and materials.
3. Financial Assurance for Decommissioning:
 - a. The applicant shall provide financial assurance for the total estimated cost of decommissioning, in accordance with *U.D.O Section SES-01 U 2*
 - b. The financial assurance shall be in the form of a performance bond or a surety bond issued by an AM Best Company having an A or A+ rating **reviewed and approved by County legal counsel.**
 - c. The bond shall name the Shelby County Commissioners as the beneficiary, and default to the applicable municipality should the CSES become annexed.
 - d. The bond shall be in place prior to issuance of an ILP and the applicant or its successor shall submit an updated bond to the County every **five-three** years.
4. Partial Decommissioning: If decommissioning is triggered for a portion, but not the entire CSES, then the applicant or its successor will commence and complete decommissioning, in accordance with the decommissioning plan, for the applicable portion of the CSES; the remaining portion of the CSES would continue to be subject to the decommissioning plan. **~~Any reference to decommissioning the CSES shall include the obligation to decommission all or a portion of the CSES whichever is applicable with respect to a particular situation.~~ The Decommissioning Plan shall define the circumstances which would trigger partial decommissioning.**
5. Amendments to the Decommissioning Plan: Any amendment to an approved decommissioning plan shall comply with all standards of this ordinance and shall be approved at the discretion of the Zoning Administrator.

Board of Zoning Appeals (to be added to U.D.O Section 2.03 A1 District Intent, 2.05 A2 District Intent, 2.07 A3 District Intent, 2.09 A4 District Intent)

Allow a Special Exception when potential impacts to prime agricultural land on adjacent property and rural residential home-sites sites can be reasonably avoided.

Definitions:

Commercial Solar Energy Systems (CSES): An area of land or other area used by a property owner and/or corporate entity for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power, and supply electrical or thermal power, primarily or solely for off-site utility grid use, and consisting of one or more free-standing, ground-mounted, solar arrays or modules, or solar related equipment, intended to primarily reduce offsite consumption of utility power and/or fuels. CSES are a minimum of ¼ acre in total area.

Private Residential Solar Energy Systems (PRSES): An area of land or other area used for a solar collection system principally used to capture solar energy, convert it to electrical energy or thermal power, and supply electrical or thermal power, primarily or solely for on-site residential use, and consisting of one or more free-standing, ground or roof mounted, solar arrays or modules, or solar related equipment, intended to primarily reduce on-site consumption of utility power and/or fuels. PRSES shall be permitted in all zoning districts and shall be treated as accessory structures in each zoning district they are erected in. The maximum size of a PRSES is limited to the maximum size allowed for an accessory structure in each zoning district (other accessory structures shall not be included in maximum size calculations).

Nonparticipating Property: A lot or parcel of real property that is not owned by a project owner and with respect to which the project owner does not seek to install or locate one (1) or more CSES systems or other facilities related to a CSES system project (including power lines, temporary or permanent access roads, or other temporary or permanent infrastructure); or to otherwise enter into a lease or any other agreement with the owner of the property for use of all or part of the property in connection with a CSES system project or the owner of the property does not consent to having one or more CSES systems or other facilities related to a CSES system project (including power lines, temporary or permanent access roads, or other temporary or permanent infrastructure) installed or located or to otherwise enter into a lease or any other agreement with the project owner for use of all or part of the property in connection with a CSES system project. The term does not include a lot or parcel of real property if the owner of the lot or parcel consents to participate in a CSES system project through a neighbor agreement, a participation agreement, or another similar arrangement or agreement with a project owner.

Explanation of Amendments

Section B -Processes

Updates required TAC review supplementary documentation to include an acoustic assessment and road use agreement.

Specifies that the zoning administrator may request additional information from State and Local agencies.

Revises cross-reference numbers.

Note that the Site Plan approval cross references the drainage ordinance.

Section C - Fees

Legally supportable permitting fees should reflect the amount of work dedicated toward a project. The County already calculates site plan reviews fees on an hourly basis, therefore this number does not change other than updating the fee to reflect current site plan review costs.

Updates zoning fees to 10X the fee of a commercial zoning petition.

Updates ILP fees for consistency with construction permit fee for a warehouse (warehouse is .06 sq. ft, which equates to about 0.1% the value of the warehouse). Under the current ordinance, the County charged Speedway Solar about \$6,000. The revision would have resulted in a charge of \$300,000 for the \$300 million project.

Section D - Setbacks

Updates setback from property lines to 660-feet as recommended by the ordinance committee.

Updates the setback from the center of the road to 500-feet. The setback from the road has the largest aesthetic impact on the area as a whole. After review of the Bellflower project, it appears that a 500-foot setback would significantly reduce the visibility of the panels from the road.

Includes a provision that would allow a non-participating property owner to waive the setback requirements. This provision would help justify having the largest setback requirement in the State. The State minimum standards also include this provision. Note that the setback also applies to non-adjacent property.

Section G - Landscaping

Removes buffer yard requirement. Given the large setback, the buffer would likely result in the panels appearing more conspicuous by requiring landscaping in the middle of a field (this was apparent at the Bellflower Project). Also, the landscaping would limit use of the remaining portion of the property for agricultural purposes.

Adds landscaping requirement along adjacent non-participating property lines including dwellings. Language taken from Kyle's recommendation.

Section H – Fencing

Adds a fencing requirement and encourages use of agricultural fencing consistent with fencing in rural areas.

Section I – Noise

Adds a maximum noise standard as recommended by the ordinance committee.

Section O – Storage

Limits outdoor storage to encourage adequate property maintenance. Limits use of temporary structures, such as shipping containers, for on-site storage (shipping containers are used at the Bellflower site).

Section Q – Security

Cross references the new fencing standards.

Section S – County Roads

Requires a Road Use Agreement. The County Highway Department and Commissioners would regulate a road use agreement, not zoning, therefore the ordinance does not include specific standards.

Section U – Decommissioning

Clarifies meaning of 'end of its useful life' with language taken from State minimum standards.

Jason Clark will review the financial assurance for the decommissioning cost estimate.

References the approved decommissioning plan for partial decommissioning. While researching partial decommissioning, I could not find any specific standards and most ordinances do not reference partial decommissioning. However, I believe we need to include a standard in the event that a large portion of a project becomes non-functional. Without partial decommissioning, a project owner could allow a large portion of the project to remain non-functional as long as the project still produces electricity.

Definitions

Adds definition for non-participating property. Language taken from minimum state standards.

Other Items Discussed by Committee

Maintenance of the site, including landscaping, and penalty for not maintaining the site is referenced in Section T.

The State limits the County's ability to regulate battery storage. Jason Clark will review.

Lighting standards included in the UDO would apply, which includes prohibiting non-cut off fixtures.

As discussed, groundwater and soil contamination would fall under the jurisdiction of IDEM, DNR, Soil & Water, etc., so the amendment does not address water and soil testing.

As discussed, the County Council would address items such as property ownership, job creation, contributions to the tax base, etc. while making decisions on tax abatements. Therefore, these items are not included in the amendment.

Optional Language for Solar Overlay District

Transfers the approval process from the BZA by Special Exception to the Plan Commission and County Commissioners by a rezoning. The rezoning would place an overlay district over the existing zoning of the property, therefore, all development standards applicable to the property in the underlying zoning district would apply in addition to the standards applicable to CSES facilities. The language used to set up the overlay district reflects the language used to set up the Airport and Wellhead overlay districts currently in the UDO.

SES-01 – Commercial Solar Energy Systems

~~The Commercial Solar Energy Systems Standards apply to the following zoning districts: A1, A2, A3, A4, C1, C2, I1, I2, H1~~

~~The intent of these performance standards are to enable Shelby County to regulate the permitting of commercial solar energy systems; be informed of the placement of commercial solar energy systems; preserve and protect public health and safety; allow for the orderly development of land; and protect property values in Shelby County.~~

~~A. Permitted Districts: Zoning approval required for a CSES is displayed in Table SES-A: CSES Permitted Districts:~~

~~Table SES-A: CSES Permitted Districts~~

	CSES Permitted Districts								
Zoning District	A1	A2	A3	A4	C1	C2	I1	I2	H1
CSES	SE	SE	SE	SE	SE	SE	D	D	D

~~SE-Special Exception — D-Development Standards~~

~~(To be added to the two-page layout in Article 02: Zoning Districts, for the applicable districts)~~

Commercial Solar Energy Systems (CSES) Overlay District

3.12 CSES District Intent, Effect on Uses, and Effect on Standards

District Intent

The Commercial Solar Energy System (CSES) Overlay District is intended to enable Shelby County to regulate the permitting of commercial solar energy systems; be informed of the placement of commercial solar energy systems; preserve and protect public health and safety; allow for the orderly development of land; and protect property values in Shelby County. The Plan Commission should use this district to allow for CSES facilities on land when potential impacts to prime agricultural land on adjacent property and rural residential home-sites sites can be reasonably avoided.

Effect on Uses

All permitted uses in the base zoning district are permitted in the CSES District. All special exception uses permitted by special exception in the base zoning district are permitted by special exception in the CSES District.

Effect on Standards

The procedural standards indicated in U.D.O. Article 9 and development standards from the base zoning

district shall apply to the CSES District in addition to the procedural and development standards described in Section 3.15: CSES Procedural and Development Standards.

3.13 CSES District Applicability

The procedural requirements and development standards indicated in Section 3.15: CSES District and Procedural Standards apply to all land within the CSES District as defined in Section 3.14: CSES Boundaries and Exemptions. Under no circumstances shall a planned development or rezoning of property change the applicability of the CSES District's land use restrictions and additional development standards.

3.14 CSES District Boundaries

The CSES District shall apply to all properties as indicated on the Official Zoning Map.

3.15 CSES District Procedural and Development Standards

- A. Application Procedure and Land Use Approvals Required: Applications for CSES land use approvals and permits shall be filed on forms provided by the Zoning Administrator. The order of the approval process is as follows ~~(1) If required, Special Exception and Development Standards Variance approval, (2) TAC Site Plan approval, (3) Improvement Location Permit approval. The following standards apply: (1) Rezoning to CSES Overlay District, (2) If required, Development Standards Variance, (3) TAC Site Plan approval, (4) Improvement Location Permit. The following standards apply:~~
- a. ~~Special Exception: For any CSES requiring a Special Exception: Refer to Shelby County U.D.O. Section 9.13 Special Exception.~~ Rezoning to CSES Overlay District: Refer to Shelby County U.D.O Section 9.18 Zoning Map Amendment (Rezoning). Additionally, the applicant shall submit the *Application and Supporting Information*, as listed in Section 9.13, to the governmental agencies listed below. Any written response from each agency received within thirty (30) days of submittal of the *Application and Supporting Information* shall be submitted with the Application for Special Exception. Approval of the project by each agency is not required, however the Board of Zoning Appeals may place conditions on approval of an application or deny an application based on the submitted written responses.