

## **Holland Township Planning Board**

### **Minutes of the Regular Meeting**

**June 12, 2017**

The meeting was called to order by the Chairman Rader:

“I call to order the June 12, 2017 Meeting of the Holland Township Planning Board. Adequate notice of this meeting was given pursuant to the Open Public Meeting Act Law by the Planning Board Secretary on December 8, 2016 by:

1. Posting such notice on the bulletin board at the Municipal Building.
2. Published in the December 8, 2016 issue of the Hunterdon County Democrat
3. Faxed to the Express Times for informational purposes only.

#### **Flag Salute**

Chairman Rader asked all to stand for the Pledge of Allegiance

#### **Identification of those at the podium**

Present: Casey Bickhardt, Ken Grisewood (arrived 7:40 pm), Dave Grossmueller, Michael Keady, Mike Miller, Carl Molter, Dan Rader, Duane Young, Todd Bolig, Esq., Bill Burr, Engineer, Court Reporter Donna Macky for Lucille Grozinski, CSR, and Maria Elena Jennette Kozak, Secretary.

Excused Absent: Dan Bush, Tom Scheibener, and Elizabeth McKenzie, Planner

Let the record show there is a quorum.

#### **Minutes**

The approval of the May 8, 2017 meeting minutes was tabled.

#### **Conceptual Plan**

There was no Concept Plan scheduled at this time.

#### **Old Business:**

There was no Old Business scheduled at this time.

#### **New Business:**

There was no New Business scheduled at this time.

#### **Completeness Review:**

There is no completeness review to discuss at this time.

#### **Resolution**

Block 2 Lot 1.02 & Block 4 Lot 1– Mill Road Solar Project LLC – 10 Mill Road – Preliminary and Final Site Plan – Solar Project – Deemed incomplete February 8, 2016 and July 11, 2016. Revised Site Plans Received into our office August 22, 2016, 2016 – 45-day completeness deadline October 6, 2016. Extension granted to October 10, 2016. Additional information submitted for consideration. Extension granted to November 14, 2016 meeting. Deemed complete November 14, 2016. Public Hearing began on January 9, 2017, February 13, 2017, and March 13, 2017 and carried to May 8, 2017. Approved with conditions. Board Attorney Authorized to prepare the resolution. Board Action needed to memorialize the resolution.

Applicant’s Attorney, Doug Cole is present. The following proposed resolution was submitted prior to the scheduled meeting for consideration.

**HOLLAND TOWNSHIP PLANNING BOARD**

**RESOLUTION APPROVING THE APPLICATION  
FOR PRELIMINARY & FINAL MAJOR SITE PLAN,  
AND VARIANCE RELIEF FROM §100-21.M(2)(b),  
PURSUANT TO *N.J.S.A. 40:55D-70(c)(2)*,  
FOR BLOCK 2, LOT 1.02 and BLOCK 4, LOT 1,  
BY APPLICANT, MILL ROAD SOLAR PROJECT, L.L.C.**

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WHEREAS, Mill Road Solar Project, L.L.C., 14 Scenic Drive, Dayton, New Jersey (the “Applicant” or “Mill Road”) has applied for variance relief, and preliminary and final major site plan approval for Block 2, Lot 1.02 and Block 4, Lot 1, in the Township of Holland, County of Hunterdon, State of New Jersey (the “Subject Property”) which is situated in Holland Township’s Limited Industrial “IND” Zone;

WHEREAS, Mill Road’s application, dated January 15, 2016, was filed on or about January 15, 2016 (the “Application”) with the Holland Township Planning Board (the “Board”);

WHEREAS, Applicant proposes the development of a photo-voltaic solar farm facility consisting of three distinct solar arrays on the Subject Property (collectively referred to as the “Facility”);

WHEREAS, I.P.P.E., Inc., 17A Marlen Drive, Hamilton, New Jersey, is the title owner of the Subject Property (the “Owner”);

WHEREAS, the Applicant has filed the Application with the written consent of the Owner with the Owner having certified its agreement to be bound by any decision reached and any conditions that may be imposed by the Holland Township Planning Board relating to the Application;

WHEREAS, the Application was before the Board for the determination of completeness on the following dates: February 8<sup>th</sup>, 2016; July 11<sup>th</sup>, 2016; September 11<sup>th</sup>, 2016; and October 10, 2016; and November 14<sup>th</sup>, 2016;

WHEREAS, the Board, on November 14<sup>th</sup>, 2016, on recommendation of the Board’s Engineer, deemed the Application complete, subject to the grant of two temporary waivers, specifically, Checklist “D” Items D-49 and D-54, to be fulfilled as conditions of final approval;

WHEREAS, on January 9<sup>th</sup>, 2017, February 13<sup>th</sup>, 2017 and May 8<sup>th</sup>, 2017, the Application was the subject of public hearings at which appeared the Applicant, Mill Road, through the Applicant’s professionals, Douglas Cole, Esq.; Richard J. Pantel, P.E., New Jersey License Number 29344, of Tectonic Corp., P.C., d.b.a. Princeton Engineering, appearing at the January 9<sup>th</sup>, 2017 and February 13<sup>th</sup>, 2017 public hearing dates<sup>1</sup>; Christopher P. Rosati, P.E., P.P., of FWH Associates, P.A., New Jersey License No. 41981,

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<sup>1</sup> Richard J. Pantel, P.E., Applicant’s Engineer, was succeeded by Christopher P. Rosati, P.E., P.P., following the February

appearing at the May 8<sup>th</sup>, 2017 public hearing date; and Richard Ivins, M.S. Electrical Engineering, appearing at the May 8<sup>th</sup>, 2017 public hearing date.

WHEREAS, the following **Exhibits** were submitted and moved into evidence by the Applicant:

- A-1 Application for Preliminary and Final Major Site Plan Approval dated January 15, 2016, and filed as of January 15, 2016 including the following: Certification of Ownership; Site Walk Authorization; Escrow Replenishment Agreement; Completed W-9 Form; and Section “D” Checklist for Determining Completeness of Application for Preliminary Major Site Plan; Proof of Service / Publication Package including Affidavit of Publication, dated February 6, 2017, in the *Hunterdon County Democrat*, on February 2, 2016; and Affidavit of Proof of Service signed by Suzanne Ranu, assistant to Applicant’s Attorney Douglas Cole, Esq., dated February 13, 2017; and thereafter supplemental notice effectuated by way of an Affidavit of Publication dated March 6, 2017, evidencing publication in the *Hunterdon County Democrat*, on March 2, 2017; and Affidavit of Proof of Service signed by Suzanne Ranu, assistant to Applicant’s Attorney Douglas Cole, Esq., and dated March 2, 2017;
- A-2 Supplemental Boring and Soil Test Report of Georgia Pacific, dated April 2, 2009;
- A-3 Inter-Connection Agreement between Fibermark Estates and JCP&L, dated June 20, 2012;
- A-4 Preliminary Major Site Design Plans consisting of 36 sheets, Sheet C1010 pertaining to designated Flood Hazard Area, prepared by Richard J. Pantel, P.E., New Jersey License No. 29344 of TectonicCorp, P.C. d/b/a Princeton Engineering, signed by Richard J. Pantel, P.E., dated both September 24, 2016 and January 30, 2017;
- A-5 Google overhead map of site depicting Norway Spruce trees;
- A-6 Site Plan – Landscape Plan Cyphers Road north;
- A-7 Site Plan – Landscape Plan south of Jonathan Fine Farmhouse showing wooded area;
- A-8 Veridian Remedial Action Outcome letter dated April 10, 2015;
- A-9 Veridian letter dated June 17, 2010;
- A-10 Sheet 6-32 colored rendering of site plan;
- A-11 100’ scale aerial photograph;
- A-12 Photos taken by Rosati’s office in March of 2017 depicting:
  - Upper left photo: View toward existing farm;
  - Lower left photo: View looking south on Cyphers Road;

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2017 meeting. Engineer Pantel’s testimony, while remaining a part of the record before the Board, was considered by the Board to the extent his testimony was not superseded by the wholesale site plan modifications made by Engineer Rosati in the site plan dated April 10, 2017, and by Engineer Rosati’s testimony pertaining to the same.

Upper right photo: View across from paper mill looking south; and

Lower right photo: View from Jonathan Fine Farmhouse driveway.

A-13 Photos taken by Rosati's office in March of 2017 depicting:

Upper left photo: View from Cyphers Road to Lot 18;

Lower left photo: View looking south on Cyphers Road;

Upper right photo: View of existing farm road which will be used as a  
connection road between Array "A" and Array "B";

and

Lower right photo: Future access from Array "A" and Array "B".

A-14 Preliminary Major Site Plans, consisting of 32 sheets, prepared by Christopher P. Rosati, P.E., New Jersey License No. 241981, of FWH Associates, P.A., signed by Christopher P. Rosati, P.E., and dated April 10, 2017; and

A-15 Correspondence dated December 21, 2015 from PJM Interconnection, LLC, to the Hon. Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, containing the Wholesale Market Participation Agreement No. 2975.

WHEREAS, the following **Exhibits** were submitted and moved into evidence by the Planning Board:

B-1 Memorandum of William H. Burr, IV, P.E., to the Planning Board, dated January 7, 2017;

B-2 Memorandum of William H. Burr, IV, P.E., to the Planning Board, dated February 10, 2017;

B-3 Memorandum of William H. Burr, IV, P.E., to Planning Board, dated May 5, 2017;

B-4 Memorandum of Elizabeth McKenzie, A.I.C.P., P.P., to Planning Board, dated January 7, 2017;

B-5 Memorandum of Elizabeth McKenzie, A.I.C.P., P.P., to Planning Board, dated February 13, 2017;

B-6 Memorandum of Elizabeth McKenzie, A.I.C.P., P.P., to Planning Board, dated May 8, 2017;  
and

B-7 State of New Jersey, Highlands Water Protection and Planning Council, letter of Margaret Nordstrom, Executive Director, to Planning Board Chairman Rader, dated May 4, 2017.

WHEREAS, the Planning Board of Holland Township having reviewed the exhibits submitted by the Applicant, and the Board having heard and considered the evidence and testimony given by the Applicant's professionals, and from the public in attendance, and the Board having heard from the Township's professionals, William H. Burr, IV, P.E., of Maser Consulting, P.A.; Elizabeth C. McKenzie,

A.I.C.P., P.P.; and Todd L. Bolig, Esq., with respect to the Application, the Board made the following **findings of fact:**

1. The Board had jurisdiction to proceed as all necessary notices were served and published in accordance with law;
2. All taxes for the Subject Property have been paid;
3. Application fees were paid and review escrows established;
4. The Application has been deemed complete by the Board;
5. **Christopher P. Rosati, P.E., P.P.**, the Applicant's Engineer and Professional Planner, after being duly sworn according to law and qualifying as an expert in his respective fields, testified during the hearing, and which testimony is part of the record in this matter, that:

A. **The Subject Property:** The property which forms the subject of this Application encompasses two separate parcels: Block 4, Lot 1 consisting of approximately 92 acres, and Block 2, Lot 1.02, consisting of approximately 65 acres. Cyphers Road, running north and south, splits the two parcels, with Block 4, Lot 1 to the west of Cyphers Road, and Block 2, Lot 1.02 to the east.

To the north of the Subject Property is the Musconetcong River; to the south are residential dwellings in the Township's "R-5" zone; to the east, is an un-named tributary; and to the west, is a heavily wooded area.

The Subject Property is predominantly open farm fields, of which, a portion is used for agricultural purposes consisting of rotational crops. The Subject Property is currently farmed for hay. There is a C-1 classified waterway traversing Block 4, Lot 1 which is "typically dry". There is also an old farm house, the "Jonathan Fine Farm" located on the Subject Property. Situated on Block 2, Lot 1.02 are abandoned industrial buildings once utilized by a paper mill.

B. **Proposed Use of Subject Property:** Applicant proposes to construct a solar farm facility known as a "direct grid" system which shall connect to an existing off-tract electrical distribution grid system with the electricity generated on site to be sold at prevailing market rates.

Applicant proposes to construct three separate, ground-mounted solar arrays generating a total of eight point nine megawatts (8.9 MW) which will be comprised of a total of 24,606 solar panels. Arrays “A” and “B” will be located on Block 4, Lot 1 and will generate 1.8 megawatts and 5.5 megawatts each, respectively. Array “C” will be located on Block 2, Lot 1.02 and will generate 1.6 megawatts.

Each solar array module will be wired together to inverters which will convert DC power to AC power. All conduits connecting the arrays will be located underground and will not be greater than 4” in diameter. Multiple conduits may be placed within a single trench approximately 8” wide by 30” deep in order to reduce ground disturbance.

Each array will be constructed of galvanized steel and will be pile driven in accordance with prevailing building codes. The arrays will be located at a height ranging from approximately 2’ above ground to a height not to exceed 10’ in height above ground level. The panels mounted thereon will be fixed at a twenty degree (20°) angle. The arrays will follow the contours of the Subject Property thereby reducing the amount of “earthwork” required.

- C. **Traffic:** Traffic to, from, and upon the site is expected to be minimal. Testimony was provided that there would be approximately one (1) trip per week for the purpose of conducting routine maintenance and inspections of solar facilities located on the Subject Property. Once construction is completed, maintenance vehicles will predominantly consist of pickup trucks and commercial-sized vans.

There will be a single entrance to Array “B” and a single entrance to Array “C” with appropriate emergency signage in place on both entrances. Array “A” will be reached via an existing farm road from Array “B”. The entrance points and access roads to Arrays “B” and “C” will be paved and in conformance with all Township requirements. Each array will have a 30’ turf boundary roadway encircling the arrays.

- D. **Site Security:** Applicant proposes to construct an eight foot (8') high, black vinyl coated chain link fence around the entire perimeter of each of the three arrays. Arrays "B" and "C" will each have a locked access gate capable of accommodating emergency vehicles. The Applicant also proposes the installation of a "Knox Box", placards identifying the name of the site, street address of the site, and an emergency contact number. Applicant testified that the site is monitored at all times remotely via a telemetry system.
- E. **Construction Staging:** Applicant testified that a stabilized stone area will be created for the placement of a construction trailer, storage of construction materials, and for parking for the on-site construction workers. Said area shall be surrounded by fencing during construction with both the stabilized stone and the fencing to be removed upon the completion of construction.
- F. **Stormwater:** Engineer Rosati testified that the Subject Property is currently "cultivated as a hay crop". Applicant proposes placement of a "meadow grass mix" under the arrays, which will be mowed two or three times per year. He testified that run-off at peak flows, with the meadow grass mix in conjunction with the arrays, will be similar to that which currently exists on site.
- G. **Trees & Buffering:** Engineer Rosati testified that there are thirty-four (34) hardwood trees in excess of 12" that will be removed per the landscaping plan that will be replaced with twenty-four (24) hardwood trees adjusting for the ten (10) tree credit allotted per Township Ordinance §100-177. Each replacement hardwood shall have a minimum caliper of 2½ inches. Applicant proposes to install an additional 256 trees of various species including maple, honey-locust, pitch and white pines. Mr. Rosati indicated that the Applicant was amenable to using indigenous plantings including Norway Spruce and limiting the use of both the pitch and white pines. Mr. Rosati also testified that he would modify the landscape buffering to conform to the Township's Ordinance and would do so in conjunction with the Board's Engineer.

H. **Positive Criteria:** Mr. Rosati testified that the purposes of zoning as set forth in *N.J.S.A.* 40:55D-2, of the New Jersey Municipal Land Use Law, would be advanced by permitting a deviation from the Holland Township zoning ordinance §100-21.M(2)(b), pursuant to *N.J.S.A.* 40:55D-70(c)(2), for the following reasons:

First, Engineer Rosati testified that the Subject Property is within the IND zone, and solar energy facilities are permitted in the IND zone pursuant to Holland Township zoning ordinance §100-21.M.

Second, Mr. Rosati testified that the Application advances three purposes underlying New Jersey's Municipal Land Use Law, to wit: First, the use "encourage(s) municipal action to guide the appropriate use or development of all lands in this State, in a manner which will promote the public health, safety, morals, and general welfare." [*N.J.S.A.* 40:55D-2(a)]. Second, the use "encourage(s) coordination of the various public and private procedures and activities shaping land development with a view of lessening the cost of such development and to the more efficient use of land." [*N.J.S.A.* 40:55D-2(m)]. Third, the use "promote(s) utilization of renewable energy resources." [*N.J.S.A.* 40:55D-2(n)].

He further testified that the utilization of the Subject Property for a use permitted by Township ordinance is a benefit substantially outweighing any detriment.

I. **Negative Criteria:** Mr. Rosati testified that this proposed variance may be granted without substantial detriment to the public good and that the variance will not substantially impair either the intent or the purpose of Holland Township's zone plan or its land use ordinance. Specifically, Mr. Rosati testified that this solar use is permitted in this zone. Second, solar use proposed decreases the public's dependency on fossil fuels while augmenting available power supplies during periods of peak demand, and is recognized as an "inherently beneficial use" within the State of New Jersey.



Engineer Rosati testified that there were no discernible detriments pertaining to the Applicant's proposed use in light of the landscape buffering intended to shield the arrays from neighboring residents, the negligible noise and vibration emitted by the site's equipment and the distance from the equipment to the Subject Property's perimeter border, and the limited vehicular traffic (post-construction). He also testified that there is "little to no nuisance factors" as there is no significant glare or glint, no acoustical impact, no impact from vehicular impact, and only an insignificant risk of fire and on site-security related issues, e.g., vandalism. Further, as no sewage is generated on site, there is no need for a sewage disposal Facility. Similarly, the use does not require a water supply.

6. **Richard "Sean" Ivins**, M.S. in Electrical Engineering, and the Applicant's certified solar installer, after being duly sworn according to law and qualifying as an expert in his respective field to which he testified during the hearing, and which testimony is part of the record in this matter, that:

A. **Solar Arrays:** The solar panels (a/k/a modules) have a minimum life span of twenty-five years and are warranted for that same period. Mr. Ivins further testified that should solar panel technology evolve in terms of panel efficiency and output, the current electrical grid would be incapable of accepting any additional electrical output generated by more technologically advanced, and potentially smaller-sized, panels. Thus, he opined that it is likely that the current electrical system will remain status quo for many years.

Mr. Ivins also testified that vibration was "minimal" at the inverter sites, and any noise or "hum" would not be appreciable unless within ten feet of the inverters which was comparable to a "laptop running with its fan on".

Upon the cessation of use of the solar arrays for the production of electricity, much of the equipment comprising the arrays, e.g., the support structures, the wiring and the modules are recycled. The utilization of driven piles also simplifies the removal

of the solar arrays versus solar arrays which are mounted upon or embedded in concrete piers.

7. At each of the public hearings, the Application was opened to the public in attendance for the purpose of eliciting testimony from the Applicant.

A. Ted Hardwick, 181 Bellis Road, after being duly sworn according to law, questioned: Whether the proposed fencing would have an impact on local wildlife; and whether feed would be provided for local wildlife within the confines of the arrays once enclosed by fencing.

B. Maureen Kerner, of 311 Rt. 627, Phillipsburg, after being duly sworn according to law, questioned Applicant's Engineer and landscape architect regarding height of proposed replacement trees; party(ies) responsible for maintaining and watering replacement trees; whether a "bond" is required of the Applicant to ensure maintenance of the replacement and trees and buffers; and the height of the tree row on the north side of the arrays.

C. Jerry Bowers, 217 Bellis Road, after being duly sworn according to law, questioned Applicant's Engineer as to sufficiency of southerly landscape buffering presently consisting of wild rose and deciduous trees; the ability of the Applicant to practically provide a sufficient visual buffer for a site which rises to the north to the Musconetcong Mountain; the intention of the Property Owner to remove the existing "derelict" buildings currently on site; why as a "Brownfields" site that is actively farmed, does the Applicant not have to adhere to the C-1 riparian buffer of 300'; and whether the Property Owner would be amenable to "salt(ing) away" monies on an annual basis for prospective decommissioning costs.

D. Jim DeFalco, 311 Route 627, after being duly sworn according to law, questioned the frequency of the mowing of the site; whether the turf access roads would be cut on the same schedule as the remainder of the grass;

whether the arrays would use galvanized steel support piers; and the level of visual screening which would be provided along the northern buffer.

E. Joseph Becker, 2107 Milford-Warren Glen Road, after being duly sworn according to law, questioned which party will be responsible for the maintenance of the replacement trees when planted, and inquired as to the specific species to be used to ensure the proposed trees would be capable of withstanding winds and spring drought.

F. Ken Vogel, 136 Bellis Road, after being duly sworn according to law, questioned the Applicant as to the decommissioning of the existing buildings on the Subject Property.

8. At the conclusion of the Applicant's testimony, the public hearing portion of the meeting was opened, and closed, with no comment from the public in attendance.

9. No expert testimony was presented in opposition to the Application.

WHEREAS, the Planning Board of Holland Township reviewed the exhibits submitted by the Applicant and the Board has heard and considered the evidence and testimony given by the Applicant, the Applicant's attorney, Applicant's Engineers and Planner, and the Board having heard from the Township's professionals and the public in attendance with respect to the Application, the Board makes the following

**Conclusions of Law:**

1. The Planning Board of Holland Township has jurisdiction in this matter with all required parties having been properly noticed in accordance with law;
2. The Application, having been filed on January 15, 2016, is subject to the Holland Township Ordinances in effect on that date in accordance with, and pursuant to, *N.J.S.A. 40:55D-10.5*, commonly referred to as the "Time of Application" rule;
3. The use sought by the herein Applicant on the Subject Property is a use permitted by Holland Township Ordinance §100-21(M) in the Township's Industrial Zone ("IND"), and is a use permitted throughout the State of New Jersey in any zone district classified as an industrial zone.
4. The use proposed by the Applicant is defined by *N.J.S.A. 40:55D-4* as an inherently beneficial use. The proposed photovoltaic energy Facility benefits the public interest by creating renewable sources of energy which reduces the public's dependency upon fossil fuels while having little negative impact, if any, upon the environment. Additionally, the

public benefits from this solar use as available power supplies will be augmented during periods of peak electrical demand.

5. The use as contemplated herein serves the public's general welfare because the proposed site permits the proposed use. Specifically, the suitability of the Subject Property for the proposed use is predicated upon: The site's location, adjacent to a limited number of residential properties lends itself to minimizing any adverse or detrimental effects, if any, which may result. The Property permits readily available access to the existing electric distribution grid. The Property's configuration and topography are well-suited for the installation of solar arrays, in that the arrays will be situated upon the property in a manner which, in conjunction with the buffering conditions which are to be imposed, shall minimize any adverse effect upon adjacent properties, and which will entail minimal ground excavation. Finally, environmental constraints attendant to the Subject Property, specifically a C-1 stream running through the Subject Property, can be effectively managed and safeguarded so as to create only a *de minimus* impact, if any, upon said environmental constraints through the imposition of the conditions contained herein;
6. Any detrimental effect to the public resulting from a grant of the requested relief is sufficiently minimized by the imposition of reasonable conditions upon which this granted relief is predicated. Additionally, any detrimental effects are mitigated by various critical factors: The first, the use does not require a water supply. Second, there is neither sewage nor solid waste generated on site. Third, once constructed, the solar arrays will prospectively present a less intensive use of the Subject Property versus the current use entailing the annual cultivation of hay;
7. The requested relief can be granted without substantial detriment to the public good, there being no noted detriments by the Board as there was no public comment; and
8. The requested relief can be granted without substantially impairing either the intent or purpose of the Township's zone plan or the Township's ordinances, as a result of the fact that the requested relief occurs within the Subject Property which is zoned for the use in conjunction with the imposition of measures, set forth as conditions of this Resolution, which ensure that only a *de minimus* impact, if any, affects the C-1 corridor and any other environmental constraints present on the Subject Property.

WHEREAS, on May 8, 2017, the Holland Township Planning Board voted with respect to the Application and the attendant requested relief, as follows:

**A. TO GRANT THE FOLLOWING:**

1. Variance relief pursuant to N.J.S.A. 40:55d-70c(2), from Section 100-21.M(2)(b) of the Holland Township Land Use Ordinance which requires that a 300’ riparian buffer be provided on both sides of a C-1 designated waterway whereas the Applicant requests only a 150’ riparian buffer.

**B. SPECIFICALLY CONDITIONED UPON THE FOLLOWING:**

1. Written confirmation by the New Jersey Department of Environmental Protection approving of the reduction of the C-1 waterway riparian buffer from 300’ to 150’ on the Subject Property.

**ROLL CALL VOTE**

Board Member	Motion	Second	Ayes	Nays	Abstain	Absent/Ineligible
Dan Bush		X	X			
David Grossmueller			X			
Michael Keady			X			
Michael Miller			X			
Carl Molter			X			
Dan Rader						X
Thomas J. Scheibener			X			
Duane Young	X		X			
Casey Muench (Alt.)			X			
Ken Grisewood (Alt.)			X			

**Motion To Grant Variance Relief Approved and Carried.**

WHEREAS, also on May 8, 2017, the Holland Township Planning Board voted with respect to the Application and the attendant requested relief, as follows:

**A. TO GRANT THE FOLLOWING:**

1. Preliminary and Final Major Site Plan Approval.

**B. SPECIFICALLY CONDITIONED UPON THE FOLLOWING:**

1. Compliance with the State of New Jersey, Highlands Water Protection and Planning Council, letter of Margaret Nordstrom, Executive Director, to Planning Board Chairman Rader, dated May 4, 2017, and all conditions contained therein;
2. Compliance with all conditions as set forth in Memorandum of William H. Burr, IV, P.E., to Planning Board, dated May 5, 2017;

3. Compliance with all requirements of Holland Township Ordinance §100-21(M);
4. This approval is subject to Applicant's production of any and all items "waived for completeness purposes only" including the Production of Section D "Preliminary Major Site Plan" Checklist Items, D-49 and D-54, which shall be subject to the Board Engineer's review and satisfaction;
5. All building construction shall be subject to the appropriate building sub-code and other construction permits;
6. This approval shall be subject to all State, County and Township statutes, ordinances, rules and regulations affecting development in the Township, County and State;
7. The approval herein memorialized shall not constitute, nor be construed to constitute any approval, direct or indirect, of any aspect of the site plan, or of the proposed improvements which are or may be subject to the jurisdiction of any third party agencies and require review and approval(s) by any third party agencies;
8. Applicants shall apply for and obtain any and all Township, County, State and Federal permits as may be required for any aspect of the construction as contemplated by this Application;
9. Applicants shall comply with all other applicable rules, regulations and ordinances of the Township of Holland, the effect of this decision being merely to relax the zoning requirements and restrictions to the specific extent set forth herein and to approve the Site Plan;
10. The aforementioned approval shall be subject to all requirements, conditions, restrictions and limitations set forth in all prior governmental approvals, to the extent same are not inconsistent with the approvals, terms and conditions set forth herein;
11. The variance relief granted herein shall expire unless such construction or alteration permitted by the variance relief has actually commenced within six (6) months from the date of this Resolution, since the variance relief was granted in conjunction with Site Plan approval;
12. Filing of a NJDEP Flood Hazard Area Verification, a copy of which shall be provided to the Planning Board Secretary and Engineer;
13. Filing of a NJDEP Wetland's Permit Application, a copy of which shall be provided to the Planning Board Secretary and Engineer;

14. Production of a Phase I Geological Report to be reviewed and approved by the Board Engineer;
15. Utilization of “double super-silt” fencing and staked hay bales during construction in accordance with the Township Engineer’s directives. The Site Plans shall also be revised to reflect these soil erosion control measures;
16. Utilization of 8’ high, black vinyl coated chain link fencing surrounding the perimeters of Solar Arrays “A”, “B” and “C”;
17. There shall be no display of commercial or product advertising anywhere on the Subject Property;
18. The maximum height of the solar panels shall not exceed ten feet (10”) above ground level;
19. Applicant shall utilize solar panels which minimize glint and / or glare;
20. Applicant must furnish a lease agreement pertaining to the Subject Property between Applicant and Property Owner;

#### EMERGENCY / FIRE /SAFETY

21. The Applicant shall obtain a street address for the Subject Property from the 911 coordinator, and shall utilize “Cyphers Road” and not “Mill Road” as the address for same;
22. The Applicant shall provide the Holland Township Volunteer Fire Company, the Milford-Holland Rescue Squad, the Holland Township Police Department, and the Board’s Engineer an Emergency Response Plan for each of the three array fields in accordance with Holland Township Ordinance §100-21(M). In addition, the Applicant shall provide the opportunity for the Holland Township Volunteer Fire Company to tour the Facility upon completion of construction. The Fire Company shall receive a placard with emergency contact information and the array layout for reference Said placard shall be updated and maintained current;
23. The Applicant shall install a sign or placard at each entrance of the Facility that identifies the owner and operator of the Facility which provides their contact information. Said sign or placard shall be maintained current;
24. The Applicant shall offer orientation to the Holland Township Volunteer Fire Company, the Milford-Holland Rescue Squad and the Holland Township Police Department regarding the site and fire-fighting issues associated with the Facility before any portion of the Facility is made operational;

25. The Facility shall be monitored at all times without interruption for energy production disruptions, which can be a signal of an irregularity within the system, and a plan of the Facility with all appropriate contact information shall be submitted to the Holland Township Committee for distribution to appropriate entities. Same shall be maintained current by the operator of the Facility at all times;
26. The Applicant shall submit Material Specification Sheets for the solar panels, inverters and transformers or a letter from the manufacturer of the panels identifying the materials of construction used in the same;
27. If there is any change in equipment utilized at the Facility, including, but not limited to the solar panels, inverters and transformers, then the Applicant shall notify the Holland Township Zoning Officer and the Construction Code official designated by the Township of Holland, and shall timely comply with any and all additional safety requirements deemed necessary by any of the foregoing. Updated Material Specification Sheets shall be provided to the Township;
28. There shall be no maintenance of the Facility conducted after dark except in the case of emergency;

#### LANDSCAPING

29. The Applicant shall revise the landscaping plan to the satisfaction of the Board Engineer and Planner in accordance with the Holland Township Ordinance §100-21(M).
30. All tree and plants species to be utilized must be approved by the New Jersey Highland's Water Protection and Planning Council, and by the Board's professionals;
31. Removal, trimming and/or pruning of trees within the three-hundred foot (300') riparian buffer, or one-hundred fifty feet (150') riparian buffer, if ultimately approved by NJDEP, shall not occur without both: 1. The express written permission of the Board's Engineer of a plan for such trimming and pruning which approval shall not be unreasonably withheld, and 2. All required outside governmental agency(ies) approvals;
32. The Applicant shall submit a Maintenance Plan prior to the pre-construction meeting, to be reviewed and approved by the Board's professionals, which provides for the Applicant's continued maintenance of all required plantings, e.g., trimming, pruning and watering, as well as a schedule of specific maintenance activities to be conducted. The Maintenance Plans



- shall also include notes as to maintenance and watering to ensure the proposed buffer plantings survive with no water source or irrigation present on site;
33. Applicant shall in the Maintenance Plan include a schedule for all landscape plantings as well as identification of the boundaries of the three hundred foot (300') riparian corridor, or one hundred fifty (150') riparian corridor, if approved by NJDEP, on both sides of the stream; and which provides for the periodic review of drainage patterns and modification to site drainage if ponding or standing water that did not previously occur develops on or adjacent to the Subject Property;
  34. All wire "root baskets" are to be removed from any tree planted on site. The Plan construction detail shall also be revised;
  35. No tree shall be trimmed to less than the required height at planting at any time. Any dead or damaged tree, which is any dead tree or any tree damaged to the extent that same is not reasonably expected to survive, shall be replaced with a tree of similar type (growth habit, size at maturity, branching pattern) listed on the Highlands Council's list of Recommended Native Plants for the Highlands Region as an ongoing maintenance requirement;
  36. This approval is subject to a post-construction inspection of the landscaping by the Board's Engineer, and any minor modifications to the quantity and location of landscaping required when deemed reasonably necessary by the Board's Engineer to adequately screen the Facility;
  37. This approval is subject to a post-construction inspection of the vegetative ground cover by the Board's Engineer, and any modifications to the ground cover when deemed reasonably necessary by the Board's Engineer to provide adequate stabilized ground cover underneath and between the solar panels;
  38. The Applicant shall post a maintenance guarantee for a period of two years, from the date of issuance of the Certificate of Occupancy, for the landscaping and vegetative cover installation in the amount recommended by the Board's Engineer;
  39. The Applicant shall comply with all aspects of the Hunterdon County Soil Conservation District's Certification and abide by the approval and inspection parameters of the District;
  40. Receipt and submission to the Board of approval by the Hunterdon County Soil Conservation District;
  41. The use of herbicides is not permitted as an acceptable maintenance practice;

## PRE-CONSTRUCTION & CONSTRUCTION

42. The Applicant shall attend a pre-construction conference with the Board's Engineer;
43. Prior to the pre-construction conference, the Applicant shall submit a Construction Phase Staging, Traffic and Circulation Plan, to be approved by the Board's Engineer. The Applicant shall be responsible for ensuring that vehicles accessing the site during construction follow the route detailed in the approved Construction Phase Staging, Traffic and Circulation Plan and Applicant shall be responsible for documenting the condition of the public rights-of-way and roadways identified in the Construction Phase Staging, Traffic and Circulation Plan prior to the commencement of construction and repairing all damage to the rights-of-ways or roads caused by the Applicant's employees, agents, contractors, vendors and/or invitees during the construction of the Facility;
44. Construction shall be completed in phases as follows:
  - A) The perimeter security fences shall be installed before any solar modules are installed; and
  - B) Thereafter, the sequencing of construction shall be agreed-upon at the pre-construction conference to be conducted prior to the commencement of construction, provided that buffer plantings and all other landscaping shall be required to be installed at the direction of the Board's Engineer.
45. If the Applicant desires to proceed with construction in separate phases, then Applicant shall submit a plan for making the Facility operational (live) in phases, including provisions requiring all safety features to be installed and operational before any portion of the Facility is made operational. Said plan shall be reviewed and approved by the Board Engineer;
46. The Applicant shall provide forty-eight (48) hour notice to the Board's Engineer prior to the commencement of any construction activities;
47. Construction hours shall be limited to 7:00 am to 7:00 pm Monday through Saturday. There shall be no construction on Sunday;
48. Construction noise generation at the site shall be limited to the hours of 8:00 am to 6:00 pm, consistent with Holland Township's noise ordinance;
49. Prior to any Certificate of Occupancy, an inspection of the proposed turf access driveways will be performed by the Township Engineer, and any soft or other unsatisfactory areas will be properly remediated with at least 6" of stone or other forms of reinforcement as directed by Township Engineer to ensure proper access for emergency vehicles.

50. The direction and intensity of any temporary lighting shall be subject to approval by the Board Engineer. The temporary lighting to be used in the staging areas shall be removed after completion of the permanent security fence or as otherwise agreed to by the Board Engineer in consultation with municipal officials;
51. All parking, including temporary parking during construction shall be on-site, with no parking or idling permitted on or along any public road. All temporary parking areas shall be restored in accordance with the site plans after construction is completed;

#### JONATHAN FINE FARMSTEAD

52. The structure known as the “Jonathan Fine Farmhouse” and all related accessory structures are to be the subject of a sub-division application to be filed by the Applicant not later than twelve (12) months from the date of this herein Resolution;
53. The Applicant, recognizing the historic import of the Fine Farmhouse, will undertake good faith efforts to ensure that the Fine Farmhouse is both maintained and / or restored;
54. The location of all wells and septic systems are to be depicted to Board’s Engineer’s satisfaction;

#### DECOMMISSIONING

55. Applicant shall comply with all requirements as set forth in §100-21(M)(7) including but not limited to the submission of a “decommissioning plan”, and a “developer’s agreement” which are subject to the Board Engineer’s and the Township Committee’s respective approvals;
56. Upon decommissioning, any foundations are to be removed in accordance with the recommendations of the Board’s Engineer to the depth necessary to allow future farming of the Property;

#### GENERAL

57. This approval is subject to review of the application by the Board Engineer and his confirmation that all plans conform to the comments contained in his memorandums of February 10, 2017 and May 5, 2017, and the conditions set forth herein or that they have been revised as mutually agreed upon by the Applicant and the Board’s Engineer;
58. The Applicant shall submit one copy of all revised plans in electronic form in addition to other required copies;

59. Applicant, as may be applicable, will be required to pay an affordable housing fee pursuant to L. 2008, c. 46 (N.J.S.A. 40:55D-8.1 to 8.7);
60. Neither the Board nor its employees or professionals will perform any service in furtherance of this approval if there is a deficiency in any escrow or inspection fee account. The Applicant shall be under a continuing duty to maintain a positive balance in all accounts until all conditions have been satisfied and all charges have been paid. This memorializing resolution shall not be released to the Applicant unless all outstanding escrow fees have been paid and the Applicant's escrow account contains sufficient funds to cover anticipated unbilled expenses;
61. The time within which Applicant shall have to obtain a construction permit and complete construction of this project shall be governed by N.J.S.A. 40:55D-49. In the event that a construction permit is not obtained, or if such permit is obtained but work not completed within the timeframe as set forth pursuant to N.J.S.A. 40:55D-49, all relief granted in this memorializing resolution shall expire and automatically become null and void;
62. The Applicant shall be required to submit a performance guarantee and inspection fees in amounts to be determined by the Township Engineers and in formats satisfactory to the Township Attorney;
63. Approval of this Application shall not and is not to be considered as an approval of any other requirements or approvals of permits as may be necessary to allow construction;
64. The within approval, and the use of all property subject to the within approval, are conditioned upon and made subject to any and all laws, ordinances, requirements, and/or regulations of and/or by any and all Municipal, County, State and/or Federal governments and their agencies and/or departments having jurisdiction over any aspect of the property and/or use of the Subject Property. The within approval and the use of all property subject to the within approval are also conditioned upon and made subject to any and all approvals by and/or required by any and all municipal, county, State and/or Federal governments and their agencies and/or department having jurisdiction over any aspect of the Subject Property and/or the use of the Subject Property. In the event of any inconsistency(ies) between the terms and/or conditions of the within approval and any approvals(s) required by the above, the terms and conditions of the within approval shall prevail unless and until changed by the Board upon proper application;

65. All improvements shall conform to applicable building standards and other applicable regulations as set forth in Federal, State, County and Municipal Statutes, Regulations, Codes and Ordinances, at the time of installation of the said improvement;
66. The terms and conditions of this approval shall be binding upon the Applicant, and the Applicant's successors in interest and assigns. Further, each of the terms and conditions of this approval are material elements of the approval based upon the submission of the Application and the property in its entirety, and the non-compliance with any term or condition by the Applicant or their successors or assigns shall be deemed a material default subjecting the Application to revocation of this approval. The request to change any single condition, since all conditions are integrally related, shall open the entire Application to the Planning Board for re-consideration, possible re-approval subject to new terms and conditions in addition to those terms and conditions presently existing in this approval. Further, should the property be subdivided, leased or owned in such a way that the eastern and western arrays are separately owned, developed and/or operated, then all conditions of this Preliminary and Final Major Site Plan approval shall apply to the ownership, development and/or operation of each array individually and as fully and completely as if it were the only subject of this approval. Any lease agreements shall obligate the tenant to carry out the terms of this approval, except that the sole and ultimate responsibility for ensuring the enforcement of the terms of said approval(s) shall lie with the underlying Owner, and its successors and / or assigns;
67. The acceptance by the Applicant of this approval and reliance thereon by the Applicant for the purpose of commencement of construction of improvements within the project in accordance with the approval, shall operate as an acknowledgment and agreement by the Applicant, its successors and assigns, that it accepts the official action herewith memorialized as being subject to the terms and conditions as contained herein, and agrees to fully comply and be bound thereby;
68. The Applicant shall submit fully conforming revised Plans and Reports to address each condition imposed herein by the Board prior to any authorized Township official executing the Applicant's Plans;
69. The Applicant shall submit Plans revised to include Notes listing each condition of approval that applies specifically to construction limitations and procedures. Said Plans shall specifically state: "There is a Resolution of the Holland Township Planning Board granting

Preliminary Site Plan Approval, dated June 12<sup>th</sup>, 2017, which sets forth other on-going conditions and legal requirements which are not identified on the Plans.”

**ROLL CALL VOTE**

Board Member	Motion	Second	Ayes	Nays	Abstain	Absent/Ineligible
Dan Bush	X		X			
David Grossmueller			X			
Michael Keady			X			
Michael Miller			X			
Carl Molter			X			
Dan Rader						X
Thomas J. Scheibener					X	
Duane Young		X	X			
Casey Muench (Alt.)			X			
Ken Grisewood (Alt.)			X			

**Motion To Approve Carried.**

**THIS RESOLUTION OF THE BOARD IS ADOPTED ON JUNE 12, 2017**

**ROLL CALL VOTE**

Board Member	Motion	Second	Ayes	Nays	Abstain	Absent/Ineligible
Dan Bush						
David Grossmueller						
Michael Keady						
Michael Miller						
Carl Molter						
Dan Rader						X
Thomas J. Scheibener						X
Duane Young						
Casey Muench (Alt.)						
Ken Grisewood (Alt.)						

**Motion to Approve Resolution \_\_\_\_\_**

ATTEST:

\_\_\_\_\_  
 Maria Elena Jeanette Kozak, Secretary  
 Holland Township Planning Board

\_\_\_\_\_  
 Dan Rader, Chairperson  
 Holland Township Planning Board

Let the record show that Chairman Dan Rader listened to the recording of the meeting of May 8, 2019 and his certification is on file. Attorney Bolig thanked the Chairman for the review, however, he is still considered excused and not able to vote on this application.

A motion was made by Mike Keady and seconded by Carl Molter to open the meeting up for discussion of the proposed resolution. All present were in favor. Motion carried.

Attorney Cole had voiced concerns about the ownership being IPPE and not Fiberville Estates, however, the application states that the owner of the property is IPPE, Inc. with an address of 17A Marlen Dr, Hamilton, NJ 08691. The second comment that Attorney Cole had was regarding about what will happen with the farmhouse and outbuildings outside the 12 month option to do a subdivision. Many people expressed the desire to see the house renovated, restored or occupied. Planner McKenzie had suggested at the public hearing that the desires to see the house renovated, restored or occupied are an intent that is upon the subdivision. Attorney Cole understood that conversation but thought it implied that if something is not done within 12 months then demolition on the farm house and outbuildings could take place. We do not have any enforcement to make the applicant do a subdivision but the condition is an agreement that the applicant could apply for a subdivision. It is a "best efforts" agreement. More discussion took place regarding the language in the proposed resolution as the applicant is just leasing the property and they are also focusing on safety as a main concern. Board member Mike Keady restated that the good faith efforts to ensure the farm house and the outbuildings are maintained/restored etc. are to be done in a subdivision no later than 12 months from the signing of the resolution. Attorney Cole still sees the condition as problematic however; Attorney Bolig reminded everyone that in lieu of a subdivision and that if there is no market for the project and the subdivision is not done within the 12 month condition then it can be demolished. Basically the 12 months gives the applicant time to subdivide or demolish. The subdivision would address other concerns such as land around the house, variances, lots size etc. After some additional discussion about wells and septic the applicant was reminded that checklist item 54 was waived for completeness and that the condition in the resolution is required. Attorney Cole stated that if the applicant is looking for variances then the subdivision would go before the Board of Adjustment. Everyone accepted the language as proposed in the resolution. No additional comments were made. A motion was made by Mike Keady and seconded by Carl Molter to memorialize the resolution for the Mill Road Solar LLC project. At a roll call vote, all present voted in favor of the motion. Motion carried.

### **Public Hearings**

There are no Public Hearings to discuss at this time.

### **Sub-Committee Status and Updates:**

There was nothing new to report at this time except that the Highlands Council Subcommittee is working with the Highlands Council Planner to move forward with various tasks including the Land Use Ordinance, The Land Use Inventory and the Zoning Map.

### **Public Comment**

Jerry Bowers expressed his disappointment in the Planning Board for not requiring the applicant to clean up the Mill Site. He feels that Mill Road Solar is doing a business that extracts value over time and that they could walk away with no consequences and that the township would be left with another "blunder" on a site that a mess. Everyone knows the history of this project and that the Planning Board did not take the opportunity to correct the situation and to insulate itself from a similar situation in the future.

### **Executive Session**

There was no Executive Session scheduled at this time.

### **Adjournment**

Mike Keady made a motion to adjourn. Motion approved. The meeting ended at 7:55 p.m.

Respectfully submitted,

*Maria Elena Jennette Kozak*

Maria Elena Jennette Kozak

Secretary