

Holland Township Land Use Board
Minutes of the Regular Meeting

March 11, 2024 (regular)

(Notice-The Chairman reserves the right to change or revise the order of the agenda as needed. Formal action may or may not be taken)

Chairman Martin: “I call to order the March 11, 2024 Regular Meeting of the Holland Township Land Use Board. Adequate notice of this meeting was given pursuant to the Open Public Meeting Act Law by the Land Use Administrator by:

1. Posting such notice on the bulletin board at the Municipal Building.
2. Publishing the notice in the December 21, 2023 edition of the Hunterdon County Democrat
3. And faxing to the Express-Times for informational purposes only.

Chairman Martin asked all to recite the Pledge of Allegiance

Appointments

Chairman: *We have appointments and re-appointments to swear in:
(Determined January 16, 2024 at the Township Committee Reorganization meeting)*

Dan Bush administered the oath to Bill Ethem

2024 JOINT LAND USE BOARD

	<i>CLASS</i>	<i>TERM EXPIRES</i>
<i>Bill Ethem</i>	<i>IV</i>	<i>12/31/2027</i>

Congratulations were extended to Bill Ethem on his reappointment.

Identification of those at the podium for the recording

Present: Dan Bush, Joe Cinquemani, Bill Ethem, Ken Grisewood, Peter Kanakaris, Michael Keady, William Martin, Mike Miller, Nickolas Moustakas, Ryan Preston, Kelley O’Such, Scott Wilhelm, Board Attorney Eric Bernstein (arrived at 7:05 pm), Board Conflict/Special Projects Engineer Bryce Good, Board Conflict/Special Projects Planner Beth McMannus for Kendra Lelie, and Maria Elena Jennette Kozak, Land Use Administrator.

Absent: Board Engineer Ian Hill, Board Planner/HT Highlands Council Subcommittee Planner Darlene Green, Board Conflict/Special Projects Engineer Richard Roseberry/Paul Sterbenz/Adam Wisniewski, Attorney John Gallina as Land Use Board Special Litigation Counsel in the matter of Mill Road Solar Project, LLC et als. V CEP Solar LLC et. als., Appellate Docket #A-3063-21: Law Division Docket #L-2029-19.

Let the record show there is a quorum.

Minutes

A motion was made by Scott Wilhelm and seconded by Mike Keady to dispense with the reading of the February 12, 2024 meeting minutes and to approve as presented. At a roll call vote, all present were in favor of the motion. Motion carried.

Old Business:

There was no Old Business scheduled at this time on the agenda.

New Business:

Block 24 Lot 13 – Huntington Knolls LLC – Extension of the Final Approvals for Phases 2 and 3 of the overall project. The request is for a 2 year extension. Approved February 12, 2024 – Land Use Board Attorney Bernstein authorized to prepare the resolution to be memorialized. Board Action Needed.

The resolution was presented to the board for review prior to the scheduled meeting.

**HOLLAND TOWNSHIP LAND USE BOARD
RESOLUTION AUTHORIZING EXTENSION FOR PHASES II AND III OF THE HUNTINGTON KNOLLS FINAL SITE PLAN APPROVAL**

WHEREAS, the Applicant, Huntington Knolls, LLC, was previously granted final site plan approval for Phases II and III of its planned development application, by Resolution adopted February 11, 2019; and,

WHEREAS, pursuant to N.J.S.A. 40:55D-52, by Resolution adopted on July 12, 2021, the Applicant was granted a one (1) year extension of final site plan approval for Phases II and III of its planned development application; and,

WHEREAS, by Resolution adopted on June 13, 2022, the Applicant was granted a second (2nd) extension of final site plan approval for Phase II and Phase III of its planned development application; and,

WHEREAS, by Resolution adopted on March 13, 2023, the Applicant was granted a third (3rd) extension of final site plan approval for Phase II and Phase III of its planned development application; and,

WHEREAS, the Applicant has applied for an additional two (2) year extension of final site plan approval for Phase II and Phase III of the project, pursuant to N.J.S.A. 40:55D-52(e); and,

WHEREAS, N.J.S.A. 40:55D-52(e) does permit the granting of additional reasonable extensions to final site plan approval beyond those extensions which may have been previously granted, pursuant to N.J.S.A. 40:55D-52(a); and,

WHEREAS, the Land Use Board considered the extension request at the February 12, 2024, Board meeting; and,

WHEREAS, the Land Use Board having carefully considered and reviewed the extension request, made the following finding of fact and conclusions of law:

1. All prior Resolutions regarding this Application are hereby incorporated by reference as if set forth at length herein.
2. With regard to the requested extension of final site plan approval for Phase II and Phase III, under N.J.S.A. 40:55D-52, zoning requirements applicable to the preliminary approval shall not be changed for a period of two (2) years from the adoption of the Resolution granting final approval. However, pursuant to N.J.S.A. 40:55D-52 (e), the Board may grant additional reasonable extensions beyond the two (2) year period, so long as the subject development qualifies and the Board does find that the subject development does qualify for an additional reasonable extension pursuant to N.J.S.A. 40:55D-52(e) as the proposed development consists of not less than one hundred (100) residential dwelling units.

NOW, THEREFORE, BE IT RESOLVED BY THE LAND USE BOARD OF HOLLAND TOWNSHIP, Hunterdon County, State of New Jersey, as follows:

1. That pursuant to N.J.S.A. 40:55D-52(e), the Land Use Board hereby grants a two (2) year extension of final site plan approval for Phase II and Phase III, through February 11, 2026.
2. The conditions of the approval in the prior Resolutions concerning this property/development, including any prior Resolutions authorizing extensions to said approval(s) shall continue in full force and effect as applicable.
3. The owner/applicant, including any contract purchaser of the property/development, shall be required to appear before the Land Use Board within ninety (90) calendar days of February 12, 2024 or no later than the May 13th Land Use Board meeting to provide an update on the status of the property/development.

A motion for the adoption of the within Resolution was made by _____ and seconded by _____.

Land Use Board Roll Call Vote

Board Member	Motion	Second	Ayes	Nays	Abstain	Absent/Ineligible
Michael Keady						
Scott Wilhelm						
Ken Grisewood						
Mike Miller						
Nickolas Moustakas						
Bill Ethem						
William Martin						
Dan Bush						
Ryan Preston (Alt.)						
Joe Cinquemani (Alt)						
Kelly O'Such (Alt)						
Peter Kanakaris (Alt.)						

Motion carried.

The foregoing Resolution was duly adopted by the Holland Township Land Use Board at a regular meeting held on March 11, 2024.

ATTEST:

Maria Elena Jennette Kozak, Secretary
Holland Township Land Use Board

William Martin, Chairperson
Holland Township Land Use Board

With no discussion being made, a motion was made by Dab Bush and seconded by Mike Miller to accept the resolution prepared and presented by Attorney Bernstein and to memorialize as such. At a roll call vote, all present were in favor of the motion with the exception of Michael Keady, Scott Wilhelm, Ken Grisewood and Kelley O'Such who recused. Motion carried.

Completeness Review

Block 2 Lot 1.02 – 10 Mill Road – Holland Solar Farm LLC – Amended Final Site Plan – Received into the office November 15, 2023. The 45-day deadline is December 30, 2023. Deemed incomplete December 11, 2023. Resubmitted paperwork January 22, 2024 via email and hard copy delivered to the office for completeness review February 12, 2024. Due to potential inclement weather on February 12, 2024, the applicant granted an extension on February 12, 2024 to the next meeting of March 11, 2024. If deemed complete March 11, 2024 then public hearing March 11, 2024.

Let the record show that Dan Bush and Ryan Preston recused themselves from the meeting and left the building.

A professional review is an advisory review and submitted for the board to accept some, none or all the recommendations in the report. Secretary Kozak has modified the submitted reviews for the minutes. Hard Copies of all report(s) can be viewed in their entirety in the application file.
Planner no report for completeness.

February 6, 2024

VIA EMAIL ONLY

Maria Elena Kozak, Land Use Administrator
HOLLAND TOWNSHIP LAND USE BOARD
61 Church Road
Milford, New Jersey 08848

Re: Second Completeness & Initial Technical Review
Holland Solar Farm, LLC
Amended Final Site Plan Application
Block 2, Lot 1.02
Holland Township, Hunterdon County
FCE No. 20070.CE.0001C8

Dear Ms. Kozak:

In our capacity as conflict engineer for the Land Use Board, our office received the following information regarding the above-referenced application:

1. Transmittal letter from Van Cleef Engineering Associates dated November 15, 2023.
2. Planning Board & Board of Adjustment Application Form signed November 6, 2023 (out of date version of form completed).
3. Ownership Certification signed by the property owner dated November 8, 2023.
4. Final Major Site Plan Checklist (September 20, 2011 version completed).
5. Holland Township Site Walk Authorization dated November 6, 2023.
6. W-9 form dated November 6, 2023.
7. Amended Final Major Site Plan for Holland Solar Farm, Block 2, Lot 1.02 prepared by Ian Hill, P.E. of Van Cleef Engineering dated June 5, 2020, last revised October 31, 2023, comprising 4 sheets.
8. Overall SESC and Restoration Landscape Plan for Holland Solar Farm, Block 2, Lot 1.02 prepared by Ian Hill, P.E. of Van Cleef Engineering dated April 14, 2023, comprising 5 sheets.
9. Restoration Landscape Plan for Holland Solar Farm, LLC prepared by Ian Hill, P.E. of Van Cleef Engineering dated December 22, 2022, last revised February 8, 2023, comprising 2 sheets.
10. Escrow Replenishment Certification signed by the applicant dated November 6, 2023.
11. Certification from the Holland Township Tax Collector that taxes on the property are current dated November 9, 2023.
12. Certified lists of property owners within 200 feet of the subject property from Holland and Pohatcong Townships.
13. Letter of Certification issued by the Hunterdon County Soil Conservation District dated May 22, 2023, for the disturbances that are the subject of this Amended Final Site Plan application.

The following additional information was received on January 23, 2024:

14. Transmittal letter from Van Cleef Engineering Associates dated January 22, 2024.
15. A completed Planning Board & Board of Adjustment, Highlands Land Use, Township of Holland Application Form.
16. A completed Highlands Chapter 101 Land Use Checklist.
17. Final Major Site Plan Checklist (January 27, 2023 version completed).
18. Summary of Variances, Design Waiver & Submission Waivers Requested dated January 22, 2024.
19. Fee calculation sheet with copies of checks made payable to the Township of Holland for the application fee (\$825) and escrow (\$7,250).
20. Stormwater Management Study – Addendum, prepared by Van Cleef Engineering Associates, dated October 31, 2023.
21. Addendum to Highlands Compliance Statement – Holland Solar Farm, LLC, prepared by Highlands Compliance Insights, dated January 18, 2024.
22. Addendum to Forest Impact Report and Mitigation Plan – Holland Solar Farm, LLC, prepared by Highlands Compliance Insights, dated January 18, 2024.

PROJECT SUMMARY

The subject property (Block 2, Lot 1.02) comprises 65.55 gross acres fronting on Willow Road and Cyphers Road, running partially along the Musconetcong River. It is located in the Township's IND-Limited Industrial Park zone and within the Highlands Planning Area. The property is the site of the former Fibermark paper mill which has been classified by NJDEP as a "brownfield" site and has apparently been subject to remediation for a number of years.

The northerly boundary of the property runs along the Musconetcong River, a Category One waterway with tributaries of the creek and a mill race running through portions of the property. The property is bounded on the south by lands owned by Hunterdon County and on the west by the Milford Solar Farm. Freshwater wetlands, flood hazard areas, and riparian buffers are present within the site, and the Applicant formerly obtained approvals from regulatory agencies for proposed land disturbances within these areas as a condition of Township Resolution approval.

The applicant, Holland Solar Farm, LLC., formerly received Preliminary and Final Site Plan approval with Bulk Variance relief from a Holland Township Planning Board Resolution adopted November 9, 2020. This Resolution provided Preliminary and Final Site Plan approval to construct two (2) separate solar arrays (Arrays D and E) generating a total of 9 MW to be connected to the JCP&L electric grid. Additionally, the Resolution provided Bulk Variance relief from the requirements of §100-21.M(3)(2), to permit a 95 foot setback for the security fencing for proposed solar array D.

Following the above-mentioned approval from the Board, the ground-mounted photovoltaic electric generation solar arrays were constructed within the subject property. However, during construction, additional land adjacent to Arrays D and E were disturbed beyond the approved limits of disturbance on the formerly approved Site Plans. The Applicant proposes to restore and replant some of the areas of unauthorized land disturbance as shown in the Amended Final Major Site Plan set provided with the application. The Applicant received approval from the Hunterdon County Soil Conservation District for the Soil Erosion and Sediment Control Plans dated April 14, 2023, which are included in the Amended Final Major Site Plan set.

The Amended Final Site Plan application was reviewed during the December 11, 2023 Land Use Board meeting and was deemed administratively incomplete. A revised submission was received on January 23, 2024.

SECOND COMPLETENESS REVIEW – AMENDED FINAL SITE PLAN

Our office has conducted this second completeness review of the Amended Final Site Plan application using the previously referenced information against the Township’s Highlands Chapter 101 Land Use Checklist. Based upon our review, we offer the following comments:

1. Item I-1 – A Fee Calculation Form along with application and escrow fees for the Amended Final Site Plan Application were provided. However, the unauthorized land disturbance includes additional areas of disturbance that were not a part of the formerly approved site plan. The unauthorized land disturbance involves severely and moderately constrained slope disturbance to an extent such that the provisions of §101-24 Steep Slopes apply. We defer to the Board to determine whether an additional escrow deposit for Steep Slopes must be provided by the Applicant.
2. Item I-15 – The existing and proposed drainage area maps that were listed in the Table of Contents of the Stormwater Management Study Addendum should be provided. Our office takes no exception to granting a waiver from this item for Completeness only as these maps are provided for the final Technical Review of the application.
3. Item I-22 – The Amended Final Major Site Plan provided by the Applicant’s Engineer depicts areas of unauthorized disturbances throughout the site, which involve disturbances of constrained or limited constrained slopes greater than 5,000 square feet in area. Therefore, the provisions of §101-24 Steep Slopes apply, and the requirements of this Item marked as “Not Applicable” in the provided Checklist apply to this Amended Final Site Plan Application and should be provided. Considering the nature of the Amended Site Plan as steep slope disturbances have already occurred onsite and landscape restoration has already been completed, our office takes no exception to granting a waiver from this item for Completeness only.

Our office has conducted this second completeness review of the Amended Final Site Plan application using the previously referenced information against the Township’s Final Major Site Plan Checklist (version January 27, 2023). Based upon our review, we offer the following comments:

1. Item E-3 – A completed Escrow Agreement was submitted by the Owner/Applicant as part of the approved Preliminary and Final Site Plan Application. Therefore, for this Amended Final Site Plan, this requirement is not applicable.
2. Item E-7 – An Environmental Impact Assessment was submitted as part of the approved Preliminary and Final Site Plan application. Additionally, an Addendum to Forest Impact Report and Mitigation Plan was provided as part of the Amended Final Site Plan. Considering the nature of this application, our office believes this requirement is not applicable and the documentation provided in connection with the additional unauthorized disturbed areas will be subject to Highlands Resource Review and will be assessed during the Technical Review of the application.
3. Item E-9 – A waiver was requested from providing a receipt indicating the delivery of a completed application to the Hunterdon County Planning Board. Based on the nature of the Amended Site Plan, this office does not object to the Board granting this waiver for Completeness only and recommends this requirement as a condition of Resolution approval.
4. Item E-16 – A Financial Disclosure Statement was submitted as part of the approved Preliminary and Final Site Plan application and remains current, as discussed during the Land Use Board Meeting on December 11, 2023. Therefore, for this Amended Final Site Plan, this requirement is not applicable.
5. Item E-39 – A waiver was requested by the Applicant to provide signed Certification on the plan by the owner of the property. Based on the nature of the Amended Final Site Plan, this office does not object to the Board granting this waiver for Completeness only.
6. Item E-69 – The Landscape Restoration Plans provided for this Amended Final Site Plan application were signed by a licensed engineer. However, it is our understanding that these plans were prepared by a

licensed landscape architect and testimony will be provided by the landscape architect at the next Public Hearing. Under these conditions, our office does not object to this requirement being waived for Completeness only.

Should the Board agree with the various comments contained herein and our corresponding recommendations for granting the several referenced waivers for completeness, it would be our suggestion to deem the Amended Final Site Plan application administratively **complete**. Per our records, the next scheduled meeting of the Land Use Board is on Monday, February 12, 2024.

INITIAL TECHNICAL REVIEW – AMENDED FINAL SITE PLAN

Our office has conducted this initial technical review of the Amended Final Site Plan application using the previously referenced information. For ease of reference, the areas of unauthorized disturbance are referred as Areas #1 through #4, as depicted in the Overall SESC and Restoration Landscape Plan (5 sheets).

Landscaping.

1. Documentation should be provided to confirm tree plantings are not permitted by the gas company within their right of way located through Area #4. Testimony should be provided to explain why restoration of the tree/forested area within Area #4 is not proposed.
2. Testimony of the proposed restoration of the tree/forested area within Area # 3 should be provided.
3. The date(s) of when landscape plantings and site stabilization were completed within Areas #1 and #2 should be provided on the plans.
4. The approximate location of site access for the landscape restoration of Areas #1 and #2, and the proposed restoration of Areas #3 and #4 should be clearly depicted on the plans, and whether the roadways for site access are paved or stabilized in another manner. Testimony regarding the maintenance and stabilization of any unpaved accessways to Areas #1 through #4 for future landscape maintenance should be provided.
5. The maintenance agreement for three-year post restoration monitoring of tree plantings should be provided for Township comment and review to ensure compliance with §101-22F.(6).
6. This office defers to the Board's Conflict Planner for additional comments on landscaping.

Miscellaneous Comments.

7. The approximate location of the existing gas main within the 10-foot-wide gas easement along the eastern edge of the property should be shown on the plans.
8. The width and extent of existing waterways within the site and their associated riparian zone limits should be clearly labeled on the Amended Final Major Site Plan.
9. The plans should show soil erosion measures implemented during the process of landscape restoration in Areas #1 and #2, and soil erosion measures proposed for Areas #3 and #4. Testimony should be provided regarding the date soil erosion measures were installed and the progress of site stabilization; noting whether a portion or all of these measures have been removed from Areas #1 and #2.
10. The Applicant's Engineer should provide testimony and show on the plans any changes to grading that may have been involved or are proposed in Areas #1 through #4 of site disturbance and landscape restoration.
11. Testimony should be provided regarding the existence or extent, if applicable, of any alteration to drainage patterns that may have occurred due to site disturbance and landscape restoration within Areas #1 through #4. As the property is classified as a brownfield, the site is exempt from the groundwater recharge standards of NJAC 7:8.
12. Existing and proposed drainage area maps of the site should be provided for a full review of the stormwater runoff quantity calculations. The Applicant's Engineer should confirm that the Stormwater Management Study Addendum intends to compare the proposed (current) conditions of the site to the existing conditions of the site as defined by the site following construction with Areas #1 through #4 modeled as "Woods". Considering the nature of this Amended Site Plan application, our office reserves the right to provide commentary as additional information on the stormwater and site conditions becomes available.
13. Notes and site features in the Amended Final Major Site Plan depicting work that had previously been completed and is not a part of this amended site plan application should be updated to reflect current site conditions accurately and clearly.
14. The individual areas of unauthorized site disturbance for Areas #1 through #4 should be provided in the Amended Final Major Site Plan. Areas of unauthorized disturbance within a riparian zone should be calculated, and clearly noted on the plans.
15. The Applicant shall be required to replenish his escrow, as necessary, to permit proper review of the application by the Board's professionals.
16. An Engineer's estimate of quantities and costs of the landscape restoration should be provided.

INITIAL TECHNICAL REVIEW – HIGHLANDS LAND USE

As the entirety of the site was located within the Highlands Planning Area, the Township required the site to undergo Highlands Council review for any waivers requested from the Highlands Land Use Ordinance. In a letter dated May 5, 2021, the Highlands Council determined the entirety of the site, which was formerly industrial and a brownfield, was historically disturbed. The Highlands Council reviewed the Highlands Open Waters and Riparian Resources, and Critical Habitats, and determined no waiver from the Highlands Land Use Ordinance, or the Regional Master Plan was required for the project but did require the submission of a Riparian Zone Mitigation Plan and Report to the NJDEP as a condition Flood Hazard Area permitting.

Following the submission of the Riparian Zone Mitigation Plan to the NJDEP, the Applicant received Consistency Determination from a Highlands Council letter dated January 6, 2022.


The unauthorized site disturbances within the riparian zone outside of the originally approved limits of disturbance were reported to the NJDEP on November 18, 2022. The NJDEP reviewed and approved the restoration landscape plans in their letter dated April 6, 2023. As the site is historically disturbed and considered a brownfield site, the unauthorized site disturbances during construction of the improvements could be considered exempt from Highlands Council review. The Highlands Compliance Statement depicts severely and moderately constrained slopes in the unauthorized disturbance area, and slope disturbances within the riparian zone.

1. The plans should provide a legend and clearly show the extents and area of steep slope disturbance for each slope category as defined in §101-13. Testimony should be provided regarding the progress of site stabilization within these areas.
2. The Applicant should confirm that no modification to the existing FHA permit for the site (Permit No. 1015-03-0007.2 LUP210001) or any additional approvals from the NJDEP are required.

I trust this correspondence is satisfactory. Please feel free to call with any questions or comments.

Very truly yours,

FINELLI CONSULTING ENGINEERS

A DIVISION OF 



Bryce D. Good, P.E., CPESC
Land Use Board Conflict Engineer

cc: All Land Use Board Members, distributed by LUB Administrator, via e-mail only
Eric Bernstein, Esq., Land Use Board Attorney, via email only
Kendra Lelie, P.P., Conflict Planner, via email only
Mark Bellin, Esq., via e-mail only
Gary Cicero, Holland Solar Farm LLC, via email only
Ian Hill, P.E., Applicant's Engineer, via e-mail only
Hunterdon County Planning Department, via e-mail only

Applicant's Attorney Bellin and team are present. The applicant agrees to all waivers for completeness. Board Conflict/Special Projects Engineer Bryce Good discussed the review outlined above.

Checklist discussion is

I15 – maps provided see tech rev., waiver for completeness in tech
I22 provided greater than 5000 sq ft steep slopes is applicable – waive for completeness in tech rev.
E13 was submitted with original ap – not applicable – same for
E7 was part of original – not applicable
E9 – waiver request - - HCPB - - for completeness fine to grant waiver and condition of resolution
E16 – not applicable
E39 = waiver request – certs on plans by owner – completeness waiver is ok need on final plans
E69 – sign and sealed – testimony first and ok completeness waiver is ok.

Engineer Bryce recommends the application be deemed complete with the temporary waivers and additional technical reviews discussed above and at the meeting.

Member Grisewood had a question regarding if a flood hazard permit was submitted and stated that there is disturbance in riparian zone. Engineer Good stated that the disturbance was for outside the original approval and that the applicant self-reported to DEP to find a way to rectify the situation. Engineer Good believes that testimony regarding the permit not being necessary should be on the record as the testimony would extend beyond DEP communications. Engineer Good believes the applicant should discuss the plantings and the status of the plantings. The applicant had communicated with the DEP and got approval to do plantings. As a reminder, this application is before the Land Use Board however the DEP already approved the plan.

A motion was made by Scott Wilhelm and seconded by Joe Cinquemani to deem the application complete with the above outlined waiver, temporary waiver or condition of approve also discussed at this meeting. At a roll call vote, all present were in favor of the motion. Motion carried.

Resolution

Report of the Land Use Board Attorney for 2023 – approved at the LUB Meeting of January 8 2024 – Land Use Board Attorney Bernstein authorized to prepare a resolution memorializing action – Board Action Required as this needs to be submitted to the Township Committee.

The following resolution was previously submitted by Attorney DiYanni for board review and approval.

**HOLLAND TOWNSHIP LAND USE BOARD
RESOLUTION ADOPTING 2023 ANNUAL REPORT**

WHEREAS, under the Municipal Land Use Law, N.J.S.A. 40:55D-70.1, the Board of Adjustment is required, at least once a year, to review its decisions on applications and appeals for variances; and,

WHEREAS, the Board of Adjustment is required to prepare and adopt by Resolution a report on its findings on zoning ordinance provisions which were the subject of variance requests, and its recommendations for zoning ordinance amendments, or revisions, if any; and,

WHEREAS, pursuant to N.J.S.A. 40:55D-25, Holland Township has established a joint Land Use Board (“Board”) which exercises all of the powers of a Board of Adjustment; and,

WHEREAS, a report on applications and appeals for Board of Adjustment type variances for the year 2023 has been prepared by the Board Attorney at that time, John P. Gallina, Esq., setting forth a summary of the Board’s decisions, and its recommendations for zoning ordinance amendment and revision, if any, which is attached, and which has been reviewed by the Land Use Board.

NOW, THEREFORE, BE IT RESOLVED BY THE LAND USE BOARD OF HOLLAND TOWNSHIP, Hunterdon County, State of New Jersey, that the Board adopt the attached 2023 Annual Report as its annual report for 2023, and that a copy of the Report and this Resolution be forwarded by the Board Secretary to the Holland Township Committee, as required by N.J.S.A. 40:55D-70.1.

A motion for the adoption of the within Resolution was made by _____, and seconded by _____.

Land Use Board Roll Call Vote

Board Member	Motion	Second	Ayes	Nays	Abstain	Absent/Ineligible
Michael Keady						
Scott Wilhelm						
Ken Grisewood						
Mike Miller						
Nickolas Moustakas						
Bill Ethem						
William Martin						
Dan Bush						
Ryan Preston (Alt.)						
Joe Cinquemani (Alt)						
Kelly O’Such (Alt)						
Peter Kanakaris (Alt.)						

Motion carried.

The foregoing Resolution was duly adopted by the Holland Township Land Use Board at a regular meeting held on February 12, 2024.

ATTEST:

**Maria Elena Jennette Kozak, Secretary
Holland Township Land Use Board**

**William Martin, Chairperson
Holland Township Land Use Board**

A motion was made by Dan Bush and seconded by Ken Grisewood to memorialize the resolution as present. At a roll call vote, all present were in favor of the motion. Motion carried.

Public Hearings

Block 26 Lot 27 – 105 Riegelsville Rd – Davina Lapczynski – Variance. Received into our office June 22, 2022 – The 45-day completeness deadline is July 11, 2022. Deemed Complete July 11, 2022. Public Hearing scheduled for August 8, 2022. Applicant granted an extension to the September 12, 2022 meeting (email 071822), then to October 10, 2022 (email 082622), then to November 14, 2022. (email 092122), then to December 12, 2022 (email 102822), then to January 9, 2023 (email 120622) then to February 13, 2023 (email 010323) then to March 13, 2023 (email 020723), to April 10, 2023 (email 030623), to May 8, 2023 (email 040523), to June 12, 2023 (email 050323), to July 10, 2023 (email 052223), to August 14, 2023 (email 070523)

to September 11, 2023 (email 080423,) ,October 9, 2023 (email 090723) , November 13, 2023 (email 10/06/23), December 11, 2023 (email 11/08/23), to January 8, 2024 (email 12/01/23), to February 12, 2024 (email 01/03/24), March 11, 2024 (email 02/01/24) and to April 8, 2024 (email 02/29/24). Board Action needed April 8, 2024

A motion was made by Scott Wilhelm and seconded by Ken Grisewood to carry the application for Davina Lapczynski thru to May 31, 2024 and that she agreed to waive requirements for the Land Use Board to take action until the NJDEP takes action on her project. At a roll call vote, all present were in favor of the motion. Motion carried.

Block 2 Lot 1.02 – 10 Mill Road – Holland Solar Farm LLC – Amended Final Site Plan – Received into the office November 15, 2023. The 45-day deadline is December 30, 2023. Deemed incomplete December 11, 2023. To resubmit and completeness review February 12, 2024. If deemed complete February 12, 2024 then public hearing February 12, 2024. Carried to March 11, 2024 – Deemed complete at the meeting of March 11, 2024.

Attorney Bernstein stated for the record that proof of publication was provided, he has previewed it and the Land Use Board has jurisdiction to proceed with the public hearing.

A professional review is an advisory review and submitted for the board to accept some. none or all the recommendations in the report. Secretary Kozak has modified the submitted reviews for the minutes. Hard Copies of all report(s) can be viewed in their entirety in the application file.

March 8, 2024

VIA EMAIL ONLY

Maria Elena Kozak, Land Use Administrator
HOLLAND TOWNSHIP LAND USE BOARD
61 Church Road
Milford, New Jersey 08848

Re: Second Technical Review
Holland Solar Farm, LLC
Amended Final Site Plan Application
Block 2, Lot 1.02
Holland Township, Hunterdon County
FCE No. 20070.CE.0001C9

Dear Ms. Kozak:

In our capacity as conflict engineer for the Land Use Board, our office received the following information regarding the above-referenced application:

23. Transmittal letter from Van Cleef Engineering Associates dated November 15, 2023.
24. Planning Board & Board of Adjustment Application Form signed November 6, 2023 (out of date version of form completed).
25. Ownership Certification signed by the property owner dated November 8, 2023.
26. Final Major Site Plan Checklist (September 20, 2011 version completed).
27. Holland Township Site Walk Authorization dated November 6, 2023.
28. W-9 form dated November 6, 2023.
29. Amended Final Major Site Plan for Holland Solar Farm, Block 2, Lot 1.02 prepared by Ian Hill, P.E. of Van Cleef Engineering dated June 5, 2020, last revised October 31, 2023, comprising 4 sheets.
30. Overall SESC and Restoration Landscape Plan for Holland Solar Farm, Block 2, Lot 1.02 prepared by Ian Hill, P.E. of Van Cleef Engineering dated April 14, 2023, comprising 5 sheets.
31. Restoration Landscape Plan for Holland Solar Farm, LLC prepared by Ian Hill, P.E. of Van Cleef Engineering dated December 22, 2022, last revised February 8, 2023, comprising 2 sheets.
32. Escrow Replenishment Certification signed by the applicant dated November 6, 2023.
33. Certification from the Holland Township Tax Collector that taxes on the property are current dated November 9, 2023.
34. Certified lists of property owners within 200 feet of the subject property from Holland and Pohatcong Townships.
35. Letter of Certification issued by the Hunterdon County Soil Conservation District dated May 22, 2023, for the disturbances that are the subject of this Amended Final Site Plan application.

The following additional information was received on January 23, 2024:

36. Transmittal letter from Van Cleef Engineering Associates dated January 22, 2024.
37. A completed Planning Board & Board of Adjustment, Highlands Land Use, Township of Holland Application Form.

38. A completed Highlands Chapter 101 Land Use Checklist.
39. Final Major Site Plan Checklist (January 27, 2023 version completed).
40. Summary of Variances, Design Waiver & Submission Waivers Requested dated January 22, 2024.
41. Fee calculation sheet with copies of checks made payable to the Township of Holland for the application fee (\$825) and escrow (\$7,250).
42. Stormwater Management Study – Addendum, prepared by Van Cleef Engineering Associates, dated October 31, 2023.
43. Addendum to Highlands Compliance Statement – Holland Solar Farm, LLC, prepared by Highlands Compliance Insights, dated January 18, 2024.
44. Addendum to Forest Impact Report and Mitigation Plan – Holland Solar Farm, LLC, prepared by Highlands Compliance Insights, dated January 18, 2024.

The following additional information was received on March 5, 2024:

45. Transmittal letter from Van Cleef Engineering Associates dated March 1, 2024.
46. Amended Final Major Site Plan for Holland Solar Farm, Block 2, Lot 1.02 prepared by Ian Hill, P.E. of Van Cleef Engineering dated June 5, 2020, last revised March 1, 2024, comprising 6 sheets.
47. Drainage Area Maps for Holland Solar Farm, Block 2, Lot 1.02 prepared by Ian Hill, P.E. of Van Cleef Engineering dated June 5, 2020, last revised March 1, 2024, comprising 2 sheets.
48. Overall SESC and Restoration Landscape Plan for Holland Solar Farm, Block 2, Lot 1.02 prepared by Ian Hill, P.E. of Van Cleef Engineering dated April 14, 2023, last revised February 27, 2024, comprising 5 sheets.
49. Memorandum entitled “Steep Slope Protection Area Discussion – Holland Solar Farm, LLC”, prepared by Highlands Compliance Insights, dated February 26, 2024.

PROJECT SUMMARY

The subject property (Block 2, Lot 1.02) comprises 65.55 gross acres fronting on Willow Road and Cyphers Road, running partially along the Musconetcong River. It is located in the Township’s IND-Limited Industrial Park zone and within the Highlands Planning Area. The property is the site of the former Fibermark paper mill which has been classified by NJDEP as a “brownfield” site and has apparently been subject to remediation for a number of years.

The northerly boundary of the property runs along the Musconetcong River, a Category One waterway with tributaries of the creek and a mill race running through portions of the property. The property is bounded on the south by lands owned by Hunterdon County and on the west by the Milford Solar Farm. Freshwater wetlands, flood hazard areas, and riparian buffers are present within the site, and the Applicant formerly obtained approvals from regulatory agencies for proposed land disturbances within these areas as a condition of Township Resolution approval.

The applicant, Holland Solar Farm, LLC., formerly received Preliminary and Final Site Plan approval with Bulk Variance relief from a Holland Township Planning Board Resolution adopted November 9, 2020. This Resolution provided Preliminary and Final Site Plan approval to construct two (2) separate solar arrays (Arrays D and E) generating a total of 9 MW to be connected to the JCP&L electric grid. Additionally, the Resolution provided Bulk Variance relief from the requirements of §100-21.M(3)(2), to permit a 95 foot setback for the security fencing for proposed solar array D.

Following the above-mentioned approval from the Board, the ground-mounted photovoltaic electric generation solar arrays were constructed within the subject property. However, during construction, additional land adjacent to Arrays D and E were disturbed beyond the approved limits of disturbance on the formerly approved Site Plans. The Applicant proposes to restore and replant some of the areas of unauthorized land disturbance as shown in the Amended Final Major Site Plan set provided with the application. The Applicant received approval from the Hunterdon County Soil Conservation District for the Soil Erosion and Sediment Control Plans dated April 14, 2023, which are included in the Amended Final Major Site Plan set.

The Amended Final Site Plan application was reviewed during the December 11, 2023 Land Use Board meeting and was deemed administratively incomplete. A revised submission was received on January 23, 2024, and FCE issued a report on February 6, 2024 recommending the application be deemed administratively complete as long as the Board agrees with the comments and waivers within that report. The February 6, 2024 report also included technical review comments for the amended Final Site Plan and Highlands Land Use to be addressed. As a result, a second revised submission was received on March 5, 2024, and FCE has completed a second technical review as presented below. The application is on the agenda for the next scheduled meeting of the Land Use Board on Monday, March 11, 2024.

SECOND TECHNICAL REVIEW – AMENDED FINAL SITE PLAN

Our office has conducted this second technical review of the Amended Final Site Plan application using the previously referenced information. For ease of reference, the areas of unauthorized disturbance are referred as Areas #1 through #4, as depicted in the Overall SESC and Restoration Landscape Plan (5 sheets). Comments within the February 6, 2024 report that have not been addressed have been repeated below.

Landscaping.

17. Testimony of the proposed restoration within Areas #3 and #4 should be provided during the Public Hearing. The applicant should address the proposed plantings and how groundcover will be addressed.
18. The date(s) of when landscape plantings were completed within Areas #1 and #2 should be provided. The memorandum prepared by Highlands Compliance Insights indicates that these two areas were replanted and restored in the Fall of 2022. However, our office notes that the unauthorized site disturbances were reported to the NJDEP on November 18, 2022, and the NJDEP reviewed and approved the restoration landscape plans in their letter dated April 6, 2023. Testimony of the status of these areas regarding the landscape plantings, should be provided during the Public Hearing.
19. The approximate location of site access for the landscape restoration of Areas #1 through #4 is provided in aerial imagery which is now included in the last revised version of the Amended Final Site Plan. Testimony regarding the maintenance and stabilization of any unpaved accessways to Areas #1 through #4 for future landscape maintenance should be provided. The date of the aerial imagery should be provided.
20. The maintenance agreement for three-year post restoration monitoring of tree plantings should be provided for Township comment and review to ensure compliance with §101-22F.(6).
21. The memorandum prepared by Highlands Compliance Insights indicates that no tree stumps were removed, and root balls remain in the ground within Areas #1 through #4. Our office refers to the Board's Conflict Planner regarding whether the root balls which remain in the ground will have any impact on the proposed plantings in these areas, and for additional comments on landscaping. Testimony from a licensed landscape architect should be provided during the Public Hearing.

Miscellaneous Comments.

22. The width and extent of existing waterways within the site and their associated riparian zone limits should be clearly labeled on the Amended Final Major Site Plan.
23. The plans should show soil erosion measures implemented during the process of landscape restoration in Areas #1 and #2, and soil erosion measures proposed for Areas #3 and #4. Testimony should be provided regarding the date soil erosion measures were installed and the progress of site stabilization; noting whether a portion or all of these measures have been removed from Areas #1 and #2.
24. Testimony should be provided regarding the existence or extent, if applicable, of any alteration to drainage patterns that may have occurred due to site disturbance and landscape restoration within Areas #1 through #4. As the property is classified as a brownfield, the site is exempt from the groundwater recharge standards of NJAC 7:8.
25. The Applicant's Engineer should confirm that the Stormwater Management Study Addendum intends to compare the proposed (current) conditions of the site to the existing conditions of the site following construction with Areas #1 through #4 modeled as "Woods". The existing conditions drainage area map dated March 1, 2024 does not indicate the existing trees within Area #4. In addition, the note on the existing conditions drainage area map indicates that the proposed condition will be meadow whereas the Preliminary/Final Site Plan indicates trees and shrubs being planted in all four areas. The Stormwater Management Study Addendum should be revised to address the various stages of the unauthorized disturbance areas (i.e., existing trees, trees cut down, replanted early growth trees, mature trees, groundcover, etc.). In addition, it appears that Area #2 may not be entirely within Drainage Area A2; therefore, this needs to be addressed in the Stormwater Management Study Addendum. The proposed drainage area map should show the proposed plantings and not the existing trees. Considering the nature of this Amended Site Plan application, our office reserves the right to provide commentary as additional information on the stormwater and site conditions becomes available.
26. Notes and site features in the Amended Final Major Site Plan depicting work that had previously been completed and is not a part of this amended site plan application should be updated to reflect current site conditions accurately and clearly.
27. The individual acreages of each unauthorized site disturbance for Areas #1 through #4 should be provided in the Amended Final Major Site Plan. Areas of unauthorized disturbance within a riparian zone should be calculated, and clearly noted on the plans. Any discrepancies between the Drainage Area Maps and Amended Final Major Site Plan should be addressed. In addition, the Amended Final Major Site Plan should be revised to provide clarity as notes overlap and are not consistent from one sheet to another (e.g., steep slope hatching, etc.).
28. The Applicant shall be required to replenish his escrow, as necessary, to permit proper review of the application by the Board's professionals.
29. An Engineer's estimate of quantities and costs of the landscape restoration should be provided.
30. A receipt indicating the delivery of a completed application to the Hunterdon County Planning Board should be provided following Resolution approval.
31. A signed Certification on the plan by the owner of the property should be provided.

SECOND TECHNICAL REVIEW – HIGHLANDS LAND USE

As the entirety of the site was located within the Highlands Planning Area, the Township required the site to undergo Highlands Council review for any waivers requested from the Highlands Land Use Ordinance. In a letter dated May 5, 2021, the Highlands Council determined the entirety of the site, which was formerly industrial and a brownfield, was historically disturbed. The Highlands Council reviewed the Highlands Open

Waters and Riparian Resources, and Critical Habitats, and determined no waiver from the Highlands Land Use Ordinance, or the Regional Master Plan was required for the project but did require the submission of a Riparian Zone Mitigation Plan and Report to the NJDEP as a condition Flood Hazard Area permitting. Following the submission of the Riparian Zone Mitigation Plan to the NJDEP, the Applicant received Consistency Determination from a Highlands Council letter dated January 6, 2022.

The unauthorized site disturbances within the riparian zone outside of the originally approved limits of disturbance were reported to the NJDEP on November 18, 2022. The NJDEP reviewed and approved the restoration landscape plans in their letter dated April 6, 2023. As the site is historically disturbed and considered a brownfield site, the unauthorized site disturbances during construction of the improvements could be considered exempt from Highlands Council review. The Highlands Compliance Statement depicts severely and moderately constrained slopes in the unauthorized disturbance area, and slope disturbances within the riparian zone.

3. The plans should provide a legend and clearly show the extents and area of steep slope disturbance for each slope category as defined in §101-13. Testimony should be provided regarding the progress of site stabilization within these areas.
4. The Applicant should confirm that no modification to the existing FHA permit for the site (Permit No. 1015-03-0007.2 LUP210001) or any additional approvals from the NJDEP are required.

I trust this correspondence is satisfactory. Please feel free to call with any questions or comments.

Very truly yours,

FINELLI CONSULTING ENGINEERS
A DIVISION OF 



Bryce D. Good, P.E., CPESC
Land Use Board Conflict Engineer

cc: All Land Use Board Members, distributed by LUB Administrator, via e-mail only
Eric Bernstein, Esq., Land Use Board Attorney, via email only
Kendra Lelie, P.P., Conflict Planner, via email only
Mark Bellin, Esq., via e-mail only
Gary Cicero, Holland Solar Farm LLC, via email only
Ian Hill, P.E., Applicant's Engineer, via e-mail only
Hunterdon County Planning Department, via e-mail only

P.O. Box 236
2 East Broad Street, 2nd Floor
Hopewell, NJ 08525
908-215-5955 (v)
609-374-9939 (f)
klelie@kylemcmannus.com

To: Holland Township Land Use Board

From: Kendra Lelie, PP, AICP, LLA

Re: **Holland Solar Farm, LLC**
Amended Preliminary & Final Site Plan
10 Mill Road
Block 2, Lot 1.02
Limited Industrial Park District (IND)

Date: February 8, 2024
February 9, 2024: Amended
March 7, 2024: Updated comments in Bold Font

1.0 Site and Project Description

1.1 The subject site consists of one lot which is 65.5 acres and has approximately 1,800 feet of road frontage along Cyphers Road and Willow Lane. Mill Road, a private road/easement, is located along the northern portion of the

site providing access to eight (8) single family attached housing units located on separate parcels. The site was previously used as a paper plant (Fibermark) and has been redeveloped as a 10 MW photovoltaic grid supply solar field. The southern corner of the site contains an existing 8 MW grid-supply solar farm that is operational and known as the Milford Solar Farm. The remaining land of the subject site contains herbaceous and forested wetlands and open waters of the Musconetcong River.

- 1.2** The applicant is seeking amended site plan approval to permit additional clearing (3.77 acres) that took place during construction of the solar field. The applicant, Holland Solar Farm, LLC received Preliminary and Final Site Plan approval on November 9, 2020 which permitted the applicant to construct the 10 MW photovoltaic grid supply solar field in two separate solar arrays.

The Amended Preliminary and Final Site Plan sheets depict the expanded disturbed areas in a blue and pink outline. There are four (4) areas of disturbance that was not permitted in the original approval. The disturbed areas in blue outline represents areas that are within the New Jersey Department of Environmental Protection (NJDEP) jurisdiction and the disturbed areas in pink outline are outside of the NJDEP jurisdiction. The applicant has received approval of the restoration plans from the NJDEP for the disturbed areas outlined in blue. The disturbed areas outlined in pink are the subject of this review letter and consists of two areas: Area 3 is approximately 0.68 acres and Area 4 is approximately 0.49 acres.

The Addendum to the Forest Impact Report and Mitigation Plan report issued by Highlands Compliance Insights (HCI), dated January 18, 2024 describes the vegetative characteristics of the additional disturbed areas. Disturbed Area 3 is described as a secondary successional forest that has been heavily fragmented and disturbed and had functioned as a hedgerow disconnected from the core forest located off site. Disturbed Area 4 is described as an area adjacent to the natural gas pipeline easement and has low-quality exotic and secondary successional species. As provided below in the zoning analysis portion of this report, no additional detail was provided in a report or on the plans regarding the specific size and species of trees and other vegetation that was removed. It is our opinion that this information is essential to understand the true magnitude and impact of the disturbed areas.

2.0 Surrounding Area

- 2.1** The parcel is located in the Limited Industrial Park District (IND). The surrounding properties include single-family dwellings to the west and agricultural uses to the south and east. The Musconetcong River is located along the northern property boundary. The R-5 Residential zoning district abuts the southeastern property boundary and the R-1 Residential zoning district in Pohatcong Township is located to the north of the parcel.



Aerial Photograph from NJ-GeoWeb

3.0 Zoning and Compliance

- 3.1** The IND district permits a variety of non-residential uses including manufacturing, office, laboratory, warehouse, agriculture and single-family residential. Solar energy facilities are permitted as conditional uses in IND district. However, pursuant to NJSA Section 40:55D-66.11, a renewable energy facility on a parcel of land comprising 20 or more acres shall be a permitted use in every industrial district. As such, while there are conditions associated with the use, it shall be treated as a permitted use.

- 3.2** Solar Energy Facility Zoning Requirements. In accordance with Section 100-22.1 B, the applicant shall meet the

following conditions or otherwise request a variance. We limited our review to just the conditions that are applicable to additional disturbance.

- a. *Section 100-22.1 B(2)(d). Woodlands shall not be clear cut to accommodate such facilities. Any removal of more than ten (10) trees having a diameter in excess of 12 inches dbh (diameter at breast height) shall require replacement onsite of all but the first ten (10) trees.*

The Amended Site Plan package does not provide an accounting of the total number of trees removed for all disturbed areas. As such, compliance with this condition cannot be determined. The applicant shall provide the accounting in accordance with this condition. In addition, while the applicant provided a replanting plan for Disturbed Areas 1 & 2, a planting plan was not provided for Disturbed Areas 3 & 4. A replanting plan shall be provided to ensure compliance with this condition.

The applicant provided a revised site plan with an accounting of trees removed. Testimony shall be provided giving the source of the information used to account for the quantity of trees removed. A replanting plan was provided. While the requested information was provided, we are of the opinion that technically a variance from this condition is required as the woodlands were clear cut.

- b. *Section 100-22.1 B(3)(e). Such facility shall be screened by topography and/or natural vegetation, supplemented by additional plantings as needed, or by berms and landscaping, from public traveled ways (public roads, navigable waterways, and publicly available trails on land owned by or held by easement of a public entity), residential building on an adjoining lot, open space owned by or subject to easement of a public entity, and historic sites and building listed in the State and/or National Registers of Historic Places.*

This condition provides for a variety of ways to accomplish the screening. Based on a site visit in the summer and late fall of 2023, it is our opinion that due to the removal of the existing vegetation the solar fields are visible from public areas. Specifically, in Disturbed Area 3, the existing Milford solar field is now visible from Cyphers Road and Willow Lane and Disturbed Area 4, is visible from the Musconetcong Gorge Trail parking area and certain trail locations. We recommend the applicant provide a screening plan that meets the requirements of this condition in order to adequately screen the public views into the existing solar fields. In addition, this condition requires a maintenance plan to be submitted for approval as part of the site plan. As the applicant has not provided for a screening plan, a maintenance plan was also not submitted. If the applicant provides a screening plan, a maintenance plan is required. It is our opinion that an additional variance is required if a maintenance plan is not provided.

The applicant provided a replanting plan for Areas 3 and 4. Pursuant to Section 100-22.1 B(3)(e) (4), if plantings are used to provide screening, the proposed plantings shall include an even blend mix of coniferous and deciduous trees and shrubs. In addition, the plan shall be prepared by a licensed landscape architect. While the applicant provided native species for the planting plan, there is not an even blend mix of coniferous to deciduous trees. Additional evergreen trees shall be added to the planting plan. Coniferous and deciduous shrubs shall also be added the screen planting. The groundcover seed mixture shall also be provided. Finally, the landscape plan shall be signed and sealed by a professional Landscape Architect. In order to meet this condition, the applicant shall agree to update the replanting plan as required.

- c. *Section 100-22.1 B(4)(e). Where land disturbance, grading, or the construction of site improvements on such soils is unavoidable, it shall be limited to the minimum intrusion necessary to construct required access roads, inverter and switching equipment pads and other facilities required for connection to the grid.*

This Amended Site Plan approval request is to permit disturbance that went beyond the previously approved plans and therefore does not meet this condition.

- d. *Section 100-21.1 B(4)(g). The site plan shall provide for adequate and appropriate drainage facilities, which shall be designed such that site grading and construction shall not alter the natural drainage patterns of stormwater originating both within and beyond the property boundaries, which is not inconsistent with the Stormwater Management Regulations. I defer to the Board Engineer to determine compliance with this regulation.*

- 3.3** General. This office conducted a site inspection of the landscape plantings in October 2023 and provided the Board Engineer with a checklist of items that require the developer's attention in order for the site to be compliant with the previously approved Site Plan.

4.0 Variance Considerations – “c” Variance

4.1 The Board has the power to grant “c(1)” or “hardship” variances to permit relief from zoning regulations where a hardship to conformance exists (N.J.S.A. 40:55D-70c(1)). Proving the existence of the hardship is the so-called “positive criteria”. The finding of a hardship must address the following:

- *“by reason of exceptional narrowness, shallowness, or shape of a specific piece of property,*
- *or by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or*
- *by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structure lawfully existing thereon,*
- *the strict application of any regulations...would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon the developer of such property.”*

It should be noted that the finding of the hardship must be for the specific property in question – it must be unique to the area. Note also that a hardship variance cannot be granted by a self-created hardship or personal hardship of the applicant.

4.2 The Board has the power to grant “c(2)” or “flexible” variances to permit relief from zoning regulations where an alternative proposal results in improved planning, as measured by the following (N.J.S.A. 40:55D-70c(2)).

- a. The purposes of the MLUL would be advanced by the deviation, and
- b. The benefits of the deviation from the zoning ordinance requirements would substantially outweigh any detriment.

It should be noted that the finding of the benefits must be for the specific property in question – it must be unique to the area. The zoning benefits resulting from permitting the deviation(s) must be for the community (“improved zoning and planning that will benefit the community”) and not merely for the private purposes of the owner. It has been held that the zoning benefits resulting from permitting the deviation(s) are not restricted to those directly obtained from permitting the deviation(s) at issue; the benefits of permitting the deviation can be considered in light of benefits resulting from the entire development proposed. Notwithstanding, the Board should consider only those purposes of zoning that are actually implicated by the variance relief sought.

4.3 The Municipal Land Use Law (NJSA 40:55D-70) requires the applicant to satisfy 2 components of the negative criteria:

- a. The proposal will not create a “substantial detriment to the public good”; and
- b. The proposal will not create a “substantial detriment to the zone plan and zoning ordinance”.

5.0 Materials Reviewed

5.1 Development application and supporting materials.

5.2 *Amended Preliminary/Final Major Site Plan*, consisting of 4 sheets, prepared by Ian L. Hill, PE from Van Cleef Engineering Associates, dated October 31, 2023, last revised March 1, 2024.

5.3 Overall SESC and Restoration Landscape Plan for Holland Solar Farm, Block 2, Lot 1.02 prepared by Ian Hill, P.E. of Van Cleef Engineering dated April 14, 2023, last revised February 27, 2024 comprising 5 sheets.

5.4 Restoration Landscape Plan for Holland Solar Farm, LLC prepared by Ian Hill, P.E. of Van Cleef Engineering dated December 22, 2022, last revised February 8, 2023, comprising 2 sheets.

5.5 Addendum to Highlands Compliance Statement– Holland Solar Farm, LLC, dated January 18, 2024, prepared by Highlands Compliance Insights.

5.6 Addendum to Forest Impact Report and Mitigation Plan – Holland Solar Farm, LLC”, dated January 18, 2024, prepared by Highlands Compliance Insights;

6.0 Applicant Team

6.1 Applicant: Holland Solar Farm, LLC, 20A S. Beers Street, Holmdel, NJ 07733. Telephone: 786-626-6606.

6.2 Owner: Fiberville Estates, LLC, 410 Princeton Hightstown Road, Princeton Junction, NJ 08550.

6.3 Attorney: Michael S. Bellin, Esq, 54 Broad Street, Suite 303, Red Bank, NJ 07701. Telephone: 732-962-5515.

6.4 Engineer: Ian L. Hill, PE, Van Cleef Engineering Associates, LLC, 1128 State Highway 31, Lebanon, NJ 08833. Telephone: 908-735-9500.

C. Maria Elena Kozak, Land Use Board Administrator via email
Eric Bernstein, Esquire, Board Attorney via email (embernstein@embalaw.com)
Bryce D. Good, PE, Conflict Board Engineer via email (BryceG@finellicon.com)
Mark Bellin, Esq. (marksbellin@aol.com)
Ian Hill, PE via email (ihill@vancleefengineering.com)

Applicant's attorney Mark Bellin is present. Member Grisewood suggested that it would be helpful to for the board if we have Attorney Bellin outline what is within the realm and scope of approval, what can the board do and not do. Member Grisewood stated that he saw a potential issue with what is the use and if that is guided under the old ordinance vs new ordinances. Responsibilities need to be discussed. Attorney Bernstein asked Bellin the reason the application is before the Land Use Board from the applicant's point of view. What is the situation and why is the application before the board? Attorney Bernstein also mentioned that he is also confused with the recent email and is interested in knowing the underlying issue.

The theme appears to be that the solar project representatives went overboard in cutting down trees outside board approval for the solar project.

Attorney Bellin reminded everyone that he came before board and got prelim and final site plan approval for solar field. The application was a permitted use with no conditions and the board granted approval. The applicant built the solar field and it is operation and energized. The project is producing to the grid. At the end of the job, a rogue contractor cut down trees he should not have. When they were made aware of this, they immediately self-reported to DEP and soil conservation. Plans were submitted to the DEP for repair in riparian zone, which was approved and is completed. A timeline was created. The tree cutting took place in 4 locations with 2 locations being within DEP jurisdiction and 2 locations being within Holland Township jurisdiction. Engineer created a timeline. As stated, the applicant worked with the DEP for approved repair and then came to the Land Use Board with an apology and wanted to work administratively to create a solution for the cutting within the Holland Township controlled zones. The board denied this request and required an amended plan be submitted to the Land Use Board. The application was submitted and then deemed complete. They resubmitted and the application was deemed complete and they are before the board in the public hearing. They are not seeking variances and this is a permitted use. They want to satisfy the land use board and they are also unhappy with the situation. They want to do the right thing. They are happy to plant on site or even somewhere else in town as there are limitations on the site. They want to work with Holland for whatever it requires to fix the situation. This is not an adversarial application. The applicants are showing remorse and want to do the right thing. Attorney Bellin stated that is what the applicant thinks they are doing.

Attorney Bernstein circled to the report issued from Planner Lelie which indicated that the application was governed by current zoning of conditional use vs permitted use. In 2012 Holland's ordinances allowed solar as a permitted use. Attorney Bellin stated that in 2019 the applicant sought approval which was governed in Chapter 100 of the Township code and NJSA 66.1 talks about renewable energy of 20 or more contiguous acres as being a permitted use in every district. The applicant has received approval and this is just an amendment to the application. Planner Lelie mentioned that in March of 2022 solar energy facilities were now classified as a conditional use with definitions of minor and major projects. The solar project also had to clarify the communications from Attorney Gouin is legal council for the project and that Attorney Bellin is the land use attorney for the project. Attorney Bellin stated that the board would see Attorney Gouin if the board decides they do not want to proceed with the application. Attorney Bernstein stated that Attorney Gouin did throw a legal punch at 4pm today. The conversation of conditional use vs permitted use had all the attorneys talking for over a week. Attorney Bellin reminded the board that there were a series of conditions even in the permitted use. Conditions are not guarantees. In the most fundamental theory....mature trees taken down and the applicant made their peace with DEP and now the applicant needs to make peace with the board. Attorney Bernstein stated that the board wants larger than traditional tree that replaces what was taken down. The board probably wants the property similar to what it looked like before someone went nuts in the riparian zone and the NJDEP said it was ok. The Holland Township Land Use Board is not ok with what happened. Planner Lelie reported that the use permitted or conditional is not the only conversation and Attorney Bernstein stated that you got prior approval but there are provisions in old law and related that still outline what the applicant will still need to do to meet conditions of the old ordinance to put the land back to the way it was in the Holland zones. More conversations took place with member Wilhelm reminding everyone that the applicant asked for an amended site plan and that the applicant needs to show what they want to do. The burden is on the applicant to show the amended site plan which is what the board requested. This is not a discussion but a public hearing. Attorney Bernstein stated that the applicant did notice for a public hearing. All agreed to move into the public hearing.

Witness #1 – Ian Hill sworn in by Attorney Bernstein. Ian Hill – van clef engineering – Phillipsburg NJ received his engineering degree in 2005 and has been before various boards in NJ. He has appeared before the Holland Township board previously; he was accepted as an expert witness. He is accepted as an expert again.

Attorney Bellin asked Engineer Hill to outline why he is here. Engineer Hill stated that the board required the applicant to reappear. In October they had a meeting with a tree specialist when they heard there were some issues with some trees. The applicant had asked the contractor to perform some trimming but to NOT remove trees. In November the Hunterdon County Soil Conservation District issued a letter for unauthorized disturbance. Everyone was shocked and embarrassed.

April 6 2023 approved NJDEP plan outlining that the complete plantings needed to be completed by oct 2023. Soil Conservation would also need to see the completed work.

May 22 2023 - - dialog with township took place explaining the DEP approval of April 6 2023 in correspondence dated April 14 2023. The DEP was the first approval to be reviewed and then they could address concerns with the Township. May 22, 2023 a letter from Soils was issued with certification. In June or July the Land Use Board was contacted and all documentation was submitted to the board for consideration. The board requested an amended site plan.

The board was asked if there were any questions which included: hearing what the applicant is looking to do, being asked if anyone from the state or township was included in site meetings talking about pruning trees outside of the approved application, was testimony given about pruning in the riparian zone when you received your initial approval with board, did the applicant receive authorization to prune trees for shading of the project (this had Engineer Hill stating there no they did not but permit by rule they could), did the applicant who was granted approval show the board the disturbance as limited and stated with the approved application that they were not removing, did the applicant disturb trees, did the applicant cause an impact to the trees outside the disturbance, what was the reason for pruning trees, why did the pruning take place without calling Holland Township or the DEP etc. Scott Wilhelm reminded the board that the applicant is aware that a situation took place and that is why they are before the board and also that pruning is normal but cutting is not. That is the core of the issue. They made a mistake and what can we all do to make the situation better for Holland Township. Everyone agreed that they need to listen to the application.

Attorney Bernstein questioned if area 3 and area 4 are the areas before the Land Use Board for consideration and asked what is the size and acres of the situation at hand. Attorney Bellin stated that Witness #2 will address. At this time Witness #1 was done with testimony and questioning.

Witness 2 – Margaret A “Peg” Prizerer – sworn in by Attorney Bernstein. She is a Landscape architect who graduated from Penn State in 92 and received her license in 1993. She has been practicing since with Van Cleef and has testified before many boards as an expert witness. She was accepted as an expert witness.

Exhibit A1 – shows whole site area with area 1 fire pond and area 2. Both plans were designed and replaced last fall – One tree was 60 in. There were 136 trees in area 2 and 196 plated last fall 3 .6 acres off the driveway was disturbed. 30 out and 30 to be in 4 trees are in the easement . The remaining .46 acres had 56 trees cut down. Her report explained the calipers of the trees removed/destroyed.

Exhibit A2 – handout showing each area and trees out. She is the author of exhibit a2 – there was a survey done....she counted each and sized them in each area. She wanted to count tree for tree and also for replacement. The trees cannot be pulled out. New trees are away from the remaining cut tree and can root and not be affected by remaining tree trunks – area 3 and entrance are the two areas we are talking about requiring the repair.

Exhibit A 3 - restoration plan 3 of 5 dated 2/27/24 This shows where all trees are located and the existing trunks – mixed new trees in the areas. All trees are to be native to the area. Concerns were expressed with size of the tree being replanted and that whips are not acceptable. Discussion also took place about the size in riparian which are smaller trees because they could bring in heavy equipment into the riparian zone for replacement. The trees are 8’ high with 1” caliper. Flowing trees are 5’ in height as are the evergreens. Holland areas have trees proposed to be 2 to 2.5 caliper for planting.

Exhibit A4 - - restoration plan with original date 4/2023 and revision 2/27/24

Area 4 plant trees but if gas co will not allow them to replant then the applicant wants to plant elsewhere on site or in the township. Attorney Bellin stated that the gas line dictates if trees can be replanted. They are offset of the line itself but the area on the line did have trees.

More board conversations took place about the areas of disturbance, the planting of 2 to 2.5 “ caliper, smaller plantings allow for better root system adjustments, species, native plants being more tolerant, a forest eco system being needed with variety, what size were the trees that were removed (with a guess of 50’ to 70’ tall), cost vs a replanting to achieve a replacement goal, additional plantings, needing about 10 years for a tree to be about 8 to 10’ in caliper, not being able to remove stumps because of location or sinking in the ground, invasive species, a forester reviewing the situation, the purpose also of leaving old stumps to replenish the eco system, sharing the forester’s report, tree canopy destroyed, tree canopy now and with plantings, submitting pictures of then and now, angles looking at the project and what people can see, the gas line and what can and cannot be planted in the easement, the need for approval of the gas company but if they do not approve then the applicant has to appear back before the land use board, and if there will be additional witnesses.

Attorney Bellin reminded everyone that the applicant did contact the gas company when the application was first submitted. The gas company did not have any approvals in their files. Everyone believes that the line is decades old and that trees were probably not there but they seeded on their own and grew. All agreed that you cannot remove the stumps as the vibration could affect the gas line.

Attorney Belling has no other witnesses and wants to see the board approve the plan so we can all get working on this project.

The board professionals were asked for comment.

Planner McManus started the conversation with her request to see forestry report so that there can be a better understanding of the damage and what compensation is needed. In regards to plans submitted, she thinks more evergreens could be used as screening as the view is what is constantly talked about and evergreens provide year round screening. She also thinks supplement plantings within area with more trees would be helpful and that she is happy to work with applicant and the board for revisions. She also thinks off area and off site within property and surrounding area for more mitigation of loss of mature trees would be helpful. The applicant has proposed 1 for 1 strategy and they did a good job but there is an opportunity for more. Typically the NJ tree ordinance requires multi trees for removal of 1 tree. This new tree ordinance is being proposed for Stormwater reassignment towns from Tier B to Tier A. There is a table in the ordinance with the schedule. This is a good thing to review. She is happy to share this with everyone. The applicant is proposing a larger tree than what is required in the ordinance but more trees is a good thing and Attorney Bellin thinks the applicant will probably not resist the concept. All agree that the forester report is good for review. There was additional discussion about some of the trees shown as not being good. Planner McManus would like to see is appropriate and if they removed dead then let everyone consider options. Member Wilhelm stated that what he was hearing is that the board needs more information and should revisit next month as they cannot make a decision now. He agrees that we all want to see this moving forward but the board needs do this the right way so he suggests the professionals work together and come forward next month. Attorney Bellin agreed with this. Attorney Bernstein had some more discussion of the old ordinance 2017-7 with emphasis on landscaping section m3 e5 with more discussion needing to take place.

Chairman Martin open the meeting up to the public for public comment:

Dwight Pederson – resident, on the Environmental Commission and also the Holland Township representative to the MWA. He has had a keen interest in this project. Mr. Pederson mentioned that he has gone back to the state with permits required and has reviewed the files many times thru OPRA. In February of 2021 the Flood Hazard Permit was issued to the solar project with a hardship exception because riparian zone- - with removal of excessive and the justification was that mitigation to be done on site. Mr Pederson stated he was happy with the determination and was able to obtain the riparian mitigation plan from the engineer which he reviewed in great detail. The damage DEP ration is 3 to 1 so if there is damage in 1 acre the 3 acres were to be the repaired. In riparian zone if the forest area destroyed and is an acre then 6 acres should have been repaired. The plan showed where to plant and it showed lots of areas to plant trees. Then Holland Township found out mitigation was not on site and that the applicant was able to get the transfer to Oxford as an outsource. Mr. Pederson said that the concept never sat well with him and now the applicant is before us with another situation. The applicant wants to do a few acres of trees but never did the 6 acres in Holland Township that they were supposed to for riparian damage let along the clear cutting that took place. The damage was done in Holland Township and to Holland Township and continues to be Holland Township. Attorney Bellin stated that he understood the transfer Mr. Pederson was talking about and explained with Engineer Hill that the other project had issues in the riparian zone and they proposed on site however, the owner would not allow plantings outside of leased area so they bought credits \$750,000.00. The owner of the land is IPPE and they could not force the owner of the land to do this. Attorney Bernstein asked Attorney Belling is maybe council from Giordano (solar legal counsel) would send a letter to the land owner to see if they can help take care of plantings of the blight. Attorney Bellin said that they are not an easy customer with Member Grisewood then asking questions of the engineer that included: are there areas on site for additional mitigation and reforestation and contacting the property owner for additional mitigation locations. Discussions then took place about the south east corner and that the professionals could look at the property again. Reminder to all, the applicant does have to comply with LSRP and Attorney Bellin said it is really not a great spot considering there is also a hill which may have a better tree planting spot. The applicant was asked to provide a letter of denial from the property owner saying they were denied the request to plant in areas outside of the lease which got into a money discussion which is why the applicant did the transfer to Oxford for \$750,000.00

The professionals will work together and come back to the board. The applicant will need to consent to carry the hearing to next month. Everyone is understanding the urgency of the application. The forester will need to submit the report. The board circled back to the technical variance that was suggested in the planners report and the attorneys are reviewing with the potential that a lesser variance is needed. Attorney Bernstein said everyone is working together. The applicant is operating under prior approval and that they are here now because they went outside the approval however, they cannot just turn off the switch so he thinks they can continue but no

one should be near property until issue is resolved which means NO more pruning. A motion to carry this application to next month was made by Mike Miller and seconded by Scott Wilhelm. At a roll call vote, all present were in favor of the motion. Motion carried. This application will be carried to April 8, 2024 at 7pm without further notice.

Sub-Committee Status and Updates:

Holland Township Highlands Council Subcommittee –The Highlands Council is holding hearings. One for warehousing standards and the other for update of zoning maps with newer information.

Fair Share Housing subcommittee – Dan Bush, Scott Wilhelm, Ken Grisewood, Mike Miller, Planner Green and LUA Kozak - Thru the Highlands Council grant, Holland Township has been working on revising the Fair Share Housing Plan which includes round 3. She is working on reducing round 1 and round 2 of our obligation. Round 3 appears to require 36 units however when you do the review including the Huntington Knolls project then we will need only an additional 2 affordable units. The subcommittee discussed 4 options and she is working on the suggestions of the subcommittee. More will follow however; the subcommittee did praise Planner Green for all the hard efforts in revising the plan. Holland Township is not a DJ town but we have to be prepared. Once the plan is revised it will be submitted to the Land Use Board for adoption . The Township Committee also has a role with this document. The Highlands Council needs to approve the document so once the final deliverable is ready then we can be reimbursed from the grant. FYI...another round in affordable housing is on the immediate horizon.

Home Occupation subcommittee – Ken Grisewood – this was on a hiatus because of the stormwater reassignment of Tier B to Tier A. It is tabled for the time with the hope that discussions can begin again sometime in 2024. Ken Grisewood mentioned that a new member is welcome to replace Jerry Bowers.

Public Comment

Davina Lapczynski – 105 Riegelsville Rd – circled back to the ordinance questions about solar with discussions of a variance option being preferred. She is questioning options such as solar on a carport. Currently, solar on the ground cannot exceed 10’ and requires a fence or landscape screening. Technically, Holland Township does not permit a carport unless it relates to a recreational vehicle or trailer. She asked if changing an ordinance is a possibility and explained that there have been conversations about putting a solar carport at the Fire House and that residents have also called about solar on other structures outside of ground or roof mount. Mike Miller asked if this is something Land Use needs to look at or if the Township Committee can review this. Dan Bush stated that they are looking at this on a committee level. Mike Miller also mentioned that the ordinances are in conflict with each other. t this time, if someone wants to install solar outside of what is currently permitted in Holland Township on the roof and ground mount then they can appear before the Land Use Board with a variance application. Dan Bush also mentioned that while a potential grant for solar on a carport for the Fire Company can be a good thing, Holland Township needs to look at what is in the best interest of the Township and not a site specific project such as the firehouse.

Executive Session

There was no Executive Session scheduled at this time.

Housekeeping:

There was no Housekeeping scheduled at this time.

Adjournment

Scott Wilhelm made a motion to adjourn. Motion approved. The meeting ended at 8:55 p.m.

Respectfully submitted,

Maria Elena Jennette Kozak

Maria Elena Jennette Kozak
Land Use Administrator