

**TOWNSHIP OF WHITE PLANNING BOARD
COUNTY OF WARREN, STATE OF NEW JERSEY**

**RESOLUTION GRANTING PRELIMINARY AND FINAL MAJOR SITE PLAN
APPROVAL TO PPL RENEWABLE ENERGY, LLC, FOR PROPERTY KNOWN
AS BLOCK 7, LOT 3**

The Planning Board of the Township of White, in the County of Warren, and State of New Jersey, upon motion of _____, seconded by _____, adopts the following findings of fact, conclusions and resolutions:

Findings of Fact:

1. PPL Renewable Energy, LLC, filed an application for preliminary and final major site plan approval for a development to be located on Block 7, Lot 3, in the Township. The application for both preliminary and final major site plan approval was deemed complete by the Board on March 8, 2011, with waivers granted, as follows:

Checklist Item 31, Landscaping Plan, waived completely.

Checklist Item 40, Development Impact Statement, waived completely.

Checklist Item 22, Letter of Interpretation, waived for completeness purposes only.

Checklist Item 32, Lighting Plan, waived for completeness purposes only.

The Board agreed that Checklist Items 33, 37, 38, and 43, characterized by Applicant as not applicable, a characterization agreed to by Paul M. Sterbenz in Section A. 3. of his report dated Feb. 28, 2011, a copy of which is attached to this Resolution [the Sterbenz Report], were, in fact, not applicable to this application.

2. Proof was received by the Board Secretary from the Applicant of due notice of a Board hearing to be held on the applications on March 8, 2011. All

jurisdictional requirements for the Board to consider the applications were met.

3. A hearing was held on the applications by the Board at its March 8, 2011, meeting. Applicant was represented by its attorney, Christopher DeGrezia, Esq. Applicant's witnesses, Steven A. Gabrielle [Applicant's Director of Asset Management & Development], and Evan D. Hill [a N.J. licensed professional engineer with Innovative Engineering, Inc., which had prepared the site plan] were sworn as witnesses and Mr. Hill's credentials as a professional engineer were accepted by the Board. Also sworn as witnesses were Paul M. Sterbenz, P.E., P.P, the Township Engineer, and Joseph J. Layton, P.P., Township Professional Planner.
4. The project, as described in the application, site plan, and other materials submitted by applicant, would be a 2 megawatt solar energy array with approximately 11,000 ground-mounted solar panels on a site of approximately 94.50 acres. The project would involve an access driveway, lighting, equipment pads, utility poles, underground electrical conduits, and an 8 ft. high chain link fence surrounding the improved area. Approximately 16 acres would be disturbed in the process of construction.
5. The project is situated in the Low Density Industrial [LDI] Zoning District where various principal uses, including manufacturing, warehousing, and public utility uses, are permitted. Additionally, the project falls within the provisions of N.J.S.A. 40:55D-66.11 which permits photovoltaic renewable energy facilities in all industrially zoned districts in the State on sites of at least 20 acres owned by the same person or entity. The ownership of the subject lot and adjoining lots is described in Section A. of Joseph J. Layton, dated Mar. 4, 2011, a copy of which is attached to this Resolution [the Layton Report].
6. At the hearing the Board considered the documents listed as Nos. 1 through 10 on pp. 1 & 2 of the Sterbenz Report. Also at the hearing the following documents were marked as exhibits and referred to in testimony:
 - Exhibit A-1 Printed sheets of a PowerPoint presentation, entitled "PPL Renewable Energy, LLC, Foul Rift Solar Project, March 2011," giving information about the project.
 - Exhibit A-2 Preliminary & Final Site Plan [specially marked as an Exhibit], prep'd by Innovative Engineering, 9 sheets, dated 12/10/2010
7. At the hearing, Mr. Gabrielle gave an overview of the project, referring to Exhibits A-1 and A-2. The project was described as involving some 11,000

low profile solar panels, from 2 ft. to 7 ft. above grade, on a tracker system. Transformer, inverter and combiner box installations would be involved. There would be an approximately 20 ft. wide gravel driveway. Low maintenance meadow grass, growing to a maximum height of 8-12 inches, would be planted under the panels.

Mr. Gabrielle testified that the lot was presently under farmland assessment; it was anticipated that approximately 16 acres would come out of farmland assessment and that the remainder of the lot would continue to be farmed. The only appreciable sound arising from the project, he said, would be a hum from the inverter having a maximum of 65 decibels within 5 feet of the inverter. There would be four 12 ft. high lights for security which would operate on a motion sensor. The solar panels are made of low reflective glass and would not produce glare. The solar array would be monitored remotely and visited as needed, he said.

8. Based on the materials submitted with the application and the Sterbenz and Layton Reports the Board determined that the proposed development and the site met the requirements of §160-186 D., which references requirements in §160-174 of the Industrial Zoning District, as to minimum lot size, yard requirements, coverage limitations, and the like.
9. There was considerable discussion and testimony regarding the buffer requirements of §160-186 D. This section requires a “buffer” of at least 100 ft. from a property line which adjoins non-residential uses or zones, and at least 200 ft. from a property line which adjoins residential uses or zones. The language of subsection D. states that the buffer area should be “adequately landscaped” but § 160-186 D. (2) states that buffering is required “when topographic or other barriers do not provide reasonable screening and when the Planning Board determines that there is a need to shield the site from adjacent property...” The Board determined that §160-186 D. did not impose a zoning requirement for an absolute setback area of 100 or 200 ft. [the distance depending on the adjacent zones or uses] which must be landscaped, but for a development design which would facilitate landscaping, if needed, and which could vary with the circumstances of the site and its environs, and the proposed development.

The area of the subject Lot which is proposed for the solar farm is adjacent to lands zoned Light Density Industrial [LDI] to the north and south in White Township and lands zoned for industrial use in Harmony Township to the south. Lands to the west, on the opposite side of South Foul Rift Rd. [in White Twp.] are zoned Single Family Residential [R-1]. Thus, according to § 160-186 D., the Board inquiry as to landscaping of a buffer was directed to a possible 200 ft. buffer area along South Foul Rift Road and a possible 100 ft. buffer area elsewhere. Review of the site plan and other materials submitted,

as well as testimony from Messrs. Gabrielle, Hill, and Layton, established that:

[i] Regarding the residentially zoned area across South Foul Rift Road, the solar installation's surrounding fence would be set back at least 100 ft. from the Road; the area across the Road, adjacent to the Delaware River, is undeveloped, occupied in part by a railroad right of way, and is, in fact, narrow and too steep for residential development, with most of the development's facilities not visible even from the Road; and the lands residentially zoned, other than for the railroad land's, are owned by an affiliate company of the applicant.

[ii] Regarding the adjacent industrially zoned areas, the site plan shows that the surrounding fence is at least 150 ft. from the southerly Lot boundary, and at its closest approximately 60 ft. from the northerly Lot boundary. However, the adjacent 75 acre lot to the north [Lot 4] is in the same ownership as the subject Lot. There is no development, other than for the existing towers of an electric transmission line, on Lot 4. Also, Mr. Hill testified that the solar array could not feasibly be moved southerly on the subject Lot due to high existing trees to the south which would shade the solar panels. Testimony established that, except at one corner, the development would not be visible from Rt. 519 to the east.

Based on the above determinations and the overall, including the low-lying, nature of the development, the Board determined that no special landscaping was required, of the sort contemplated as possibly needed under § 160-186 D. As the Board had determined that the buffering requirements of this subsection D. were not absolute but depended upon the circumstances, no zoning variance was needed to support this determination.

10. The Board reviewed with the Applicant the comments in the Sterbenz Report [attached]. The relevant comments in the Sterbenz Report and the disposition of these determined by the Board and agreed to by Applicant, are listed as follows:

Item A. 1. a., Letter of Interpretation – This checklist requirement had been waived for completeness purposes, but is needed to assure that the development does not encroach on areas subject to NJ Dept. of Environmental Protection [NJDEP] regulations. Applicant represented that it had applied to NJDEP for a freshwater wetlands Letter of Interpretation [LOI] and that it believed no development encroached in a manner which would cause the site plan to change. Applicant agreed to pursue the obtaining of the LOI, and when it is obtained will promptly furnish a copy to the Township Engineer. Applicant agreed that it will abide by the LOI and make any adjustments in the site plan needed and approved by the Township Engineer. In the unlikely

event that a significant change is needed, Applicant agreed to return to the Board to seek and amendment to the site plan.

Item A. 1. b., Lighting Plan information on Site Plan – This checklist requirement had also been waived for completeness purposes. Applicant agreed to add this luminance information to the site plan.

Items B. 2.01, 2.05, 3.03, 3.04, 4.01, 5.01, 5.03, and 5.04 – Applicant agreed to make the revisions or additions to information described in these Items, to the satisfaction of the Township Engineer.

Item B. 2.02, regarding access driveway – This Item expressed the desirability, from a design standpoint, of moving the project’s access driveway northward. Applicant agreed to do this in consultation with the Township Engineer. The recommended movement was approximately 103 ft. northward. Applicant also agreed to revise the site plan, to the satisfaction of the Township Engineer, to show this relocation.

Item B. 2.03, Comments from Fire Company – This Item recommended forwarding a copy of the site plan to the designated first responding fire company for comment, regarding how the site developments relate to maneuverability of fire equipment within the developed site and regarding any need for fire-fighting measures on-site. Applicant agreed to do this, and to solicit the fire company’s comments. Such comments, when received back will be reviewed by both Applicant’s representatives and the Township Engineer, and their settled recommendations, if any, will be described as a note on the site plan and implemented by Applicant. In the event of any disagreement on these subjects, the matter will be referred back for consideration by this Board, with the possibility of a site plan amendment if needed.

Item B. 2.04, Performance Standards – The Board determined that testimony at the hearing about the subjects of the performance standards had established that there were no concerns, so far as the design of the project was concerned, with complying with the objectives of § 160-188 [which references the objectives of § 160-175].

Item B. 2.06, Facility Layout on Site - This concern was addressed by testimony from Applicant’s representatives, stating that movement of the facility southeastward away from the ridge line would interfere with solar reception due to tall trees southerly of the site. The Board determined no action regarding this concern was necessary.

Item B. 3.01, Drainage – This comment recommended an interceptor swale and temporary sediment basin be constructed and utilized during construction.

Applicant agreed to do this, and to revise the site plan in this respect, and to revise the drainage report to include necessary calculations to support the design of the basin and swales, complying with NJ Soil Erosion and Sediment Control Standards; all revisions to be to the satisfaction of the Township Engineer.

Item B. 3.02, Grass cover – Applicant testified as to the grass mixture to be applied to the site, and this proposed mixture, testified to by Mr. Hill, was referred by the Board to the Township Engineer for consideration and approval. The site plan, as Applicant agreed, will be revised throughout to be consistent with this grass cover plan if accepted by the Township Engineer. In the event of any disagreement on this subject, the matter will be referred back for consideration by this Board, with the possibility of a site plan amendment if needed

Item B. 5.02, Construction Access Route – During discussion at the hearing, and considering the comments of Mr. Sterbenz, Applicant agreed that vehicles used for construction of the project would enter from the south along South Foul Rift Road. Applicant agreed to place a note to this effect on the site plan. Also, in accordance with the comment of Mr. Sterbenz, Applicant agreed to undertake an assessment of the condition of the relevant section of South Foul Rift Road, with the Township Engineer, both before and after construction of the project, and, based on this assessment, to repair any damage done to the Road during construction. A note will be placed by Applicant on the site plan to evidence these understandings.

11. The Board next reviewed with Applicant the relevant comments in Layton Report [attached] and the disposition of these determined by the Board and agreed to by Applicant, are listed as follows:

Item C. 2, 3 & 4. – Applicant agreed to make these changes to the site plan. [Other changes requested in the Layton Report had been subsumed in the Board’s response to the Sterbenz Report].

12. Following discussion at the hearing Applicant agreed to submit a decommissioning plan, for review and approval by the Township Engineer. This plan would be implemented in the event the solar energy facility ever ceased to be used.

Conclusion:

Based on the Findings of Fact stated above, applicant, PPL renewable Energy, LLC, is entitled to preliminary and final major site plan approval for the development applied for, subject, however, to the conditions set forth below.

Resolution:

RESOLVED by the White Township Planning Board that the application of PPL Renewable Energy, LLC, for preliminary and final major site plan approval for property known as Block 7, Lot 3, is hereby granted for the development shown on its site plan, entitled “Preliminary & Final Major Site Plan, Foul Rift Road Solar Farm, Proposed Ground-Mounted Photovoltaic Array,” prepared by Innovative Engineering, Inc., dated 3/8/11; subject to the conditions set forth below:

- a. Applicant shall revise the site plan to address to the satisfaction of the Township Engineer and as stated in the Findings of Fact, above, the matter described in Item A. 1. b. of the Sterbenz Report.
- b. Applicant shall revise the site plan to address to the satisfaction of the Township Engineer and as stated in the Findings of Fact, above, the matters described in Items B. 2.01, 2.02, 2.05, 3.03, 3.04, 4.01, 5.01, 5.03 and 5.04 of the Sterbenz Report.
- c. Applicant shall comply with the procedure set forth in the Findings of Fact, above, as to Item B. 2.03 of the Sterbenz Report [comments from the fire company].
- d. Applicant shall comply with the measures described in the Findings of Fact, above, as to Item B. 3.01 of the Sterbenz Report [regarding drainage].
- e. Applicant shall comply with the measures described in the Findings of Fact, above, as to Item B. 3.02 of the Sterbenz Report [regarding grass cover].
- f. Applicant shall comply with the measures described in the Findings of Fact, above as to Item B. 5.02 of the Sterbenz Report [regarding the construction access route].
- g. Applicant shall revise the site plan to address to the satisfaction of the Township Engineer and as stated in the Findings of Fact, above, the matters described in Items C. 2, 3, and 4, of the Layton Report.
- h. Applicant shall enter a Developer’s Agreement with the Township, whose wording shall be subject to approval by the Township Engineer and Township Attorney. Such Agreement shall, in addition to other usual provisions, include the decommissioning plan, set forth the conditions of this site plan approval, and provide for the submission of a performance guarantee in the amount of 120% of the reasonable cost of properly completing such site improvements as, in the judgment of the Township

Engineer, are required to be included in the Township Engineer's performance guarantee cost estimate. Applicant agrees to accept such cost estimate and to furnish such guarantee, which shall be subject to approval by the Township Engineer and acceptance by the Township governing body. Such Developer's Agreement shall also provide for the submission by Applicant of the usual maintenance guarantee required by the Township Code and the Municipal Land Use Law.

- i. This approval is conditioned on the payment of real property taxes as required by Township ordinance, the payment of any applicable outstanding fees and assessments, and the procurement of other agency approvals or waivers, if any are still needed, as applicable to the development.

- j. No construction shall commence until all site plan revisions have been made to the satisfaction of the Township Engineer, a satisfactory LOI has been submitted to the Township Engineer, fire company comments have been received and addressed, and other measures described in the conditions above which are to be satisfied before construction have been taken care of, a Developer's Agreement has been executed, a proper performance guarantee has been posted with the Township and approved by the Township Committee, all fees and taxes, as well as escrow fees to cover professional reviews and preparation of this resolution, are paid, any additional outside agency approvals still needed are obtained, and inspection fees are posted.

A copy of this Resolution shall be sent by the Planning Board Secretary to: the applicant by Certified Mail No. _____, Return Receipt Requested; the White Township Clerk; the zoning officer; and, the building inspector within ten (10) days of the date hereof.

Anthony Wyhopen, Chairman

Alfia Schemm, Secretary

I hereby certify the above to be a true copy of the Resolution adopted by the White Township Planning Board at its regular meeting on April 12, 2011, and further certify that same is a true memorialization of the Official Action taken by the said Board at its regular meeting on March 8, 2011.

Alfia Schemm, Secretary