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**RESOLUTION 2022-PB-01
EVESHAM TOWNSHIP PLANNING BOARD
IN THE MATTER OF EVESHAM TOWNSHIP
NJR CLEAN ENERGY VENTURES III CORPORATION
(AERO-HAVEN SOLAR)
APPLICATION NO. P21-06
DECIDED ON JANUARY 20, 2022
MEMORIALIZED ON MARCH 17, 2022
AMENDED PRELIMINARY AND AMENDED FINAL SITE PLAN
APPROVAL WITH ANCILLARY DESIGN WAIVER RELIEF**

WHEREAS, an application for amended preliminary and amended final site plan approval with ancillary design waiver relief has been made to the Township of Evesham Planning Board (hereinafter referred to as the “Board”) by NJR Clean Energy Ventures III Corporation, Aero-Haven Solar (hereinafter referred to as the “Applicant”) on lands known and designated as Lot 1 in Tax Block 63 as depicted on the Tax Map of the Township of Evesham (hereinafter “Property”), and more commonly known as 450 Kettle Run Road in the Rural Development 3 (RD-3) Zone District; and

WHEREAS, a remote public hearing was held on January 20, 2022 after the Board determined it had jurisdiction; and

WHEREAS, the Applicant was represented by David Frank, Esq.

WHEREAS, a complete application has been filed, the fees as required by Township Ordinance have been paid, and it otherwise appears that proper notice has been published and the jurisdiction and powers of the Board have been properly invoked and exercised

NOW, THEREFORE, the Board makes the following findings of fact based on evidence presented at its public hearing, at which a record was made.

1. The subject Property contains 46.58 acres and is a closed landfill within the Rural Development 3 (RD-3) Zone. The subject Property had historically been used as an airfield that utilized toxic materials.

2. The Applicant previously received preliminary and final site plan approval with ancillary design waiver relief to permit construction of a solar facility on approximately 22 acres of the subject Property which included the cap of the landfill. The prior approval permitted construction of a ground mounted ballast type solar array on a portion of the closed landfill and a pole mounted array outside of the capped landfill area. The Applicant now proposes to expand the previously approved solar array to cover the entire cap of the closed landfill. The development is proposed in two phases with Phase I including the construction of the solar array on the existing landfill with Phase II including additional improvements outside of the cap. The Applicant further proposes construction of an additional infiltration basin for stormwater management purposes.

3. Counsel for the Applicant, David Frank, Esq. explained that the Applicant was seeking amended preliminary and final site plan approval to modify a previously approved plan to install a solar facility on the premises of a former landfill. He stated that the subject Property contains approximately 46.6 acres and that the Applicant was seeking to expand the area containing the solar panels to include the entire cap. A basin would also be constructed on the eastern side of the subject Property. Mr. Frank described the proposal as a 22-acre solar PV generation facility. He also noted that two phases were proposed with Phase I including ballast block mounted modules on the existing cap which would result in an increase of .5 acres from the original approval and Phase II including a combination of ballast block, post and screw mounted modules located off of the cap. He stated that the setback to the wetlands was originally approved at 204.87 ft. and was now proposed to be 107.57 ft.

4. The Applicant's Engineer, Maxwell Peters, PE testified that the subject Property has an irregular shape and contains 45.59 acres with access from Kettle Run Road with the Aero Haven airport located to the north, a wooded area to the east, a creek to the South and the Alliance Campus to the west. He stated that the subject Property drains from the north to the south.

5. Mr. Peters further testified that Phase I of the project would include installation of panels at the top of the landfill which has an elevation of 147 feet. He stated that the project would include two (2) phases with Phase I including eleven (11) acres at the top of the landfill and Phase II involving the installation of panels on 6.5 acres off of the landfill cap. He explained that the proposed facility would generate between 4.17 and 5.47 megawatts of electricity which would flow to the grid with an interconnection located on Hopewell Road. Mr. Peters also stated that underground drilling would be required in three (3) different locations. He also testified that the project would utilize an easement with the Township which he stated would be provided as a condition of approval.

6. Mr. Peters also explained that the proposed amendment did not require any variance relief. He did, however, testify that design waiver relief was required from Section 160-25 of the Township Code where relief had previously been granted to permit a 204.87 ft. setback from freshwater wetlands where 300 ft. is required. He stated that the Applicant was now proposing a 107.75 ft. setback. He then stated that a Certificate of Filing had previously been secured from the Pinelands Commission but that a new approval would now be required. He described the proposed solar arrays on top of the cap as being 8 ft. and 7 inches above grade with the electrical equipment being located on a concrete pad. He described the structure as being similar in size to a "large dumpster". Mr. Peters further stated that the off-cap portion of the project would not increase impervious coverage.

7. Mr. Peters then stated that the proposed basin would result in a stormwater runoff reduction. The basin area would also require some tree removal. He also confirmed that the project would not include any signage and the only lighting would be located within the equipment cabinet.

8. Testimony was then taken from Garrett Lerner who identified himself as the owner and Manager of Business Development for the Applicant. Mr. Lerner explained that Phase I of the project would involve selling power to the wholesale energy market and into the grid. He described Phase II as potentially containing a community solar program which involves the sale of energy to low- and moderate-income families at a discounted rate, but actual inclusion of Phase II in New Jersey's Community Solar Program would depend upon how NJBPU further implements that program. In response to questions, he confirmed that all stormwater management facilities would be constructed in Phase I. He also stated that the emergency access to the site had been previously approved. Mr. Lerner then stipulated that trees would not be removed from the south east portion of the subject Property.

9. The hearing was then opened to the public at which time several residents expressed concern about tree removal. The Applicant stated that it would submit a tree preservation plan and that the Board's Planner would walk the site post construction in order to determine if additional plantings are necessary. The Applicant further agreed to coordinate with the property owner, whose responsibility it is to maintain the fence, to inspect and remediate any gaps or erosion under the existing fence.

NOW, THEREFORE, the Board makes the following conclusions of law, based on the foregoing findings of fact.

The application before the Board is a request for amended preliminary and amended final site plan approval with ancillary design waiver relief in regard to Lot 1 in Block 63 of the Tax Assessment Map of the Township of Evesham. The subject Property is located within the Rural Development 3 (RD-3) Zone.

The Applicant is seeking amended preliminary site plan approval pursuant to N.J.S.A. 40:55D-46 and amended final site plan approval pursuant to N.J.S.A. 40:55D-50 along with ancillary design waiver relief pursuant to N.J.S.A. 40:55D-51.

The Board finds that the Applicant does not require any variance relief. It further recognizes that preliminary and final site plan approval with ancillary design waiver relief was previously granted for the development. The Applicant does, however, require new design waiver relief pursuant to N.J.S.A. 40:55D-51. The Board previously granted design waiver relief from Section 160-25 of the Township Code which requires a 300 ft. buffer from freshwater wetlands where the Applicant previously proposed 204.87 feet. The Applicant now seeks design waiver relief from the same section in order to expand the solar facility to be within 107.75 ft. The Board finds that the Municipal Land Use Law identifies solar facilities as an inherently beneficial use. The Municipal Land Use Law further identifies solar facilities as a permitted use on closed landfills. N.J.S.A. 40:55D-66.16. The Applicant in this matter has complied with all bulk standards and does not require variance relief. The Applicant has redesigned the previously approved plan to permit the installation of a more comprehensive facility which will better serve the needs of residents. The proposed plan also complies with all N.J.D.E.P. wetlands regulations and will obtain all required approvals from the Pinelands Commission. The Board is also satisfied that the surrounding neighbors will be sufficiently buffered by the trees and shrubbery depicted in the landscaping plan. The existing fence will further be repaired or replaced by the property owner

whose responsibility it is to repair and maintain the existing fence. Significantly, the Board's Planner will walk the site post construction to determine if additional planting are required. The Board finds that strict conformance with the Township Code regulating freshwater wetlands creates a practicable difficulty and hardship in the designing the subject Property to accommodate an inherently beneficial use which maximizes that benefit to the public. The Board therefore determines that design waiver relief pursuant to N.J.S.A. 40:55D-51 is appropriate in this circumstance.

The Board finds that all other zoning, site plan and design ordinance requirements except as has previously been granted and granted herein have been satisfied. Amended preliminary site plan approval pursuant to N.J.S.A. 40:55D-46 and amended final site plan approval pursuant to N.J.S.A. 40:55D-50 are appropriate in this instance. The Board finds that this amended approval is granted based upon the conditions expressed in the record as well as in this Resolution.

NOW, THEREFORE, BE IT RESOLVED by the Planning Board that the application of the Township of Evesham for property known and designated as Lot 1 in Block 53 on the Tax Assessment Map of the Township of Evesham requesting land use relief and checklist waivers is determined as follows:

- A. Amended preliminary site plan approval pursuant to N.J.S.A. 40:55D-46;
- B. Amended final site plan approval pursuant to N.J.S.A. 40:55D-50; and
- C. Design waiver relief pursuant to N.J.S.A. 40:55D-51.

IT IS FURTHER RESOLVED that the above approvals are granted subject to the following terms and conditions:

- 1. The development of this parcel shall be implemented in accordance with the plans submitted and approved.

2. The Applicant shall comply with any terms and conditions contained in any reports of the Board professionals.

3. The Applicant represents that all its representations and stipulations made either by the Applicant or on its behalf to the Township of Evesham Planning Board are true and accurate and acknowledges that the Land Use Board specifically relied upon said stipulations in the Board's granting of approval. If any representation or stipulation is false, this approval is subject to revocation.

4. This approval is granted strictly in accordance with any recommendations set forth on the record by the Planning Board at the time of hearing on January 20, 2022.

5. The Applicant shall comply with all conditions of the previous approval except as modified herein.

6. All stormwater management improvements shall be completed in Phase I.

7. The Applicant shall provide all easement agreements associate with this project including, but not limited to, easement agreements with the Township.

8. The Applicant shall provide all required Pinelands Commission approvals.

9. Lighting for the development shall be limited to within the equipment cabinet.

10. Signage has not been approved as part of this application.

11. The Applicant shall coordinate with the property owner, whose responsibility it is to maintain the perimeter fence to repair or replace the existing fence subject to the review and approval of the Board's professionals.

12. The Applicant shall submit a tree protection plan subject to the review and approval of the Board's professionals.

13. The Applicant shall utilize native species for trees and other plantings where possible.

14. Payment of all fees, costs and escrows due or to become due. Any monies are to be paid within twenty (20) days of said request by the Board Secretary.

15. Certificate that taxes are paid current to date of approval.

16. Subject to all other applicable rules, regulations, ordinances and statutes of the Township of Evesham, County of Burlington, State of New Jersey or any other jurisdiction.

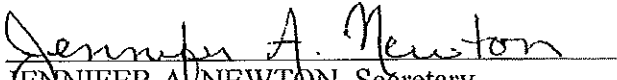
RECORD OF VOTE FOR ACTION TAKEN						
BOARD	AYE	NAY	Abstain	Absent	Motion Made By	Second
Shannon Natale, Chairperson				X		
Mayor Jaclyn Veasy	X					
Councilman Eddie Freeman, III				X		
Gene Friedman, Vice Chairperson	X					
Elizabeth Costello	X					
Craig Higginbotham	X					
Dennis Mehigan	X					X
Robert Sullivan	X					
David Touri	X				X	
Stephen Kavalkovich	X					
Paul Cortland				X		

I, Jennifer A. Newton, Secretary to the Planning Board of the Township of Evesham, County of Burlington, State of New Jersey, do hereby certify that the foregoing is a true and correct copy of the action taken by the said Board at a meeting held at the Municipal Building, 984 Tuckerton Road, Marlton, New Jersey, on the 20th of January, 2022.


 JENNIFER A. NEWTON, Secretary
 EVESHAM TOWNSHIP PLANNING BOARD

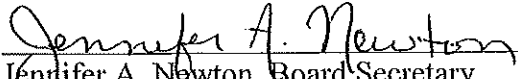
RECORD OF VOTE ON RESOLUTION						
BOARD	AYE	NAY	Abstain	Absent	Motion Made By	Second
Gene Friedman, Chairperson	X					
Mayor Jaclyn Veasy	X					
Councilman Eddie Freeman, III				X		
Elizabeth Costello				X		
Craig Higginbotham	X				X	
Dennis Mehigan	X					X
Robert Sullivan	X					
David Touri	X					
Stephen Kavalkovich	X					
Paul Cortland				X		

I, Jennifer A. Newton, Secretary to the Planning Board of the Township of Evesham, County of Burlington, State of New Jersey, do hereby certify that the foregoing is a true and correct copy of the action taken by the said Board at a meeting held at the Municipal Building, 984 Tuckerton Road, Marlton, New Jersey, on the 17th day of March, 2022.


 JENNIFER A. NEWTON, Secretary
 EVESHAM TOWNSHIP PLANNING BOARD

CERTIFICATION

The undersigned secretary certifies that the within Resolution was adopted by the Township of Evesham Planning Board on January 20, 2022 and memorialized herein pursuant to N.J.S.A 40:55D-10(g) on March 17, 2022.


 Jennifer A. Newton, Board Secretary

