

- ☒ Approved
- ☒ General Conditions
- ☒ Additional Conditions
- ☐ Denied

**SOUTHAMPTON TOWNSHIP PLANNING BOARD
RESOLUTION # 2022.08P**

- | | |
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| <input type="checkbox"/> Appeal from
Administrative Officer
Decision | Application #
Applicant: BEMS Southampton Solar Farm, LLC
Owner: Same: State of NJ Natural
Land Trust as to Lot 6 |
| <input type="checkbox"/> "C" Variance | Block 2702 Lots 3,4,5,7 and 8 |
| <input type="checkbox"/> Interpretation | Action: May 19, 2022 |
| <input type="checkbox"/> "D" Variance | Memorialized: July 7, 2022 |
| <input type="checkbox"/> Minor Subdivision | Plan Name: Minor Site Plan |
| <input checked="" type="checkbox"/> Minor Site Plan | prepared by Tony Diggan, PE of Kimberly-Horn
Associates, Inc. Dated 9/14/21 and last revised
2/23/22. |
| <input type="checkbox"/> Conditional Use | |

WHEREAS, the applicant has applied to the Southampton Township Planning Board (hereinafter "STPB") for the following primary approvals(s): Minor Site Plan approval; and

WHEREAS, the application was considered by the STPB on May 19, 2022;
and

WHEREAS, a public hearing () was not required; or

WHEREAS, a public hearing (X) was required and the STPB has considered that public comments:

- () were not made by the public
- (X) were made in favor of all or some aspect of the application
- (X) were made against all or some aspect of the application; and

WHEREAS, it appears that all jurisdictional and procedural requirements of the applicable Township Ordinances have been met; and

WHEREAS, the STPB has considered the application and the evidence and arguments submitted by the applicant in support thereof; and

WHEREAS, the STPB has considered the recommendations and comments of its professional staff and the following written reports:

(X) Engineer report(s) dated: Joint Report dated May 16, 2022

(X) Planner report(s) dated: Joint Report dated May 16, 2022

() Traffic consultant report(s) dated:

() Environmental Consultant report(s) dated:

() Other

Copies of which are attached hereto and made a part hereof respectively as **Exhibit “A”**; and

WHEREAS, it appears that all of the requirements necessary to approve the application have been met with the understanding that the applicant will comply with and satisfy the following checklist of deficiencies and other conditions of approval.

NOW THEREFORE, BE IT RESOLVED that the above application for minor site plan approvals be and is hereby granted; and

BE IT FURTHER RESOLVED that the approval(s) hereby granted is/are made subject to the following General Conditions applicable to this type of application. (See attached).

BE IT FURTHER RESOLVED that the approval(s) hereby granted (X) is/are **made subject to** the following Additional Conditions (See attached).

The foregoing action was taken by the STPB on May 19, 2022 upon the motion of Mr. Schwartz, seconded by Ms. Conover with the vote on the application being as follows:

AYE: Ms. Conover, Mr. Heston, Mr. Kavanagh, Mr. Keebler,
Chairman Magazzo, Mr. Raftery, and Mr. Schwarz

NAY:

ABSTAIN:

ABSENT: Mr. Coyle and Mr. Hagerthey

DID NOT PARTICIPATE:

The foregoing action was memorialized by the STPB on July 7, 2022 upon the motion for approval of this resolution by _____ seconded by _____ with the vote on the motion being as follows:

AYE:

NAY:

ABSTAIN:

ABSENT:

DID NOT PARTICIPATE:

The undersigned Secretary of the STPB hereby certifies that the above is a true copy of Resolution # 2022.08P adopted by the STPB on July 7, 2022.

MICHELE GITTINGER, SECRETARY

FINDINGS OF FACT AND CONCLUSIONS

1. The applicant, BEMS Southampton Solar Farm. LLC has filed an application seeking Minor Site Plan approval for lots 3,4,5,7 and 8 in Block 2702 as depicted on the Southampton Township Tax Map (hereinafter the “PIQ”).

2. The PIQ is located within the Pinelands Rural Development (RD) zoning district. The Zoning Ordinance and the district’s land use and building regulations have been superseded by an April 8, 2021 redevelopment plan for this tract of land adopted under Township Ordinance 2021-09.

3. The applicant proposes to redevelop the former landfill tract for use as a solar energy facility, as defined by the Pinelands Comprehensive Management Plan (CMP).

4. The redevelopment plan permits solar energy facilities subject to a Minor Site Plan approval by the Township Planning Board and any applicable zoning and building permits as required by the Township of Southampton.

5. The applicant is proposing ingress and egress to the site via the existing asphalt roadway from Less Trees Road.

6. Lot 6, is part of the Retreat Preserve owned by the State of New Jersey and managed by the New Jersey Natural Lands Trust and is not part of the PIQ with this application

7. The applicant’s engineer gave testimony that public service infrastructure necessary for support of the solar energy facility will be available or will be provided without offsite development. Further, there will be no disruption or disturbance to the Preservation Area District, Special Agricultural Production Area or Forest Area.

8. The applicant’s engineer testified that the applicant will add a one-foot extension to all areas of the chain link fencing already on the PIQ that are currently 6 feet in height. This is in accordance with the redevelopment plan and standard electrical codes. The existing fencing facing Old Forge Road and Leisuretowne will have green privacy slats in order to minimize visual impact in the area.

9. The applicant’s engineer testified that the PIQ is approximately 106 acres and that the solar arrays will cover approximately 30-40 acres. The Solar arrays will be housed on lots 3, 4 and 5. The panels range in height from 3 to 6 ½ feet. All arrays will be properly buffered and screened from the properties opposite Old Forge Road and Big Hill Road.

10. The applicant's engineer testified that the solar energy system will be designed, constructed, operated and maintained in accordance with all applicable State and Federal regulations.

11. The applicant's engineer testified that the existing area on lot 7 will be utilized for technician parking. Parking will be located within the fenced in area. No additional lighting is required or proposed.

12. The applicant's engineer testified that there are no additional signs being proposed other than a sign which will identify the owner and operator of the facility. This sign will be placed on the primary vehicle access gate which is approximately 1500 feet off of Route 70.

13. The applicant's professionals agreed, as a condition of approval, to enter into a Decommissioning Agreement with the Township to address decommissioning and removal of all proposed improvements and solar energy equipment as well as environmental restoration of the property in case of future abandonment. The applicant agreed that no building permits will be issued by the Township unless and until the applicant and the Township have agreed to and signed a Decommissioning Agreement requiring that the solar energy system be removed and that the site be cleaned, restored and revegetated to blend with the existing surrounding vegetation at the time of any abandonment.

14. The applicant's engineer testified that there are no changes being contemplated to the storm water basins. Any damage to the storm water basin that may occur as a result of construction, will be repaired. The existing drainage will be maintained.

15. The applicant's professionals agreed, as a condition of approval, that the landscaping and landscaping buffers will comply with all Township and Pinelands Commission requirements, including appropriate seed mixture and species of trees to be planted.

16. The applicant, as a condition of approval, to work with the Township professionals to confirm that all plantings are acceptable to the Township Board. This will include conducting a post installation inspection to identify whether any supplemental landscaping is necessary to adequately screen the facility once the field is constructed and the landscaping filled in. Applicant has agreed to conduct this inspection again after three (3) growing seasons.

17. The applicant's professional testified that the solar energy will be connected to a JCP&L and a PSE&G power grid. Each connection will be for 5 megawatts of power.

18. The applicant's professionals agreed, as a condition of approval and prior to the Township Board signing the finalized site plans, to update the plans to reflect the connection via the northern route and tie into the switch gear located behind Huntington Drive.

19. The applicant's professionals agreed as a condition of approval that there will be no outdoor storage at the facility.

20. The applicant's professionals agreed, as a condition of approval, to submit a signed and sealed copy of the land survey and to revise the drawings in accordance with the recommendations included in the Board Engineer's comments including but not limited to those at paragraphs 21, 22, 23, 25, 26 28, 29, 30, 32, and 33 in Exhibit A.

21. The applicant's professionals agreed, as a condition of approval, that the applicant will consolidate all five (5) lots into One (1) lot. by filing a deed of merger.

22. The applicant's engineer testified that there are no sanitary facilities contemplated or needed at the PIQ, aside from a portable lavatory during construction.

23. The applicant, agreed as a condition of approval, to ensure that all plans comply with the Township Redevelopment Plan in case of future abandonment.

24. The applicant agreed, as a condition of approval, to satisfy all of the recommendations, conditions and requirements detailed in the Board engineer's review letter attached hereto as Exhibit "A".

25. The STPB, therefore, concludes that the minor site plan approval should be and is hereby granted to the PIQ subject to the conditions set forth in this resolution.

GENERAL CONDITIONS OF APPROVAL

1. Any variance granted permitting the erection or alteration of any structure(s) or a specified use shall expire unless such construction, alteration or use shall have been actually commenced on each and every structure permitted by said variance within one (1) year from the date of the Board's action and is diligently pursued to completion; except, however, the running of this period shall be tolled from the date of filing an appeal from the Board's decision to a court of competent jurisdiction, until the termination in any manner of such appeal or proceeding. This Condition shall not apply if preliminary approval has been granted, extended and is still in effect pursuant to N.J.S.A. 40:55D-49 or if final approval has been granted, extended and is still in effect pursuant to N.J.S.A. 40:55D-52.

2. A brief notice of this decision shall be published in the official newspaper of the Township, at the applicant's expense. The aforementioned notice shall be sent to the official newspaper for publication within ten (10) days of the date that this decision is memorialized. A proof of publication shall be filed with the Administrative Officer of the Board within thirty (30) days of the date the decision is memorialized.

3. The applicant shall promptly pay any professional fee bills, in excess of the required application escrows, or appeal in accordance with the Municipal Land Use Law.

4. These General Conditions of Approval, if any, shall be binding upon the applicant, the owner and any successors and/or assigns of either.

5. The Additional Conditions of Approval, if any, shall be binding upon the applicant, the owner and any successors and/or assigns of either.

6. The approval(s) granted is/are conditioned upon the applicant obtaining the following governmental approval(s).

- () Burlington County Planning Board
- (X) Pinelands Commission

7. Prior to the commencement of any construction, the applicant shall obtain the following governmental approvals and/or permits:

- (X) Southampton Township Construction Code Official
- (X) Burlington County Soil Conservation District
- (X) New Jersey Department of Transportation Highway Access Permit
- () Burlington County Engineer Highway Access Permit
- () Burlington County Engineer Utility Connection Permit
- () Burlington County Board of Health Approvals
- () Southampton Township Municipal Utilities Authority approval (including, without limitation, W-4 and S-4 permits)
- (X) New Jersey Department of Environmental Protection
- (X) New Jersey Department of Environmental Protection-wetlands delineation, wetlands transition area and/or general permit(s) approval

8. The applicant shall be responsible for and shall satisfy, in accordance with the Southampton Township Land Use Ordinance, the following fees and charges:

- () Mandatory Development Fees
- () Floor area Ratio Fees in the amount of \$_____.

9. Any improvement(s) to be constructed as a result of the Board's approving this application shall be constructed and operated in full compliance with the Code of Southampton Township, the Revised Statutes of the State of New Jersey and any other applicable county and/or Federal law.

10. Unless specifically waived in whole or in part and noted in the Additional Conditions of this approval, if the above application involves the granting of a final major subdivision approval or a final site plan approval or the approval for the issuance of a zoning permit, the applicant, in order to assure the installation and maintenance of all required improvements required by the preliminary approval or as a condition to the issuance of a zoning permit, shall furnish written performance guarantees and written maintenance guarantees in the form(s) which comply with the provisions of N.J.S.A. 40:55D-53, et seq.

and the Southampton Township Code. The amount of each performance guarantee shall equal 120% of the amount estimated by the City Engineer as the cost of installing the required improvements. The maintenance guarantee shall equal 15% of the cost of the improvements and shall cover a period of two (2) years after the final acceptance of the improvements.

11. If the above application involves the granting of a final subdivision or final site plan approval, the Chairperson and Secretary of the Board shall not sign the Final Subdivision Plat or Final Site Plan nor shall any zoning permit issue until the applicant has posted the required performance guarantee and the applicant has demonstrated that all conditions of the final approval have been satisfied.

12. Applicants seeking site plan or preliminary and/or final subdivision approval shall:

A. Submit five (5) copies of a complete survey of the property (except for streets) to be dedicated, which survey shall be performed and certified by a licensed surveyor.

B. Submit a topographic survey showing contour intervals of two (2) feet at a scale no larger than one (1) inch equaling one hundred (100) feet.

C. Submit five (5) copies of complete (as-built) plan of any improvements, except for streets, on the dedicated property.

13. If a minor subdivision approval has been granted, such approval shall lapse unless within 190 days from the date the approval has been granted the applicant either files a plat in conformity with the approval and the "Map Filing Law" (N.J.S.A. 46:23-99, et seq.) or records a deed with the County Clerk which clearly described the approved minor subdivision and files a copy of the deed with the Township's Engineer and the Township's Tax Assessor. Such deed shall also be signed by the Chairman and Secretary of the Board.

14. If a final approval has been granted, the applicant shall submit to the Board Engineer for his review a minimum of 8 complete sets of plans which shall incorporate all of the revisions that have been made conditions of this approval.

15. The applicant shall comply with Title 39 of the New Jersey Statutes.