

MINUTES

7:30 PM

PRESENT: R. Dodds
D. Haywood
P. Lubitz
S. McNicol
E. Niemann
L. Senus
J. Strasser
M. Symnick, Alt #1
D. Banisch, Planner
P. McCabe, Engineer
D. Pierce, Attorney

ABSENT: T. Kratzer
J. Mathieu

CALL TO ORDER

The meeting was called to order by R. Dodds at 7:38 PM.

NOTIFICATION

In order to ensure full public participation at this meeting, all members of this Board, and members of the public are requested to speak only when recognized by the Chair so that there is no simultaneous discussion or over-talk, and further, all persons are requested to utilize the microphones which are provided for your use by the Township. Your cooperation is appreciated.

Notification of the time, date and place of this meeting has been published in the Hunterdon County Democrat and Courier News, and has been posted in the Kingwood Township Municipal Building at least 48 hours prior to this meeting and has been filed with the Municipal Clerk.

NEW AND PENDING MATTERS

Sundancer Capital LLC - Block 24, Lots 4 & 7 – Muddy Run Road and Barbertown Point Breeze Road – Preliminary Approval

R. Dodds announced it is a continuation of the public hearing started at the July 14, 2011 meeting.

D. Pierce stated the applicants have renoticed and have satisfied the notice requirements and the Board may reopen the hearing. He stated Ms. Syrnick left the prior hearing early and she has reviewed the tapes of that portion of the meeting and has certified to that review. The certification is in the Board's records and she is eligible to vote in this matter.

W. Harrison of Genova, Burns & Giantomasi, attorney for the applicant, Sundancer Capital LLC, was present this evening for the applicant. He stated at the July meeting the Board requested revisions to the plans, specifically the grading plan for the areas of the berms, and the relocation of one of the staging areas. The

applicant was scheduled for the August meeting but there was a glitch in getting the information to the Board. The applicant has obtained an LOI from the NJDEP that required minor adjustments to the solar array. R. Pelizzoni will address the adjustments in his testimony. The applicant has revised their plans in accordance with T. Decker's previous memo. The applicant has met with the two adjoining property owner's and has revised their landscaping plan to provide better screening. Testimony will be provided by J. Mazzucco.

D. Pierce reminded R. Pelizzoni that he was still under oath from the August meeting.

R. Pelizzoni described the relocation of one of the staging areas. They have enlarged to the west the one on Muddy Run Road. They have an existing structure remaining on the property to store equipment. There will be temporary lighting on the west side of the storage shed to shield the lighting to the east on Muddy Run Road. They have added temporarily a 60 car gravel parking area. Both staging areas can accommodate 60 cars. After review by the NJDEP for the LOI, the buffer areas were pushed into the proposed panel areas. Some panels were lost. There is a minimum distance of fence to panel of 20' and 30' clear between the panels and the access road. They have the "u" shaped access drive on the southern area of the property. All the above mentioned changes further reduced the layout. They have added the gates, emergency signs and placards at the entrance. There are signs around the perimeter of the area. They have included the note changes requested by D. Banisch and T. Decker. In two areas, they have added berms that would not affect the drainage on the other properties. One is in the northeast corner along T. Burke's property and Muddy Run Road. It will be a 4' high berm. The berm will have a break in it as per his discussions with T. Decker. No additional berms are proposed along Muddy Run Road. There is a ditch along Muddy Run Road which is graded to the southwest into the site. The breaks in the berm will allow drainage in a sheet flow fashion. The drainage runs in a southeast to southwest direction. The berm will wrap around Muddy Run Road to the access drive. He stated access to the site will be from Route 519 to Barbertown Point Breeze Road and to staging area #1. Everything will enter the site at this point. There is an interior road that will take the products out to other staging areas. They anticipate trucks and equipment to enter off of Barbertown Point Breeze Road. The employees will access the site on Muddy Run Road. There will be no tractor trailers at this access. They anticipate the materials for the southern part of the site to be dropped in staging area #2. Flatbed trucks will move the material to the lower area of the site. It will be an extra step for the contractor but will keep any large vehicles off of Muddy Run Road. He has checked with the County and there are no weight limitations on the bridges on Muddy Run Road or Barbertown Point Breeze Road. The contractor will have a little more information on the weight of the vehicles at the pre-construction meeting as well as the traffic circulation plan. The applicant agrees to repair any damage to the roads from the construction vehicles. There will be signs for the construction entrance on Barbertown Point Breeze Road. The signs will be the typical orange and black traffic signs spaced appropriately along Barbertown Point Breeze Road. The contractor would have to limit the traffic on Muddy Run Road to staging area #2 to workers and smaller size trucks. The temporary fence will be constructed around the staging areas as well as the installation of temporary lighting. Once the perimeter fence is constructed there will be no need for the lighting or temporary fencing. The site would then be enclosed. After the construction of the perimeter fence, it will up to the contractor and/or owner what type of security they would want. The construction materials will not be dropped in the staging area but in the area they are needed. Drop site would be the furthest from the access point. The project will work its way out of the site. The panels and racks will be dropped where they are required after the fence is installed. The parking areas will remain and can be expanded if needed. There is the ability to park 30 cars on each side of the access road. Additional cars can also park on one side of the access road. It is acceptable to the applicant that there is no parking along Barbertown Point Breeze Road and Muddy Run Road. Due to the activity at the staging areas, the soils will become compacted in those areas. The applicant proposes to restore those areas to their original condition. The lighting will be four lights that are shielded in the back and face down. They will be installed by the shed and the area where the

fencing will be stored prior to it being installed. After the light has been installed, there might be a need for a little adjusting of its angle. It will take approximately three to four weeks for the perimeter fence to be installed. During construction the erosion around the staging areas will be controlled by a typical silt fence on the lower end where any run off would occur. D. Banisch has requested a super silt fence which is sturdier in areas where it is appropriate such as high traffic areas. When the roads are constructed, the soil removed will be taken over to the berm areas. It is a simultaneously condition. The Township engineer will inspect the installation of the berms. The applicant might be considering a phasing of the project. The applicant's agreement with the power company is that the company will allow the system to be energized in 2 megawatt sections. The construction will be from south to north. The phasing can be addressed at the pre-construction meeting. The phasing will tie into the emergency plan. With the phasing the emergency plan will be a dynamic plan and changing to indicate what is live and not live. There is room for a map in the plan and will have to be changed and/or updated.

D. Pierce stated the ordinance does not prohibit phasing.

R. Pelizzoni stated the one switching gear is a rather large structure. The structures dimensions are 108" w x 140" d x 134" h. It is located 350' from the road. The panels are maxed out at 12' and the structure will be hidden by the panels. In regard to the glare from the panels, the panels are fixed at a 30% angle off of the horizontal. They have reviewed the sun's angles for the winter and summer suns. The winter sun is at a lower angle and almost bounces light in a vertical direction. The summer sun did reflect in an outward direction towards the right. The winter sun's reflection off the panel will be able to be seen at 50' 30' above grade. The panels are situated a minimum of 140' off the property line. Some of the panels are 500' off the property line. If a repair is required on the fencing, it would be repaired immediately. It is dangerous and hazardous to leave it in disrepair. You wouldn't want to have children in the facility doing damage. The panels are expensive. The cost of each panel is \$800.00. The examination of the fence will be part of the monthly maintenance. Maintenance will be done on a regular basis every three or four weeks. There would be a truck or two. There is no potable water, septic or trash facilities on the site. There is no need for road improvement on the Muddy Run and Barbertown Point Breeze Roads since there is limited traffic to the site. The trip generation does not warrant improvements and will keep the rural character of the road. Since the panels are black, the snow will melt off. It might start to build up in at the bottom of the panel but the monthly maintenance will clear it off. In regard to weedwacking, the grass will not grow up enough. If they have to do some weedwacking, it will take a couple of days. If soils become compacted due to the delivery of materials on the site, they will also be de-compacted. In regard to the oversight commitment of the project by the Township Engineer, the applicant will post escrow fees for inspections. The MLUL allows the escrow fees to be based on a percentage of the improvements. The contractor has not been selected for the project. The Township Engineer has recommended the installation of construction signage along the entrance as well as a note on the plans that there is no parking outside the fence or in the ROW. He has also requested temporary signage that prohibits parking on the road. The applicant agrees with those requests. He stated all the parts of the phasing have not been finalized. The ordinance requires that no soils be removed from the site. With having to build the berms first and then the fencing and landscaping, it limits the applicant of what we can put in the berms. If trenching is started, they will have a lot of material. The site has some areas where the dirt can be relocated, such as building smaller berms and allowing grass to grow on them. If they encounter shale, it can be put on the road. The applicant will work to use the soil on the site.

P. McCabe stated T. Decker's memo Item #11 states improvements for the on-tract half width of Barbertown Point Breeze Road and Muddy Run Road to ordinance standards along the project frontage should be addressed. R. Pelizzoni stated the applicant is willing to repair the roads. D. Banisch stated the MLUL authorizes the Township to accept a payment in lieu of the improvements. He stated road standards are in the ordinance. The

roads are not up to standard and there will be considerably wear and tear on the roads. They will need improvement. Either the contractor works on the roads or makes a contribution in lieu. He stated a cost estimate is submitted by the applicant and reviewed by the Township Engineer. R. Pelizzoni stated he has discussed the issue with T. Decker and he will come up with a cost estimate for the frontage on Barbertown Point Breeze and Muddy Run Roads.

P. McCabe stated it is two different things, the repair of the pavement post construction and the widening of the road to the standards of the Township road's half width of the standards that exists. W. Harrison stated the applicant agrees it will restore the roads post construction. He questions the improving of the roads to the standards. It is a long term temporary facility. It will return to an agricultural field. The facility is looking at minimal traffic, not even a car a day. The question is whether the usage during that time period justifies a widening of the road versus the repair of the road. D. Pierce responded it is something that is within the board's discretion. In any typical application for subdivision or site plan approval, if the road is not currently developed to the full extent of the ordinance standards, the developer generally is required to improve to that standard or make a contribution in lieu. In this case, he thinks someone could make an argument, that they will repair any damage during the construction phase and once that is done, there is no significant impact to the road and they would not be required to improve or make a contribution in lieu. R. Dodds responded the road should be repaired to the standard of the Township Engineer as it existed prior to the construction of the facility. W. Harrison stated the road will be slightly better. He stated R. Pelozzini will prepare an estimate, subject to T. Decker's review, and the Township will end up with a slightly better road than exists today.

P. McCabe stated T. Decker mentioned that Barbertown Point Breeze Road needs resurfacing. The board may want to consider a small in lieu payment. D. Banisch stated the applicant would be assessed the cost of Township's cost to improve those portions of the roads as a payment in lieu. He stated the law does not allow the assessing of improvements not along their property.

P. McCabe stated the additional photo simulations that have been submitted and will be seen this evening have addressed all of the T. Decker's August 24th items.

D. Banisch inquired if the construction workers would be entering the site at staging area #2 or will they be coming into the site from Barbertown Point Breeze Road and driving through the site to park at staging area #2. R. Pelozzini responded the only traffic through the site will be construction vehicles. The workers will park at the Muddy Run Road staging area.

D. Banisch inquired if the board would want to impose a condition on the accessing of the site during the peak hours of school bus travel. W. Harrison stated there will be no construction traffic or worker traffic when the buses are present. He will contact the Board of Education and find out when the buses are running and provide a half hour on each side of pick up and drop offs. D. Banisch requested the applicant add a note to the plans that no deliveries to staging area #2 are permitted as per his memo note #35. He inquired where the parking will be in the south field. R. Pelizzoni indicated on the overhead. He also stated there might be parking along the loop road. D. Banisch stated any construction parking that will occur in the south field be limited to the area R. Pelizzoni indicated on the overhead to avoid more compaction. R. Pelizzoni was in agreement.

R. Pelizzoni stated when the geotechnical report is completed he will know how it will be accomplished. The geotechnical testing involves coring and test pits to refusal. The test pits are 1' – 2' wide and as long as they need to be, 10'-15' feet at the most. They will be performed throughout the site. There will begin by reviewing

the available reports and then a plan will be devised to do the testing. R. Dodds requested a note be added to the plans to indicate all the test pits will be filled.

In response to a concern about the berms, R. Pelizzoni stated the water flows in a westerly direction. P. McCabe stated there isn't a lot of flow, particularly on the southside. It is very flat. The berms will need to be stabilized by vegetation. If the berm becomes damaged, it will have to be repaired.

D. Banisch stated the applicant is required to maintain the improvements throughout the life of the facility, which would include the berming, fencing and landscaping.

R. Pelizzoni stated the farming has created a little ridge, which has resulted in some ponding. The applicant will be building their swales behind the berm to try to alleviate draining into their swales. The drainage will be the best the applicant can do without doing major work in the wooded area. The applicant has applied for a general permit to cross the wetlands with the construction road. The roads will be built at grade, which would not allow for ponding on the property. The switch gear is located 350' from the road.

R. Dodds opened the hearing to the public for questions for the engineer.

F. Floyd, Captain, Kingwood Township Volunteer Fire Company inquired how the run off will be handled. R. Pelizzoni responded the run off will be less and will run into the wetlands area as opposed to the road. The driveway will have a paved apron. F. Floyd inquired what would happen if the applicant was denied the general permit. W. Harrison responded the applicant would have to come before the Board if that happened. F. Floyd inquired about the phase in plan. Shouldn't the plan be provided to the board tonight of the phasing? R. Pelizzoni stated it is a construction issue.

J. Keller inquired if the MSDS sheets were available for the panels. R. Pelizzoni stated the manufacturers do not have them but he can have a letter provided by the manufacturers. J. Keller stated the majority of the panels are coming from China and there are other heavy metals besides cadmium in them. He suggested the Township request the MSDS sheets on each item that makes up the panels. He stated eventually the panels will leach and chemicals will go into the ground water. Six years ago, he hired a geologist to look at his property and he found that the ground water to be 12" below the surface. He lost five or six trees in the hurricane. He suggested to the Board, prior to any approval, the applicant should provide the MSDS sheets. The Board should require the applicant to test the water every six months so none of the chemicals are leached into the groundwater. He is requesting the Board require an independent person to investigate the composition of the panels. P. McCabe stated the applicant has indicated they will provide the MSDS sheets. He is not familiar with a third party providing a certification. He stated he is not certain the applicant will be getting all their supplies from one supplier. R. Pelizzoni stated the panels would be from one manufacturer. D. Pierce suggested a condition of approval would be to require submission of the MSDS sheets or a letter from the manufacturer indicating the materials used in the construction of the panels.

J. Spinelli, Muddy Run Road, stated the panels are made from silicone which causes lung cancer. The Board should require the MSDS before approval. He inquired what will happen in 20 years. D. Pierce responded the Township does not have an ordinance that requires that information. J. Spinelli stated, even though the system is de-energized, it takes 7-10 days for it to be completely de-energized. R. Pelizzoni stated there is an 8' fence around the site. J. Spinelli stated he does not know how the Board can make a decision without the information being submitted by the applicant. R. Dodds stated the disease comes from small airborne particles. He inquired

of the applicant what would the potential be for airborne particles. R. Pelizzoni stated it is typically a glass panel which is a little thicker. It is basically a silicone based glass.

J. Grimes, at the July meeting, inquired about the farmhouse that is slated for demolition. W. Harrison stated he has contacted S. DeSapio and S. DeSapio has not returned his calls. The applicant is applying for a DEP wetlands application which requires a cultural resource survey. J. Grimes stated, instead of demolishing the home, which has historic significance and reflects something about Kingwood's past, why not put out an announcement to move the house rather than destroying it. The applicant is destroying enough in the area already. R. Pelizzoni responded it is the applicant's choice. J. Grimes stated one of the local kids he knows fishes in the ponds below and off the side of the Route 12 project and he mentioned to him several times that he has noticed bluish green discoloration in the pond water and in the ground, almost an iridescent coating. R. Dodds stated it is the first he has heard of it and it is a separate issue. J. Grimes stated if it is true, the Muddy Run will run blue, green or yellow. R. Dodds stated the Township Engineer will review the matter.

P. Campbell, Muddy Run Road, inquired if there was a study of how the solar facilities impact property values. D. Pierce stated there is nothing that is required by the Township ordinance. The impact on local property values is not something, pursuant to MLUL, that the Board can take into consideration. It has been determined by the State that it is not appropriate for the Board to consider. P. Campbell stated the value of your home can be reduced by 50%. D. Pierce stated it is the unfortunate reality of what the State has done. P. Campbell inquired if any background checks will be done on the workers. He stated he has two children and his children will be kept hostage during the construction. R. Pelizzoni stated he cannot speak for the contractor and who he hires as subcontractors. He does not know the answer to the question. P. Campbell inquired if the Board can require that certain levels of background checks are conducted on the workers. W. Harrison questioned what good would be done with the background checks on the workers. He is not sure. R. Dodds inquired if the applicant would be able to certify that none of the employees on the site would be on Megan's List. W. Harrison stated no person for who notice is required would be working on the site. P. Campbell inquired what type of expenses would the Township have to cover on behalf of the applicant and would there be special reimbursement for those expenses. W. Harrison stated the applicant will be required to set up an escrow fund for the inspections. The applicant has agreed to repair any damage done to the roads. He stated their responsibility is no different than any other property owner. They will replace the berms and/or landscaping and fix the fencing. P. Campbell stated the facility is a very large investment and if there was any plan of donating back to the Township for saying "thank you" for going ahead with the project. D. Pierce stated the courts have prohibited the Township from requesting a donation for approval. The approval is based on the merits of the application in terms of the ordinance. The applicant does not get any special treatment based on a donation to the Township.

J. Keller stated about 6 weeks ago there was a hail storm in New Jersey and New York that broke windshields. If that happens here, how will it be cleaned up if the panels are broken. R. Pelizzoni responded the panels are thicker than windshields. They are used in the southwest which has a lot of hail. Occasionally if one is broken, it will be cleaned up. If it is a hazardous waste, it will have to be cleaned up appropriately. The monitoring system would be able to tell if a panel is broken. It would be prudent for the applicant to have someone review the system after a major hail storm.

F. Floyd inquired if the project is phased and only two of the five phases are completed, is the project considered abandoned after 12 months? D. Pierce responded the court would have to make a decision. If the applicant does not complete the project as approved, the Township can take the position that it is abandoned and must be removed. The applicant would probably disagree and request relief from the court. F. Floyd stated the

Board should not allow a phased project. W. Harrison stated the practical reality is the same whether they have a phased project or not. All the panels will not be installed at the same instance. If the applicant stops in midstream is an interesting legal issue and depends where things stand. It is no different than a residential development stopped in midstream. The partially completed houses would not be torn down. If the applicant did not finish the berm, it would be required to be completed or the project stopped. If half of the panels are installed and everything is up and running, he would argue that it is no different than any multiple building project where all the buildings were not built. He stated what was there could remain and the ones half done would have to be completed or torn down. The applicant cannot leave things partially done. They will complete whatever segment they were working on and if they are revising the plans by eliminating this half of the units, they would assure that all the public safety issues are addressed. Anything not built on would have to be restored. It is no different than any other development. The roads that provide access will have to be completed. D. Pierce stated the other item that would happen is that none of the phased areas would be allowed to be operational unless all the safety issues are installed and operational for that particular section.

In response to a comment made by a Board member regarding the limitations of the transmission lines, R. Pelizzoni responded if the transmission lines were inadequate the electrical supplier would have to improve the lines. W. Harrison stated the applicant has had discussions with JCP&L. A condition of approval can be added that if they have to put in a new transmission line, the applicant will have to return to the Board. R. Pelizzoni stated all the megawatts produced will be leaving the site.

R. Dodds adjourned the public hearing on the Sundancer Capital LLC, Block 24, Lots 4 & 7 public hearing.

Effisolar – County Road 519 – Block 23, Lot 11

D. Pierce stated the applicant has satisfied the notice requirements of the MLUL and the Board can proceed with the hearing.

J. Giunco, attorney for the applicant, stated he is requesting an adjournment to the September 26, 2011, meeting of the above referenced application's public hearing without further notice requirements.

It was moved by P. Lubitz, seconded by S. McNicol and carried to adjourn the Effisolar, Block 23, Lot 11, public hearing to the September 26, 2011 meeting without further notice. All members present voted **AYE** on **ROLL CALL VOTE**.

R. Dodds announced that the public hearing on the above referenced application will be held on September 26, 2011 beginning at 7:30 PM, without further notice.

R. Dodds opened the public hearing on the Sundancer Capital LLC, Block 24, Lots 4 & 7.

D. Pierce reminded J. Mazzucco he was still under oath.

J. Mazzucco stated, after last month's meeting, he has met with the two property owners, J. Keller and T. Burke. In regard to the Burke residence, the applicant has added some privacy screening to the fence to mitigate the views. He provided photo representations from the Burke residence. He stated the screening will be planted at 12' on center for health reasons. They have added a screen fabric to the chain link fence to aid in the visibility. He provided a photo simulation of growth after 5 years. The majority of the fence will be hidden at the 5 year point. He stated, at 5 years, the facility is screened at the rear of the Burke property. In regard to the Keller

residence, the photo representations replicate a winter view. They have increased the height of the trees to 14'-16'. He provided a photo simulation of growth after 5 years. The trees should be at a height of 20' in 5 years. The vast majority of the view is eliminated and starts to become blocked to a greater percentage. He provided a photo simulation from the Mangee residence, which is across from the Keller residence. The Mangee residence had trees already existing. They might have a view of the lower portion but it is taken up with the berm. The Grimes residence did not have any substantial growth of trees in the front. The photo representation at 5 years projected the growth of the trees at 4' with the fence behind it. He also looked at the Garay residence. At the hedgerow, along Muddy Run Road, there will be a 4' berm with 8'-10' trees planted on it. He provided a photo simulation of the 5 year view. The view would be addressed with the relocation of some of the trees. The homes more affected would be the ones with second floors. The first floor view is being addressed with the proposed landscaping. The other three homes mentioned in D. Banisch's memo are single story homes. The view would be from the center of the driveway and the planting would provide adequate screening at that point. The homes on the other side of Barbertown Point Breeze Road are buffered by what currently exists on the lot. The green fabric screening provides an interim screening until the landscaping is maturing. It will be periodically checked for any damage. It is proposed behind the Burke residence and Muddy Run Road. In regard to a Board members comment about utilizing reed canary grass, J. Mazzucco stated he has consulted with the Hunterdon County Soil Conservation District in regard to the grasses being used but he is willing to include the Reed's Canary grass after speaking with the Hunterdon County Soil Conservation District. The ordinance requires the trees to be spaced a maximum of 15' on center. The proposed landscaping is at 12' on center. He does not recommend planting any tighter for the health of the trees. It provides for circulation around the trees and provides them time to grow and mature together. The spacing provides the best screening over time of the facility. He stated the applicant has changed a few things from the original design and over time, as the trees mature, the ordinance requirements will be addressed. In regard to the routine maintenance and pruning of the trees, the work will be done by a certified arborist. He is not familiar with the live span of the fabric on the fence but the applicant, if it deteriorates, will have to have it repaired or replaced. The trees on the 4' berms will be installed at 8'-10'. There should be an estimated 4' of growth over 5 years, depending on rain fall. The trees will be irrigated for the first 3 years. The 5 year projection shows that the trees are above the vantage point of the solar array. At probably 10 years, the trees should block the majority of the view from the second floors. Pruning will be done for preventative care, such as cutting out the dead and crossing branches. It is not their intention to make it look like it was manicured. He cannot say the existing shade trees on the southerly line will be pruned. The applicant has the right to prune the trees when they start to interfere as long as it does not create an opening to a surrounding property.

D. Banisch stated he feels there is inadequate screening in the northwest corner of the parcel offsite. The proposed 6'-8' landscaping is inadequate to close up the view. He also stated from the southwest corner of that house, when standing on the deck, there is a commanding view of the field. W. Harrison stated the applicant will address. D. Banisch stated the dark green fabric on the fence is somewhat noticeable and evident in the winter. The buffering standards in the ordinance require an additional row of landscaping when needed. He has heard the testimony regarding the spacing J. Mazzucco has recommended, which he indicates is the best for the plants. He would recommend the board evaluate the color of the fence. J. Mazzucco stated black or green would blend in most with the evergreens. The green would help it disappear among the trees. It provides almost 100% visual blockage. It has eyelets and is in 50' lengths. He is not sure of the spacing of the grommets. It is the full height of the fence and attached at the bottom and top. D. Banisch stated the matter that requires discussion is whether the Board finds the proposal acceptable or do they want to require an additional row of landscaping.

R. Dodds opened the hearing up to the public.

J. Keller stated the proposal does not actually solve his problems. He will still see the solar panels. From his 18 windows and deck he can see through to the panels. He will not be living here in 5 years and plans to put the house up for sale in 2 years. It is not helping him at all. He read from an article in the Democrat which indicated the facilities will be screened from view. The photo simulations do not show the view of how the trees will look from his second floor. J. Mazzucco reviewed the photo simulation from the second floor of the Keller residence. J. Mazzucco stated he has discussed planting trees on the Keller property to shorten the distance of the tree line between his property and the field. There will be faster growth rate on the Keller residence side rather than on the back side due to an adequate amount of sunlight. J. Keller stated it is unacceptable as that is his only access to his backyard. J. Mazzucco did not have any other suggestions without conferring with the applicant. The fabric on the fence will be PVC. J. Keller stated they are trying to ban PVC. J. Mazzucco stated they are trying to ban the manufacturing of the product rather than the actual product.

J. Grimes stated last week, when Hurricane Irene, came for a visit, it left something in his basement. He had standing water for about a day and a half. By Tuesday, the water was gone. He saw some standing water on Muddy Run Road. He walked his dog and the dog was wet and dirty. There was heavy rain last night and there was no standing water. Today there was quite a bit of standing water. If we have a repeat of this vicious weather cycle and have standing water, bad things come out of standing water. He inquired what the applicant would do if it becomes a problem to fix it. J. Mazzucco stated it has been an exceptionally wet August and then there was an additional 10" on top of it. It does not happen too often. The trees are not going to have an adverse effect to that type of standing water. The underdrain system for the trees will be a perforated pipe which would allow any water that may be rising from the ground to be able to drain out. J. Grimes stated he was referring to where the panels are located. He has an issue with the guy next to him. The mosquitos breed in it. When there is standing water, he seems to have a lot of mosquitos around. It is a breeding ground. R. Pelizzoni responded to some degree the berming will help that situation because it will channel the water and push it down. It is not the intention to drain the property. There will still be some water in those areas. They do not intend to regrade the entire site. There will be no adverse impact on standing water. The idea is to build to the grades that are present today. Monitoring will be done to see if any ponding has increased.

J. Keller inquired about the runoff and increase in water in the area. R. Pelizzoni responded the runoff in the area of the panels will go back as sheet flow under the ground. It is why the state has determined the panels are not impervious coverage. There is grass and pervious coverage under the panels and there will be cement pads for the inverters.

R. Dodds stated the stake is the only impervious surface. The grass does a great job on the right soils.

The Board asked for some clarification of the lines on the drawing. R. Pelizzoni clarified the difference between the different types of lines.

F. Floyd questioned if the wind load of the fabric has been determined. J. Mazzucco stated it would have to be determined and taken into account. F. Floyd inquired why a mesh fabric rather than something that can be woven in the fence. J. Mazzucco stated it had the most visual screen and weaving is more labor intensive. F. Floyd stated at the Johnson and Johnson facility it is woven in and out of the fence.

S. Doyle inquired how far the trees are from the actual property line. J. Mazzucco stated at the time of installation, 16' at the maximum and outside of the ROW on the berm areas. S. Doyle was concerned with regard to whose responsibility it would be for the removal if a tree should come down. J. Mazzucco stated the

applicant would have to replace the tree and remove it. It can be added to the maintenance specifications. J. Mazzucco stated if a tree fell within the next 10 years, it would not grow to the point of reaching across the road. W. Harrison stated it would require the applicant to remove it rather than leave it on the property. If the company goes out of business, there will be an entity responsible for the solar facility.

D. Pierce swore in F. Floyd.

F. Floyd stated he has reviewed the emergency response plan and it does need some additional work. He requested an electronic copy of the plan from the applicant. W. Harrison agreed to provide the plan.

D. Pierce stated one issue the Board should discuss is whether the fabric proposed on the fence is acceptable or if the Board would prefer additional trees for screening. If the Board determines the fabric is acceptable, what kind of fabric and color? J. Mazzucco stated if the fabric is damaged or becomes unattached, it would be repaired and replaced as needed. Inspections are done on a monthly basis. He can get the specifications for the fabric and its method of attaching it to the fence.

R. Dodds requested comments from the public in regard to what they would like to see for the fabric on the fence. The residents stated woven. D. Banisch will work with the applicant on the exact type of slats.

R. Dodds inquired if the Board would like to request a fee in lieu of road improvements or improve half of the road. P. McCabe stated the issue is if the road is in need of resurfacing. It does not make sense to improve half of the width of the road. The fee in lieu will be added to the costs of resurfacing the road. The Board decided the fee in lieu will be determined by the Township engineer for the applicant's share on Barbertown Point Breeze and Muddy Run Roads.

J. Grimes expressed his concern about the construction of Barbertown Point Breeze Road. He inquired if it would hold up to heavy traffic and big trucks. He stated Muddy Run is poorly paved and a good country road. Muddy Run is in better shape than Barbertown Point Breeze. The truck traffic will come from Route 519. The Township will find they are going to have a major construction job on that road. The Township should be prepared how poorly that road is going to hold up. It will be a problem. R. Dodds stated the applicant will repair any damage done to the roads.

D. Pierce stated, if the Board was so inclined to grant preliminary approval as they are not ready for final approval, the approval should have the following conditions:

1. The applicant shall contact the Township historian to determine if there is any historical significance associated with the dwellings present on the site. If the Township historian advised that there is any historical significance associated with the dwellings present on the site, the applicant shall:
 - a. Provide photographic documentation of the structure to the Township historian prior to demolition; and
 - b. Erect a marker describing the historical significance of the structure.
2. Construction hours shall be limited to 7:00 am to 7:00 pm.
3. Noise generation at the site shall be limited to the hours of 8:00 am to 6:00 pm, consistent with Kingwood Township's noise ordinance.
4. Construction shall be completed in phases as follows:
 - a. The interior road shall be completed before any other construction is commenced;

- b. Following completion of the interior road, construction of the landscaping berms shall be completed before any additional construction is commenced;
 - c. Following completion of the interior road and landscape berms, erection of the perimeter security fence shall be completed before any additional construction is commenced;
 - d. Following completion of the interior road, landscaping berms and perimeter security fence, installation of the landscaping shall be completed before any additional construction is commenced;
 - e. Following completion of the interior road, landscaping berms, perimeter security fencing and landscaping, construction of the signage shall be completed before any additional construction is commenced;
 - f. Following completion of the interior road, landscaping berms, perimeter security fencing, landscaping and signage, construction of the racking system and solar panels may begin.
5. Review and approval by the Board’s professionals, and recordation, of a conservation easements for Lots 4 and 7, including both a metes and bounds description and a graphical depiction of the area and noting and subject to the right to apply to the New Jersey Department of Environmental Protection for permits to conduct activities within the area of the conservation easement.
 6. The conservation easement shall be delineated in the field prior to the issuance of any building permit by the installation of markers at the outer boundary lines of such areas where such boundary lines intersect the outer edge of the area subject to the conservation easement. The form of marker shall be as specified by Kingwood Township ordinance.
 7. Prior to the issuance of a building permit, the applicant shall submit a baseline documentation report for the conservation easement documenting with photographs the condition of the easement area.
 8. The applicant shall submit to the Board a copy of its application to the New Jersey Department of Environmental Protection for a Freshwater Wetlands Letter of Interpretation.
 9. The applicant shall submit to the Board a copy of its application to the New Jersey Department of Environmental Protection for Freshwater Wetlands permits and transition area averaging.
 10. The applicant shall submit to the Board a copy of all approvals issued by the New Jersey Department of Environmental Protection for Freshwater Wetlands permits and transition area averaging.
 11. Review and approval by the Kingwood Township Volunteer Fire Company of a revised Emergency Response Plan.
 12. The applicant shall obtain separate street addresses for the northern and southern portions of the facility from the 911 coordinator.
 13. The applicant shall submit Material Safety Data Sheets for the solar panels or a letter from the manufacturer of the panels identifying the materials of construction used in the panels.
 14. The applicant shall be responsible for, and shall repair, all damage to the area of the public right of way and public roadways caused during the construction of the facility.
 15. The applicant shall revise the Landscape Plat to provide additional screening for the Garay property, at a minimum, by moving the proposed shade tree and providing addition plantings, with all such revisions to be subject to review and approval by the Board’s planner.
 16. The applicant shall inquire of the Hunterdon County Soil Conservation District (“HCSCD”) as to the suitability of use of Reed’s Canary grass and, if acceptable to the HCSCD, shall use that grass and revise the Site Plat and Landscape Plat to note the use of Reed’s Canary grass.

17. Applicant shall submit a Maintenance Plan, to be reviewed and approved by the Board's professionals, and that provides for a continuing responsibility to maintain the visual screening, berms and an irrigation schedule, for a periodic review of drainage patterns and modification to site drainage if ponding or standing water that did not previously occur develops on or adjacent to the Property, prohibits the trimming of trees to alleviate shading if the trimming would open the site visually and requires the removal of any trees that fall on adjacent properties.
18. The applicant shall submit a plan for making the facility operational (live) in phases, including provisions requiring all safety features to be installed and operational before any portion of the facility is made operational, to be reviewed and approved by the Board engineer.
19. The applicant shall perform a Phase I Environmental Site Assessment and complete any and all further investigation and remediation recommended by the Phase I Environmental Site Assessment or required by reason of the results that are obtained, all in conformance with the Technical Requirements for Site remediation established by the New Jersey Department of Environmental Protection and before any portion of the facility becomes operational.
20. The applicant shall conduct a geotechnical investigation of the soils at the site and submit a copy of the report of said investigation to the Board engineer for review and approval.
21. Review and approval of the emergency access and safety aspects of the proposed project by the Kingwood Township Volunteer Fire Company.
22. Review and approval by the Board's professionals, and recordation, of deeds for the dedication of additional right of way along existing road frontage.
23. Receipt and submission to the Board of County Planning Board approval.
24. Receipt and submission to the Board of approval by the Hunterdon County Soil Conservation District.
25. Receipt and submission to the Board of approval by the Delaware and Raritan Canal Commission.
26. This approval is subject to a post-construction inspection of the landscaping by the Board's planner and any modifications to the quantity and location of landscaping required where deemed reasonably necessary by the Board planner to adequately screen the facility.
27. This approval is subject to a post-construction inspection of the vegetative ground cover by the Board's planner and any modifications to the ground cover where deemed reasonably necessary by the Board planner to provide adequate stabilized ground cover underneath and between solar panels.
28. The applicant shall post a performance guarantee for a period of two years for the landscaping and vegetative cover installation in the amount approved by the Board engineer and planner.
29. The applicant shall attend a pre-construction conference with the Board Engineer.
30. The applicant shall provide 48 hours' notice to the Board engineer prior to the commencement of any constructions activities.
31. The applicant shall install double silt fencing along the limits of each temporary parking and staging area and construction material stockpile where deemed necessary by the Board engineer.
32. There shall be no display of advertising except for the reasonable display of the equipment manufacturer's name and the site operator's name.
33. The maximum height of the solar panels shall not exceed twelve (12) feet.
34. The applicant shall install a sign or placard at the entrance of the facility that identifies the owner and operator of the facility and provides their contact information.
35. There shall be no maintenance of the facility conducted after dark except in the case of emergency.

36. The applicant shall provide training to the Kingwood Township Volunteer Fire Company regarding fire fighting issues associated with the facility before any portion of the facility is made operational.
37. The applicant shall submit one copy of all revised plans in electronic form.
38. The direction and intensity of temporary lighting to be used in the staging areas before the completion of the security fencing shall be subject to approval by the Board engineer.
39. The temporary lighting to be used in the staging areas shall be removed after completion of the perimeter security fence.
40. The applicant shall submit technical information or specifications from the manufacturers that any and all electrical equipment that applicant will or does use at the Property will not interfere with radio and television transmission or reception.
41. The applicant shall not use any fill material unless approved in advance by the Board engineer.
42. The applicant shall submit a certification to the Board attesting that none of the workers employed in the construction of the facility would be subject to the notification requirements of Megan's Law if they were considered to be residing on the Property.
43. The applicant shall use gator bags to provide irrigation for landscape plantings.
44. The applicant shall modify the notation on the Landscape Plat to state that all existing shrubs will be retained.
45. The applicant shall have a landscape architect on site to supervise the installation of the landscape buffer materials.
46. The Board's engineer shall inspect the berm to be installed on the southern boundary of the Property prior to the installation of any landscaping on the berm for the purpose of evaluating storm water drainage and the applicant shall modify the berm as directed by the Board engineer
47. All parking, including temporary parking during construction shall be on site, no parking is permitted on the public roads.
48. Foundations are to be removed in accordance with the recommendations of the geotechnical soils report to the depth necessary to allow future farming of the Property.
49. The operations of the southern field shall be remotely monitored separately from the operation of the northern field.
50. The applicant shall de-compact overly compacted soils as directed by the Board engineer.
51. During the following time periods no worker traffic shall utilize the Muddy Run access points to enter or exit the Property and shall, instead, enter and exit the Property by using the Barbertown-Point Breeze Road access:
 - a. From one-half hour before the first morning school bus pickup on Muddy Run Road to the one-half hour after the last morning school bus pickup on Muddy Run Road; and
 - b. From one-half hour before the first afternoon school bus drop off on Muddy Run Road to the one-half hour after the last afternoon school bus drop off on Muddy Run Road.
52. All trimming and/or pruning of landscape plantings shall be conducted by a certified arborist or a landscape architect.
53. The applicant shall submit plans revised to include:
 - a. A detail for the fabric to be installed on the perimeter security fence and the wind load capacity of such fabric and stating the requirements of condition number 55;
 - b. A note reciting the terms of condition number 51 regarding worker traffic;
 - c. A note specifying that all trimming and/or pruning of landscape plantings shall be conducted by a certified arborist or a landscape architect;

- d. The additional landscape plantings along the northeast property line required by condition number 54;
 - e. Revisions conforming to the comments contained in the August 31, 2011 memorandum of David Banisch;
 - f. Revision of the appropriate note to indicate that no deliveries directly to Staging Area #2 will occur or be permitted;
 - g. Revision of the notes relating to the Staging Areas to provide for abandonment of such areas in conformance with the testimony of the applicant regarding the removal of the temporary fencing and lighting;
 - h. A note indicating that all geotechnical test pits are to be filled before the commencement of construction;
 - i. A new note indicating that excess topsoil from excavation of wire and cable trenches will be used to extend landscaping berms and that excess shale from such excavations will be used to reinforce internal roads;
 - j. A new note stating that foundations are to be removed in accordance with the recommendations of the geotechnical soils report to the depth necessary to allow future farming of the Property;
 - k. Identify the date and preparer of the Landscape Maintenance Specifications; and
 - l. A note referencing the existence and obligation to comply with the Landscape Maintenance Specifications.
54. The applicant shall provide enhanced landscaping for Lot 5, Block 24 along a length of approximately 100 feet along the northeast property line of the Property, to ameliorate the view of the Property from Lot 5, Block 24, subject to review and approval by the Board's planner.
 55. The fence fabric shall be a woven material of an earth tone color, and shall be approved by the Board planner.
 56. All geotechnical test pits are to be filled before the commencement of construction.
 57. Applicant shall submit a Traffic and Circulation Plan, to be reviewed and approved by the Board's engineer.
 58. The applicant shall use directional drilling to run cables from the Southern field underneath the Muddy Run to the Northern field if at all possible. Any deviation from this condition shall be approved by the Board engineer upon presentation of proof of the lack of feasibility of using directional drilling.
 59. This approval is subject to review of the applicant by the Board engineer and his confirmation that the plans conform to the comments contained in his letters of July 14 and August 24, 2011 or that they have been revised as mutually agreed upon by the applicant and the Board engineer.
 60. The applicant shall make a payment to the Township, in an amount to be determined by the Board engineer, in lieu or actually constructing improvements consisting of the resurfacing of Barbertown-Point Breeze Road and Muddy Run Road for the entire length of frontage of the Property along said roads.
 61. The applicant shall install temporary construction entrance signage directing all construction traffic to the Barbertown-Point Breeze Road entrance, temporary directional signage and temporary no parking signage indicating that there is no parking along either Barbertown-Point Breeze Road or Muddy Run Road, all subject to review and approval by the Board engineer at the pre-construction conference.
 62. All deliveries of equipment and materials to the Property are to be made via the Barbertown-Point Breeze Road access point.

63. All equipment and materials necessary to construct the facility on the southern portion of the site along Muddy Run Road will be transported to that portion of the site from Staging Area # 2 in the northern portion of the site by using 33 foot long panel trucks or flatbed trucks.
64. To the maximum extent possible solar panel supports shall be installed through the use of helical screws or driven piers. Concrete footings for solar panel supports shall be permitted only when approved by the Board engineer as necessary and appropriate.
65. The applicant shall provide a metes and bounds description for the dedication of the additional right of way areas along Barbertown-Point Breeze Road and Muddy Run Road.
66. The Township of Kingwood is dedicated to providing affordable housing and has established an affordable housing program with supporting land use ordinances and a housing trust fund based on the Fair Housing Act of 1998. In the event that the calculation to be performed under the growth share ordinance determines that there is no growth share obligation associated with the proposed development, then the development fee ordinance shall be applicable. The development fee ordinance requires a developer, pursuant to 132-13 of the Kingwood Township Code, to pay a development fee to the Kingwood Township Affordable Housing Trust Fund. The applicant shall pay fifty percent (50%) of the estimated developer's fee, if any, to the Kingwood Township prior to the issuance of building permits based on the Tax Assessor's estimated assessed value and his determination of the appropriate developer's fee. Building plans and as-built building plans for each development subject to payment of the developer's fee must be provided to the Tax Assessor and the remaining portion of the developer's fee shall be paid at the time of issuance of a Certificate of Occupancy for the new development. This paragraph does not constitute any determination by the Board as to whether the applicant is required to pay a developer's fee.
67. Neither the Board nor its employees or professionals will perform any service in furtherance of this approval if there is a deficiency in any escrow or inspection fee account. The applicant shall be under a continuing duty to maintain a positive balance in all accounts until all conditions have been satisfied and all charges have been paid. This memorializing resolution shall not be released to the applicant unless all outstanding escrow fees have been paid and the applicant's escrow account contains sufficient funds to cover anticipated unbilled expenses.
68. The applicant shall have two (2) years from the date of the adoption of this memorializing resolution to obtain a construction permit and complete construction of this project. If during said two (2) year period, or extension thereof as granted by the Board pursuant to N.J.S.A. 40:55D-52, a construction permit is not obtained, or if such permit is obtained but work not completed within 24 months of the issuance of the permit, all relief granted in this memorializing resolution shall expire and automatically become null and void.
69. Approval of this application by the Planning Board shall not and is not to be considered as an approval of any other requirements or approvals of permits as may be necessary to allow construction.
70. The within approval, and the use of all property subject to the within approval, are conditioned upon and made subject to any and all laws, ordinances, requirements, and/or regulations of and/or by any and all Municipal, County, State and/or Federal governments and their agencies and/or departments having jurisdiction over any aspect of the property and/or use of the property. The within approval and the use of all property subject to the within approval are also conditioned upon and made subject to any and all approvals by and/or required by any and all municipal, county, State and/or Federal governments and their agencies and/or department shaving jurisdiction over any aspect of the property and/or the use of the property. In the event of any inconsistency(ies) between the terms and/or condition of the within approval and any

approvals(s) required by the above, the terms and conditions of the within approval shall prevail unless and until changed by the Board upon property application.

71. The Kingwood Township Planning Board reserves the right to revoke and withdraw any approval hereby granted in the event that there is any deviation from or alterations of the plan hereby approved, unless prior written approval for any such deviation or alteration has been obtained from the Planning Board. Minor deviations and field changes may be authorized in writing by the Township Engineer.
72. All improvements shall conform to building standards and other regulations as set forth in Federal, State, County and Municipal Statutes, Regulations, Codes and Ordinances, at the time of installation of the said improvement.
73. The acceptance by the applicant of this approval and reliance thereon by the applicant for the purpose of commencement of construction of improvements within the project in accordance with the approval, shall operate as an acknowledgment and agreement by the application, its successors and assigns, that it accepts the official action herewith memorialized as being subject to the terms and conditions as contained herein, and agrees to fully comply and be bound thereby.

P. McCabe stated the engineer did not have time to review the revised plans. Presumably all the issues were addressed in the revised plans. T. Decker will not be coming up with additional comments. He would like to reserve the right to review the plans. W. Harrison stated the applicant will return for final approval and T. Decker will have the ability to offer comments. He does not want the approval conditioned on whatever T. Decker states the applicant will do.

It was moved by P. Lubitz, seconded by E. Niemann and carried to grant preliminary approval to Sundancer Capital LLC, Block 24, Lots 4 & 7. All members present voted **AYE** on **ROLL CALL VOTE**, except D. Haywood and L. Senus, who **ABSTAINED**.

PRIVILEGE OF THE FLOOR

MINUTES

It was moved by P. Lubitz, seconded by S. McNicol and carried to approve the minutes of August 11, 2011 and place on file. All members voted **AYE** on **ROLL CALL VOTE**.

ADJOURNMENT

It was moved by S. McNicol, seconded by P. Lubitz and carried to adjourn the meeting at 11:28 PM. All members voted **AYE**.

Respectfully submitted,

Diane Laudenschach, Secretary