

QUINTON TOWNSHIP PLANNING BOARD

RESOLUTION NO.: 10-11

RESOLUTION GRANTING PRELIMINARY SITE PLAN APPROVAL AND USE VARIANCE APPROVAL

RE: BLOCK 33, LOT 9 (Waterworks Road & Burden Hill Road)

WHEREAS, an application was made to the Quinton Township Planning Board (the "Planning Board" or the "Board") by **LAUREL LAKE SOLAR, LLC**, whose address is 201 King of Prussia Road, Suite 550, Radnor, PA 19807, for Preliminary Site Plan Approval and Use Variance Approval to allow for the development of a solar energy facility involving land located at Waterworks Road & Burden Hill Road, within a P-BR Zoning District, and more particularly known as Block 33, Lot 9 on the Official Tax Map of Quinton Township (the "Property") and depicted and described in a Site Plan "Variance Plan" for Laurel Lake Solar, LLC consisting of 6 sheets prepared by James A. Clancy, P.E., P.L.S. (N.J. Lic. No. 33998) of Land Engineering, LLC., 84 E. Grant Street, Suite 1, Woodstown, New Jersey 08098, dated May 21, 2010, and in other plans and materials filed with the application, all of which are incorporated by reference herein; and

WHEREAS, the Board determined that it has jurisdiction to hear the application, and that same is complete and in conformity with the Ordinance and the Municipal Land Use Law except for any matters that must be resolved as conditions of this approval; and

WHEREAS, Mayor Kates and Committeeperson Carl Schrier recused themselves due to the Use Variance Application; and

WHEREAS, this application was deemed complete on June 8, 2010; and

WHEREAS, at its July 13, 2010 meeting, the Board heard testimony and representations from the applicant, James A. Clancy, P.E., P.L.S. (Applicants' Engineer), Tim Heinle (V.P. of Project Development for Community Energy, Inc.), Dan Orzech (Applicant's Project Manager), Steve Hazel (Director of Solar Energy Services for Community Energy, Inc.) and Ross Levitsky, Esq., and provided an opportunity for interested persons to make statements or ask questions about the application; and

WHEREAS, Tim Heinle ("Heinle"), Vice President of Project Development provided testimony regarding the site plan. Heinle stated that Community Energy Solar, LLC is the development affiliate or sister company to Community Energy, Inc. Community Energy Solar, LLC is where they do their solar project development. Laurel Lake Solar, LLC is wholly owned by Community Energy Solar, LLC. Laurel Lake Solar, LLC is the owner of this particular project and will hold all of the project's assets; and

WHEREAS, Heinle went on to state that the project could be considered a form of agricultural preservation. The land is leased, the owners continue to own the land, operate what they are not using and at the end of the lease the applicant can remove the equipment. The applicant has obtained from the property owner a 24 year lease with two 10 year extensions; and

WHEREAS, James Clancy ("Clancy") is the design engineer for the project. Clancy testified that the proposed fence would be chain link fence, not barbed wire. Furthermore, the fence would be 1,000 feet from Waterworks Road and there is a wooded area buffering off of Burden Hill Road. There would be no increase of storm water runoff due to the fact that there will be only minor impervious improvements to the site. The grass proposed for the project would be a type called "no mow" which is a

low lying grass that only grows to 6 to 12" high and bends over at that point; and

WHEREAS, Steve Hazel ("Hazel") is the Director of Solar Technical Services for Community Energy, Inc. and is a specialist in electrical engineering and solar energy. Hazel provided a tutorial regarding the solar energy process and explained that there will be 5 inverters on the entire property with 1,800 panels, which are 2 feet off the ground, tilted at an approximately 30 degree angle with a maximum height of a panel of 8 feet. Hazel stated that there will be little if any impact to the wildlife and that the system is constantly monitored by way of a computer using video or infrared surveillance. The panels are cleaned by the rain and also there are visits to the site to take physical inventory. There is a slight hum which cannot be heard past the border of the property, only the inverters make noise and there is no noise at night as the energy is not being made at night. Hazel further testified that there are safety mechanisms in place and the entire system can be shut down by the utility company; and

WHEREAS, Dan Orzech ("Orzech"), Project Manager, stated that the project could be considered a form of agricultural preservation. The land is leased, the owners continue to own the land, operate what they are not using and at the end of the lease the applicant remove the equipment; and

WHEREAS, Orzech further stated that the site was chosen because of its proximity to an electrical substation and surrounding grid infrastructure, it is relatively flat terrain with good solar exposure, it is unobtrusive and little sound will be heard beyond the fence line. In addition, Orzech stated that this is a 5 megawatt project that will use 24 acres; and

WHEREAS, Ross Levitsky ("Levitsky") explained the positive and negative criteria as related to the use variance. With regard to the positive criteria, Levitsky explained that the New Jersey Legislature has deemed solar energy an inherently beneficial use. With regard to the negative criteria, Levitsky explained that the project will not have a detrimental impact on the surrounding properties, the community or the Master Plan; and

WHEREAS, Andrew Hogg, P.E., the Planning Board Engineer, provided a review letter dated July 13, 2010, in which he offered comments regarding the application, and proposed conditions of approval that are set forth below; and

WHEREAS, Lawrence DiVietro, Jr., P.P., P.L.S. the Planning Board Planner, provided a review letter dated July 13, 2010, in which he confirmed that the proposed development conforms to zoning requirements, except for use; and

WHEREAS, Ken Lueddeke, a member of the public, questioned how the property will be maintained and how the equipment will be housed; and

WHEREAS, Bill Ayars, a member of the public, questioned how the fire company accesses the enclosure and was told that the fire company will have full access; and

WHEREAS, Edward Saunderlin, a member of the public, asked about a franchise or excise tax; and

WHEREAS, Joe Elwell, a member of the public, questioned how the electric company monitors the electricity; and

WHEREAS, Warren Reed, a member of the public, questioned how the system shuts down, if necessary; and

WHEREAS, after hearing the above testimony and representations, reviewing all application materials, considering the Planning Board Engineer's review correspondence, and discussing the application with the Planning Board Engineer, Planner and Solicitor, the Board made the following findings and conclusions:

- a. The property is located in a P-BR zoning district. The applicant proposes to develop a solar energy facility which is not a permitted use within the zoning district.
- b. The property consists of approximately 130.36 acres and approximately 24 acres will be used for this project.
- c. The development conforms to applicable zoning requirements, with the exception of use.
- d. The solar facility will not interfere with the use and enjoyment of neighboring properties or detrimentally affect the community or the Master Plan, thereby satisfying the negative criteria for a Use Variance.
- e. The solar facility, as determined by the New Jersey Legislature, is an inherently beneficial use thereby satisfying the positive criteria for a Use Variance.
- f. The proposed development has adequate safety and security measures to protect members of the public as well as protect the project itself.
- g. The applicant has a 24 year lease for the property with two 10 year extension options. In addition, the lease provides security to the property owner that the equipment will be removed at the end of the lease term. The applicant will work with the Township in order to provide security, satisfactory to the Planning Board Solicitor, that at the end of the project, the equipment will be removed.

NOW, THEREFORE, BE IT RESOLVED by the Quinton Township Planning Board that for the reasons set forth above, the applicant's preliminary major site plan application, and use variance application as noted above, are hereby granted subject to the following conditions:

1. The applicant must pay any and all required fees and escrow replenishment amounts that are due or may become due to the Township within seven (7) days notice thereof.
2. The applicant must comply with all representations made through any representative during the course of its presentation to the Board and in all documents filed with the application.
3. The applicant must submit to the Planning Board Engineer revised plans in accordance with his letter dated July 13, 2010.
4. The applicant shall provide a revised Environmental Impact Statement addressing the required mapping in accordance with the Planning Board Engineer's July 13, 2010 correspondence.
5. The applicant shall refer this matter to the Quinton Township Environmental Commission for review and comments, however, said comments shall not be binding.
6. The applicant shall obtain approval, or letters of no interest, from the Salem County Soil Conservation District, Salem County Planning Board and the New Jersey Department of

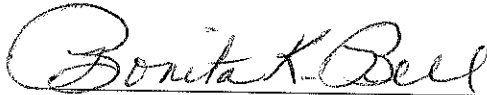
- Environmental Protection regarding the flood hazard area, as well as any other necessary outside agencies.
7. The applicant shall obtain a Letter of Interpretation from the New Jersey Department of Environmental Protection regarding wetlands delineation.
 8. The applicant shall provide security in favor of the Township, satisfactory to the Planning Board Solicitor, that the equipment will be removed at the end of the lease term.
 9. Final site plan approval will not be given and the plans will not be signed by the Planning Board Chairman and Secretary until the requirements set forth in **conditions 1 through 8**, above, and any other conditions so specified in the resolution memorializing preliminary major site plan approval and use variance approval, have been satisfied.
 10. As a condition of any final approval and prior to signature of the final site plan, the applicant will be required to post a performance guarantee with the Township to secure the completion of site improvements in an amount to be determined pursuant to *N.J.S.A. 40:55D-53* based on one hundred twenty (120%) percent of a cost estimate prepared or approved by the Township Engineer. The form of the performance guarantee must be submitted to the Township Solicitor for review and approval before it can be posted with the Township. The performance guarantee must include the deadline for completion of the guaranteed improvements that will be established as set forth in **condition 11**, below.
 11. As a condition of any final approval, the applicant will be required to complete all guaranteed improvements within two years following the date on which the Board votes to grant final major site plan approval for the applicant's project. This completion deadline will be an administrative deadline established for purposes of measuring default under the performance guarantee based on the applicant's estimate of when the project will be complete to the extent that the site improvements are necessary for proper use of the lots, and for the protection and benefit of adjacent property owners and the general public. The completion deadline will be separate and distinct from the expiration date of final major subdivision approval as provided in *N.J.S.A. 40:55D-52*. Once established, the completion deadline may be extended by the Board before the guarantees have been posted upon a showing by the applicant that the site improvements are not or will not be needed within the originally estimated time, or by the Township upon such a showing pursuant to *N.J.S.A. 40:55D-53(b)* after the guarantees have been posted.
 12. As a condition of any final approval and prior to signature of the final site plan the applicant will be required to post a maintenance guarantee with the Township to secure the maintenance of all guaranteed improvements for a period of two (2) years following the date the guaranteed improvements are accepted or approved by the Township. The amount of the maintenance guarantee must be determined pursuant to *N.J.S.A. 40:55D-53* based on fifteen (15%) percent of the approved performance guarantee cost estimate. The form of the maintenance guarantee must be submitted to the Township Solicitor for review and approval before it can be posted with the Township.
 13. As a condition of any final approval the applicant will be required to deposit a cash inspection fee with the Municipal Treasurer/Chief Financial Officer in an initial amount to be determined pursuant to *N.J.S.A. 40:55D-53* based on the approved performance guarantee cost estimate, and thereafter replenish the inspection fee escrow as necessary pursuant to that statute.
 14. The applicant may not transfer any of the rights relating to this approval to any other person or entity unless such transfer is accomplished by a three-way agreement between the applicant, the transferee, and the Planning Board or Township (depending on whether the plat has been filed). The agreement

will confirm, to the Planning Board/Township Solicitor's reasonable satisfaction, that the transferee will assume the applicant's rights and responsibilities under this approval, and that all past and future guarantees, escrows and fees will remain in full force and effect.


15. Design waivers are granted with respect to the width of the driveway, submitting plans from a landscape architect and constructing a 7 foot high fence.

The undersigned, Chairman of the Quinton Township Planning Board, hereby certifies that the above is a true copy of a resolution adopted by said Board on August 10, 2010 to memorialize action taken on July 13, 2010.

Attest:



Bonita Bell, Secretary
Quinton Township Planning Board



Margaret Maxwell-Mood, Chairperson
Quinton Township Planning Board

VOTE:

ayes 3
nays _____
other _____