

QUINTON TOWNSHIP PLANNING BOARD
RESOLUTION NO. 2011-12

**A RESOLUTION GRANTING PRELIMINARY AND FINAL MAJOR SITE PLAN
APPROVAL, USE VARIANCE, MINOR SUBDIVISION AND BULK VARIANCES TO
QUINTON SOLAR POWER I, LLC**

WHEREAS, Quinton Solar Power I, LLC of Dallas, Texas made an application to the Quinton Township Planning Board for preliminary and final major site plan approval, a use variance, a minor subdivision, and bulk variance approvals in regard to property located at Telegraph Road and Peck's Corner-Cohansey Road, also known as Block 61, Lot 2 on the Municipal Tax Map of Quinton Township; and

WHEREAS, the applicant appeared before the Quinton Township Planning Board on April 12, 2011 and May 10, 2011 and was represented at these hearings by Frank J. Hoerst, III, Esquire; and

WHEREAS, the property consists of 103.26 acres and is located in the P-BR (Rural Density Residential) Zone; and

WHEREAS, the applicant submitted the following information and documents:

1. Planning Board Application Form for Minor Subdivision, Preliminary Site Plan and Use Variance.
2. Alta/ACSM Land Title Survey (1 Sheet), prepared by Land Engineering, LLC
3. Minor Subdivision Plan (1 Sheet) prepared by Land Engineering, LLC
4. Preliminary Major Site Plans for Quinton Solar Power I, LLC (26 Sheets), prepared by RMT, Inc.
5. Landscaping Plans (7 Sheets), prepared by Engineering Design Associates, P.A.
6. Solar Interconnect Sub. General Arrangement Plan (1 Sheet), prepared by RMT, Inc.
7. Basin Design, prepared by RMT, Inc. containing the following:
 - Access Road Alignment
 - Access Road Entrances
 - Access Road Cross Sections
 - Hydrological and Stormwater Design
 - Security Fencing
 - Site Restoration
 - Photograph of Site
8. Environmental Impact Statement, prepared by Brinkerhoff Environmental Services, Inc.

9. Quinton Solar Power I, LLC, Noise Analysis, prepared by AECOM

10. Checklists, as follows:

- Schedule A, General Requirements, including attachment of Memorandum of Lease Agreement and Exhibit of Legal Description of Property
- Schedule B, Checklist Approvals Requested
- Schedule D, Minor Subdivision
- Schedule I, Preliminary Major Site Plan Application
- Schedule M, Bulk Variance
- Schedule N, Use Variance
- Schedule O, Environmental Impact Statement

11. Certification from Tax Assessor that all real estate tax has been paid

12. Supplemental Submission (clarifications)

WHEREAS, the applicant proposes to utilize 77.47 acres as a solar energy farm which use is not permitted in the P-BR Zone; and

WHEREAS, the applicant gave proper notice and service of the relief requested; and

WHEREAS, the applicant proposes to erect an eight foot fence around the perimeter of the solar energy farm when the maximum height permitted is six feet; and

WHEREAS, Lawrence M. DiVietro, Jr., PLS, PP, AICP and Andrew Hogg, PE of Land Dimensions Engineering reviewed the information and documentation of the applicant and issued a letter report dated April 5, 2011 consisting of ten pages which report is incorporated herein by reference thereto; and

WHEREAS, the following Professional were sworn in by the Board Solicitor those being Robert E. Gehring, PE, Senior Project Engineer, Darol Lindloff, Executive Director Project Development, Mike Delcambre, Vice President, Construction and Bill Pentak, Vice President, Investment Relations and Public Affairs from Panda Power Funds as well as Andrew B. Graham, Engineering Manager of RMT Inc. and Christopher J. Carey, Certified Landscape Architect from Engineering Design Associates, PA as well as Lawrence M. DiVietro, Jr., PLS, PP, AICP and Andrew Hogg, PE of Land Dimensions Engineering; and

WHEREAS, the Board reviewed the application for completeness with the application being deemed complete subject to items 1 through 9 of page three of the aforementioned letter report of Land Dimensions Engineering set forth as follows:

1. Planning Board Application Form- Item #11
Minor Subdivision should be checked and number of lots to be created should be Provided.
2. Checklist Schedule D- Item #8

A written statement must be provided expressing the opinion that the proposed subdivision does not involve the creation of more than two lots, etc.

3. Checklist Schedule IO Item #2
The wetlands lines identified should reference the NJDEP Permit Number.
4. Checklist Schedule I- Item #11
The metes and bounds of the property should be provided on the site plans.
5. Checklist Schedule I- Item #12
The applicant shall provide testimony as to the size and number of trees in excess of five inches that are to be removed.
6. Checklist I- Item #16
The plans shall be revised to provide proposed grades for all access roads and driveways.
7. Checklist Schedule I- Item #23
Detail of the proposed sign shall be provided.
8. Checklist Schedule I- Item #30
A copy of the prior major subdivision approval for the property shall be provided.
9. Checklist Schedule O- Item #1
The Environmental Impact Statement must be sealed by a New Jersey Licensed Engineer or Professional Planner.

WHEREAS, it was determined that the applicant should proceed first with the application for the use variance; and

WHEREAS, the Board reviewed the evidence and heard the sworn testimony of the applicant's professional's and representations made by the applicant's attorney with the Board making the following findings of fact and reaching the following conclusions of law in regard to the use variance, said findings and determination being made at the meeting of April 12, 2011:

1. A solar energy facility or structure has been deemed an inherently beneficial use under N.J.S. 40:55 D-4.
2. NK Ventures had previously received approval for the construction of 49 homes on this property. Said approval will be abandoned in the event that the within application is granted.
3. The solar farm will be a low impact use as opposed to that proposed by NK Ventures.
4. The applicant proposes to erect 41,800 panels on the 77.47 acres.
5. The panels are stationary and black or dark blue, depending upon the supplier, in order to absorb and not reflect sunlight. The panels have an estimated life of 25 years.

6. The topography of this land is particularly suitable to placement of solar panels.
7. The property is suitable for farming but has not been used for this purpose in years. The applicant sought land that was not being farmed.
8. Lawrence DiVietro gave a description of his observations and findings concerning the project.
9. A Board Member commented that the project would be better located on a property away from main roads.
10. The applicant's professionals rendered an opinion that the proposed use would not detrimentally impact the intent and purpose of the zone plan and zone ordinance and would not be a detriment to the public. The fence, plantings and berm will lessen the visual impact of the project.
11. The applicant represented that there would be no noise pollution and that the noise from a transformer is comparable to that of a state of art window air conditioning unit.
12. A bond may be required to be posted to provide for the dismantling of the solar panels at the end of the project, taking into consideration a professional report to be prepared at the direction of the applicant, subject to the advice of the Board Engineer as to the need for a bond after reviewing said report.
13. A neighbor Mary Kate DePriest of 60 Telegraph Road was sworn in and stated concerns with the project. She represented that her house was 600 feet off the road directly adjacent to the proposed project. She questioned the professionals on the appearance of the project and the type of landscaping proposed. The applicant represented that they would meet with her to determine the best landscaping to shield her from the sight of the project. She expressed concern that she had not been contacted by the applicant concerning the project and further expressed concern that the project would lower the value of her property.
14. All of the energy produced on site will be used in New Jersey.
15. The run down structures, drums, trash, containers and concrete which presently creates an eyesore will be removed.
16. The Board determined that consideration of the preliminary and final site plan should be carried to the May 10, 2011 meeting with no further notice being required by the applicant and the applicant waiving any deadlines for a decision to be made by the Board in regard to the site plan.

NOW THEREFORE BE IT RESOLVED by the Planning Board Members that the application for a use variance to permit a solar energy farm shall be granted in that the applicant has demonstrated special reasons for the grant of this relief and has shown that the relief can be granted without detriment to the public good and that said use will not substantially impair the

intent and purpose of the zone plan and zoning ordinance. The conditions of said approval are combined with the conditions of the site plan approval set forth at the end of this resolution.

WHEREAS, the applicant appeared before the Board on May 10, 2011 for consideration of the application for preliminary and final site plan approval as well as minor subdivision approval and bulk variance approvals with Frank J. Hoerst, III, Esquire appearing on behalf of the applicant and the Professionals for the applicant and the Board appearing and remaining under oath from the April 12, 2011 meeting; and

WHEREAS, the Board reviewed the evidence and heard the sworn testimony of the applicant's Professionals and the representations made by the applicant's attorney and the Board's Professionals testified and the Board asked questions and heard from the public and made the following findings of fact and reached the following conclusions of law based upon the foregoing:

1. An issue was raised in regard to the road frontage required for the proposed lot 2.01 to consist of 29.98 acres. The frontage of proposed lot 2.01 is interrupted by block 61, lot 1 with the proposed lot having frontage of 100 feet on one side and 202.8 feet on the other side of lot 1 along Peck's Corner-Cohansey Road. The Township ordinance does not specify that the frontage shall be continuous. The Board determined that it would be best to grant a bulk variance for this situation.
2. The owner of the property Dale Riggs will retain ownership of the proposed lot 2.01 which contains wetlands and a pond and is expected to be used as a residential property.
3. A preexisting accessory building on proposed lot 2.01 is one foot from the property line of Block 61, Lot 1 wherein 50 feet is required which would necessitate a hardship variance.
4. Robert E. Gehring, PE testified in regard to parking stating that once the project is up and running there would not be any employees on site. There would be visits to the site depending on what issues may arise that being typically once or twice per week and therefore no parking area was necessary.
5. There would be no septic system or well on the property.
6. The applicant stated that typically the rain would clean the panels and if there were an extended period of no rain that an employee would come to the site and clean the panels with the use of a water tank.
7. No additional off site utility lines appear to be necessary according to the preliminary direction from Atlantic City Electric. The number and style of utility poles, if required, would be at the direction of Atlantic City Electric.
8. There would be no area lighting. Lights would be located at the invertors which have a manual switch for lighting for maintenance. There would be no motion detector lighting.
9. The existing buildings, containers, trash and concrete would be removed from the

site.

10. There would be two accesses to the site from the public roads. The width of the road would be subject to the Quinton Township's Fire Chief's approval for emergency response vehicles with the applicant requesting a 12 foot design waiver from the required 15 foot width.

11. The fencing would be seven feet high with one foot of barbed wire on top for a total of eight feet for which a variance is required. The ordinance provides for a maximum height of six feet.

12. A stormwater management plan is not needed.

13. Any sign on the property will comply with the Township Ordinance.

14. The panels do not emit any noise.

15. Mike Delcambre, Vice President of Construction testified stating that the applicant had not yet prepared construction plans.

16. Mike Delcambre further testified that they would erect the fencing, then build the roads, run the electric lines, drive the posts into the ground and install the racks and then place the panels upon them. He was questioned about the noise of driving the posts and represented that the posts would be driven one half of the way into the ground with no noise and that they would be driven the remainder of the way into the ground which would produce a light vibrating noise. He envisioned the project proceeding in an orderly fashion once they had hired the necessary independent contractors with a projected time frame of five months from start to finish.

17. Christopher J. Carey, Certified Landscape Architect testified as to the landscaping. He stated that the berms would be two to six feet in height and that the berm and plantings would be recessed from the road and the sight triangle. There would be ground cover in the sight triangle. In response to the concerns express by Mary Kate DePriest at the previous meeting, the applicant revised the landscaping at her request moving the setback to 125 feet and adding more plantings. Mr. Carey represented that the landscaping will be maintained and that the contractor installing the landscaping guarantees the plantings for one year. The grass on the property will be mowed three times a year at a minimum. There will be a mixture of plantings as set forth in the landscape plans provided by the applicant.

18. The applicant requested approval for a silver chain link fence with the Board recommending and the applicant agreeing to use instead a black vinyl fence.

19. Kris Singh attempted to speak on behalf of his sister Mary Kate DePriest but it was determined that he could not do so since he was not an attorney. Mary Kate DePriest spoke on her own behalf representing once again her concerns that the project will lower the value of her home and requested that the Board reserve making a decision until she had more time to study the project.

NOW THEREFORE BE IT RESOLVED by the Planning Board Members that the application for preliminary and site plan approval, minor subdivision, bulk variances for setback and height of fence, frontage for proposed lot 2.01 and design waiver for width of roads shall be granted with the finding that said relief can be granted without detriment to the public good and that said relief will not substantially impair the intent and purpose of the zone plan and zoning ordinance. The conditions for these approvals and those relating to the use variance granted on April 12, 2011 are as follows:

- A. The applicant shall remove the existing structures on the Solar Energy Farm as well as the drums, containers, concrete and trash.
- B. Approval from the Quinton Township Fire Chief shall be required as to the proposed 12 foot width of the roads.
- C. Approval from the Quinton Township Environmental Commission.
- D. Approval from the Salem County Soil Conservation District.
- E. Approval from the Salem County Planning Board.
- F. Approval from New Jersey Department of Environmental Protection (Fresh Water Wetlands-permit presently exists and is current).
- G. Approval from New Jersey Department of Environmental Protection (Flood Hazard Area).
- H. Posting of a Performance Bond and Maintenance Bond in amounts to be determined by the Planning Board Engineer in conjunction with the applicant's Professionals.
- I. Posting of an inspection escrow to be determined by Land Dimensions Engineering with any outstanding escrow to be paid prior to the issuance of any building permit.
- J. Payment of any escrow account balance owed to the Board's Professionals prior to the issuance of a building permit.
- K. The fencing shall be constructed of black vinyl or the equivalent.
- L. The berm grading shall be identified on both the site layout drawings and erosion control plan.
- M. The applicant shall comply with all documentation submitted as well as with the revisions thereto.
- N. The applicant shall proceed with the project in accordance with the sworn testimony given by the Applicant's Professionals and the representations made by applicant's attorney.

- O. Posting of a bond to dismantle the project at the end of its life if deemed necessary by the Board's Professionals after reviewing applicants' professional report.

Dated: June 14, 2011

ATTEST: Bonita K. Bell
Bonita K. Bell, Secretary

Margaret Maxwell-Mood
Margaret Maxwell-Mood, Chairperson

Certification

I hereby certify the foregoing to be a true and correct copy of a resolution adopted by the Planning Board of Quinton Township at a regular meeting held on May 10, 2011 in the Quinton Township Municipal Building.

Bonita K. Bell
Bonita K. Bell, Secretary