



BELLINGHAM PLANNING BOARD

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TOWN CLERK

October 30, 2019

186 MAPLE STREET LARGE-SCALE GROUND MOUNTED SOLAR DEVELOPMENT PLAN APPROVAL AND STORMWATER MANAGEMENT PERMIT DECISION

A. BACKGROUND

Applicant: Borrego Solar Systems
55 Technology Drive
Lowell, MA 01851

Owner: LMP Properties
256 Summer Street
PO Box 28
Dover Fox Croft, Maine 04426

Public Hearing: The Public Hearing opened August 22, 2019 at 7:00 PM. Notice for the public meeting was published in *The Milford Daily News* on August 8, 2019 and August 15, 2019. The Public Hearing was continued to September 26, 2019, October 10, 2019, October 24, 2019 and October 30, 2019, when the Public Hearing was closed.

Date of Vote: October 30, 2019

The Premises: The project location, also referred to herein as the "Site" or the "Premises", is located at 186 Maple Street, Assessors Map 32-7, approximately 23.13 acres of which 10.14 acres is in Bellingham, in a Suburban Zoning District.

The By-law §240-16 Development Plan Review, and §240-54 Stormwater Management

The Proposal: To construct a 4 megawatt (MW) large ground-mounted photovoltaic solar array system with associated improvements accessed by a narrow private driveway.

The Proposal was documented with the following materials:

1. Application for Development Plan Review, dated July 17, 2019, including a narrative and project description.
2. Stormwater Management Permit Application, dated July 17, 2019.
3. Certificate of Ownership Authorization, dated August 7, 2018.
4. Certificate of Municipal Liens, issued July 31, 2019
5. Certified Abutter's List, Town of Bellingham, dated July 2, 2019.
6. Certified Abutter's List, Town of Franklin, dated July 8, 2019.
7. Site Use Plans, 186 Maple Street, by Borrego Solar, last revised October 25, 2019 (also known as the Approved Plan).
8. Stormwater Report, by Borrego Solar, last revised October 11, 2019.
9. Decommissioning Estimate Plan, dated July 22, 2019.
10. Option and Lease Agreement, dated August 13, 2018.
11. Land Title Survey, by Northeast Survey Consultants, dated November 1, 2018.
12. Staff Checklist, James Kupfer, Town Planner, dated August 16, 2019.
13. Soil Suitability Assessment, received August 6, 2019.
14. Email Comments, Mark Poirier, Deputy Fire Chief, dated August 23, 2019
15. Peer Review of Stormwater, by PSC Group, dated September 20, 2019.
16. Peer Review of Stormwater, by PSC Group, dated October 10, 2019.
17. Response to Peer Review, by Borrego Solar, dated October 11, 2019.
18. Other miscellaneous documents on file at the Planning Board offices.

B. DETERMINATIONS

Following its public hearing on the Applicant's proposal and requested relief, the Planning Board has made the following determinations:

1. The Applicant originally filed applications for a proposed development at 186 Maple Street, Assessors Map 32-7, approximately 23.13 acres of which 10.14 acres is in Bellingham, in a Suburban Zoning District. Prior to the current application, the land owner filed a Preliminary Subdivision Plan on or about November 8, 2018. On or about November 14, 2018 the Town held a Special Town Meeting during which the Town Meeting voted unanimously to approve a zoning bylaw amendment which changed the underlying zoning for the Premises from industrial to suburban. The Board issued a decision denying the owner's Preliminary Subdivision Plan Application on or about December 14, 2018. The owner appealed the Preliminary Subdivision Denial Decision to the Land Court which action is currently pending as LMP Properties, LLC v. Bellingham Planning Board, et al. (19MISC000003) (the "Land Court Action"). Subsequently, on or about June 6, 2019 the Applicant filed a Definitive Subdivision Plan Application with the Planning Board. Pursuant to the Joint Stipulation of the Parties' entered as an Order of the Land Court on or about July 9, 2019, the Owner/Applicant has agreed to dismiss the pending Land Court Action following issuance of this decision.
2. Upon withdrawal of the Definitive Subdivision Plan application stated above, the Owner/Applicant agrees that the underlying zoning for the Premises will lawfully become a Suburban Zoning District pursuant to the November 14, 2018 Special Town Meeting during which the Town Meeting voted unanimously to approve a zoning bylaw amendment which changed the underlying zoning for the Premises from industrial to suburban.
3. That the use proposed is limited to a large ground-mounted solar facility.
4. That the Premises is located on Maple Street, a Scenic Road.
5. That the Premises is not located in a Water Resource District.
6. That the Premises, currently has an established gravel private driveway that is shared with the Maple Gate Country Club for maintenance purposes by an easement.
7. That the current gravel driveway is sufficient width for the small vehicles that access the maintenance sheds at the golf course and that the solar facility will not need large vehicles for maintenance, therefore the width of the gravel access shall be no larger than the proposed 15 feet.

8. The performance requirements of the Zoning By-Law (e.g. Article IX Environmental Controls, Article X Parking and Loading Requirements, Article XI Landscaping Requirements) have been met or a waiver has been requested and granted.
- a) §240.49 Light and Glare: No lighting proposed. Any exterior lighting shall be consistent with “dark sky” standards, shielded and directed downward to maintain lighting on to the Site and shall comply with the Zoning By-law.
 - b) § 240.50 Air Quality: Proposed uses do not involve emission of odorous gases in such quantities to be offensive and shall continue to adhere to the Zoning By-law.
 - c) §240.51 Hazardous Materials: No hazardous materials, as defined in this section, are proposed to be used or stored on Site.
 - d) §240.52 Vibration: The Applicant does not propose any use that produces vibration which is discernible to the human sense of feeling (except sound) at or beyond the boundaries of the premises for three minutes or more in any hour between 7:00 a.m. and 9:00 p.m. or for 30 seconds or more in any one hour between 9:00 p.m. and 7:00 a.m.
 - e) §240.53 Electrical Disturbance: No electrical disturbance is proposed or will be permitted which adversely effects the operation of any equipment other than that of the creator of such disturbance.
 - f) §240.54 Stormwater Management: The stormwater management shown on the Plan and drainage analysis has been designed to meet the Stormwater Management Standards set by the Massachusetts Department of Environmental Protection and Bellingham Zoning By-laws. The standards include removing solids from the stormwater, reducing rates of runoff from the site, and recharging the groundwater.
 - g) §240.58 Noise: The use proposed was determined to not add noise concerns in excess of the maximum allowable noise levels.
 - h) Town of Bellingham General Bylaws Chapter 154 – Scenic Roads of the Bellingham General By-laws: The use proposed was determined to not add noise concerns in excess of the maximum allowable noise levels. The proposed plan also considers the preservation of the natural landscape along Maple Street and shall add replacement plantings along Maple Street where appropriate.

9. For the given location and type and extent of land use, the design, location, egress points, grading, and other elements of the development could not reasonably be altered to:
- a) improve pedestrian or vehicular safety within the site and egressing from it, as circulation has been reviewed by the Planning Board and emergency services and was deemed adequate. The radius of the entrance was designed to accommodate emergency services largest vehicle and the private driveway was minimized to allow for minimal vehicular traffic appropriate for the proposed use;
 - b) reduce the visual intrusion of parking areas viewed from public ways or abutting premises, by preserving vegetative buffers as well as landscaping added to priority areas;
 - c) reduce the volume of cut or fill and the Site has been graded to match the cuts and fills, as much as possible and it is not anticipated that an Earth Removal Special Permit will be required;
 - d) reduce the number of removed trees 8" trunk diameter and larger, as the proposal preserves vegetation along the Scenic Road;
 - e) reduce soil erosion; and reduce hazard or inconvenience to pedestrians from storm water flow and ponding by engineering the Site to be designed to comply with the DEP Stormwater Handbook and the Town of Bellingham Stormwater Regulations as well as the inclusion of a Stormwater Pollution Prevention Plan and Operation and Maintenance Plan consistent with the Town of Bellingham requirements.
 - f) provide alternative access as emergency services has reviewed and approved the plan as proposed and deemed access to be adequate;
 - g) provide alternative utility service and drainage as the Board's peer review engineer has reviewed and deemed the plan acceptable as proposed and demonstrated in the Stormwater Management Report;
 - h) provide additional capacity on impacted streets to accommodate the proposed project as access to the Site will be approximately one vehicle every three to four months that is serviced by a private driveway and not to be used for access beyond that of maintenance of the proposed use.
10. No other zoning violations were observed.

11. The Board finds that compliance with the below conditions are necessary to mitigate impacts related to the construction and use resulting from the project.

C. DECISION

Based on the above determinations, the Planning Board finds that the proposal meets the requirements of the Zoning By-Law, and by a vote of 4 to 0 in favor, accordingly, grants the Applicant and its successors and assigns as owner and/or operator of the premises, a Development Plan Approval and Stormwater Management Permit subject to the following conditions:

1. This Approval is limited to the improvements as noted on the Approved Plan, and as may be conditioned herein. Any changes to such Plan must be reviewed and approved in accordance with the Bellingham Zoning By-laws. All such changes shall be reviewed by the Board for determination as to whether or not the changes are considered minor or major. If the Planning Board determines that any change to the plan is a major alteration to the Approved Plan, a public hearing shall be required for a modification to this permit. A minor change shall be reviewed and approved at a regularly scheduled meeting.
2. Owner/applicant shall file a withdrawal with prejudice of the Definitive Subdivision Plan Application dated June 6, 2019, following issuance of this decision but under no circumstances later than five (5) days following the expiration of the appeal period for this decision.
3. Prior to commencement of any construction activity allowed under this permit and/or any subsequently issued Building Permit(s), confirmation by the Applicant shall be provided to the Building Inspector that the Applicant has withdrawn its pending Definitive Subdivision Plan Application and that written proof of such withdrawal has been recorded at the Registry of Deeds.
4. Prior to the start of construction, sediment and erosion controls shall be installed and be subject to the inspection and approval by the Town Planner and Conservation Agent.
5. Construction hours will adhere to §240-48 of the Zoning By-law.
6. All fencing to be installed on Site shall be constructed to allow for a minimum six (6) inch gap from the ground surface to the bottom of the fence to allow for wildlife.

7. The Stormwater Management Operation and Maintenance Plan (O&M), last revised October 11, 2019, included as part of the Drainage Report, is hereby referenced and made part of this decision. The Applicant shall permit the Board or its agent to inspect the premises on reasonable notice to determine compliance with said O&M plan.
8. Snow and ice removal shall be the responsibility of the Applicant or a successor and shall be performed in accordance with the approved O&M.
9. Phosphorous-based fertilizer shall not be used on the Site.
10. Prior to issuance of a Certificate of Completion, the Applicant or Tenant shall deliver to the Town Planner a complete list of hazardous materials proposed to be used or stored at the building to the extent required under §240.51 of the Bellingham Zoning Bylaws or other applicable law.
11. Prior to the issuance of a Certificate of Completion, the Applicant or Tenant shall provide the Fire Department with a detailed shut down procedure as well as any emergency response plans and contact information.
12. Prior to the issuance of a Certificate of Completion, the Applicant or Tenant shall install a Knox-Vault on all applicable gates and provide the Fire Department with a key to each.
13. The entry gate shall be opaque and a minimum eight feet in height and constructed of the same material as the proposed fence along Maple Street so that the gate provides a visual barrier and limits impacts of the project from the public way. The entry gate shall be closed at all times when not being used for entry to the Premises.
14. As required in §240-170, Decommissioning Plan, adequate security, bound by a suitable agreement is required to cover the cost of decommissioning the facility. The Applicant is to provide the amount in full to the Town prior to operation. The amount of such security must be approved by the Board, which may consult with an engineer or consultant for such purposes. The form of the agreement governing the deposit, payment, and/or release of such security is subject to the review and approval of Town Counsel.
15. Prior to the commencement of construction, the Applicant shall schedule a preconstruction meeting with the Town Planner and the Board's designated inspector. The Board's inspector shall be permitted to conduct routine inspections, as may be reasonably determined by said inspector, while construction is ongoing relative to this permit and all corresponding Decisions for this Site. The Applicant shall deposit with the Town, sums

necessary to fund the inspections contemplated hereunder. Such inspectional fund shall be governed under M.G.L. c. 44 §53G or such other applicable statutory method as may be appropriate.

16. As required by the Bellingham Department of Public Works, any and all access and utility easements that may be necessary shall be in a form approved by Town Counsel prior to the issuance of the Certificate of Completion, such approval shall not be unreasonably withheld.
17. This Decision is binding on the Applicant and its successors, assigns, agents, and employees. The Planning Board shall be notified in writing of any changes in affiliates and successors in title and additional users of the Premises.
18. This approved plan includes a 15 foot gravel private driveway that is shared with the Maple Gate Country Club for maintenance purposes by an easement. The gravel driveway is sufficient width for small vehicles that access the maintenance sheds of the golf course and the solar facility only. Further extension or alteration of use of the gravel driveway for purposes other than maintenance of a solar facility or golf course shall be considered a change of use and require a public hearing for a new development plan. The width of the gravel driveway shall remain 15 feet. Any expansion of width to the driveway shall require a public hearing for an amendment to the development plan.
19. Any change of use shall require a public hearing to either modify the existing Development Plan or to issue a new Development Plan permit.
20. The Applicant shall comply with §240-16B(5) and (6) regarding As-Built Plans and follow the policies of the As-Built handbook.
21. This Decision shall not be effective until it is recorded by the Applicant at the Registry of Deeds, with proof of such recording to be supplied to the Board and the Building Inspector.

D. RECORD OF VOTE

I vote to **APPROVE** the **186 MAPLE STREET LARGE-SCALE GROUND MOUNTED SOLAR DEVELOPMENT PLAN APPROVAL AND STORMWATER MANAGEMENT PERMIT**.

Bellingham Planning Board

October 30, 2019


William F. O'Connell, Jr., Chairman


Brian T. Salisbury, Vice Chairman


Russell E. Lafond


Dennis J. Trebino

Appeals of this Decision may be made within thirty days, in accordance with the provisions of G.L. c 40A, §17

This Decision, together with all plans referred to in it, was filed with the Town Clerk on October 31, 2019.

Lawrence J. Sposato, Jr.
Bellingham Town Clerk