

February 3, 2022

Ms. Eileen Rubano
Administrative Officer
Howell Township
Planning Board
4567 US Route 9
PO Box 580
Howell, NJ 07731

**Re: Monmouth Solar 1, LLC
2921 Allenwood-Lakewood Road
Block 42, Lots 93, 93.01, 94, 94.01
Conditional Use Variance & Preliminary &
Final Major Site Plan
Our File: HWPB 21-47**

Dear Board Members:

Our office received and reviewed materials that were submitted in support of an application for preliminary and final major site plan and conditional use approval for the above referenced project. The following documents were reviewed:

- Howell Township Development Application and Checklist received December 2, 2021.
- Submittal Letter prepared by Grace Chun, Esq., of Pearlman & Miranda, LLC, dated December 9, 2021.
- Monmouth County Planning Board Site Plan Application submitted by Robert C. Moschello, PE, of Gladstone Design, Inc., undated.
- Soil Erosion and Sediment Control Plan Certification prepared by Robert C. Moschello, PE, of Gladstone Design, Inc., dated November 22, 2021.
- Checklist Waivers, undated.
- Generation Interconnection Feasibility Study Report prepared by PJM Interconnection, dated January 2021.
- Stormwater Management Report for HESP-Monmouth County Landfill Solar Facility, prepared by Robert C. Moschello, PE, of Gladstone Design, Inc., dated September 30, 2021.
- Natural Resource Inventory for Monmouth Solar 1, LLC prepared by EcolSciences, Inc., dated November 12, 2021.

- Boundary & Topographic Survey consisting of one (1) sheet, prepared by Kurt T. Haine, PLS of Gladstone Design, Inc., dated September 22, 2021.
- Preliminary and Final Major Site Plans for Monmouth Solar 1, LLC – Monmouth County Landfill Solar Facility, consisting of 14 sheets, prepared by Robert C. Moschello, PE, of Gladstone Design, Inc., dated last revised November 12, 2021.

1. Site Analysis and Project Description

The subject property consists of Block 42, Lots 93, 93.01, 94, and 94.01, a 239.12-acre site located along Allenwood-Lakewood Road between Vienna Road and Newtons Corner Road in the ARE-6 Agricultural Rural Estate Zone District. The site is currently developed with a county-owned capped and decommissioned former landfill with associated gravel access drives on and around the mound, stormwater features, two (2) small accessory outbuildings to monitor and maintain the landfill, a garage/office structure, and one (1) access driveway off Allenwood-Lakewood Road. Vacant and residential uses are located to the west of the property, undeveloped, forested land to the east, farm qualified uses and residential uses to the south, and by undeveloped, forested land and a utility-scale solar farm to the north.

The applicant is seeking preliminary/final major site plan approval to construct an 18.6 mW solar energy facility comprised of approximately 1,161 solar panel tables (39,150 solar panels). Additional site improvements will include a maintenance building, a pump building, and gravel access paths.

2. Solar Energy Generation Facilities Conditional Use Requirements

- A. As per §188-69C(2), Except pursuant to a permit issued by the New Jersey Department of Environmental Protection ("NJDEP"), no portion of a solar energy generation facility shall occupy areas of land designated and regulated by NJDEP as floodplains, flood hazard areas, wetlands, wetland transition areas or riparian corridors. An applicability determination from the NJDEP shall be provided to document the presence and/or absence of these regulated areas. Except pursuant to a permit issued by NJDEP, a three-hundred-foot buffer shall be maintained between NJDEP-designated Category One waters, as defined in the existing Surface Water Quality Standards rules at N.J.A.C. 7:9B-1.4, and any portion of a proposed solar energy generation facility. Category One waters include, and may not be limited to, the Metedeconk River and the Manasquan Reservoir. **The proposed solar panels are located within the 300 ft riparian buffer along the northern and southern portions of the site. The applicant has indicated that the placement of these panels is subject to NJDEP review and approval. An update of the status of such should be provided.**
- B. As per §188-69C(3), solar energy generation facilities shall be screened from the public traveled way (public roads, trails, navigable waterways, scenic highways and byways),

publicly owned properties, open space, preserved farmland and historic resources, including sites and buildings listed or eligible for listing on the State and National Registers of Historic Places; whereas no landscape buffer screening is provided. **Testimony should be provided as to how the facility will be properly screened.**

- C. As per §188-69C(4), all applications for a solar energy generation facility shall be accompanied by a decommissioning plan to be implemented upon abandonment, or cessation of activity, or in conjunction with removal of solar energy systems. The decommissioning plan shall be submitted in accordance with the requirements of §188-69C(4). **A decommissioning plan should be provided.**

3. Other Ordinance Requirements

A. *Buffers*

- 1) As per §188-63A, every application for site plan approval or major subdivision approval on lots of one acre or more shall contain a fifty-foot perimeter buffer or farmland buffer easement, as the case may be. Said buffer areas are required along all lot and street lines separating residential uses from arterial and collector streets, separating a nonresidential use from either a residential use or residential zoning district line or active farmland. Residential uses abut the property along the west and south, and farm qualified uses abuts the property along the south across from Allenwood-Lakewood Road and along the southeast. **The plans should be revised to show the required buffers from the property line.**
- 2) As per §188-63E, a required buffer between residential and a commercial or industrial project development shall contain a fifty-foot-wide, four-season buffer, which is required along the western property lines of Lots 27 and 28 and the northern property frontage of Lot 28. The buffer shall consist of at least two of the following: (1) landscaped, fencing or walls at least 10 feet high; (2) a landscaped berm at least six feet high; (3) a building setback, measured from the buffer line, of at least 200 feet; (4) a parking area setback at least 100 feet and screened as required under the off-street parking provisions. The applicant does not meet these requirements. **Testimony should be provided as to compliance with this ordinance section.**

B. *Circulation*

- 1) As per §188-106.F(1)(a), all main driveways into commercial and/or industrial areas shall be a minimum of 30 feet wide, or as controlled by outside agencies. On industrial and commercial applications, a thirty-foot-wide circulation aisle must be maintained for emergency purposes, whereas the applicant is proposing a gravel driveway and a circulation aisle internal to the site of varying widths approximately between 6 feet and 20 feet. **A waiver is needed.**
- 2) As per §188-106.F(2), areas likely to experience light traffic shall be paved; whereas the circulation aisle is gravel. **A waiver is needed.**

- 3) As per §188-107C, one parking space is required for utility uses, whereas no parking is proposed. **A waiver is needed.**

C. Sidewalks

- 1) As per §188-132A, sidewalks shall be constructed on both sides of all proposed streets, along the entire frontage of the subject property, and in other selected locations determined by the Board to be in the interest of public safety and proper pedestrian circulation; whereas the applicant is not proposing any curb or sidewalk along the Lakewood-Allenwood Road frontage. **A waiver is required.**
- 2) As per §188-225G, all lots shall have private walkway access to a public sidewalk in the right-of-way, whereas none is provided. **A waiver is needed.**

4. Required Proofs for Variance Relief

A. C Variances

A number of “c” variances are required. There are two types of c variances with different required proofs.

- 1) Boards may grant a c(1) variance upon proof that a particular property faces hardship due to the shape, topography, or extraordinary and exceptional situation uniquely affecting the specific property.
- 2) Boards may grant a c(2) variance based upon findings that the purposes of zoning enumerated in the MLUL are advanced by the deviation from the ordinance, with the benefits of departing from the standards in the ordinance substantially outweighing any detriment to the public good. The Supreme Court’s ruling in Kaufmann v. Planning Board for Warren Township provides additional guidance on c(2) variances, stating that “the grant of approval must actually benefit the community in that it represents a better zoning alternative for the property. The focus of the c(2) case, then, will be...the characteristics of the land that present an opportunity for improved zoning and planning that will benefit the community.”
- 3) C variances must also show consistency with the negative criteria as well.

B. Design waivers are required. The Board has the power to grant design waivers as “exceptions” from the requirements of the Township’s Land Use Ordinance as part of site plan review under N.J.S.A. 40:55D-51(b), so long as the exceptions are reasonable and within the general purpose and intent of the provisions for site plan review and approval, if the literal enforcement of one or more provisions is impracticable or will exact undue hardship because of the peculiar conditions pertaining to the land in question.

5. Additional Comments

- A.** The Applicant should provide testimony on all required variances and clarify all points where additional information is needed.
- B.** The applicant should indicate if the proposed development is anticipated to be constructed in phases.
- C.** The applicant should provide testimony as to the proposed solar farm use and general operations including how often the site will be visited for operation and maintenance, typical days and hours maintenance would occur, and the number, type, and frequency of vehicles that will visit the site.
- D.** The applicant should clarify if any building improvements will be done to the existing buildings as part of the application.
- E.** The applicant should provide testimony as to any proposed lighting and landscaping on site.
- F.** The applicant should be required to consolidate Lots 93, 93.01, 94, and 94.01.

Please be advised that additional comments may follow upon completion of testimony and/or submission of further revisions by the Applicant. Should you have any questions regarding this matter, please do not hesitate to contact our office.

Very truly yours,

LEON S. AVAKIAN, INC.



Jennifer C. Beahm, P.P.
Board Planner

JCB:ir/clb

cc: Laura Neumann, P.E., Board Engineer
Ron Cucchiaro, Esq., Board Attorney
Robert Moschello, P.E., Applicant's Engineer
Grace Chun, Esq., Applicant's Attorney