

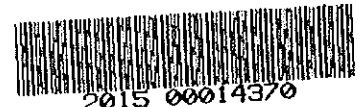
DEC 23 '14 PM 1:22



Town of Uxbridge  
Planning Board  
21 South Main Street  
Uxbridge, MA 01569  
(508) 278-8600 ext. 2013

Received by  
Uxbridge  
Town Clerk

**DECISION**  
**SPECIAL PERMIT APPLICATION**  
**FY15-06 CLEAN ENERGY COLLECTIVE**



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Date: December 15, 2014

Name of Organization: Clean Energy Collective

Name of Applicant: Jonathan Moore

Address of Applicant: 3005 Center Green Drive, #205  
Boulder, CO 80301

Owner: Cnossen Realty Trust

Location of Property: 62 & 74 Commerce Drive, Uxbridge MA 01569

Assessors Map/Parcel: 40/3626, 3681

Deed Book/Page: Deed Book 13306, Deed Page 115

Site Plan Dated: October 27, 2014

Engineer or Land Surveyor: Andrews Survey & Engineering, Inc.  
P.O. Box 312, 104 Mendon Street  
Uxbridge, MA 01569

Zoning District(s): Industrial

**BACKGROUND/SUMMARY**

On October 30, 2014, the application for a Special Permit to construct a 1.0-MW<sup>AC</sup> (megawatt) rated solar electric generating facility pursuant to the Uxbridge Zoning Bylaws §400-10 and §400-50 at 62 & 74 Commerce Drive was duly filed with the Uxbridge Town Clerk. The application was then forwarded to the Planning Board and to the various other Town Boards. The named Applicant of record is Clean Energy Collective, and the Owner of the land is Cnossen Realty Trust. A public hearing was scheduled for November 12, 2014. Notice of the public hearing was published in the "Worcester Telegram & Gazette", posted in the Uxbridge Town Hall, and abutters were notified by way of certified mail. Following input, the public hearing was closed on November 12, 2014.

Clean Energy Collective seeks a Special Permit to construct a 1.0-MW<sup>AC</sup> (megawatt) rated solar electric generating facility pursuant to the Uxbridge Zoning Bylaws §400-10 and §400-50. Per ZBL, §400-10 Section C Special Permit: Planning Board, "A use designated in the Table of Use Relations by the letters "PB" may be permitted by special permit only if the Planning Board so determines and grants a special permit...". Per ZBL §400-50 Sections A thru H, including but not limited to Criteria, Procedures, Conditions, Plans, Regulations, Fees and Lapse, will be followed by the Planning Board. The proposed site lies completely within the Industrial zone.

The Applicant of Record, Clean Energy Collective, and Owner of Record, Cnossen Realty Trust, with the provisions of MGL Chapter 40A, Section 9, presented for review a Special Permit Application prepared by Andrews Survey &

AT

Engineering, Inc. dated October 27, 2014. The property is located at 62 & 74 Commerce Drive, Uxbridge, Massachusetts. The project site includes approximately 6.25 acres of land (approximately 2.19 acres and approximately 4.06 acres, respectively) and shown on the Uxbridge Assessor's Map 40, Parcel 3626 and Parcel 3681, respectively. The plans of said lots are recorded in the Worcester Registry of Deeds Book 13306, Page 115 and said land is free from encumbrances.

#### FILINGS

As of the close of the Public Hearing, the Planning Board has received the following written materials:

1. The application submitted by Clean Energy Collective consisted of a Special Permit Application Form, Project Narrative, copies of the Deeds, a copy of the Application for Certified Abutters List, a copy of the Abutters List Report, Locus Map, a copy of associated fee, and a Site Plan.
2. Plans drawn by Andrews Survey & Engineering, Inc. dated October 27, 2014, included the following plan sheets:
  - Sheet C-0.0 Cover Sheet
  - Sheet C-1.0 Legend, Abbreviations & General Notes
  - Sheet C-2.0 Overall Plan
  - Sheet C-3.0 Existing Conditions Plan
  - Sheet C-4.0 Site Plan
  - Sheet C-5.1 Construction Details, Sheet 1 of 2
  - Sheet C-5.2 Construction Details, Sheet 2 of 2
3. Plans drawn by Andrews Survey & Engineering, Inc. dated October 27, 2014, with the following revision description, "Per Planning Board Conditions of Approval & 11/24/14 ConCom Site Visit", dated November 26, 2014:
  - Sheet C-4.0 Site Plan

Aforementioned materials are on file in the Planning Department, available for review during regular business hours.

On November 12, 2014, prior to the opening of the Public Hearing, Mr. Desruisseaux recused himself. The Planning Board members in attendance were Chair Joseph Leonardo, Vice Chair James Smith, Member Daniel Antonellis, and Member Peter Petrillo. The Chair opened the Public Hearing, notice of the hearing was read into the record, and the Chair then asked the Applicant to make a presentation. Present on behalf of the Applicant, Clean Energy Collective, was Stephen O'Connell of Andrews Survey & Engineering, Inc. (ASE).

Mr. O'Connell presented the Special Permit application, stating the intent of a ground mounted solar facility, installed as two arrays, divided by an AT&T Easement containing a fiber optic cable. He informed the Board of uncertainty over the rights in regard to parcel access over the easement, which the owners are dealing with thru their respective attorneys. The arrays, one (1) megawatt in total, will connect to existing National Grid poles. Construction is anticipated for Spring 2015, and will require a small amount of tree removal. The project was currently being reviewed by the Conservation Commission. Discussion included the former use of the property, access to each array from Commerce Drive, the presence of the AT&T easement and sewer easements that traverse the properties, and the installation of a seven (7) foot chain link fence around each array. It was further discussed that vegetation will be planted and maintained outside the fence along the entire west side and a portion of the north side to partially screen the array from the abutting properties; vegetation will be of appropriate height so as not to shade the panels; Leland Cyprus, or approved equal, were suggested, spaced and staggered at fifteen (15) feet. The panels are fixed and do not require the installation of a foundation; one (1) megawatt can typically be installed on approximately four (4) to five (5) acres of suitable land; the useful life expectancy of solar panels is twenty (20) to twenty-five (25) years; all materials used are recyclable; and, the land will be repurposed and restored at the end of the lease. Neither Mr. O'Connell nor the Planning Department received any contact from abutters.

The Chair asked if abutters or residents wished to speak; none were present.

Following review of all materials and testimony on November 12 2014, **MOTION** by Mr. Petrillo that the Planning Board close the Public Hearing for 62 & 74 Commerce Drive Special Permit. Seconded by Mr. Smith, the motion carried 4-0-0.

## **FINDINGS**

In granting the Special Permit with conditions, the Board has taken into consideration the following:

1. Minimum Lot Size, Access, Utilities and Design Requirements

Based on the submitted materials, the proposed photovoltaic solar energy project, together with all associated parking, facilities and infrastructure have been located in a manner consistent with the Uxbridge Zoning Bylaw, §400-10, §400-20, Appendix A Table of Use Regulations, and Article X Definitions of the Uxbridge Zoning By-Law, including but not limited to, minimum applicable zoning setbacks, and open space and buffer requirements.

2. Soils and Drainage

The applicant has submitted information to the Board which indicates that ground cover conditions will be improved as a result of the project. Existing gravel areas will be covered with the existing piles of topsoil on the site and will naturally re-vegetate. Therefore, post-construction runoff conditions shall not exceed pre-construction conditions.

3. Traffic

The applicant has submitted information to the Board which indicates that there shall be no anticipated traffic generation from the project. The Applicant has demonstrated that safe and convenient access is provided to and within the Development for vehicular movements. Access is gained from Commerce Drive which has suitable capacity and in good condition.

4. Town Services and Infrastructure

The Applicant has submitted information to the Board which indicates that there will be minimal demands placed on Town services and infrastructure. The project will not require municipal water and sewer service. The facility and all associated infrastructure shall be maintained by the Applicant.

5. Impact on Neighborhood

The project is located in the Industrial Zoning District. The Board has determined that noise and air quality associated will meet applicable standards. Further, under the Revised Plans and this Board's conditions enumerated below, the project provides significant buffer areas to neighboring properties. The Board finds that the Development will not be injurious or detrimental to the neighborhood and such use is in harmony with the general purpose and intent of the Bylaw.

6. The Applicant has properly revised its plans to include the comments, suggestions, and corrections identified by the Planning Board and Conservation Department/Commission.

## **DECISION**

Following review of all materials, testimony, and discussion amongst the Board, a **MOTION** was made by Mr. Petrillo to grant a Special Permit for 62 & 74 Commerce Drive with the following special conditions: 1) approval of a vegetation/planting plan of a row of Leland Cyprus, or approved equal, at fifteen (15) foot maximum spacing, four (4) to six (6) feet in height, staggered, along the North and West property lines; 2) plantings are maintained for the duration of the lease; and, 3) all materials are removed when lease expires or terminates. Seconded by Mr. Antonellis, the motion carried 4-0-0.

No waivers were sought for this Special Permit application. The conditions of approval are set forth below.

**CONDITIONS**

- 1) The Applicant shall comply with all applicable laws, regulations, and permit conditions required by the Conservation Commission, Board of Health, Building Department, Fire Department, and all other departments and agencies for this project.
- 2) The Applicant shall provide a vegetation planting plan, showing a row of Leland Cyprus, or approved equal, at fifteen (15) foot maximum spacing, four (4) to six (6) feet in height, staggered, along the North and West property lines.
- 3) The Applicant shall install and maintain all plantings in the planting plan for the duration of the lease.
- 4) In the event the property is no longer used primarily for photovoltaic solar energy generation, the Applicant is responsible for the removal and disposal expenses of all installed equipment when the lease expires or terminates, whichever comes first. The land will be restored to its preconstruction condition. This work shall be completed within two (2) years after the facility is no longer used for solar energy generation. The decommissioning work shall be completed to the satisfaction of the Town of Uxbridge. The use of the property will be governed by then existing zoning and other applicable laws and regulations.
- 5) This Special Permit, including any attachment or appendices thereto shall be recorded at the Worcester Registry of Deeds within six (6) months or this Special Permit will become null and void. Said time shall not include such time required to pursue or await the determination of an appeal referred to in M.G.L. Chapter 40A, Section 17. The Applicant shall submit evidence of such recording to the Planning Board.
- 6) This Special Permit shall lapse in two (2) years on December 15, 2016, the filing of the Special Permit approval if a substantial use thereof has not commenced, except for good cause, or in the case of a permit for construction, if construction has not begun by such date except for good cause. Said time shall not include such time required to pursue or await the determination of an appeal referred to in M.G.L Chapter 40A, Section 17.
- 7) The Applicant has indicated that the roadway, right-of-way, and all associated infrastructure shall remain privately owned and maintained. There shall be no action to cause acceptance of such infrastructure. The Applicant (or assignees) shall be responsible for maintenance of all ways and infrastructure within the Solar Electrical Generating Facility in perpetuity.
- 8) Map 40, Parcel 3626 and Parcel 3681 may not be further subdivided or reduced in size without a modification to this Special Permit.

SAID SPECIAL PERMIT APPROVAL IS GRANTED PURSUANT TO M.G.L. CHAPTER 40A, SECTION 9. APPEALS FROM THIS DECISION SHALL BE MADE PURSUANT TO MASSACHUSETTS GENERAL LAWS CHAPTER 40A, SECTION 9.

**UXBRIDGE PLANNING BOARD**

  
Joseph Leonardo, Chair

  
James Smith, Vice-Chair

  
Barry Desruisseaux, Clerk

  
Daniel Antonellis, Member

  
Peter Petrillo, Member

  
Date

**ORIGINAL**



**SPECIAL PERMIT DECISION**  
**FY15-06 CLEAN ENERGY COLLECTIVE**  
**62 & 74 Commerce Drive**

I hereby certify that twenty (20) days has elapsed from the date this decision was filed and that no appeal has been filed in this office.

A true copy: ATTEST

  
\_\_\_\_\_  
Town Clerk/Assistant Town Clerk  
(Town Seal Affixed)

January 21, 2015  
Date