

RESOLUTION
Borough of Union Beach
Planning Board
Marina Energy
Application No. 1470
Decided on June 18, 2018
Memorialized on July 25, 2018
Preliminary and Final Major Site Plan Approval with Bulk Variance Relief
Request to Amend Approval to Delete Condition of Prior Approval
Decided on October 31, 2018
Memorialized on November 28, 2018

WHEREAS, Marina Energy (hereinafter the “Applicant”) has made an Application to the Borough of Union Beach Planning Board to remove a condition of an approval for Preliminary and Final Major Site Plan approval with bulk variance relief to construct a solar array on property located at Block 247, Lots 12 &13 and Bloc 249, Lots 1, 1.01 and 2 on the Tax Map of the Borough, in part in the (CC) Corporate Campus Zone and in part in the M-2 Heavy Industrial Zone; and

WHEREAS, a public hearing was conducted on October 31, 2018;

WHEREAS, the Applicant was represented by Emily Givens, Esq.; and

WHEREAS, the Application was deemed complete and evidence of compliance with the notice requirements was presented establishing that the Planning Board has jurisdiction over the Application.

NOW THEREFORE, the Planning Board makes the following findings of fact, based upon evidence presented at its public hearing, at which a record was made.

The Application was bifurcated by consent of the Applicant, and a d(1) use variance was granted at the April 25, 2018 meeting of the Board. That decision was memorialized in a resolution dated May 30, 2018. The applicant then proceeded to secure Preliminary and Final Site Plan approval with bulk variance relief as memorialized in a resolution dated August 29,

2018.

The site consists of two (2) distinct tracts. The first tract (Block 249 Lots 1, 1.01 and 2) is a 113.3 acre tract located on the north side of Jersey Avenue between East Creek and Thorne's Creek, in the Corporate Campus (CC) Zone District. The Applicant secured approval to construct a 7.48 MW DC solar facility consisting of a total of 21,490 solar panels, eight (8) inverters and a G&W Switch Pad on the portion of the property that is located north of the Jersey Avenue right-of-way and the Monmouth County Parks System Henry Hudson Trail. The second tract (Block 247, Lots 12 and 13) is located on the west side of Rose Lane between Route 36 and Jersey Avenue in the M-2 Heavy Industrial Zone District. The Applicant secured approval to construct the solar system interconnection and a new substation on this parcel. Additionally, the Applicant proposes limited site improvements including but not limited to underground and above ground conduits, utility connections, fencing, and grading. The Applicant also secured approval for several bulk variances.

The Applicant has now come back before the Board seeking to remove a condition in the prior resolution of the Board of August 29, 2018 seeking to strike the requirement that the lots known as Block 249, Lots 1, 1.01 and 2 be consolidated. The Applicant has made this request because the property has extensive deed restrictions placed upon it as part of the ongoing remediation of the site dating back at least 15 years if not further, in conjunction with the requirements of the site remediation program administered by the New Jersey Department of Environmental Protection ("NJDEP"). To that end, the Applicant has submitted extensive documentation which was reviewed by the Board attorney and the Board engineer in this regard.

The Applicant, at the public hearing held on this matter, produced two maps Exhibit A-1

a color map and Exhibit A-2 a black and white map showing the areas in the question. Mr. Thomas Buggey of Roux Associates is the licensed site remediation professional (“LSRP”) for IFF. The desire of the Applicant is understandable given the nature and extent of the contamination and the complications that would arise if this matter had to be reopened with the NJDEP. There was no objection to this request by the Board engineer or the attorney to the Board.

There were no members of the public expressing interest in the Application, or desire to ask questions of the Applicant’s witnesses, or expressing an opinion for or against the subject Application.

NOW THEREFORE, the Planning Board makes the following conclusions of law, based upon the findings of fact.

The Application before the Board seeks to remove a condition of an approval for Preliminary and Final Major Site Plan to construct a 7.48 MW DC solar facility consisting of a total of 21,490 solar panels, eight (8) inverters and a G&W Switch Pad and solar system interconnection and a new substation. The condition to be removed would repeal the requirement that three lots be consolidated, as set forth in condition #1 in the August 29, 2018 resolution.

Based upon the Application, plans, reports and testimony placed before the Board, the Board finds that the Applicant has met the requirements of the Municipal Land Use Law, case law and City ordinances so as to grant the relief requested. Pursuant to these criteria, the purposes of the Municipal Land Use Law will be advanced and the benefits of granting the relief requested clearly outweigh the detriments. The relief being sought by the Applicant is rather unique, especially given the circumstances regarding the historical uses of this property and the

need to continue to monitor the residual groundwater contamination as required by the deed restrictions imposed on the property to comply with the requirements of the regulations implemented by the NJDEP under its site remediation program. There is no benefit to be gained, from a land use prospective, by forcing this Applicant to consolidate the lots. By not consolidating the lots it does not change any of the terms of the prior approvals, be it the use variance, bulk variances, or site plan approval as granted and memorialized in the two prior resolutions of this Board. The Board finds based upon the evidence before it that there is no detriment to the granting of this request sought by the Applicant. There is no detriment to the public good since the deed restrictions will remain in place and must be adhered to by IFF. Removing this condition does not result in any impairment to the intent and purpose of the zoning ordinance of the Borough or its master plan.

NOW, THEREFORE, BE IT RESOLVED, by the Planning Board of the Borough of Union Beach that the Application of Marina Energy, on behalf of the owner of the Property, International Flavors and Fragrances, Inc. with respect to Block 247, Lots 12 & 13 and Bloc 249, Lots 1, 1.01 and 2 on the Tax Map of the Borough as follows:

1. The Application for Preliminary and Final Major Site Plan approval is amended pursuant to N.J.S.A. 40:55D-50 to remove the condition requiring the consolidation of Block 249, Lots 1, 1.01 and 2.

IT IS FURTHER RESOLVED that the above approval is subject to the following terms and conditions:

1. All other conditions set forth in the prior resolutions of this Board remain in full force and effect unless superseded in this Resolution.

2. The implementation of the solar development plan shall comply strictly with the plans submitted and approved.
3. The Applicant shall comply with all requirements and any subsequent reports with respect to this Application or subsequent Applications from the Board's professionals.
4. Payment of all fees, costs and escrow due or to become due. Any monies are to be paid within 20 days of said request by the Board Secretary.
5. The Applicant will work with the County to supply supplemental landscaping along the Henry Hudson Trail.
6. The Applicant will modify the landscaping around the switch gear in accordance with the Borough Engineer's requests set forth in his May 22, 2018 review letter.
7. The Applicant will obtain a certification that all taxes have been paid to the date of approval.
8. The Applicant will discuss access with the Borough Fire Official and comply with any of the recommendations of the Borough Fire Official with respect to same.
9. Prior to the issuance of any construction permit, the Applicant shall file with the Board and Construction Official, an affidavit verifying that the Applicant is in receipt of all necessary agency approvals other than the municipal agency having land use jurisdiction over the Application and supply a copy of any approvals received.
10. A pre-construction meeting shall be held by the Applicant and the Borough officials at least one week prior to the start of construction to ensure all permits, approvals and documents are in order.

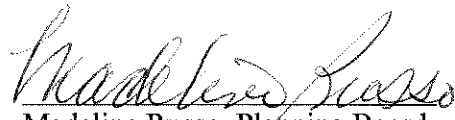
11. The Applicant shall take all appropriate measures to control any dust, dirt and any vermin during construction.

12. The applicant must obtain all necessary approvals, including, but not limited to NJDEP CAFRA, Flood Hazard Area, Freehold Soil Conservation District, Monmouth County Planning Board, MCBOA, BRSA, Borough Fire Official, and Union Beach Board of Health. Copies of all permits or approvals should be submitted.

13. The conditions set forth in the prior resolution of this Board remain in full force and effect unless expressly superseded in the text of this resolution.

14. Subject to all other applicable rules, regulations, ordinances and statutes of the Borough of Union Beach, County of Monmouth, State of New Jersey or any other jurisdiction.

The undersigned secretary certifies the within decision was adopted by this Board on October 31, 2018 and memorialized herein pursuant to N.J.S.A. 40:55D-10(g) on November 28, 2018.


Madeline Russo, Planning Board

FOR: *Mr. Wells Second-Councilman Corallo*

AGAINST: 0

ABSTAIN: 0

Board Member(s) Eligible to Vote:

*Steiner, Wells, Durino Coenars,
Andruzzi, Corallo, Hoadley, Wade*