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Essex North Registry

**DECISION OF THE ANDOVER PLANNING BOARD  
AS A SPECIAL PERMIT GRANTING AUTHORITY**

**ON THE APPLICATION OF**  
1320 South Street  
South Street Energy Storage, LLC

**For a Special Permit for Major Non-Residential Project**  
under Section 9.4.8 of the Andover Zoning Bylaw

Decision: SP22-09

**YES (with conditions)**

A public meeting of the Planning Board was held virtually on February 14, 2023. Present and voting on this matter were Zachary Bergeron, Vincent Chiozzi, Ann Knowles, Neil Magenheim and Morgan von Prella Pecelli.

Pursuant to public notice in the Eagle Tribune, a newspaper of general circulation in the Town of Andover, published on April 21, 2022 and April 28, 2022 and pursuant to notice sent by mail, postage prepaid, to all interested parties under the provisions of Massachusetts General Laws Chapter 40A, a public hearing was convened by the Planning Board (the "Board") on May 10, 2022 for an application filed on April 14, 2022, by Borrego Solar Systems, Inc later changed to South Street Energy Storage, LLC on property owned by Eliates and Denise Mercedat, for a Special Permit for a Major Non-Residential Project. The property is more specifically identified as Assessors Map 184 Lot 3. The public hearing was closed on January 24, 2023.

The proposal is located in the IA zoning district on a 9.88-acre parcel for battery storage of energy for use during seasonal peak demands. There will be four rows of battery storage units housed on concrete pads. The units will be surrounded by a 7-foot-high fence and partially surrounded by an 18-foot-tall sound barrier. Access will be from a 20-foot-wide gravel access road off Moonlight Drive Tewksbury. Stormwater will be handled from two infiltration swales and an infiltration basin. Horsley Witten has conducted a peer review of the stormwater.

The applicant has worked with the Towns of Andover and Tewksbury to provide the information on construction access, decommissioning of the batteries, sound wall and monitoring, agricultural designation, wildlife barrier, water and hydrant construction, emergency response and stormwater. The

1320 South St. Andover, MA

applicant has been able to answer Tewksbury's concerns regarding providing a hydrant, extending of the water main, agreement for water use, access roadway, construction timing, and utilization of a sound barrier with the addition of conditions to ensure compliance with the requests. Conditions include the installation of a hydrant and replacement of the water main with their DPW consultant preparing the water main replacement design and construction oversight at the developer's expense. An intermunicipal agreement is not necessary since the hydrant will be in the Town of Tewksbury. Details regarding the access roadway are included on the plan. To avoid a drawn-out construction period which will increase the length of time construction vehicles are accessing Moonlight Drive, some early construction activities (tree clearing, access road construction, site grading, concrete work, etc.) will be allowed in parallel with the hydrant installation. Construction hours are limited to Monday through Friday 7:00 a.m. to 6:00 p.m.

Concerns were raised by the Town departments, residents and the Planning Board regarding the sound barrier, construction, fire safety, designation of land as an agricultural use, decommissioning of the batteries, fencing and plantings. The applicant was able to meet with the Director of Public Health to answer the concerns raised regarding the sound monitoring and sound wall. A decommissioning surety estimate was submitted by the applicant to be held by the Town. An emergency response guide has been provided and the plans have been updated with monitoring as suggested in the emergency response guide. Wildlife fencing has been suggested to help prevent turtles from accessing the battery area. A condition is suggested to seek guidance from a habitat biologist that fencing is necessary and will not trap the wildlife causing more harm. Tree clearing is kept to the area needed for access and the batteries and the existing tree line will be kept maintaining a buffer from the existing properties on Sunset Circle and Moonlight Drive in Tewksbury.

On a vote of 5 to 0, the Board finds that the proposed use with appropriate conditions will not be unreasonably detrimental to the established or future character of the neighborhood and Town and that such proposed use with appropriate conditions is in harmony with the general purpose and intent of the bylaw. The Board approves with conditions a Special Permit for a Major Non-Residential Project subject to the following conditions:

### CONDITIONS OF THE PERMIT

This special permit is approved subject to the following conditions:

#### General Conditions

1. For purposes of this special permit the project shall encompass and be defined as the structures, parking areas, access roads, utilities, drainage systems, street improvements (if any), signage, landscaping and all other details as shown on the approved plans. The site is identified as a parcel of land situated at 1320 South Street, more specifically shown on Assessor's Map 184 as Lot 3. The developer is identified and shall be defined as South Street Energy Storage, LLC or its assigns. The developer, as defined, shall be subject to all conditions listed hereunder, and shall be directly responsible for construction of the project, including all contractors, subcontractors, vendors, or other parties working on the site and on the project;
2. Except as otherwise provided for in these conditions all work associated with the project, including architecture and landscaping, shall be in strict conformance with the following plans and drawings prepared by New Leaf Energy, which are considered the final plans and may be found in the Planning Division:

- a. T-1, Title Page, last revised 11/29/22;
  - b. C-1.0, Existing Conditions Plan, last revised 11/29/22;
  - c. C-2.0, Tree Clearing Plan, last revised 11/29/22;
  - d. C-3.0, Layout and Materials Plan, last revised 11/29/22;
  - e. C-4.0, Grading and Erosion Control Plan, last revised 11/29/22;
  - f. C-5.0, Civil Details, last revised 11/29/22;
  - g. C-5.1, Civil Details, last revised 11/29/22;
  - h. Stormwater Report, dated 7/27/22;
  - i. Operations & Maintenance Plan, dated 12/28/22;
  - j. Sound Monitoring Plan, dated 08/25/22;
  - k. Powin's Approach to Safety (STACK750E) Product Guide, dated 03/22;
  - l. Powin Lithium-Ion Battery Emergency Response Guide, dated 10/21;
3. If a modified or supplemental plan(s), drawing(s) and document(s), if any, is required by the Planning Board under the conditions of this permit, it shall be submitted to, reviewed and approved by the Board, at a regularly scheduled, or specially scheduled public meeting of which the developer and the abutters will be notified;
  4. Administration and enforcement of this permit and the conditions attached thereto shall be pursuant to the requirements of the Planning Board's Rules Governing Special Permits;
  5. The developer shall notify the Planning Divisions of Andover and Tewksbury within 6 (six) months of any transfer or change in ownership of the project/facility, lease holder, and/or operating company, including but not limited to any sale, transfer or assignment of the permit, other than assignment of the permit to a mortgagee pursuant to financing;

#### Prior to Construction

6. Prior to any construction or demolition activity of any kind on the site or associated with the project, a pre-construction meeting shall be conducted which shall include representatives from (including principle contractors and/or supervisors) the Department of Community Development and Planning, the Department of Public Works, the Police Department, the Fire Department and a representative from the Town of Tewksbury, for purposes of reviewing these conditions and construction schedule. The developer shall provide two sets of the plans and drawings, considered the final plans, described under Condition #2 above to the Planning Department for distribution;
7. Prior to any construction on site, the applicant shall provide to the Planning Department a digital file containing the plan listed in Condition #2 if produced using computer aided drafting and design (CADD) software. The file format shall be in AutoCAD DWG (or ASCII DXF) version 2020 or earlier and Adobe PDF, delivered on a flash drive or shared file AutoCAD file delivery shall be in full model view and individual sheet views. The digital file shall include property boundaries, dimensions, easements, rights-of-way, edge of pavement, edge of sidewalk, edge of water bodies, wetland boundaries, topographic contours, spot elevations, parking areas, utilities including but not limited to water and sewer, road centerline and associated text. Said digital data

shall be delivered in the Massachusetts Coordinate System, North American Datum 1983 and North American Vertical Datum 1988, in U.S. Survey Feet. A review of the digital file shall be made by the Department of Public Works

8. Prior to any construction related activities of any kind on the site or associated with the project, the developer shall submit a proposed phasing schedule to the Inspector of Buildings, Planning Division and the Community Development Department in the Town of Tewksbury to be used as a guide of activities associated with the project;
9. Prior to any construction related activities the developer shall provide a detailed emergency response plan, which shall be reviewed and approved as to form by Public Safety. In order for the Fire Department to develop a pre-fire plan for the site's potential special electrical hazard, the applicant shall provide all necessary detailed information to help formulate the Fire Department's plan. The approved plan shall be incorporated into these conditions of approval;
10. The hauling route for the import and/or export of earth materials and demolition debris shall be approved by the Inspector of Buildings and the Police Safety Officer, with review and consultation by the Town of Tewksbury. All public ways are to be kept clean and free of any dirt or debris associated with hauling activities;
11. Prior to beginning any site work, the applicant shall submit to the Town a construction plan that is subject to the approval of the Planning Director or his designee, the Inspector of Buildings, the Director of Public Health, the Fire Chief or his designee, and the Director of Public Works or his designee. Said construction plan shall include the following information:
  - a. A traffic control plan that includes details as to where trucks and equipment will be staged prior to offloading.
  - b. A plan to address the off-hour arrival of equipment.
  - c. Names and contact information of persons who will be responsible for addressing any complaints during construction; that list shall be at least four names deep.
  - d. How any noise complaints will be investigated and resolved.
  - e. A proposed construction timeline, through the expected startup date.
12. The developer will submit funds to be deposited with the Town to be used for post-construction sound monitoring and review of the data being submitted by the applicant. The amount should be \$30,000.00 and should remain in the town's control until 6 months following 100% operation;
13. Prior to the start of construction, the applicant shall conduct a comprehensive sound study of the neighborhood to establish a baseline of sound levels and submit that study for review by the Health Division. Further monitoring will be required as follows:
  - a. Upon complaint from a neighbor or the Town of Andover or Tewksbury, the construction company will deploy a handheld sound meter to ensure compliance with applicable state regulations and guidelines.
  - b. Sound monitoring equipment shall be in place prior to the commencement of commercial operation and shall continue for 14 days following the start of commercial operation. Raw sound data shall be submitted to the town on a weekly basis.
  - c. A sound monitoring report must be submitted to the Town of Andover within 28 days of the start of operation. If at any time it is noted that allowable levels are exceeded, operations will be stopped until such time as it is determined that the violation has been corrected.

### Throughout and During Construction

14. All activities on the site shall be conducted in a workmanlike manner. All construction equipment supplies and building materials shall be appropriately secured against unauthorized access. Construction debris and litter shall be collected and stored in appropriate containers on the site and shall be removed as promptly and regularly as possible. Appropriate measures (or those directed by the Inspector of Buildings) shall be taken so as to protect adjacent properties from dust and other windblown debris during site preparation and construction;
15. All hauling operations involving the import and export of materials and removal of all debris associated with the solar farm on the site shall be conducted in accordance with a schedule approved by the Inspector of Buildings, with review and consultation by the Town of Tewksbury. Such operations shall be limited to certain days and hours deemed appropriate by the Inspector of Buildings, and no such operations shall be allowed or undertaken at any time deemed to be in conflict with safe pedestrian movement near the site or to cause undue congestion or safety hazards in the adjacent street system;
16. Construction activities on the site including equipment startups, site preparation, excavation, demolition, grading, filling, paving, erection of structures, installation of utilities, and landscaping shall be conducted in accordance with a schedule approved by the Inspector of Buildings. Such operations shall be limited to certain days and hours deemed appropriate by the Inspector of Buildings, and no such operations shall be allowed or undertaken at any time deemed to be in conflict with safe pedestrian movement near the site or to cause undue congestion or safety hazards in the adjacent street system;
17. Burning of construction debris of any kind is strictly prohibited anywhere on site;
18. Any lighting shall be shielded and directed inward toward the site. The Board reserves the right and sole discretion to reduce the wattage of the lights if necessary;
19. Construction of the project, once begun, shall continue through to completion as expeditiously and continuously as possible; however, in the event that construction activities cease on the part of the developer for a period of six (6) months from the date of last observed activity, the Board may convene a public hearing for the purpose of revocation or modification of the permit;
20. Construction vehicles shall not park or idle for extended periods, as defined in MGL Chapter 90 Section 16A, on Moonlight Drive, or any private property without permission of the property owner;
21. A rapid entry system (Knox Box or approved equal) shall be installed to enable access by the Andover and Tewksbury Fire Departments. Installation shall be consistent with Fire Department Regulations and shall be approved;

### Prior to Issuance of a Building Permit

22. Prior to issuance of a building permit, the developer shall provide and maintain a surety in the form of a bond or deposit of money sufficient in the opinion of the board to cover the cost of removal of the facility in the event the town must remove the facility and remediate the site. The

surety is to ensure that the Town may avail itself of the bond in the event the developer fails to decommission the installation. The amount shall include a mechanism for calculating increased removal costs due to inflation. The surety amount shall be \$410,495.00 (Four-Hundred Ten Thousand, Four-Hundred Ninety Five Dollars);

23. Prior to issuance of a building permit, the developer shall obtain a Water Permit from the Tewksbury Department of Public Works. A copy of the permit shall be submitted to the Andover Planning Board;
24. Prior to issuance of a building permit, the developer shall obtain a Street and Sidewalk Opening Permit from the Tewksbury Department of Public Works. A copy of the permit shall be submitted to the Andover Planning Board;
25. Prior to issuance of a building permit, the developer shall submit construction level designs for the dry pipe fire safety system performed and stamped by a fire safety engineer licensed in Massachusetts. Minimum hydrant flow calculations shall be included in this design;
26. Prior to issuance of a building permit, the developer shall conduct soil testing within the footprints of the infiltration practices to confirm soil texture, exfiltration rates, and the elevation of the Estimated Seasonal High Ground Water. Results shall be provided to the Planning Board with confirmation from a Professional Engineer licensed in Massachusetts stating that the design has adequate separation to groundwater and that the exfiltration rate (2.41 iph) used in the design is appropriate. If the results of soil testing necessitate a change to the design exfiltration rate, a statement confirming that the system will operate as originally designed shall be submitted;
27. If the separation from the bottom of the infiltration practices to Estimated Seasonal High Groundwater is found to be less than 4 feet, a mounding analysis shall be performed in accordance with the Massachusetts Stormwater Handbook. The mounding analysis shall be submitted to the Planning Board with confirmation from a Professional Engineer licensed in Massachusetts stating that the design has adequate separation from Estimated Seasonal High Ground Water.
28. A completed, signed SWPPP shall be provided to the Planning Board prior to issuance of a building permit;
29. A signed Illicit Discharge Compliance Statement shall be provided to the Planning Board prior to issuance of a building permit;
30. A completed, signed Operations and Maintenance Plan shall be provided to the Planning Board prior to issuance of a building permit;
31. The land is currently subject to General Laws Chapter 61A. Prior to the issuance of a building permit, the developer must file with the Planning Board and the Inspector of Buildings, documentation showing that subsequent to the date of this decision, the Andover Select Board, or its assignee, voted to waive its right of first refusal pursuant to Chapter 61A section 14;

### Prior to Start of Operations/Occupancy Permit

32. Prior to occupancy of the building as shown on the plans referenced in Condition #2 all parking areas, access driveways, pavement markings, sidewalks and off-site street improvements (if any) shall have been completed and made fully operational;
33. A set of as-built plans for utilities (water, sewer and drainage) both on and off the site shall be submitted to and approved by the Department of Public Works after all installations are complete, and before the issuance of a Certificate of Occupancy;

### Specific to this Special Permit

34. Upon approval of the necessary easements from both MassDOT and National Grid, the developer shall furnish executed copies of said easements to the Planning Division;
35. The developer will consult with a habitat biologist to determine if a wildlife barrier at the base of the chain link fence will do more harm than good to the wildlife. The findings of the habitat biologist will be submitted to the Planning Division. The finding should include a recommendation of whether a wildlife barrier fence should be added to the base of the chain link fence portion of the perimeter fence for the purpose of prohibiting wildlife from entering the facility and potentially getting trapped;
36. Maintenance and upkeep, including snow removal, of the access roadway shall be the responsibility of the developer. Said gravel access drive shall be passable for emergency responders at all time. Failure to comply with this condition shall result in enforcement action by the Inspector of Buildings;
37. Prior to any battery operation, including testing, charging, or discharging, a hydrant shall be installed adjacent to the site, as indicated on the approved plans. The location and operation of the hydrant shall be approved by the Tewksbury Fire Department prior to operation of any battery units;
38. Prior to full operation of the facility, a hydrant flow analysis shall be performed in order to confirm adequate flow is available for the designed dry pipe fire safety system. Hydrant flow analysis timing, locations, and procedures shall be determined in coordination with the Tewksbury Department of Public Works, Tewksbury Fire Department, and/or the fire safety engineer.
39. Prior to full operation of the facility, the developer shall host a training for first responders at a time and location to be coordinated with the Tewksbury and Andover Fire Departments. This training shall cover proper emergency response procedures, access locations, contact information, as well as as-built locations of fire safety equipment such as the fire hydrant, fire department connection for the battery deluge system, knox box locations, and the HMI (Human Machine Interface); a system interface for first responders.

Following the statutory twenty-day appeal period, and in the absence of any appeal, the plan and an instrument containing the foregoing restrictions will be filed in the Registry of Deeds. The applicant is responsible for the costs associated with the Registry filings.

On February 14, 2023, at a public meeting, the Planning Board voted (5-0) to issue the foregoing Special Permit with conditions.

Date: 2/15/23

  
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Zachary Bergeron, Chair  
THE ANDOVER PLANNING BOARD

Essex, ss:

COMMONWEALTH OF MASSACHUSETTS

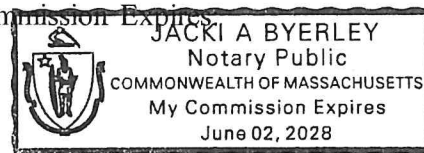
Date: 2/15/23

On this 15 day of February, 2023, by Zachary Bergeron, the authorized agent of the Andover Planning Board, proved to me through satisfactory evidence, to be the person whose name is signed on the preceding or attached document, and who swore or affirmed to me that the documents are truthful and accurate to the best of his knowledge and belief and who acknowledged to me that he signed it voluntarily for its stated purpose and acknowledged the foregoing to be the free act and deed of the Andover Planning Board.

Before me,

  
\_\_\_\_\_  
Jacki A. Byerley, Notary Public

My Commission Expires



CERTIFICATION

I, Austin Simko, Town Clerk of the Town of Andover, Massachusetts, do hereby certify that twenty (20) days have elapsed since this decision of the Andover Planning Board was filed in the Office of the Town Clerk on February 15, 2023 and no appeal has been filed with the Town Clerk.

Date: 3-8-2023

  
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Town Clerk