



TOWN OF HINGHAM

Planning Board

NOTICE OF DECISION SITE PLAN REVIEW

IN THE MATTER OF:

Applicant: Hingham Municipal Light Plant
and
Omni Navitas Holdings LLC
75 Central Street
Boston, MA 02109

Owner: Town of Hingham

Property: Town of Hingham Landfill, 1 Sam Ryder Road, Hingham, MA
(portion of Assessor Map 106, Parcels 3, 4 and 7)

Plan Reference: "Hingham Landfill Solar Project, Permit Application Set, Hingham,
Massachusetts, December 2019", prepared by Tighe & Bond, 8 sheets



SUMMARY OF PROCEEDINGS

This matter came before the Planning Board (the "Board") on the application of Hingham Municipal Light Plant and Omni Navitas Holdings LLC (the "Applicant") for a Site Plan Approval under MGL Chapter 40A, Section 3 and Hingham Zoning Bylaw Section IV-B.6.a for a proposed 396,000 watt solar array to be installed on approximately 2 acres on top of the landfill, at property known as Map 106, Lots 3, 4 & 7, aka the Hobart Street Landfill, on property zoned Official and Open Space.

The Board reviewed the application during duly posted public meetings held on January 11, 2021, February 1, 2021, February 22, 2021 and March 1, 2021, via Zoom as an alternate means of public access pursuant to an Order issued by the Governor of Massachusetts, dated March 12, 2020, Suspending Certain Provisions of the Open Meeting Law. The Board panel consisted of regular members Kevin Ellis, Chair, Judith Sneath, Rita DaSilva, Gordon Carr, and Gary Tondorf-Dick. The Board was supported in its review by Susan Murphy, Special Counsel. John McDonough of Omni Navitis represented the Applicant during the meeting. At the conclusion of the meeting, the Board voted unanimously to grant Site Plan Review approval and grant certain waiver, with conditions set forth below.

Throughout its deliberations, the Board has been mindful of the statements of the Applicant and the comments of the general public, all as made or received at the public meeting.

BACKGROUND AND DISCUSSION

The project site is owned by the Town of Hingham and is a portion of the existing capped landfill at the Town transfer station. The project site is currently under the case, custody and control of the Hingham Municipal Light Plant (HMLP) pursuant to a vote of the 2016 Annual Town Meeting and an Intragovernmental Agreement/License Agreement, dated April 19, 2018, between the Town, acting through the Board of Selectmen and HMLP. Omni Navitas was granted the right to use the project site pursuant to a Sublicense Agreement with HMLP, dated April 24, 2018. Power generated from the facility will be sold to HMLP through a long-term contract, helping HMLP achieve its clean power objectives.

As a solar energy system, the project is governed by MGL Chapter 40A, Section 3 which provides that no zoning by-law shall prohibit or unreasonably regulate the installation of solar energy systems or the building of structures that facilitate the collection of solar energy, except where necessary to protect the public health, safety or welfare. Pursuant to the Hingham Zoning Bylaw, reasonable regulation is determined pursuant to site plan review under Section I-I. This project triggers Site Plan Review under Section IV-B,6.a. of the Zoning Bylaw.

The project is a 396,000 watt solar array located on approximately 2 acres at the top of the landfill. It will consist of 1188 solar panels installed on a steel framed concrete ballasted racking system. It will have a ballasted fence around the perimeter of the array. Since the array will be on a landfill it is subject to a Post-Closing Use Permit from the Massachusetts Department of Environmental Protection (DEP). The DEP permit review will evaluate the impact of the array on the landfill cap and make sure the array does not adversely impact the site drainage.

The initial phase of construction will be the placement of the concrete ballasted racking system and installation of the solar panels. The next phase is the wiring of the solar panels. The final phase will be the placement of electrical equipment and final wiring and installation of the perimeter fence. There will be no regrading or any substantive site work except for the placement of an equipment pad. There will be minimal construction equipment on site. The largest piece of equipment will be a Lull material handler that will bring racking and other equipment to the top of the landfill. The site will be fully fenced for security and to create a screening between the project and the abutting residential neighborhoods.

Upon completion of construction and commencement of operation of the project, traffic to the site will be minimal. Monitoring of the system operation and performance will be done remotely with maintenance requiring at most monthly visits.

FINDINGS AND DECISION

Based on the information submitted and presented during the hearing, and the deliberations and discussions of the Board during the meeting, the Board made the following findings in accordance with the Special Permit Approval Criteria under § I-I, 6. of the By-Law:

- a. Protection of abutting properties against detrimental uses by provision for surface water drainage, fire hydrant locations, sound and site buffers, and preservation of views, light and air, and protection of abutting properties from negative impacts from artificial outdoor site lighting;**

The proposed project is located at the top of the capped landfill at the Town of Hingham transfer station and will be surrounded by a black chain link fence. The applicant has provided visual representations of the expected view of the project from the residential dwellings located at Ridgewood Crossing to demonstrate that there will be minimal visual impact from the solar panel installation on abutting residences. The applicant also submitted documentation related to potential glare, noise, and technical impacts of the project and, based on the submitted evidence, the impacts, if any, from these sources appear to be de minimis. As there will be no permanently illuminated lighting at the site, the waiver of submission of a site lighting plan is justified. In addition, the applicant has submitted an Operation and Management Plan governing ongoing maintenance of the project. A look-back meeting with the Applicant will be required to confirm that the project is operating as anticipated without adverse impacts.

- b. Convenience and safety of vehicular and pedestrian movement within the site and on adjacent streets; the location of driveway openings in relation to traffic or to adjacent streets, taking account of grades, sight distances and distances between such driveway entrances, exits and the nearest existing street or highway intersections; sufficiency of access for service, utility and emergency vehicles;**

The proposed project will use the existing entrances to the transfer station and, post-construction, will generate minimal traffic to the site. Due to the limited traffic impacts of the project, the waiver requested by the Applicant from the site plan review requirement that a traffic impact study be submitted is justified.

- c. Adequacy of the arrangement of parking, loading spaces and traffic patterns in relation to the proposed uses of the premises; compliance with the off-street parking requirements of this By-Law;**

No permanent parking spaces are required in connection with the project. Traffic patterns will be managed as provided above.

- d. Adequacy of open space and setbacks, including adequacy of landscaping of such areas;**

The project complies with all setbacks. In addition, the project site will be fenced from view from abutters due to its location at the top of the capped landfill and need to follow state regulations governing landfill caps, no landscaping is proposed.

- e. Adequacy of the methods of disposal of refuse and other wastes during construction and resulting from the uses permitted on the site including, but not limited to, discarded building materials, concrete truck wash out, chemicals, litter and sanitary wastes; provided, that discharge of refuse or other wastes into the municipal storm water system shall be expressly prohibited;**

During project construction the applicant shall be required to secure all building materials and debris and to coordinate with the superintendent of public works to ensure no adverse impacts from construction activities.

- f. Prevention or mitigation of adverse impacts on the Town's resources, including, without limitation, water supply, wastewater facilities, energy and public works and public safety resources;**

The proposed project will not have an adverse impact on the Town's resources and is intended to benefit Town resources as power generated from the facility will be sold to Hingham Municipal Lighting Plant through a long-term contract, helping HMLP achieve its clean power objectives.

- g. Assurance of positive storm water drainage and snow-melt run-off from buildings, driveways and from all parking and loading areas on the site, and prevention of erosion, sedimentation and storm water pollution and management problems through site design and erosion controls in accordance with the most current versions of the Massachusetts Department of Environmental Protection's Storm water Management Policy and Standards including the Massachusetts Storm water Handbook, the Massachusetts Erosion and Sediment Control Guidelines and, if applicable, additional requirements under the Town of Hingham MS4 Permit for projects that disturb more than one acre and discharge to the Town's municipal storm water;**

The project is subject to a Post-Closing Use Permit (PCUP) to be issued by the Massachusetts Department of Environmental Protection (MassDEP). The project is located on the landfill which is subject to a Stormwater Management Plan approved by MassDEP during the initial closing and capping of the landfill. The review by MassDEP of the project will include a review of the Stormwater Management and the impact of the project on the existing Stormwater Management Plan.

- h. Assurance that appropriate Best Management Practices have been incorporated to minimize the amount of disturbed areas and protect natural resources, stabilize sites when projects are complete or operations have temporarily ceased, protect slopes on the construction site, protect storm drain inlets and armor all newly constructed outlets, install perimeter controls at the site, stabilize construction site entrances and exits to prevent off-site tracking of material, and to provide for regular inspection of storm water controls at consistent intervals;**

As noted above, impact of the project on the existing Stormwater Management Plan will be reviewed by MassDEP. Submittal to the Town of a copy of the Stormwater Pollution Prevention Plan (SWPPP) will be required.

- i. Protection of natural and historic features including minimizing: the volume of cut and fill, the number of removed trees of 6 inches caliper or larger, the removal of stone walls, and the obstruction of scenic views from publicly accessible locations;**

The project site is at the top of the capped landfill and therefore these criteria are not applicable to the project.

- j. Minimizing unreasonable departure from the character and scale of buildings in the vicinity or as previously existing on or approved for the site.**

The solar project does not include any buildings. The solar panel structures to be installed will be screened from residential neighborhoods in the vicinity by a fence to minimize its visual impact.

Decision

Upon motion of Kevin Ellis and second of Judith Sneath, the Board voted unanimously to grant Site Plan Approval under Section I-H and Section IV.B.6.a of the Zoning-Bylaw for the construction of a 396,000-watt solar array to be installed on approximately 2 acres on top of the landfill, at the property known as Map 106, Lots 3, 4 & 7, aka the Hobart Street Landfill, zoned Official and Open Space, with the following waivers and subject to the following conditions:

Waivers:

1. Section I-I.4.f (submission of a traffic analysis)
2. Section I-I.4.i (submission of a site lighting plan)

1. Pre-Construction Conditions:

- (a) Prior to commencement of any work on the site (including staging), the Applicant shall undertake the following:
 - (i) Submit a construction schedule and a proposed truck route and delivery schedule to the Planning Board, Building Commissioner, Department of Public Works and the Hingham Police Department for review. The proposed truck route and delivery schedule shall be subject to approval of the Hingham Police Department. Applicant shall use reasonable efforts to schedule deliveries during days or times that the transfer station is closed to the public or during off-peak times of public use.
 - (ii) Meet with the Superintendent of the Department of Public Works or his designees to coordinate applicant's construction schedule with transfer station operations to avoid conflicts between the two operations.
- (b) SWPPP: The Applicant shall deliver a Stormwater Pollution Prevention Plan for review by the Planning Board or its designee not less than three weeks prior to the start of any work.
- (c) Pre-Construction Meeting. A pre-construction review meeting with Town staff for inspection of the erosion control installation and marked limits of work shall be required.

2. Construction Conditions:

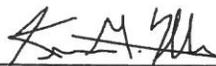
- (a) A copy of this decision shall be kept on the work site at all times during construction. The Applicant is responsible for providing a copy to all contractors and subcontractors, for informing them of its requirements, and for ensuring compliance with the conditions.
- (b) Construction operations shall be undertaken in a manner consistent with Applicant's coordination efforts with the operations of the Transfer Station, the construction schedule and the truck route and delivery schedule.
- (c) All deliveries of construction materials and equipment shall be made only on Monday through Friday no earlier than 7:00 am and not later than 5:00 pm. Except for emergency conditions, construction operations shall be limited to the hours of 7:00 am to 5:00 pm Monday through Friday. The Building Department and Police Department shall be notified promptly of any such emergency conditions. Hours of operation may be enforced by the Police Department. Throughout construction, the Applicant shall comply with all local, state, and federal laws regarding noise, vibration, dust and blocking of roadways.

- (d) Any proposed construction trailer on the project site must be permitted by the Building Commissioner.
 - (e) All construction materials and debris shall be kept in a secured manner at all times to prevent debris from falling or being carried by wind outside of the limits of work as depicted on the site plan.
3. **Inspections.** Inspections shall be required during construction of all elements of the project related to or affecting erosion control during construction.
 4. **As-Built Plan Requirement.** Upon project completion an as-built plan must be submitted to the Building Commissioner, and in no event later than two years after the completion of construction. In addition to such other requirements as are imposed by the Building Commissioner, the as-built plan must demonstrate substantial conformance with the stormwater system design and performance standards of the approved project plans.
 5. **Twelve-Month Lookback.** The Applicant shall meet with the Planning Board on or around the date that is twelve months from the completion of construction of the project, or earlier if requested by the Building Commissioner, to review the operations of the project with respect to testimony by the Applicant to the Board regarding visual and noise impacts, and, if any significant adverse impacts have occurred, to determine what mitigation can be reasonably implemented.
 6. **Maintenance.** The Applicant shall maintain the project in good condition, and in accordance with the Operation and Management Plan submitted with the application for the project.
 7. **Decommissioning of the Project.** Once the project has reached the end of its useful life or has been abandoned shall it be removed. The owner or operator shall physically remove the installation no more than 180 days after the date of discontinued operations. The owner or operator shall notify the Building Commissioner by certified mail no less than 60 days prior to the proposed date of discontinued operations and plans for removal. Decommissioning shall be undertaken in accordance with the Hobart Street Landfill Solar Facility Decommissioning Plan, dated January 2021, and such other state permits and regulations, including the MassDEP Post-Closure Use Permit, for the site.
 8. **Abandonment.** Absent notice of a proposed date of decommissioning, the project shall be considered abandoned when the facility fails to operate for more than one year without written consent of the Planning Board.
 9. **Binding Conditions.** The conditions set forth herein shall be binding on the Applicant, its successors and assigns, including, upon the expiration or earlier termination of the any lease or sublicense agreement between the Hingham Municipal Light Plant (HMLP) and the Applicant for the use of the site for this project, the HMLP.

[Executed on following page]

SPR-Omni Navitis Holdings, LLC

For the Planning Board,



Kevin Ellis, Chair
March 22, 2021

In favor: Carr, DaSilva, Ellis, Sneath, Tondorf-Dick
Opposed: None