

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

**ON THE APPLICATION OF**  
1350 & 1350R South Street  
By: SunGen Mark Andover, LLC

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

Decision: SP11-02

**YES (with conditions)**

A public meeting of the Planning Board was held on June 14, 2011 in the Third Floor Conference Room of the Town Office Building, Bartlet Street, Andover, MA. Present and voting on this matter were Joan Duff, Linn Anderson, Mark Yanowitz, John McDonnell and James Doherty.

Pursuant to public notice in the Andover Townsman, a newspaper of general circulation in the Town of Andover, published on May 26, 2011 and June 2, 2011 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 June 14, 2011, for an application filed on May 20, 2011 by SunGen Mark Andover, LLC on property owned by JW South Street Realty Trust for a Special Permit for Major Non-Residential Project. The property is more specifically identified as Lots 1 & 2 on Assessors Map 184. The public hearing was closed on July 12, 2011. The aforementioned members present throughout.

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The Board finds that the proposed use 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 the application of SunGen Mark Andover, LLC on property owned by JW South Street Realty Trust for a Special Permit for a Major Non-Residential Project subject to the following 25 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 1350 & 1350R South Street, more specifically shown on Assessor's Map 184 as Lots 1 & 2. The developer is identified and shall be defined as SunGen Mark Andover, 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 Talmage Solar Engineering, Inc, which are considered the final plans and may be found in the Planning Division:
  - a. Cover Sheet, dated 5/19/ 2011 revised, as prepared by Talmage Solar Engineering, Inc;
  - b. Boundary Survey, 3/24/11, as prepared by Control Point Associates, Inc.;
  - c. Sheet 3, Proposed Conditions, dated 6/21/2011 revised, as prepared by Talmage Solar Engineering, Inc;
  - d. Sheet 4, Site Plan (A), dated 6/21/2011 revised, as prepared by Talmage Solar Engineering, Inc;
  - e. Sheet 5, Site Plan (B), dated 6/21/2011 revised, as prepared by Talmage Solar Engineering, Inc;
  - f. Sheet 6, Site Plan (C), dated 6/21/2011 revised, as prepared by Talmage Solar Engineering, Inc;
  - g. Sheet 7, Site Plan (F), dated 6/21/2011 revised, as prepared by Talmage Solar Engineering, Inc;
  - h. Sheet 8, Site Plan (G), dated 6/21/2011 revised, as prepared by Talmage Solar Engineering, Inc;

- i. Sheet 9, Driveway Plan & Profile and Site Details, dated 6/21/2011 revised, as prepared by Talmage Solar Engineering, Inc;
  - j. Sheet S2, Steel Frame & Details, dated 2/17/2010 (Informational Purposes Only)
  - k. Sheet 11, Landscaping Plan, dated 5/19/2011 revised, as prepared by Talmage Solar Engineering, Inc;
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;

Prior to Construction

5. 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 SunGen Mark Andover, LLC (including principle contractors and/or supervisors), the Department of Community Development and Planning, the Department of Public Works, the Police Department and the Fire Department, for purposes of reviewing these conditions and construction schedule;
6. 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 Town of Tewksbury to be used as a guide of activities associated with the project;
7. 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;
8. Prior to any construction related activities on-site, the applicant shall have petitioned and received all necessary approvals from the Conservation Commission, with a copy of the Order of Conditions being filed with the Planning Department. If the Conservation Commission requires any changes to the approved plan as identified in Condition 2, the applicant shall be required to petition the Planning Board for a modification;

9. The Andover Department of Public Works shall be notified prior to any construction activities, including connecting to utilities, excavation, and/or grading, and shall be given full opportunity to review plans and monitor such activities when applicable;
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;

Throughout and During Construction

11. 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;
12. 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;
13. 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;
14. Burning of construction debris of any kind is strictly prohibited anywhere on site;
15. 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;
16. 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;

17. This special permit shall expire two (2) years from the date that this decision has been recorded in the North Essex Registry of Deeds unless substantially exercised by the applicant prior to that date. The Board may consider extending the special permit upon written request of the applicant provided that such request has been received and a public hearing noticed prior to the expiration of the original permit. In considering a request for extension the Board may take into account conditions on the site and in the neighborhood at the time the request is made and may impose such additional conditions deemed appropriate to mitigate any adverse impacts of the development;
18. Prior to the recording of this permit at the Registry the developer shall provide at least three (3) sets of the plans and drawings, considered the final plans, described under Condition 2 above to the Planning Department for distribution.

Specific to this Special Permit

19. Upon approval of the necessary off-site solar easements from both MassDOT and National Grid, the developer shall furnish executed copies of said easements to the Planning Division. The developer shall also provide a copy of the final agreed upon Shading Management Plan, encompassing the same properties for the Planning Departments records;
20. Prior to any construction related activities, the mechanism by which all existing and proposed access gates are to be secured, shall be reviewed and approved by Public Safety with review and consultation by the Town of Tewksbury;
21. Maintenance and upkeep, including snow removal, of the 18' wide gravel 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;
22. Prior to any construction related activities, the developer shall provide the Fire Department with a plan depicting the final base material that will be used to cover the site beneath the array (i.e. grass or pea gravel) for review and approval. Combustible materials shall not be utilized for ground cover;
23. The applicant has indicated that pursuant to its Natural Heritage Permit, it will be executing a conservation restriction on a portion of the northerly property. Said restriction shall provide for public pedestrian access over such land to the extent allowed by the Mass Division of Fisheries & Wildlife. The applicant shall provide a copy of the recorded Conservation Restriction to the Planning Board within 14 days of its date of recordation at the Essex North Registry of Deeds;

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 July 12, 2011, at a regularly scheduled public meeting, the Andover Planning Board voted (5-0) to issue the foregoing Special Permit for a Major Non-Residential Project.

Date: 7/29/11

Joan Duff  
Joan Duff, Chair

Essex, ss

COMMONWEALTH OF MASSACHUSETTS

Date: 7/25/11

On this 25<sup>th</sup> day of July, 2011, by Joan Duff, 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 her knowledge and belief and who acknowledged to me that she 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 Byerley  
Jacki Byerley, Notary Public

My commission Expires: July 4, 2014

JACKI A. BYERLEY  
NOTARY PUBLIC  
My commission expires July 4, 2014

CERTIFICATION

I, LAWRENCE J. MURPHY, 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 my office on July 25, 2011 and no appeal against said decision has been filed, OR THIS IS AN APPEAL HAS BEEN FILED IS HAS BEEN DISMISSED

Date: April 16, 2013

Lawrence Murphy  
Lawrence Murphy, Town Clerk