

## **MINUTES OF THE MONTAGUE TOWNSHIP LAND USE BOARD REGULAR MEETING HELD APRIL 13, 2023**

Open public meeting statement: The meeting was called to Order by the Board Chairman, Glen Plotsky, and a statement was made that the meeting was duly advertised and met all of the requirements of the Open Public Meetings Act. Those present were: George Zitone, James Ledonne, Jody Case Kennedy, Glenn Barbagallo, Steve Guida, Katherine Snyder, Mark Utter, William Dickson, Gene Crawford, Glen Plotsky, William Haggerty, the board attorney, and Thomas Knutelsky, the board engineer.

Those absent were: George Hutnick.

### **FLAG SALUTE**

### **MINUTES:**

The Minutes of the March 9, 2023 Land Use Board Regular Meeting were reviewed. A Motion was made by Mr. Guida and seconded by Mr. Barbagallo to approve the March 9, 2023 Regular Meeting Minutes. Roll Call: Mr. Zitone, yes; Mr. Ledonne, yes; Ms. Kennedy, yes; Mr. Barbagallo, yes; Mr. Guida, yes; Mrs. Snyder, yes; Mr. Utter, abstain, Mr. Dickson, yes, Ms. Crawford, abstain; and Glen Plotsky, yes. The Motion was carried.

### **CONCEPT APPLICATIONS:**

#### **Big A Montague, LLC - Purchase of Tri-State Mall – 10 Route 23, Montague, NJ – Re-development presentation:**

Appearing before the board was Vince Belgiovine. This property is zoned retail, commercial and industrial. This property consists of 3 lots. They would like to leave most of the existing shopping center as it is (the area where Shoprite and TJ Max existed). They would like to convert a 40,000 square foot footprint of the old Shoprite and go up 3 stories with a self-storage. The rest of the center they are looking for a deal with a supermarket and a couple of restaurants or maybe a pharmacy, whoever they could get to come. The other side of the shopping center, they would like to knock it down and put a 110 room hotel. The quality is like an IHG Hotel. In the middle of the lot they would like to put a fueling station. At the present time they do not know who it is going to be, but it would be like a Wawa or Quick Check, someone of this caliber. On the other 2 lots, they are proposing a 320,000 square foot industrial building on one lot and an 89,000 square foot industrial building on the other lot. The access for the industrial building would be from Route 23 next to a single family home that currently exists. It will not affect the retail or any portion of Route 23 where the traffic gets backed up. He indicated that the elevation difference from entrance from the Tri State Mall to the industrial building is approximately 67 feet.

He further indicated that they plan to change the entrance to the Tri State Mall as it is now. They own all the way to the Shell Station. They are obligated to give Chase Bank a few parking spaces by easement. They would like to shift the entire entrance 15 to 20 feet and give Chase Bank the parking spaces within the Chase Bank location. Therefore, in the future if they want to buy it from him they can.

Mr. Haggerty indicated that when the Shoprite was active, the traffic at this location was very difficult. Mr. Belgiovine indicated that they would like to put another traffic light at this location. They are also interested in putting a traffic light at the entrance of the industrial building. He feels that it is needed. Mr. Knutelsky indicated that any development on this site would be subject to DOT approval. They are creating an access point and modifying the other access point which be under the jurisdiction of DOT. There are warrants that are specific criteria for placement of traffic signals. Whether the applicant wants to put one there or not, the DOT is going to go through their checklist and see if it is deserving of a traffic signal. If it is not, they do not want to have a traffic signal on a State Highway if they can avoid having a traffic signal. He does agree that there are turning movements that will need to be looked at.

**CONCEPT APPLICATIONS CONT.:**

**Big A Montague, LLC - Purchase of Tri-State Mall – 10 Route 23, Montague, NJ – Re-development presentation cont.:**

Mr. Knutelsky indicated that the placement of the large warehouse off to the East is a very steep slope and very mountainous terrain. He indicated that there will be a lot of earthwork and tree removal. He further stated that there is a 300' riparian buffer for the stream across Route 23. There do not appear to be wetlands on the site according to the DEP website. Mr. Belgiovine indicated that there are some wetland areas. Mr. Knutelsky indicated that they are not wetlands, they are riparian buffers for the stream corridor. The lot, itself, and up into the hill, according to the DEP mapping, there is not a lot of environmental regulated lands there. It is just along the Route 23 corridor. The 2 biggest items that he can see just based upon the concept is the grading—cuts and fills— and transporting material in and out of the site. There is also the idea of stormwater management. This will be a major development project. There is going to be a need for a great amount of stormwater management basins and infrastructure here in order to support the development. Because the low point is where the regulated lands are. So when you discharge into that, they will have to make sure the water is clean. The other thing, he does not know how it was created is parking. The different uses that are being proposed, a restaurant, a gas station, storage warehouse and hotel will require parking. He does not know if there is sufficient parking for all these uses. The use may be allowed, but they may need variances for parking. The direction of travel, he is assuming they are trying to get to Route 84 and not going through the Township of Montague to get South. There is access through the site on the North side for truck traffic as well so this needs to be accommodated. Mr. Belgiovine indicated that they have an easement that goes through the Shell Station. He wants to use this as an emergency. He also indicated that he is into robotics parking. They park cars with robots. So if they need to put in an elevated parking lot, this will not be a problem.

Mr. Plotsky indicated that he was concerned with the truck entrance near Clove Road, He feels that a light would definitely be needed. He was also concerned about the left hand turn into the industrial building on Route 23. Several members were concerned with the traffic coming down Route 23. The board was concerned that the trucks who need to go south will be traveling down River Road. A question was asked as to how many stories are they proposing on the hotel. Mr. Belgiovine indicated that the hotel would be 4 stories. Board members were concerned about fire equipment with a 4 story hotel. Mr. Belgiovine indicated that he could not do 3 stories because you do not get enough rooms to justify the investment. A board member indicated that there is a million-gallon storage water tank behind Shoprite. Mr. Knutelsky indicated it is right in the middle of the proposed warehouse. Mr. Belgiovine indicated that this will have to be replaced. Some board members believe that that tank was for fire suppression system. Mr. Belgiovine indicated that there are different types of systems to eliminate the water tanks inside the building where you do not need the water tank. Mr. Belgiovine indicated that he would not mind buying the township a fire truck if they are not equipped for a 4 story building. He also indicated that the warehouses will have a 45-foot-high ceiling.

A lengthy discussion was held with regard to the truck traffic and entrance and exists for the industrial portion of the site plan. It was suggested that he contact the Assisted Living Facility in NY for access to the industrial lot in the rear which would solve a lot of the traffic issues on Route 23.

**CARRIED APPLICATIONS:**

**Ormat Montague Energy Storage – LUB 23-01 – Block 39, Lot 34 – US Highway Route 206 – Preliminary & Final Site Plan and Use Variance:**

Mr. Utter stepped down from this application as a surrounding property owner. Mr. Zitone and Mr. Ledonne also stepped down from this application because this is a Use Variance application and they are not a Class IV member.

Appearing before the board was Scott Rekant, attorney for the applicant. He indicated that this is an application for a battery energy storage system that will be on the subject property behind Scotty's Automotive. There is already a cell tower there. They are proposing to put the battery energy storage system behind the cell tower on the back side of the property.

Also appearing before the board was Cary Drake, Director of Sales and Business Development on the east coast for the applicant, Derrick Ranger, the applicant's engineer, and Elizabeth McManus, the applicant's planner. Mr. Drake, Mr. Ranger and Ms. McManus were sworn in by the board attorney. Mr. Ranger and Ms. McManus gave their qualifications to the board and were accepted as expert witnesses.

Appearing before the board was Cary Drake. Mr. Drake indicated that he has an electrical engineering background. Ormat is a company developing geothermo plants around the world at a utility scale. They acquired the company Viridity in 2017 to expand into the energy storage space. The main reason these systems are being deployed is help stabilize the grid to the power system we all use. They keep the voltage constant. They help keep the frequency constant, which is something we all take for granted when you turn the light on and the power is there at the right voltage and the frequency is not all over the place disturbing any electrical equipment you may have in your house. In short what the batteries can accomplish is help smooth out, it is like a shock absorber in a way for all these variations occurring electrically on the grid every few seconds. As the demand for power varies all this has to be regulated in real time because until these large batteries come along, there is really no way to store electricity. As these are being deployed across the Country to help stabilize the grid due to variations, it is a better was for the utilities to manage their power system. In this case, instead the utilities owning it, they allow a third party ownership in these systems. This is why they are before the board as an independent power provider.

Mr. Rekant questioned Mr. Drake, while this is not an emergency backup system, how large is the system and if it were going to be used as a power source, how many houses could it power and for how long. Mr. Drake indicated that this system is rated, power wise, to support tens of thousands of homes. The duration of the batteries are varied depending on where in the country you are putting them. The duration of this system would last a full output about an hour. The purpose of this system is not being used for battery backup. It is there to keep the frequency consistent. There are other systems in California and Texas where they are designed to run 4 hours. In 2018 the Governor of New Jersey passed a Clean Energy Act. This is in support of the mandates of that act.

Mr. Drake indicated that the units will be stored in rear of the property. The units will look like refrigeration units, HVAC units. It will look similar to a substation. There are a total of 6 systems to add up to the 20 megawatts capabilities. These are top of the line Samsung lithium-ion. These systems are all UL approved and vetted by the utility and the local inspectors as well. The reason they chose this site is because it was already in use with commercial use and a cell tower. They did not want to disturb fresh farmland. This property has the gravel base and they will not have to disturb fresh land. They are leasing the portion of the property from the owner. The other reason is that the power line on this road is sufficient for this system as

**CARRIED APPLICATIONS CONT.:**

**Ormat Montague Energy Storage – LUB 23-01 – Block 39, Lot 34 – US Highway Route 206 – Preliminary & Final Site Plan and Use Variance cont.:**

well. There are a few other systems in the State of New Jersey. They are currently before the boards in 2 other townships in the state.

A Board member questioned Mr. Drake as to what type of fire suppression system they will be using. Mr. Drake indicated that there will be 2 systems within the enclosures. The first one is called an injection system for the batteries themselves. That is a clean agent suppressant. There is a second system for an inverter and the other utility equipment. They also use a clean agent as a suppressant. One is 3M Novak 1230 and the other is FE 25. It is there to detect any smoke and overheating. Mrs. Snyder questioned if these were the same type of battery that are in the Tesla cars that burn up and you can't stop them. Mr. Drake indicated that it is lithium-ion, but they are not the same as what is in the Tesla vehicles. This is why he pointed out that the manufacturer is Samsung. A lot of this has to do with the way they are packaged. The fires that the board members spoke of are packaged closer, denser together. He indicated that it is very rare that these would catch fire for a number of reasons. The first is the way the systems are enclosed. It is not a mobil application. They are enclosed in a concrete and steel enclosures and monitored 24/7 to keep the temperatures in certain ranges. They give training to the fire department, walk through the site and explain how to deal with emergency situations if they do occur. Ms. Crawford questioned if they have had any fires in their units. Mr. Drake indicated that they have not. Mr. Barbagallo questioned the life span of the battery. Mr. Drake indicated that typically 10 to 20 years it depends on how they are operated.

Mr. Haggerty questioned if there will be personnel coming to site and how will this operate once it is completed. Mr. Drake indicated that it does not need a high frequency of visits, maybe once a month type of thing for low maintenance. Most of this is monitored remotely. Some things need to be checked physically.

Mr. Barbagallo questioned that the containers that the batteries are stored in, are they tight containers if the batteries should leak or something to that effect, would it be contained in the unit. He understands that batteries are highly toxic. Mr. Drake said yes, that is why they are 95/40 certification. They are concrete and steel combination. There is no liquid per se in these batteries.

Mr. Rekant questioned Mr. Drake in training with the fire department on these systems, is there active firefighting that goes on if there is a problem. Mr. Drake indicated that it is recommended a lot of times with these fires, the fire department is really there to prevent any spreading of the fire. Basically, it should burn out within the enclosed area is the way to treat these types of fires. You do not want to open up the doors of something that has already started burning, this is where bad things happen. Mr. Dickson questioned Mr. Drake as to the timeframe of one of these fires. Mr. Rekant indicated that their batteries do not burn, so they do not know.

Mr. Rekant questioned Mr. Drake as to how the site is secure. Mr. Drake indicated that there will be chain link around the entire site and in the back is solid acoustic wall with the ability to light at night. There are options on the lighting whether they are censored or on dusk to dawn. The last time he spoke internally, it is probably just better to have them when someone comes rather than leave them on all night. There are night vision 2 to 6 cameras as well. The enclosures are all locked. If someone jumps the fence, they will still not be able to get into the building. Mr. Rekant indicated that the fence is 6'. The back sound wall is 10' which they will

**CARRIED APPLICATIONS CONT.:**

**Ormat Montague Energy Storage – LUB 23-01 – Block 39, Lot 34 – US Highway Route 206 – Preliminary & Final Site Plan and Use Variance cont.:**

need a variance for. He further indicated that on their first project it was basically a key lock and a specialty lock, which the fire department would have the appropriate keys. They have since moved to another system which he asked Mr. Drake to explain. Mr. Drake indicated that it is a program to allow people to access it. It could have a full time access for the fire department with one code. Mr. Knutelsky recommended that these discussions about the fire department with regard to training and codes, should be a condition of approval.

Mr. Knutelsky indicated from the description of the site, there is going to be battery modules in concrete and steel enclosures throughout the fenced in leased area. The unit will be on a stone or gravel surface. Is there any other flammable material that is within the enclosure that is affected by any fire that might happen and with regard to the concrete enclosures are those concrete enclosures vented? Mr. Drake indicated that there are vents. Mr. Rekant submitted to the board Exhibit "A-1" which is a photograph of the Andover facility. The Exhibit is labeled "Aerial of Andover BESS during battery installation". He also submitted Exhibit "A-2" which is a photograph of the Andover facility completed. The exhibit is labeled "Andover BESS - construction completed". Mr. Rekant submitted Exhibit "A-3" which is a photograph of the Howell facility. The exhibit is labeled "Aerial of Howell BESS". Mr. Haggerty questioned if there is any noise that is produced during this operation. Mr. Drake indicated that the noise is the HVAC that is cooling the boxes, but they meet all of the state noise code. Mr. Rekant indicated that there was an independent study done for that as well. This was submitted as part of the application. The enclosures are partly concrete and steel on a concrete slab. The area around the units are gravel. Mr. Haggerty questioned if the units consistently operate or is it on specific occasions or demand. Mr. Drake indicated that these systems can do so many things. This system keeps the frequency consistent which is every 2 to 4 seconds. What happens is the grid operator is monitoring it all the time. Their company communicates with the grid operators in real time and they will instruct the battery whether they need a discharge or charge. It is going back and forth all the time. Mr. Knutelsky asked if there is a power outage in the grid, do the batteries automatically cut off from supplying into the grid. Mr. Drake indicated that they do shut off. Mr. Knutelsky asked what happens to the monitoring and 24-hour security if the grid shuts down. Mr. Drake indicated that there is a separate UPS in there as well just like you have for your data centers, they can run an extended period if there is a grid outage. Mr. Knutelsky indicated that with regard to noise, he recommends upon completion of the project, that when the site is running and operating, that there be a separate field study done as part of the noise issue. The study submitted with the application is based on the manufacturer's study done.

Mr. Barbagallo questioned what is the benefit to Montague Township. Mr. Drake indicated that this will be addressed by another professional. However, he indicated in general just having a stable grid indirectly is a benefit. As more of the solar systems are put into the grid, as the state tries to go more and more towards renewables, the need for the battery is more prevalent.

Appearing before the board was the applicant's engineer, Derrick Ranger. Mr. Ranger submitted to the board Exhibit "A-4" which was an Overall Area Map dated March 14, 2023. Mr. Ranger indicated that the exhibit shows 200' offset of the property line. The property is in the Route 206 Center District. The property is comprised of 164,888 square feet or 3.79 acres. To the north of the lot is a mix of commercial facilities. There is a fuel supply company to the north. There is a mixed commercial use to the east of that. To the south of the property is a vet clinic. The west is a residential property, which is 1,100 feet away from this property line.

**CARRIED APPLICATIONS CONT.:**

**Ormat Montague Energy Storage – LUB 23-01 – Block 39, Lot 34 – US Highway Route 206 – Preliminary & Final Site Plan and Use Variance cont.:**

The existing site contains a masonry building in the southeast corner. The building is 83.6' from the front property line and 62.3' from the southern property line. There is a monopole cell tower in the central portion of the site with essential equipment. This is located in a fenced in compound. There are multiple gravel drives and parking areas throughout the site. The property currently has 3 existing uses: Auto repair, auto sales and a cellular tower. Access to the site is provided along Route 206 with 2 paved ingress and egress access points along the frontage. There is one in the center of the lot and one along the northern edge of the property. There is also Phillips Lane, which is a private road which runs from east to west to the residences in the area. The site is served by a septic system on the central portion of the site. There is no proposed impact to the septic system or the well with this development.

Mr. Rekant questioned how close to the rear property line is the fence enclosure and the sound wall. Mr. Ranger submitted to the board Exhibit "A-5" which is the Viridity/Montague Exhibit. This is an aerial image with the site plan overlay of the develop proposed features in color. They are proposing to construct a 20 megawatt battery energy storage facility in the rear portion of the site. The facility will be leased. The development runs along the fence line. The proposed facility is comprised of 3 equipment rows; each cabinet or unit is to be constructed on individual concrete pads. The two rows closest to the rear will each have 6 main cabinets for the battery equipment constructed on an 8' x 24' concrete pads. There are 6 pads for the transformer and inverter and those are constructed on 8.5' x 20' pads. The row closest to the frontage is for equipment storage, equipment storage pad and 3 auxiliary equipment pad. They are proposing 6' tall chain-link fences on 3 sides of the site. The chain-link fence will connect to the sound acoustical fence along the rear. The acoustical fence is proposed at 10' in height and is constructed out of wood posts every 8.5' with exterior rated plywood, siding on either side of the fence. The fence has been designed and modeled to insure the site meets all NJ noise regulations. The acoustical fence is 23' from the rear property line and runs parallel to length of the facility. Access to the facility will be through the 16' access gate in the front on the north of the facility and a gate on the southern end of the facility. The entire area within the fenced in area is proposed to be gravel, excluding the concrete pads. This is to provide adequate access to all the equipment within the facility. They are not proposing to modify access from Route 206. They have submitted and obtained a letter of no interest from the DOT. They agree that no changes to the front entrance are required. The interior layout of the site has been designed so that service vehicles can safely maneuver within the fenced area. They are proposing underground electric from the switch gear. It will run underground in the facility to a utility pole before the cell tower utility easement. At that point it runs above ground to a series of 3 utility poles that is specified by the utility provider. There is a utility unipole, a utility fuse pole and the switch pole. Then it runs into a connection point at the existing utility pole along the north of the right of way. The cabinets that are closest to the rear property are 39.11' to the property line. They will require a variance for this as the ordinance requires 50'. The other bulk variance they are requesting is having a wall greater than 6' in height. They are proposing a 10' sound wall in the rear.

Mr. Ranger indicated as to grading and stormwater, they are proposing minimal earthwork. The only earthwork they are doing is promote positive drainage within facility. They are maintaining all of the existing drainage patterns in the proposed condition. The project is only proposing 1,339 square feet of new impervious. Most of the proposed features will be constructed on top of existing impervious. This project qualifies as a minor project in the eyes of the state with regards to stormwater, therefore, they have no stormwater proposed.

**CARRIED APPLICATIONS CONT.:**

**Ormat Montague Energy Storage – LUB 23-01 – Block 39, Lot 34 – US Highway Route 206 – Preliminary & Final Site Plan and Use Variance cont.:**

Mr. Ranger indicated as for landscaping, they are proposing a staggered double row of evergreen trees. These will be spaced at 20' on center. The second row behind is 10' off of that stagger. They believe this will be adequate to screen in the residence in the rear. As to the lighting, they are proposing 2 25' tall pole mounted light fixtures, one located in the southeast corner of the site and one located around the vehicle access area. These light poles will be located outside of the fence shining in the leased area. They will provide signage at the entrance of the site indicating the name of the site and the appropriate contacts in case of an emergency. The site is remotely monitored 24/7. As testified before, each cabinet is equipped with sensors that can detect heat, smoke or electrical issues. If anything is detected it is made to shut off. The proposed battery storage facility is a very minimal impact use for the site. Once the system is operational, there is limited access needed, very little maintenance, very low traffic generation. It should generate 12 to 18 trips a year. The trips will be by a SUV or Box Truck.

Mr. Plotsky questioned if there is any landscaping proposed in the front of the facility. Mr. Ranger indicated that the existing building and cell tower area, block this facility from seeing it from the road. Along the side has existing trees. There is no tree removal associated with this project.

Mr. Ranger indicated that they are in the process applying for an LOI with the DEP for this property. Mr. Knutelsky indicated that this should be a condition of the approval. He also indicated that he has approval from the Soil Conservation District on January 11, 2023, which will be provided. He also has an exemption letter from the Sussex County Planning Board dated February 23, 2023, which will be provided.

Mr. Knutelsky questioned the siding on the wall. Mr. Ranger indicated that the wall will be T111 siding. A discussion was held with regard to the color. The board asked for earth tone stain on the siding. The applicant agreed. This can be a condition of approval. The stain to be submitted to the board engineer for approval.

Mr. Knutelsky referred to his report with regard to decommissioning. He indicated that the battery life is 10 to 20 years as testified. He did not get any information if used batteries will remain on site or are transported off site. With regard to decommissioning, if this is not operated for 12 months or more, it is considered withdrawn and would have to be removed from the site. A lengthy discussion was held with regard to decommissioning of the site if the project is withdrawn. Bonding was discussed. The applicant would agree to remove the equipment if the project fails. He has a lease for 10 years with 2 five year extensions. He further indicated that the modules that are no longer in use will be removed from the property.

Appearing before the board was Elizabeth McManus, the applicant's Planner. Mrs. McManus indicated that the applicant is proposing a use that is simply not permitted in the RCD Zone. While this is a commercial district and it permits things like retail, office and light industrial, it does not permit battery storage systems and for that reason she is here to argue in favor of a D1 Use Variance. Specifically, she would like to present this variance as inherently beneficial use. Inherently beneficial is a term that is now somewhat recently been defined in the Municipal Land Use Law as a use that promotes the general welfare. The definition in the Municipal Land Use Law includes examples and it is not intended to be the only uses that could be deemed inherently beneficial but are just examples, which includes but not limited to hospitals, schools, childcare center, group home, or wind or solar facility or energy structure.

**CARRIED APPLICATIONS CONT.:**

**Ormat Montague Energy Storage – LUB 23-01 – Block 39, Lot 34 – US Highway Route 206 – Preliminary & Final Site Plan and Use Variance cont.:**

This applicant is for battery storage which is related to renewable energy. She is not arguing that they are specifically listed in the Municipal Land Use Law. Instead the law permits municipalities to evaluate applications before them and make a determination as to whether that particular use falls into the category. She feels that the applicant's proposal is soundly within the category of inherently beneficial for a handful of reasons that promote the public good and promote the public welfare. The board just heard Mr. Drake expand upon that earlier in this hearing where he addressed that the fundamental purpose for this application is to stabilize the energy grid and to keep the frequency consistent. This is important because it helps to address fluctuations in the energy grid and also helps to allow the state to meet the 2018 Clean Energy Act which calls for additional energy storage, specifically 2000 megawatts by 2030. This is clearly directly in line with this act. In addition, it also helps to support not only stable grid infrastructure and energy provision here generally, but it also helps to support the addition of renewable energy resources that are being added to the state and added to our grid. They are also supporting this aspect of a specifically listed inherently beneficial use, the renewable energy. Because the stabilization will help to keep the flow of energy to this community and the surrounding regions stable and because they are helping to meet that goal, the energy master plan, she feels that the board can find that this use is inherently beneficial.

Presuming for the moment that the board agrees, this means that the applicant's D1 Use Variance criteria is addressed in a bit of a different manner than you might typically see if you were seeking approval for store in a residential district. As an inherently beneficial use the criteria shifts from a typical positive and the negative criteria to the sica balancing test or a 4-part test. This is because as an inherently beneficial use, they automatically meet one of these purposes of the Municipal Land Use Law, the general welfare purpose A. Given that the court has said that uses that are inherently beneficial should go through a different test before boards. The 4-part test, with the first part being to identify the public interest at stake and make a finding as to how compelling it is. The public interest here is the stability of the energy grid to help maintain that constant frequency and to help to adjust for variability as well as to help the state meet that energy master plan goal from 2018. The second part of the test is to identify any detrimental effects that may occur as a result of this application. This has been discussed this evening already, they include the noise, any risk of fire from use, and lastly the visual impact from the use. The third part of the test is to determine whether any legitimate detrimental effects can be reduced by imposing reasonable conditions on the use. Essentially, what can the applicant do, what can the board consider to help mitigate those detrimental effects she just listed. In terms of the noise, they are proposing a 10-foot tall noise fence along the rear that will insure that the noise levels are within the townships limitations which are also the states limitations. The applicant has agreed to do a noise test upon construction. The second impact for visual impacts, they have proposed the noise fence which also serves as a solid screen of the battery storage. They are also proposed planting along the rear to further screen the property. It is important for the noise wall and the plantings on the rear of the property because that is the most vulnerable property line in this area. This is the property line that is shared with a residential use. The residential use is over 1000 feet away from this battery storage area and it is further separated from this use by a variety of existing plantings on that residential property. But notwithstanding, they are proposing to enhance that buffer with the plantings. The last impact that she listed was the risk of fire. There was a lot of testimony about the interior and the exterior fire suppression and monitoring systems to certainly alert someone if there is a problem, but also insure that the problem does not spread and get out of control instead it can be suppressed. They have also agreed to training with the fire department to insure that everyone is comfortable should there be a problem at the



**CARRIED APPLICATIONS CONT.:**

**Ormat Montague Energy Storage – LUB 23-01 – Block 39, Lot 34 – US Highway Route 206 – Preliminary & Final Site Plan and Use Variance cont.:**

property. They have also confirmed that the site is going to be further monitored 24/7 to make sure that any concern can be caught immediately. The last part of the sica balancing test is to balance the positives and the negatives of this use. The positives being the public good or welfare that is going to be served to the stability of the energy grid compared to the detrimental impacts. As she looks at the positive and negative of the application, she thinks that it clearly falls within the positive side of the balance because they are producing a substantial public good through improvement of the energy grid while they have mitigated the negative or detrimental impact that could occur. She is very comfortable recommending to the board that you can find not only in favor of this use being inherently beneficial, but also that it meets the sica balancing test for the Use Variance.

Ms. McManus indicated that she would also like to provide some Use Variance testimony for the board in case the board is not comfortable with the finding that this use is inherently beneficial. She will present the typical D1 positive and negative criteria. The first part, the positive criteria asking whether or not the property is particularly suited for the applicant's proposed use. They will be able to connect to the power lines that run along the front of Route 206. They have power lines present on the front of the property that are capable of connection for the applicant's proposed battery storage facility. In addition, she feels the site, itself, has compatible uses located on the property already. They have the auto repair business and the existing cell tower. These are uses that are compatible in terms of character and activity on the property. While the auto repair site has customers and employees coming and going, the existing cell and the proposed battery storage facility will have very little impact and very little traffic generated on the site. These are really complementary uses on the property. In addition to that, they are able to provide for the battery storage center with very minimal improvements. It is just over 1,100 square feet of new coverage that the board just heard from the applicant's engineer. Along those lines, they are able to utilize existing site access and they are able to use an area that is generally disturbed on the property already being used as parking. Lastly, in terms of visibility of this use, is very limited for the reasons already sited with the plantings and the sound wall, but in addition to that the proposed battery storage facility is going to be located behind the existing building on the property and will be further screened from the northeast area by the cell tower improvements. For those reasons there are very little visible impact. All of these factors together support that the site is particularly suited for the battery storage.

The other D Variance that she wants to address is the multiple principal uses on the property. There is an existing auto repair and an existing cell tower. This will now be the third use on the site. In addition, it being very suited for the battery facility, they are particularly suited for the multiple uses on the property, in part, because they have these two complimentary and compatible uses that exist on the property that they are just simply adding to at the rear. Additionally, the site is located on Route 206, means they have state highway access, which further contributes to additional intensity on the property in a sense they are able to utilize state roads rather than local roads.

Lastly, Ms. McManus highlighted that the battery storage facility is over a 1000 feet to the nearest residence to the rear and over 900 feet to the nearest residence at the front of the property. They are very isolated from residential uses and residents in the area. For these reasons she feels that the site is also particularly suited for the multiple uses.

**CARRIED APPLICATIONS CONT.:**

**Ormat Montague Energy Storage – LUB 23-01 – Block 39, Lot 34 – US Highway Route 206 – Preliminary & Final Site Plan and Use Variance cont.:**

In addition to that there are handful of purposes in the Municipal Land Use Law that the application supports. The first one is purpose A, promotion of general welfare. For the reasons that she cited for the inherently beneficial use, but also by virtue of having a site that is particularly suited for the proposed use you are helping to advance the general welfare. In addition, they also meet purpose M, which is to encourage coordination of various public and private procedures to decrease the cost of development and to more efficient use of land. She cited that purpose because the proposed battery storage, plus the co-location of these uses on the site add to an efficiency in the sense that they were able to utilize the existing site access. They are not producing more curb cuts. They are able to reduce the environmental footprint of the application in the sense they do not have to construct an access point, they are not selecting a site that requires tree removal, etc. They also meet purpose J which is to promote conservation of open space and prevent urban sprawl and degradation. She is siting this purpose because they are able to utilize this existing property, utilize existing disturbed areas without looking for a potentially undeveloped site having to remove trees and construct additional access points. This clustering of uses helps to reduce pressure on other undeveloped lands elsewhere in the community and region. The last purpose is purpose N, which is to promote the utilization of renewable energy. As she testified before, the batteries not directly support as in solar batteries, but they generally support the addition of renewable energy into the grid. For all of these reasons, those 4 purposes of the Municipal Land Use Law, they meet the positive criteria for both the battery storage as a non-inherently beneficial use as well as the multi principal uses on the property.

Ms. McManus indicated that the setback variances for the battery structures at 39.11' proposed versus the 50' that is required, the sound wall which is at 10' rather than 6' which is required, as well as an undersized buffer, she feels these items of relief can be consumed within the D Variance as part of their application. The board could make finding of those variances are really intended for permitted use in the district. Both of these variances can be treated as C2 Variances, the flexible C or the benefits vs. detriment. She said this because she sees a benefit to locating these improvements in that way, meaning the undersized setback of the batteries and higher wall height in the sound wall. She referred to Purpose M which is encourage the coordination of procedures, lesson the cost of development for a more efficient use of land. This is the best way to organize these uses on the property. They tried to select an area on the property that is not visible from the public road, Route 206. By locating the batteries to the rear and creating the undersized setback, but it allows the applicant to maintain as much impervious coverage as possible in that sense that they are able to cluster these uses on a single property without looking elsewhere in the community and disturbing additional land. It is more than 1000 feet from the residential use. The 10' wall height is appropriate because it is that feature that allows the applicant to confirm to the board that they will not be violating to state or local noise standards.

Ms. McManus reviewed the negative criteria of all the variances. There are two aspects of that negative criteria. The first is whether or not there is substantial detriment to the public good. There is no detriment to the public good with this application, much less substantial detriment to the public good. Instead, what this proposal intends to do is bring additional consistency and reliability to the energy grid. She truly sees this as a benefit. They are maintaining stable energy, they are correcting variability and they are advancing the state clean energy master plan. Additionally, they are able to locate all of these uses on a single site with minimal additional improvements of just over 1,100 square feet, no new curb cuts, very little traffic, between 12 to 18 trips in an entire year. Additionally, there will be very little, if any, visibility.

**CARRIED APPLICATIONS CONT.:**

**Ormat Montague Energy Storage – LUB 23-01 – Block 39, Lot 34 – US Highway Route 206 – Preliminary & Final Site Plan and Use Variance cont.:**

The site will be blocked from view from Route 206 by the existing improvements. It will be blocked from view from the adjacent private road and more importantly from the residences themselves along the private road by their proposed wall and plantings. They propose to mitigate that noise and the fire protection. They also agreed with the boards suggestion that the noise be reviewed and that fire protection education will be given to the local fire department.

Ms. McManus indicated that the second component of the negative criteria is whether there is any substantial detriment to the zone plan. She does not find that their proposal is completely outside the bounds of the zoning ordinance. They are in a commercial district which permits light industrial uses. These are uses that are seen next to each other.

Ms. McManus reviewed the 2022 Re-examination report. There are a few objectives that are helpful to the application. Objection H under Goal 1, which states to focus commercial and mixed use development in the 3 centers within the township, including the Route 206 center. These areas provide the most logical locations for commercial and mixed used development and to provide opportunities to utilize smart growth principals. She could not agree more. They located their site with complimentary land uses and their smart growth principals that they are promoting including mixing land uses for efficiency and strengthening the stability of the existing community through the stability of the power grid.

Ms. McManus referred to Objective J under Goal 2, which is to evaluate areas where light industrial uses can be expanded and where they should be removed due to environmental constraints. She sees the proposed battery use as well as the existing cell tower and auto repair as light industrial areas. It makes sense to her that they would provide this clustering of one more light industrial use in this area to provide for efficiency purposes. For those reasons, they are not creating substantial detriment in the zone plan. In fact, they are promoting two of the objectives in the 2022 Re-examination report.

The last piece of the Use Variance is to address the reconciliation of the Use Variances. Essentially, you are asking if the use is such a good idea, why is it that it is not contained within the Municipalities zoning ordinance or otherwise addressed in the Master Plan. She indicated that battery storage facilities are a new use within the last 5 years. In addition to this, they are not particularly common.

Ms. McManus indicates that the zoning ordinance for the RCD district requires a buffer at the rear for a total of 15'. They are a little bit less than that. She is comfortable for that item of relief for a handful of reasons. First, they are more than a 1000 feet from the nearest residential use. It is further separated by a pond and existing vegetation. With the proposed trees and the sound wall, the board can feel comfortable that the use will not have a negative impact on that residence and the relief for the buffer can be granted.

This matter was opened to the public. There being no public participation, this matter was closed to the public.

**CARRIED APPLICATIONS CONT.:**

**Ormat Montague Energy Storage – LUB 23-01 – Block 39, Lot 34 – US Highway Route 206 – Preliminary & Final Site Plan and Use Variance cont.:**

A Motion was made by Mr. Barbagallo and seconded by Mr. Guida to approve the Site Plan and Use Variance as Inherently Beneficial with the following conditions: LOI, fire department training, noise test after construction, decommissioning plan and/or bonding plan subject to review and approval of board engineer, sound wall material color plan to be reviewed by engineer, and an as built to be submitted. Roll Call: Ms. Kennedy, yes; Mr. Barbagallo, yes; Mr. Guida, yes; Mrs. Snyder, yes; Mr. Dickson, yes; Ms. Crawford, yes; and Mr. Plotsky, yes. The Motion was carried.

Mr. Utter, Mr. Zitone and Mr. Ledonne returned to the meeting.

**NEW BUSINESS:**

**Live/Work Zone – Farm Use – 35 Day Review:**

A discussion was held with regard to horses and how many should be allowed per acre.

A Motion was made by Ms. Kennedy and seconded by Mr. Barbagallo to approve the Live/Work District Ordinance with regard to Farm Use with the following change: 1 additional horse per grazable/pasture above 3 acres. The attorney to send this change and suggest adoption of this ordinance by township committee. Roll Call: Mr. Zitone, yes; Mr. Ledonne, yes; Ms. Kennedy, yes; Mr. Barbagallo, yes; Mr. Guida, yes; Mrs. Snyder, yes; Mr. Utter, yes; Mr. Dickson, yes; Ms. Crawford, yes; and Mr. Plotsky, yes. The Motion was carried.

**VOUCHERS**

The vouchers were reviewed. A Motion was made by Mrs. Snyder and seconded by Mr. Barbagallo to approve the vouchers on the bills list attached hereto and made a part hereof. Roll Call: Mr. Zitone, yes; Mr. Ladonne, yes; Ms. Kennedy, yes; Mr. Barbagallo, yes; Mr. Guida, yes; Mrs. Snyder, yes; Mr. Utter, yes; Mr. Dickson, yes; Ms. Crawford, yes; and Mr. Plotsky, yes. The Motion was carried.

**CORRESPONDENCE**

The correspondence was reviewed. No formal action was taken.

**PUBLIC PARTICIPATION:**

The meeting was opened to the public. There being no public participation, this meeting was closed to the public.

**AJOURN**

Having no further business, a Motion was made by Mr. Barbagallo and seconded by Mr. Zitone to adjourn the meeting. All were in favor. The Meeting was adjourned.

Minutes prepared by:

SHARON M. YAROSZ  
Land Use Administrator