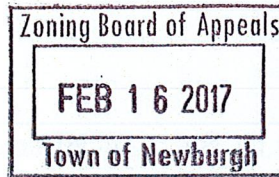




445 Hamilton Avenue, 14th Floor  
White Plains, New York 10601  
T 914 761 1300  
F 914 761 5372  
cuddyfeder.com



Lucia Chiocchio  
lchiocchio@cuddyfeder.com

February 15, 2017

VIA OVERNIGHT MAIL

Chairman James E. Manley, Jr.  
And Members of the Zoning Board of Appeals  
Town of Newburgh  
Old Town Hall  
308 Gardnertown Road  
Newburgh, New York 12550

Re: Use and Area Variances Applications  
Proposed Community Solar Facilities  
Troon Properties, Inc.  
Premises: 53 Old Post Road  
Tax Id: 8-1-97

Dear Chairman Manley and Members of the Zoning Board of Appeals:

This letter and enclosures are respectfully submitted on behalf of Green Street Power Partners LLC in connection with Troon Properties, Inc. use and area variance applications for the installation of two (2)MW solar facilities at the above-referenced Premises. On behalf of Green Street Solar Partners, we thank this Board for allowing this opportunity to submit additional information in support of the variances required for the installation of the proposed solar facilities. Please note that an updated proxy by the property owner naming Cuddy & Feder LLP as an authorized representative is included in Exhibit A.

**Project Summary**

As discussed at the Zoning Board of Appeals meeting held on December 22, 2016 and shown in the previously submitted application materials, the proposal includes the installation of two (2) MW solar facilities by Green Street Power Partners on the approximately 28-acre Premises (the "Project"). Green Street Power Partners is a Community Distributed Generation (CDG) sponsor. CDG is a program enabled by the Public Service Commission that allows utility customers who cannot install solar panels or other renewable sources of energy (such as small windmills) on their property to benefit from low-cost renewable energy sources. As a CDG sponsor, Green Street Power Partners constructs and operates the solar collector facility, sends the solar energy generated by the facilities directly into the local grid, and then reallocates this energy to customer accounts within the local utility area. For this Project, any customer of Central Hudson can access the Project benefits of low-cost renewable energy.

The Premises is ideally suited for this Project as it is located in the vicinity of an electric substation and adjacent to power distribution lines. As shown in the submitted drawings, the Project entails



the subdivision of the existing 28-acre parcel into 2 lots, approximately 17.3 acres and 11.27 acres in size, respectively. Solar arrays will be located on each lot. The capacity of the solar arrays on each lot is approximately 2 megawatts (MW). A 2MW solar generating facility can power approximately 300-350 homes. The subdivision is proposed to allow the full benefit of New York State incentives, which are available for a maximum 2 MW solar facility. Having two separate, 2MW solar facilities, one located on each lot, will thus allow each facility to be eligible for the incentives. The solar facility on each lot will be enclosed by an 8.5' tall security fence. The proposed lots are separated by an access drive that runs north to south.

Green Street Solar Partners is committed to increasing access to clean solar energy for many communities. As a long-term investment in providing clean solar energy, this Project reflects that commitment. They are also committed to being a good neighbor and to this end, they hosted a meeting with the community to discuss the Project and its benefits, to listen to any concerns and to offer attendees an opportunity to participate in the program for significant savings on their energy bill. Everyone who received notice of the Applications was sent an invitation. A copy of the form distributed at the meeting regarding interest in the program and the energy bill savings is enclosed in Exhibit B. At this meeting, Green Street Solar Partners shared its willingness to address neighbor concerns by agreeing to added improvements such as additional plantings and upgraded fencing.

### **The Use and Area Variance Applications**

The Premises is classified in the Agricultural ("AR") Zoning District. As set forth in the November 4, 2016 Notice of Disapproval of a Building Permit Application by the Code Compliance Department<sup>1</sup>, the Project is deemed an "electric generating" facility, which are only permitted in the Industrial ("I") Zoning District, pursuant to Zoning Code Section 185-83. Thus, a use variance is sought to allow the proposed solar facilities at the Premises.

Area variances from the dimensional requirements for electric generating facilities in the I Zoning District are also requested for each of the proposed lots. The requested area variances are detailed in the September 20, 2016 letter to this Board from the Planning Board Attorney, Michael Donnelly. For your convenience, a copy of this letter is included in Exhibit C.

As noted above, the Premises is ideally located for the proposed solar facilities given its proximity to existing utility distribution infrastructure. The need for the requested use and area variances is primarily a function of amendments to the Zoning Code, which were intended as measures to stay abreast of recent and rapid changes in technology and programs that promote and increase the availability of solar as a renewable energy source. The solar regulations included in Zoning Code Section 185-83 were adopted approximately two years ago, in March 2015. While the solar regulations specifically address solar array installations, the regulations classify these installations as "electric generating facilities" and restrict their construction to the I Zoning District. However, the existing I Zoning District regulations are not practical for solar facilities, as they were developed for traditional electric generating facilities. Unlike solar arrays or collectors, traditional electric generating facilities typically include large structures to house the equipment

---

<sup>1</sup>This notice was previously submitted and a copy is included in Exhibit C.



needed to generate electricity, such as turbines and large generators. The location of properties classified in the I Zoning District within the Town, as well as the area and bulk requirements of the I Zoning District, address the potential impacts of the siting of traditional electric generating utility infrastructure. Since the siting, size, and configuration of solar facility infrastructure are vastly different than traditional utility infrastructure, variances will likely often be required for solar facilities under the current zoning requirements.

### **Use Variance to Allow Solar Facility in the AR Zoning District**

Included below and in the attached reports and materials are additional evidence in support of the requested use variance. It is respectfully submitted that the record establishes that each of the required factors for the granting of a use variance are satisfied, as discussed below.

When considering a request for a use variance, Town Law Section 267-b.2 and Zoning Code Section 185-54 require a finding of unnecessary hardship through demonstration of the following criteria:

1. **Under the applicable zoning regulations, the applicant cannot realize a reasonable return and is deprived of benefit from the property in question.**

This criterion can be satisfied by demonstrating that efforts to sell the property in question have been unsuccessful. The efforts to sell must be bona fide and consist of more than conclusory statements to meet the required "dollars and cents" proof. (*See Bellanca v. Gates*, 97 A.D. 971, 468 N.Y.S. 2d 774 (4<sup>th</sup> Dept. 1983), *order aff'd*, 61 N.Y.2d 878, 474 N.Y.S. 2d 480, 462 N.E.2d 1198 (1984)).

As set forth in the December application submission, the former owner of the Premises obtained zoning approval for an 8-lot subdivision in 2007. At that time, a builder was interested in purchasing the property upon the filing of the subdivision plat. The builder withdrew his offer when the real estate market crashed in 2008. In 2008, the former owner of the Premises owed an approximately \$200,000 mortgage on the property. Unfortunately, the former owner was unable to pay his mortgage or the fees to file the subdivision map. As a result, the mortgagee foreclosed on the property in December 2008.

The Applicant, Troon Properties, acquired the Premises in a referee sale in May of 2010. Troon Properties was the highest bidder with a \$175,000 bid. This sale was recorded in the Orange County Clerk's office on July 20, 2010 (Book 1303; Page 605). The delay between the foreclosure in late 2008 and referee sale in May 2010 was caused by the bankruptcy filing by the former owner, which stayed, or paused, the referee sale.

As set forth in detail in the affidavit of Judy Bayer of Troon Properties included in Exhibit D, upon purchasing the Premises in 2010, Troon Properties immediately began efforts to sell the Premises and actively marketed the Premises for the past 6+ years. At all times, the Premises was marketed as a preapproved 8-lot subdivision in accordance with the subdivision approval. A "for sale" sign was prominently posted at the Premises in May 2010 and remains in place. The "for sale" sign provided all relevant information, including



the size, asking price, contact information and the 8-lot subdivision approval. The attached affidavit includes a copy of this "for sale" sign.

The attached affidavit also details the additional marketing efforts by Troon Properties through the use of real estate brokers. From November 2010 through December 2011, Troon Properties retained a realtor, Better Homes and Gardens – Rand Realty, to market the Premises. None of the inquiries converted to offers to purchase the Premises.

Then, in August 2014, Troon Properties continued its efforts to sell the Premises and retained another realtor, Robert Holmes of John J Lease Realtors in Newburgh. Mr. Holmes was the listing agent until December 2014. Mr. Holmes received no inquiries regarding the Premises.

The Applicant continued to diligently pursue sale of the Premises and in June of 2015 ran advertisements with [www.LandWatch.com](http://www.LandWatch.com) and [www.landfarm.com](http://www.landfarm.com). These website ads were posted for approximately 18 months. None of the inquiries from these website ads resulted in any offers.

As demonstrated herein and in the attached affidavit, since its acquisition in 2010, Troon Properties actively and diligently marketed the Premises for sale as an 8-lot subdivision. However, these efforts to sell the property for an 8-lot subdivision or any other uses permitted within the AR District were unsuccessful. The only offer received was the Green Street Solar Partners' offer for the proposed solar facility Project.

In further support that the Applicant cannot realize a reasonable return for the uses permitted in the AR Zoning District, included in Exhibit E is an appraisal report by Al DeKrey, MAI, Senior Vice-President of McGrath & Company, Inc. Mr. DeKrey is a Member of the Appraisal Institute and a Certified General Real Estate Appraiser. He has more than 30 years' experience appraising with McGrath & Company. His enclosed report concludes that the uses permitted in the AR Zoning District would not yield a reasonable return and that the demand for residential uses is modest at best. Indeed, as set forth above and in the attached affidavit, diligent efforts to sell the Premises for residential use over the past six years proved unsuccessful.

Thus, it is respectfully submitted that the evidence previously submitted and the information provided herein demonstrated that the Premises cannot yield a reasonable return for the uses permitted in the AR Zoning District.

2. The hardship is unique and does not apply to a substantial portion of the district or neighborhood.

The Premises presents a unique situation for several reasons. For the transmission of solar power to the existing utility grid, the Premises is uniquely situated adjacent to existing utility power lines and across the street from a utility substation. In addition, the size of the Premises and the fact that it is mostly vacant are unique characteristics conducive to the installation of the proposed solar facility to allow a total of 4 MW of solar power

generation (two 2 MW facilities). The size of the solar facility is meaningful in that it has the capacity to provide renewable energy to approximately 700 homes.

It should be noted that the concept of “uniqueness” does not require that the property for which a use variance is being sought must be the *only* property which suffers from the particular hardship. (See McKinney’s Practice Commentaries to Town Law 267-b, p. 225). The uniqueness can depend on the degree to which a more generalized difficulty affects the subject property. For example, in Rothenberg v. Board of Zoning Appeals, 232 A.D.2d 568 (2d Dept. 1996), the Court upheld a use variance for a commercial use in a residential zone, even though other properties in the area shared some of the difficulties. The Court found that the subject site still possessed the required “uniqueness” of hardship, because it was the only undeveloped parcel located on a major intersection. In Supkis v. Town of Sand Lake Zoning Board of Appeals, 227 A.D.2d 779 (3d Dept. 1996), the Court found the required “uniqueness” in the “cumulative negative factors” of proximity to an undesirable land use, poor soil, and extensive costs of removal of storage tanks. Though some other properties possessed some of these factors, only the applicant’s property possessed the combination of factors in this degree.

Unlike the other parcels in the neighborhood, the Premises is a large parcel that is virtually undeveloped and in close proximity to existing utility infrastructure. All of these factors render the hardship unique to this Premises.

3. The variance would not alter the essential character of the neighborhood.

The granting of the use variance will not alter the essential character of the neighborhood. The neighborhood is currently characterized by existing utility infrastructure, including an electrical substation and distribution towers. The unmanned solar facilities are a passive use of the Premises. Once installed, the solar arrays remain in place and are not mechanically or remotely adjusted. No noise, vibrations, or emissions are associated with the solar facilities. Maintenance is minimal and consists of trimming vegetation. The height of the solar arrays is approximately 10’ above grade level; much lower than the maximum permitted height of 35’ for a single-family home and, significantly lower than the maximum permitted height of 100’ for electric generating facilities in the I Zoning District. Moreover, as shown in the viewshed map included in Exhibit F, the existing vegetation and topography will effectively screen views of the solar facility from nearby properties. The viewshed map includes photos looking out from the proposed fence line of the Project to the closest homes to the Premises. The photos depict winter conditions and show these views will be very limited or non-existent when leaves are off the trees. Accordingly, the proposed solar facilities will not alter the essential nature of the neighborhood.

4. The hardship has not been self-created.

As confirmed at the December 22, 2016 Zoning Board of Appeals hearing, the hardship has not been self-created. Troon Properties acquired the Premises in May 2010. Zoning Code Section 185-83 governing the installation of solar facilities was adopted in March 2015. Thus, as noted at the December 22<sup>nd</sup> hearing, since the Premises was acquired prior



to the adoption of Zoning Code 185-83, which restricts solar facilities to the I Zoning District, the hardship is not self-created.<sup>2</sup>

**Area Variances to Allow the Installation of the Solar Facility**

As set forth above, given that the area and bulk requirements of the I Zoning District were established for traditional electric generating infrastructure, several area variances are required for the proposed solar facilities. Indeed, the area and bulk requirements for electric generating facilities include substantial setbacks and a maximum height of 100' in contemplation of large buildings or structures. Thus, these requirements are not applicable to solar facilities or solar arrays.

The specific area variances are set forth in the September 20, 2016 letter to this Board by Michael Donnelly, the Planning Board attorney, a copy of which is included in Exhibit C. As discussed therein, the area variances are based on the subdivision of the Premises into two lots for the development of a 2MW solar facility on each lot.

In considering the granting of the requested Area Variances, New York State Town Law §267.b.3 and Zoning Code Section 185-54.B provide that a Zoning Board of Appeals shall consider the benefit to the applicant if the variance is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

In weighing the aforementioned balancing test, the Zoning Board of Appeals shall consider:

1. Whether the requested area variances will produce an undesirable change in the character of the neighborhood or a detriment to nearby properties.

The requested area variances for the proposed solar Project will not produce an undesirable change in the character of the neighborhood or result in a detriment to nearby properties. The neighborhood is currently characterized by electric generating utility infrastructure. In comparison, the proposed solar facilities will be much less visible than the existing utility infrastructure. Moreover, the proposed solar facilities are unmanned and will not emit any noise, vibrations, or emissions. Once the solar arrays are installed, they will remain in the same position. Indeed, by producing renewable energy, the proposed solar Project will benefit the neighborhood.

2. Whether the benefit sought by the applicant cannot be achieved by some method, feasible for the applicant to pursue, other than an area variance.

The range of alternatives addressing this requirement is limited by two standards. First, the alternative must still provide the benefit sought by the applicant; and, second, it must be feasible for the applicant to pursue. A Zoning Board of Appeals may not deny a variance and attempt to relegate an applicant to an alternative design that is a "profound departure" from, or substantially more costly than, the design proposed in the variance. (See Corporation of Presiding Bishop of Church of Jesus Christ of Latter Day Saints v. ZBA of

<sup>2</sup> See December 22, 2016 Zoning Board of Appeals hearing transcript pages 58-59.

Town/Village of Harrison, 296 A.D.2d 460 (2d Dept. 2002); *see also Baker v. Brownlie*, 248 A.D.2d 527 (2d Dept. 1998); Salkin, N.Y. Zoning Law & Practice § 29:36).

Here, no other option for the development of the proposed solar facility exists. As discussed herein, proximity to existing available utility infrastructure is necessary for the proposed solar facility. The proposed solar facility, as an “electric generating” facility, is only permitted in the I Zoning District. There are only two areas of the Town where properties are classified in the I Zoning District. The map included in Exhibit G shows the approximate boundaries of the parcels within the Town classified in the I Zoning District, overlaid on a map of existing utility interconnections, where the green lines indicate the potentially available utility interconnections. This map shows that the I-classified parcels in the northeast are not located in proximity to available interconnections. And, the other I-classified parcels to the southwest are located at Stewart Airport. Typically, solar facilities cannot be located near airports given the potential for solar panel glare to interfere with navigation. This map demonstrates that even if a large enough parcel within the I Zoning District was available, it would not satisfy the requirements for the solar facilities. Thus, there is no other feasible option for the development of the proposed solar facility.

3. Whether the requested area variances are substantial.

The substantiality of a variance should not be determined by mathematical calculation alone. The mere fact that a variance may seem “substantial,” or may fail to meet one of the five factors, does not prevent a Zoning Board of Appeals from applying the overall balancing test and, if appropriate, granting a variance. In considering whether a variance is substantial, the Zoning Board of Appeals shall examine the totality of the circumstances within an application. (*See Friends of Shawangunks, Inc. v. Zoning Bd. of Appeals of Town of Gardiner*, 56 A.D.3d 883, 886, 867 N.Y.S.2d 238, 241 (3d Dept. 2008) (although variances were substantial, the Zoning Board of Appeals properly determined area variances would not have a substantial impact on the community); *see also Schaller v. New Paltz Zoning Bd. of Appeals*, 108 A.D.3d 821, 824, 968 N.Y.S.2d 702, 705 (3rd Dept. 2013) (upholding the Zoning Board of Appeals’ determination that an area variance was not substantial when compared to the nearby buildings).

Upon consideration of the facts and circumstances in this situation, the requested area variances will not result in significant adverse impacts to the public or to any adjacent property owners. In fact, the proposed solar Project will benefit the community by providing a clean, renewable source of energy. Consideration should also be given to the fact that the area and bulk requirements of the I Zoning District were designed to address larger, traditional electric utility infrastructure and as such, result in the need for several area variances for the proposed solar facility.

4. Whether the requested area variances will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

The record for these applications demonstrates that the proposed solar Project will not have an adverse impact on the physical or environmental conditions of the neighborhood.



The proposed solar facilities are passive and unmanned. They will not emit noise, vibrations, or emissions. The solar panels will not move once installed. The Project will not require water or waste water utilities. The enclosed viewshed map demonstrates that the facility will not result in a significant visual impact to nearby properties. The stormwater management report included in Exhibit H shows that the minimal disturbance required for the proposed solar Project will not result in any drainage issues. The Project is designed to respect the existing grades on the Premises and limit clearing to the greatest extent practicable. Thus, the Project will not result in any additional impervious surface. As shown in drawings previously submitted and in the enclosed viewshed map, the existing vegetation along the perimeter of the Premises will not be disturbed. In some cases this vegetated buffer is approximately 150' in depth. Moreover, by providing a clean, renewable source of energy, the proposed solar Project will improve the environmental conditions of the neighborhood. Indeed, the proposed solar Project will provide a benefit to the community by providing an opportunity for a renewable source of energy for those who may not be able to install their own solar panels or other renewable energy source.

5. Whether the hardship was self-created.

As set forth above, it was established at the December 22, 2016 ZBA hearing that the hardship requiring the variances was not self-created, due to the adoption of the Town's solar regulations years after the acquisition of the Premises by the current owner.

**The Proposed Solar Facility and the Public Utility Variance Standard**

In recognition of the critical services which public utilities provide, New York's highest court has held that the appropriate standard for a public utility seeking a use variance is that of "public necessity." (See Consolidated Edison Co. of New York v. Hoffman, 43 N.Y.2d 598, 610 (1978) ("Hoffman"). It is respectfully submitted for the reasons set forth herein that the proposed solar Project is the equivalent of a public utility and as such, the public utility "public necessity" variance standard should apply.

**Solar Energy Generation is a Public Necessity**

Solar energy generation is a critical component of meeting the state's energy demand. Future energy demands will increase as our daily lives rely more and more on reliable available energy. (See 2015 New York State Energy Plan, Volume 2, End-Use Energy, available at <https://energyplan.ny.gov/Plans/2015.aspx>). One example of the increase in energy demand are appliances and devices. Just think about the additional number of appliances and devices you plugged-in ten years ago, and how many more of them you have and use now. Consider the increase in energy demand in conjunction with the closing of the Indian Point nuclear power plant reactors by 2020 and 2021, and the importance of renewable energy sources, such as solar, becomes very clear. Indeed, Indian Point has a capacity of 2,069MW. While New York stated that it has a series of environmentally-friendly alternative sources lined up, several being relied upon are not yet done deals. Availability of solar power in local communities would go a long way toward meeting demand and relieving some of the potential shortfall.





Recognizing the critical need for clean energy, as part of the State Energy Plan, Governor Cuomo announced in August 2016 the New York State Public Service Commission's approval of New York's Clean Energy Standard, which mandates that 50% of New York's electricity must be generated by renewable energy sources (such as solar) by 2030. In the initial stage of the plan, utilities and other energy suppliers are required to procure and phase in new renewable power resources, beginning with 26.31% of the state's total electricity load in 2017, and growing to 30.54% of the statewide total by 2021. The Governor has tasked the New York Public Service Commission ("PSC"), the New York Energy Research and Development Authority ("NYSERDA"), the New York Power Authority ("NYPA"), and the Long Island Power Authority ("LIPA") to work together as part of the "Reforming the Energy Vision" ("REV") initiative to achieve these goals. (See *Governor Cuomo Announces Establishment of Clean Energy Standard that Mandates 50 Percent Renewables By 2030*, N.Y. STATE OFFICE OF THE GOVERNOR (Press Release, August 1, 2016), <https://www.governor.ny.gov/news/governor-cuomo-announces-establishment-clean-energy-standard-mandates-50-percent-renewables>).

Beyond helping the state attain its goals for renewable energy production, increasing the amount of solar energy in New York has a myriad of other public benefits. DEC asserts that these include "the addition of more clean and renewable energy to New York's energy supply, creation of construction jobs, potential generation of property tax revenues for system lives of 10 to 20 years, no air emissions, no water is needed to generate power, system equipment operates very quietly, and the systems are self-sustaining." (N.Y. DEPT. OF ENVTL. CONSERV., DRAFT GEIS ON PROPOSED STATE ENVIRONMENTAL QUALITY REVIEW ACT AMENDMENTS 18 (2017)). With so many benefits and the support of state government behind it, solar is clearly an indispensable component of meeting New York's future energy needs.

The Community Distributed Generation (CDG) program is one of the ways to achieve the REV goals and meet the demand for energy. As part of the CDG program, the proposed solar Project will allow utility customers to benefit from low-cost renewable energy sources without having to install a facility themselves. As a source of renewable energy, the proposed solar Project will contribute to the growing demand for reliable power.

### **The Public Utility "Public Necessity" Variance Standard**

In New York, given the importance of the services public utilities provide, "it has long been held that a zoning board may not exclude a utility from a community where the utility has shown a need for its facilities." (See *Hoffman*, 43 N.Y.2d at 610 ("A balance must be maintained between those interests of the locality which can be expressed by Zoning Ordinances and the needs of the community which must be served by the utility...not only is it within the power of Respondent [the Village] to grant a Variance but the fact that the applicant is a utility calls for the balancing of interests.")). Thus, New York's highest court has held that the appropriate standard for a public utility seeking a use variance is that of "public necessity":

The difference in these standards has been set forth as follows: "...the utility must show that modification is a public necessity in that it is required to render safe and adequate service, and that there are compelling reasons, economic or otherwise,



which make it more feasible to modify the plant than to use alternate sources of power such as may be provided by other facilities.... [And,] where the intrusion or burden on the community is minimal, the showing required by the utility should be correspondingly reduced.” (Hoffman, 43 N.Y.2d at 610. *See also* Matter of Long Is. Light Co. v. Griffin, 272 A.D. 551, 74 N.Y.S.2d 348 (2d Dept. 1947); Matter of Long Is. Light. Co. v. City of Long Beach, 280 A.D. 823, 113 N.Y.S.2d 762 (2d Dept. 1952).

There is precedence for other types of critical infrastructure, not technically “public utilities” in the traditional sense, nonetheless being treated in a substantially similar manner. Whether a particular use is considered a public utility generally involves “an examination of whether the provider had a monopoly on providing the service in question, whether rates were fixed by regulatory process, the level of local involvement, or control over issues relating to the service, and whether the public service was offered indiscriminately to all who sought it.” (*See* Salkin, N.Y. Zoning Law & Practice § 12:3, *citing* Rosenberg: “Characteristics of the public utility include (1) the essential nature of the services offered which must be taken into account when regulations seek to limit expansion of facilities which provide the services, (2) ‘operat[ion] under a franchise, subject to some measure of public regulation,’ and (3) logistic problems, such as the fact that ‘[t]he product of the utility must be piped, wired, or otherwise served to each user...[,] the supply must be maintained at a constant level to meet minute-by-minute need[, and] [t]he user has no alternative source [and] the supplier commonly has no alternative means of delivery.’ (*Id.* at 569).”); *see also* Mamina v. Zoning Bd. of Appeals of Town of Cortlandt, 110 Misc. 2d 534, 442 N.Y.S.2d 689 (Sup. 1981)).

For example, wireless telecommunications facilities are owned by private corporations, yet they provide a critical public service requiring the placement of infrastructure; federal and state law recognize the importance of their function and thus treat them in a manner substantially similar to public utilities. In New York, FCC licensed carriers are treated as public utilities for zoning purposes and New York state courts have determined that Zoning Boards of Appeals must utilize the less-restrictive standard of “public necessity” in evaluating a variance application for a wireless facility. (*See* Hoffman; *see also* Rosenberg). Other examples of facilities found to be within the definition of a public utility include telephone dial exchanges and cable television antennas. (*See* Salkin, N.Y. ZONING L. & PRAC. § 12:3, *citing* Cellular Telephone Co. v. Meyer, 200 A.D.2d 743, 607 N.Y.S.2d 81 (2d Dep’t 1994) (telephone dial exchanges) and Staminski v. Romeo, 62 Misc. 2d 1051, 310 N.Y.S.2d 169, 86 Pub. Util. Rep. 3d (PUR) 105 (Sup 1970) (cable TV antennas are public utilities, because they are subject to the master control of the New York Public Service Commission)).

Likewise, we respectfully submit that the “public necessity” standard should be applicable to the proposed solar facility. The proposed Project is subject to regulation as a CDG, which was enabled by the State of New York Public Service Commission’s July 2015 Order Establishing a Community Distributed Generation Program (Case 15-E-0082). This Order sets forth the terms of the CDG program. Also, the energy generated by the proposed solar Project will tie-in directly to Central Hudson’s electric transmission infrastructure and be distributed over existing infrastructure to the program participants. Further, the Project benefits not only the surrounding residents of the Town of Newburgh by offering more affordable, cleaner energy; it will also contribute to meeting the energy needs of hundreds more Central Hudson customers. Indeed, as noted above,



alternative energy sources, such as solar, will be required to meet projected energy needs. Finally, the proposed solar Project supports the broader state policy of encouraging renewable energy development and meeting the state goal of 50% renewable energy by 2030.

As detailed herein, access to the existing utility infrastructure is necessary for the proposed solar Project, which is a logistical public utility limitation. Given this Project requirement, logistically, the Premises is ideally situated as it is proximate to an existing substation and utility distribution lines.

For all of the foregoing reasons, we respectfully submit that the requested use and area variances should be evaluated under the "public utility" standard. As demonstrated in this record, the proposed solar facility Project results in a minimal intrusion or burden on the community as it will not result in any significant impacts. Thus, the public utility standard is satisfied and the requested variances should be granted.

### **Conclusion**

For the reasons set forth above, and as will be further discussed at the March 23<sup>rd</sup> continued public hearing on these applications, Green Street Solar Partners respectfully requests that the Use and Area Variances be granted to allow the benefits of the proposed solar Project.

In further support of these applications, please find enclosed eleven (11) sets of the instant letter with the following documents:

- Exhibit A: Proxy Statement by property owner authorizing Cuddy & Feder LLP as a representative on these Applications.
- Exhibit B: Copy of the interest form distributed at the February 7, 2017 community meeting.
- Exhibit C: Copies of the November 4, 2016 Notice of Disapproval of a Building Permit Application by the Code Compliance Department and the September 20, 2016 letter to this Board from the Planning Board Attorney, Michael Donnelly.
- Exhibit D: Affidavit of Judy Bayer of Troon Properties with attachments.
- Exhibit E: Report by Al DeKrey, MAI, Senior Vice-President, McGrath & Company, Inc.
- Exhibit F: Viewshed Map.
- Exhibit G: Map of available utility connections with the I Zoning District parcels.
- Exhibit H: Storm water management report.

We look forward to discussing these Applications for the proposed solar Project at the March 23<sup>rd</sup> Zoning Board of Appeals continued hearing. In the interim, should the Zoning Board of Appeals,



Chairman Manley and  
Members of the Zoning Board of Appeals  
February 15, 2017  
Page 12 of 12

or Town Staff have any questions or comments with regard to the foregoing, please do not hesitate to contact me. Thank you for your consideration.

Respectfully submitted,

A handwritten signature in blue ink that reads "Lucia Chiochio". The signature is written in a cursive, flowing style.

Lucia Chiochio

Enclosures

cc: Dave Kane; Jason Kuflik; Scott Kerner; Charles Brown; Tom Cerchiara; Troon Properties, Inc.

Exhibit A

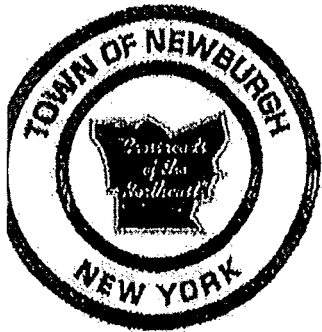
Exhibit B

Exhibit C

Exhibit D

Exhibit E

Exhibit F



# TOWN OF NEWBURGH

*Crossroads of the Northeast*

ZONING BOARD OF APPEALS  
OLD TOWN HALL  
308 GARDNERTOWN ROAD  
NEWBURGH, NEW YORK 12550

## PROXY

Michael D. Mercier, President, DEPOSES AND SAYS THAT

HE/SHE RESIDES AT 46 Prince St., Rochester, N.Y. 14607

IN THE COUNTY OF Monroe AND STATE OF New York

AND THAT HE/SHE IS THE OWNER IN FEE OF Old Post Road

Section-Block-Lot 8-1-97

WHICH IS THE PREMISES DESCRIBED IN THE FOREGOING APPLICA-

TION AND THAT HE/SHE HAS AUTHORIZED Green Street Solar Power, (the 'Applicant')

TO MAKE THE FOREGOING APPLICATION AS DESCRIBED THEREIN. \*  
Talcott Engineering and Guddy & Feder ELP

DATED: 1/25/17 *Green Street Solar Power*  
OWNER'S SIGNATURE

*Judith Spina*  
WITNESS' SIGNATURE

\* Any action taken with respect to the application shall be for the Benefit of the Applicant and shall not bind the owner, if the premises are not sold to the Applicant.

STATE OF NEW YORK; COUNTY OF ORANGE:

SWORN TO THIS 25<sup>th</sup> DAY OF January 2017

JUDY BAYER  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 018A6317368  
Qualified in Monroe County  
My Commission Expires January 05, 2019

*Judy Bayer*  
NOTARY PUBLIC

Exhibit B  
Exhibit C  
Exhibit D

Exhibit B



# GREEN STREET

SOLAR POWER

## Community Solar Customer Indication of Interest

Community Distributed Generation (CDG), commonly known as "Community Solar" was enabled by the State of New York Public Service Commission in July 2015.<sup>1</sup> This allows customers who want to go green but cannot utilize solar or other renewable energy on their own home to participate in off-site solar projects simply by signing up to purchase a portion of the clean energy generated by a qualifying solar project.

Green Street Solar Power is developing CDG projects throughout the greater New York City area and the lower Hudson Valley, with the first projects scheduled to be operational by the end of 2017. This form is not a commitment to enroll, but an indication of your interest to participate as a customer in one of our CDG projects when a project comes online.

Please provide the information below, scan, and email this form to [dkane@greenstreetsolarpower.com](mailto:dkane@greenstreetsolarpower.com) or mail to the care of David Kane at the address at the bottom of the page.

Name \_\_\_\_\_

Street Address \_\_\_\_\_

Town \_\_\_\_\_ Zip code \_\_\_\_\_

Utility (circle one)    Con Edison    Orange & Rockland    Central Hudson

Phone \_\_\_\_\_ Email \_\_\_\_\_

Utility Account Number \_\_\_\_\_

Approximate Monthly Electric Bill \_\_\_\_\_

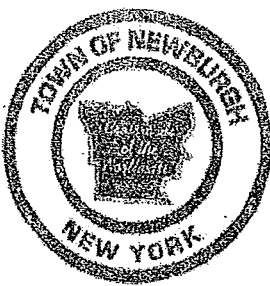
One-time special offer: Neighbor of 53 Old Post Road. 50% Discount for as long as customer stays in home. Not transferable.

<sup>1</sup> By the Order Establishing a Community Distributed Generation Program (Case 15-E-0082)



Exhibit C

16015-65P  
"usc"



**TOWN OF NEWBURGH**  
~Crossroads of the Northeast~

**CODE COMPLIANCE DEPARTMENT**  
308 GARDNERTOWN ROAD  
NEWBURGH, NEW YORK 12550

TELEPHONE 845-564-7801  
FAX LINE 845-564-7802

**2616-16**

**NOTICE OF DISAPPROVAL OF BUILDING PERMIT APPLICATION**

Date: 11/04/2016

Application No. 16-1029

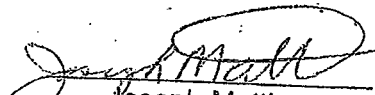
To: Troon Properties, Inc.  
46 Prince St  
Rochester, NY 14607

SBL: 8-1-97  
ADDRESS: Bessie Ln

ZONE: AR

PLEASE TAKE NOTICE that your application dated 11/04/2016 for permit to create a solar "electric generating" farm in a residential district on the premises located at Bessie Ln is returned herewith and disapproved on the following grounds:

- Town of Newburgh Municipal Code Section:  
1) 185-83 Solar farms shall be permitted in an I district

  
Joseph Mattina

Cc: Town Clerk & Assessor (500')  
File

16015-GSP  
"use"

# Town of Newburgh Code Compliance

OWNER INFORMATION **BUILT WITH OUT A PERMIT** **NO**

NAME: Tron Properties Inc Application # 16-1029

ADDRESS: 46 Prince St. Rochester NY 14607

PROJECT INFORMATION: AREA VARIANCE **USE VARIANCE**

TYPE OF STRUCTURE: Bessie Lane / Old Post Rd

SBL: 8-1-97 ZONE: A-R

TOWN WATER: YES / **NO** TOWN SEWER: YES / **NO**

2616-16

	MINIMUM	EXISTING	PROPOSED	VARIANCE	VARIANCE PERCENTAGE
LOT AREA					
LOT WIDTH					
LOT DEPTH					
FRONT YARD					
REAR YARD					
SIDE YARD					
MAX. BUILDING HEIGHT					
BUILDING COVERAGE					
SURFACE COVERAGE					

INCREASING DEGREE OF NON-CONFORMITY - 185-19-C-1 \_\_\_\_\_ YES / NO  
 2 OR MORE FRONT YARDS FOR THIS PROPERTY \_\_\_\_\_ YES / NO  
 CORNER LOT - 185-17-A \_\_\_\_\_ YES / NO

### ACCESSORY STRUCTURE:

GREATER THEN 1000 S.F. OR BY FORMULA - 185-15-A-4 \_\_\_\_\_ YES / NO  
 FRONT YARD - 185-15-A \_\_\_\_\_ YES / NO  
 STORAGE OF MORE THEN 4 VEHICLES \_\_\_\_\_ YES / NO  
 HEIGHT MAX. 15 FEET - 185-15-A-1 \_\_\_\_\_ YES / NO  
 10% MAXIMUM YARD COVERAGE - 185-15-A-3 \_\_\_\_\_ YES / NO

NOTES: Vacant Parcel / A/R zone

### VARIANCE(S) REQUIRED:

- 1 185-83 Solar farms shall be located in an "I" district.
- 2 \_\_\_\_\_
- 3 \_\_\_\_\_
- 4 \_\_\_\_\_

REVIEWED BY: Joseph Mattina DATE: 4-Nov-16

16015-GSP  
"area"

*Dickover, Donnelly & Donovan, LLP*  
Attorneys and Counselors at Law

David A. Donovan  
Michael H. Donnelly  
Robert J. Dickover

28 Bruen Place  
P.O. Box 610  
Goshen, NY 10924  
Phone (845) 294-9447  
m.e.d@ddonellv.com  
Fax (845) 294-6553  
(Not for Service of Process)

Successor Law Firm To:  
Alexander Appelbaum, P.C., Florida, N.Y. (1915-1988)  
Ludmerer & Vumo, Esqs., Warwick, N.Y.

September 20, 2016

Town of Newburgh  
Zoning Board of Appeals  
308 Gardnertown Road  
Newburgh, New York 12550

RE: Green Tree Solar -- Use Variance/Subdivision  
8-1-97 (Zone AR)  
53 Old Post Road (16.15)

Members of the Board:

I write to you on behalf of and at the direction of the Town of Newburgh Planning Board. The above referenced applicant appeared before the planning board during its meeting of September 15, 2016. The applicant proposes to subdivide the property in question into two lots and to develop a 2-megawatt solar farm on each of the lots. A solar farm use is not allowed in the AR zoning district where the property is located. The applicant intends to apply to your board for a use variance.

Should you grant a use variance, the planning board refers this matter to you for consideration of granting area variances for each of the lots as follows:

Proposed Lot #1

- Lot area – 100 acres is required and only 17.3 acres will be provided;
- Lot width – 2,000 feet is required and only 280 will be provided;
- Lot Depth – 2,000 feet is required and only 1,532 feet will be provided;
- Front Yard Setback – 400 feet is required and only 129 feet will be provided;
- Rear Yard Setback – 400 feet is required and only 67 feet will be provided;
- Side Yard Setback – 400 feet is required and only 50 feet will be provided;
- Combined Side Yard – 800 feet is required and only 100 feet is provided.

Propose Lot #2

- Lot area – 100 acres is required and only 11.27 acres will be provided;
- Lot width – 2,000 feet is required and only 278 will be provided;
- Lot Depth – 2,000 feet is required and only 1,357 feet will be provided;
- Front Yard Setback – 400 feet is required and only 51 feet will be provided;
- Rear Yard Setback – 400 feet is required and only 60 feet will be provided;
- Side Yard Setback – 400 feet is required and only 50 feet will be provided;
- Combined Side Yard – 800 feet is required and only 100 feet is provided.

Very truly yours,



MICHAEL H. DONNELLY

MHD/lrm

cc: Town of Newburgh Planning Board  
Talcott Engineering Design, PLLC

Exhibit D

IN THE MATTER OF:

TROON PROPERTIES, INC.

BESSIE LANE/OLD POST ROAD, NEWBURGH  
(8-1-97) A/R ZONE

USE VARIANCE FOR SOLAR FARMS TO CREATE TWO SOLAR "ELECTRIC  
GENERATING" FARMS IN A RESIDENTIAL DISTRICT

STATE OF NEW YORK            )  
  : ss.  
COUNTY OF MONROE         )

DONNA MANICONE, being duly sworn, deposes and states that:

1. I am over eighteen years of age and understand the obligation of making a statement under oath.
2. I am a VICE PRESIDENT with Troon Properties, Inc. ("Troon Properties").
3. On May 10, 2010, Troon Properties acquired the approximately 28.2 acre property located at Bessie Lane/Old Post Road and described by the Town of Newburgh Tax Assessor as Section 8, Block 1, Lot 97 (the "Subject Property") through a Referee's sale, following a foreclosure action on the Subject Property. Troon Properties' acquired the property for \$175,000 which was the highest bid at the foreclosure sale. The deed was recorded in the Orange County Clerk's Office on July 20, 2010 (Book 1303; Page 605). The Judgment amount was approximately \$354,910.95.
4. From the date of acquisition to now, Troon Properties has been actively marketing the Subject Property for sale and at all times, the Subject Property was advertised as a potential residential subdivision in accordance with the pre-approved subdivision plan.
5. Immediately following the acquisition of the Subject Property in May 2010, Troon Properties prominently installed a "for sale" sign at the Subject Property. The "for sale" sign included the size of the Subject Property, a notation that the Subject Property was pre-approved for an 8-lot

subdivision, an asking price of \$335,000 or "best offer" and contact information for Troon Properties.

A photo of the "for sale" sign is attached. The "for sale" sign remained posted at the Subject Property since May 2010.

6. In response to the "for sale" sign posting, Troon Properties received inquiries about the Subject Property in May 2010, July 2012 and November 2015. The inquiry from November 2015 came from David Bersack with Century 21 who indicated that his client was interested in the property for a school. Troon Properties responded to all of these inquiries. However, none of these inquiries resulted in any further discussion or offers. Attached is a copy of these inquiries and Troon Properties' responses.

7. In addition to posting the "for sale" sign, Troon Properties retained two brokers to actively market the Subject Property.

8. Better Homes and Gardens – Rand Realty at 100 Stony Brook Court in Newburgh was the listing agent from July 2010 through December 2011. A copy of the Better Homes and Gardens sign posting at the Subject Property as well as the listing brochure, which shows an asking price of \$350,000, are attached.

9. Better Homes and Gardens received approximately 4 inquiries about the Subject Property. None of these inquiries resulted in any offers or further interest in the Subject Property.

10. In August of 2014, Troon Properties listed the Subject Property with Robert Holmes of John J. Lease Realtors located at 5020 Route 9W in Newburgh through December 2014. This realtor listed the Subject Property at \$325,000.00

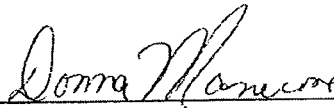
11. Robert Holmes received no inquiries or interest in the Subject Property.



12. In June 2015, Troon Properties continued its efforts to sell the Subject Property by placing ads on www.LandWatch.com and www.landandfarm.com ("website ads"). Attached is a copy of the ad. These ads ran for approximately 18 months and listed the Subject Property at \$249,000.

13. Troon Properties received approximately 12 inquiries from the website ads. Troon Properties responded to all inquiries. However, none of the website ad inquiries resulted in an offer or further discussion about the Subject Property. Copies of inquiries and responses from July 2015, September 2015 and November 2015 are attached. Several verbal offers received for less than \$150,000 were not considered acceptable.

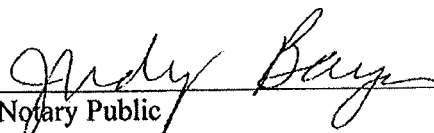
14. After 6-plus years of actively marketing the Subject Property for sale, the only offer on the Subject Property was Green Street Solar Partner's offer in January, 2016.

  
\_\_\_\_\_  
Donna Manicone

STATE OF NEW YORK            )  
  ): ss:

COUNTY OF MONROE

SWORN TO THIS 9<sup>th</sup> DAY OF February 2017

  
\_\_\_\_\_  
Notary Public

JUDY BAYER  
NOTARY PUBLIC-STATE OF NEW YORK  
No. 01BA6317368  
Qualified in Monroe County  
My Commission Expires January 06, 2019

ATTACHMENT 1

**LAND FOR SALE**  
**28.2 ACRES + BARN**

**PRE-APPROVED FOR 8 LOTS**  
**FROM 1.34 ACRES TO 5.32 ACRES**  
**SELLER FINANCING AVAILABLE**

**\$335,000 OR BEST OFFER**

**BROKERS PROTECTED**  
**LOT 97 OLD POST ROAD**

**Troon Properties**  
**800 390 7536**

ATTACHMENT 2

**Judy Bayer**

---

**From:** Judy Bayer  
**Sent:** Wednesday, November 04, 2015 2:32 PM  
**To:** Judy Bayer  
**Subject:** FW: Old Post Rd - Newburgh  
**Attachments:** DOC071415-07142015.pdf; engineers map.pdf

Sent to David Bersak w/Century 21 – his client is looking to build a school 917-364-0368

---

**From:** Judy Bayer  
**Sent:** Wednesday, November 04, 2015 2:32 PM  
**To:** 'dbersak42@aol.com'  
**Subject:** Old Post Rd - Newburgh

Good Afternoon,

As discussed, I have attached some maps as reference for the vacant land Troon has listed in Newburgh. Please let me know if you have any questions.

Thank you and look forward to hearing from you.

**Judy Bayer**  
**Troon Properties**  
46 Prince Street  
Rochester, NY 14607  
Phone: 585-244-7849  
Fax: 585-244-3494

**Judy Bayer**

---

**From:** Daniel Aubry [daniel1aubry@gmail.com]  
**Sent:** Friday, November 06, 2016 3:41 PM  
**To:** Judy Bayer  
**Cc:** dbersak42@aol.com  
**Subject:** Old Post Road, Newburgh, NY

Hi, Judy,

I work with my colleague Dave Bersak, who contacted you regarding this property.

My client is a well established private school with two campuses in the Newburgh/Beacon area.

They're renting in both places which is costing them a good deal of money.

They're looking at the possibility of buying some land and building a new school from the ground up.

How can we get to take a look at the property? Is there a caretaker ? A locked gate ?

Or can we just drive in?

And in that case can you provide an exact address which would show up on GPS ?

Many thanks,

Daniel

Daniel Aubry  
Licensed Real Estate Sales Person  
Century 21 Alliance Realty  
426 Main Street  
Beacon, NY 12508  
Cell 917 6476823  
Office 845 2974700

## Judy Bayer

---

From: [lloria@weichert.com](mailto:lloria@weichert.com)  
Sent: Tuesday, May 25, 2010 1:13 PM  
To: Judy Bayer  
Subject: [SPAM] RE: [SPAM] RE: Newburgh, NY

Thanks Judy, it helps a great deal. Basically from what I am looking at here and checking the area, the price of 335,000 should be accurate and secure a buyer in a reasonable amount of time. I would and already have presented what I have to a few builders I work with in Rockland. There's also networking it to other agents in other offices that I know who work with several builders. First and foremost, I would walk the property and check with the town and make sure there are no moratoriums on building. Next, I would send a packet to every agent that I know who has new construction and builders they represent in all companies not just my own. In addition to putting it in MLS, Weichert has a very strong internet presence and I would utilize it fully. We also have a very large office in Monroe and there are new construction specialists there that I would work closely with on this.

Linda Gass  
Weichert Realtors  
Cell: 914-552-0977

-----Original Message-----

From: "Judy Bayer" <[jbayer@normandy.com](mailto:jbayer@normandy.com)>  
Sent: Friday, May 21, 2010 4:24pm  
To: [lloria@weichert.com](mailto:lloria@weichert.com)  
Subject: RE: [SPAM] RE: Newburgh, NY

Hope this helps.

Judy Bayer

Normandy Corporation  
46 Prince Street, Rochester, New York 14607  
(585) 244-7849 Phone - (585) 256-2836 Fax M-F 9:00 am - 5:00 pm (EST)

-----Original Message-----

From: [lloria@weichert.com](mailto:lloria@weichert.com) [<mailto:lloria@weichert.com>]  
Sent: Friday, May 21, 2010 2:53 PM  
To: Judy Bayer  
Subject: [SPAM] RE: Newburgh, NY

Hi Judy,

I will need some information on the engineers opinion of possible development. It is imperative to determining value. I would also need a copy of a survey. Any wetlands or easements indicated on the survey would have a direct affect as well. A topography map would also be of help. Please let me know what documents are available.

My cell is the fastest way to reach me when I am out on the road: 914-552-0977 Thanks, Linda Gass Associate Broker Weichert Realtors

-----Original Message-----

From: "Judy Bayer" <[jbayer@normandy.com](mailto:jbayer@normandy.com)>  
Sent: Friday, May 21, 2010 2:21pm  
To: [lloria@weichert.com](mailto:lloria@weichert.com)  
Subject: Newburgh, NY

[www.troonproperties.net](http://www.troonproperties.net)

As discussed, this property was acquired through a foreclosure sale. There are plans for development of this property that can be purchased from the engineer. Please provide a BPO and your marketing strategies.

Thank you.

Judy Bayer

Normandy Corporation  
46 Prince Street, Rochester, New York 14607  
(585) 244-7849 Phone - (585) 256-2836 Fax M-F 9:00 am - 5:00 pm (EST)



**Judy Bayer**

---

**From:** Judy Bayer [jbayer@normandy.com]  
**Sent:** Thursday, May 27, 2010 2:07 PM  
**To:** 'Loxley, Susan'  
**Subject:** Seeking info on property in Newburgh  
**Attachments:** dev maps.pdf

Charles T. Brown, PE : he was the engineer for Scaturro : he says he has approved 8 lot subdivision maps in his possession, which he did NOT file, as he was not paid.

Perhaps you might want to contact him :  
3125 Route 9W, Suite 201, New Windsor, NY 12553  
845-569-8400  
Fax : 569-4583  
e-mail : [taconicdesign001@hvc.rr.com](mailto:taconicdesign001@hvc.rr.com)

I have attached the maps we have available. My contact information is below. Please let me know if you have any questions or require additional information.

Thank you.

Judy Bayer

**Troon Properties**

46 Prince Street, Rochester, New York 14607  
(585) 244-7849 Phone - (585) 256-2836 Fax  
M-F 9:00 am - 5:00 pm (EST)

---

**From:** Loxley, Susan [<mailto:sloxley@globalspec.com>]  
**Sent:** Thursday, May 27, 2010 2:02 PM  
**To:** [judy@normandy.com](mailto:judy@normandy.com)  
**Subject:** [SPAM] Seeking Info on property in Newburgh

Judy Thanks for calling

**Regards Susan Loxley-Friedle GLOBALSPEC**  
**e-media advertising and marketing services**  
**for industrial, manufacturing & scientific companies**  
**www.globalspec.com**  
**direct (845) 255-8665 or fax (845) 255-9178**  
**sloxley@globalspec.com**

ATTACHMENT 3

## Judy Bayer

---

**From:** James Haywood [jim.haywood@randreally.com]  
**Sent:** Wednesday, August 11, 2010 4:20 PM  
**To:** Judy Bayer  
**Subject:** [SPAM] Signs etc.  
**Attachments:** MLS #1.pdf; MLS #2.pdf; Rand Sign Old Post Rd.jpg; Troon #1.jpg; Troon #2.jpg

Hi Judy,

I have attached copies of:

1. Your sign (2) I put it up today. Rand sign guy otherwise occupied. (He called me 10 minutes after I had finished, oh well.)
2. Pictures of Rand Sign (1) Troon Sign (2)
3. Copies of the MLS listings for Dutchess County and Orange County (Ulster County to follow).

I am just finalizing a mailing to all members of the Hudson Valley Builders Association, about 135 names. I have included you in the mailing list, so you will receive a copy. I am also meeting with one of the most active developers in the area next week. He has been on vacation for several weeks; I am on his calendar the first day a returns. I will call you later this week to touch base. (Please note the \$ amount change that I made to your sign.)

Best wishes,

*Jim*

**James M. Haywood**  
Licensed Real Estate Sales Person  
**BETTER HOMES AND GARDENS - RAND REALTY**  
Newburgh Office  
100 Stony Brook Court  
Newburgh, NY 12550

Office 845-562-4800 Ext 330  
Cell 845-797-1513  
Fax 845-562-9977

**Web Site**  
<http://www.jimhaywood-randreally.com>

**CONFIDENTIALITY NOTICE:** This e-mail is intended only for the person(s) to whom it is addressed and may contain confidential information. If you have received this e-mail in error, please notify the sender immediately by reply e-mail and delete this message from your system. Please do not copy or use this e-mail for any purpose or disclose its contents to any other person.

# PRE-APPROVED SUBDIVISION

**Peter  
Homes**  
and Gardens  
REAL ESTATE

**RAND  
REALTY**

53 OLD POST RD, NEWBURGH, NY

