

**QUINTON TOWNSHIP PLANNING BOARD**

**RESOLUTION NO.: 2017-10**

**MIDFLARE CORPORATION**

**PRELIMINARY MAJOR SITE PLAN APPROVAL**

**Re: Block 12, Lot 34 (Salem-Quinton Road – N.J.S.H. Route 49)**

WHEREAS, an application was made to the Quinton Township Planning Board by MIDFLARE CORPORATION, a Georgia corporation having an address of 303 Perimeter Center North, Atlanta, Georgia 30346, for amended preliminary and final major site plan approval to construct a 20,000 s.f. one-story data center building, and an on-premises accessory solar energy system that would provide electric power for the data center operations, at property owned by Samuel P. Brown and Joan H. Brown, whose address is 882 Jefferson Way, West Chester, Pennsylvania 19380, which property is located along Salem-Quinton Road (N.J.S.H. Route 49), designated as Block 12, Lot 34 on the Quinton Township Tax Map, and depicted or otherwise described in the following documents:

- Site plan entitled “Amended Preliminary and Final Major Site Plan for Mableton Crest” prepared by J. Timothy Kernan, P.E. (N.J. Lic. No. GE37101) of Maser Consulting, P.A., 158 Stagecoach Road, Marmora, New Jersey 08223, dated November 10, 2016 and last revised to January 9, 2017 (5 sheets);
- Survey entitled “ALTA/NSPS Land Title Survey for Mableton Crest” prepared by John J. Pankok, P.L.S. (N.J. Lic. No. GS43329) of Maser Consulting, P.A., 2000 Midlantic Drive, Suite 100, Mount Laurel, New Jersey 08054, dated September, 2016 (1 sheet);
- Stormwater calculations prepared by Maser Consulting, P.A., revised January 2017;
- Environmental impact statement prepared by Maser Consulting, P.A., revised January 2017;
- Building schematics prepared by Champion Buildings, Inc., dated July 5, 2016; and
- Site photographs,

all of which are hereby incorporated by reference herein; and

WHEREAS, the Board determined that the applicant’s final major site plan application is incomplete per Final Site Plan checklist items A.(1) through (3) and any outstanding issues as noted in the Planning Board Planner’s and Engineer’s review letters; and

WHEREAS, the Board determined that it has jurisdiction to hear the applicant’s preliminary

major site plan application, and that same is complete and in conformity with the Quinton Township Land Use Ordinance (“Ordinance”) and the New Jersey Municipal Land Use Law (“MLUL”) except for any matters for which waiver relief is requested, and any matters that must be resolved as conditions of preliminary or final major site plan approval; and

WHEREAS, at its February 14, 2017 meeting, the Board heard testimony and representations from Mark I. Randall (Chief Operating Officer and shareholder of the applicant corporation), Timothy Kernan, P.E. (the applicant’s professional engineer), and John A. Alice, Esq. (the applicant’s attorney), and provided an opportunity for interested persons to make statements and ask questions about the application; and

WHEREAS, Lawrence M. DiVietro, Jr., P.L.S., P.P., and Andrew Hogg, P.E. (the Planning Board Planner and Engineer) provided a review letter dated February 7, 2017, in which they offered technical comments regarding the application and recommended requirements for approval; and

WHEREAS, after hearing the above testimony and representations, reviewing all application materials and exhibits, considering the Planning Board Planner’s and Engineer’s review correspondence, and discussing the application with the Planning Board Planner, Engineer and Solicitor, the Board made the following findings and conclusions:

1. The property consists of approximately 21.69 acres of farmland, woods and wetlands designated as Block 12, Lot 34, located along Salem-Quinton Road (N.J.S.H. Route 49) in an LI/O Light Industrial/Office zoning district.
2. The property was the subject of a previous land development application for a principal solar energy system that was intended to generate electricity for off-premises rather than on-premises use. The disposition of that application is uncertain according to the Board’s records, and the applicant’s attorney confirmed that in any event the previous land development proposal has been abandoned and replaced with this one. Accordingly, this application is being regarded and reviewed as a new application, and the approval of this application is agreed to replace and effectively eliminate any previous development approval that may have been granted for the property.
3. The applicant is under contract to purchase the property from the current owners. The applicant proposes to construct a 20,000 s.f. one-story data center building at the property and an on-premises accessory solar energy system that would provide electric power for the data center operations, together with driveways, stormwater management facilities, and other related site improvements, all as depicted on the applicant’s plans. The data center would store data for off-site customers in the manner commonly referred to as “cloud storage.” Customer data would be transmitted to and from the property only via fiber optic cable and not via wireless, radio, or satellite transmission. The data center would be operated and maintained by two full-time employees and would feature no business identification or advertising signage. Data storage customers would never access the property. The accessory solar energy system would serve only the data center and would not produce power for off-premises consumption except for the occasional transfer of excess power to the public electric utility system. Mr. Randall testified that if at any time the on-premises solar energy

system cannot provide sufficient electricity for operation of the data center, the necessary additional electricity would be obtained from the public electric utility system. Mr. Randal testified that if at any time neither system can provide sufficient electricity for operation of the data center, an on-premises (in-building) natural gas generator would provide electricity for the limited purposes of safely “downing” the data center’s storage system and transferring the data to other off-premises data storage facilities. Mr. Randall testified that no noise, vibration, smoke or dust would emanate from the data center or solar panels, and that the largest vehicles to access the property would be box trucks that would periodically deliver computer servers and other data storage equipment to and from the data center building via the front overhead door.

4. The applicant’s proposed data center qualifies as a “computer center” which is a permitted principal use/structure in LI/O zoning districts per Ordinance §170-34.A.(3). The applicant’s proposed on-premises accessory solar energy system is a permitted accessory use/structure in all zoning districts pursuant to Ordinance §170-38.J. The proposed data center and on-premises accessory solar energy system conform to all applicable LI/O zoning district bulk and area regulations as set forth in Ordinance §170-35.
5. Timothy Kernan, P.E., the applicant’s engineer, testified that the accessory solar energy system would be capable of generating eight megawatts of electricity. He explained the primary aspects of the site improvements, including the landscaping that will buffer the site from the residential neighborhood to the west. Mr. Kernan responded as follows to the recommendations proposed in the Planning Board Planner’s and Engineer’s review correspondence:
  - a. The applicant will revise the landscape plan to identify the proposed ground cover of areas outside the proposed perimeter fence and any other areas that are not covered by the building, pavement, or plantings.
  - b. The applicant will redistribute some of the landscaping that is currently proposed along the wooded northern property line in order to accomplish a northward extension of the landscaping along the residential neighborhood to the west, and to provide landscaping along the east property line near Route 49 to help buffer the data center building from the view of westbound traffic.
  - c. The applicant will ascertain whether the currently proposed designated handicap parking space is required by law, and if not the applicant will revise the plans to propose three non-designated spaces.
  - d. The applicant will widen the proposed driveway and access aisle to twenty-five (25) feet.
  - e. The applicant will review the proposed lighting at the entrance of the property and the front of the proposed data center building, revise the plan, and provide additional information as necessary to confirm that sufficient lighting of those areas will be achieved either by additional building-mounted illumination or by adding one or more free-standing lights.

- f. The applicant agreed to provide a stormwater management maintenance plan. The Planning Board Engineer confirmed that, given the uncomplicated nature of the stormwater management system, the low probability of detrimental impact on nearby residential properties, and the fact that the Township bears no responsibility for potential stormwater mismanagement at or near the property under its Stormwater General Permit, there is no need to record the stormwater management maintenance plan, or any related easements or declarations of covenant, as part of this project.
  - g. The applicant agreed to provide soil boring information including permeability rates and infiltration time for the proposed stormwater infiltration area.
  - h. The applicant agreed to provide additional spot elevations and dimensions within the stormwater management basin.
  - i. The applicant agreed to provide a painted stop bar and stop sign where the proposed driveway meets Route 49.
  - j. The applicant agreed to provide details and dimensions of the sidewalk leading to the man door from the parking lot.
6. The applicant requested a design waiver from the four (4)-foot front yard height limitation of Ordinance §170-152.N.(6)(b)[3] to permit a six (6)-foot black vinyl-clad chain link perimeter fence on all sides of the property for site security. The Planning Board Planner and Engineer expressed no objection to the waiver request given the applicant's reasonable security concerns, the 75-foot distance of the fence from the property's front lot line, and the fence's semi-decorative design. The Board agreed with the applicant's justification for the design waiver and concluded that the waiver could be granted without impairment of the intent and purposes of Quinton Township's site plan review requirements or detriment to nearby property owners or the general public.
  7. Board member Marjorie Sperry, who serves on the Quinton Township Environmental Commission, informed the applicant and the Board that the Environmental Commission will not review the applicant's preliminary major site plan application until after the Environmental Commission has received the Flood Hazard Area Verification that the applicant will be filing with the New Jersey Department of Environmental Protection.
  8. No interested persons appeared with respect to the application.

NOW, THEREFORE, BE IT RESOLVED, by the Quinton Township Planning Board that, for the reasons set forth above, the applicant's preliminary major site plan application to develop and use the property as the site of a 20,000 s.f. one-story data center building and an on-premises accessory solar energy system that would provide electric power for data center operations, all as depicted and described in the applicant's plans and other application materials, and a design waiver to permit the front portion of the proposed black vinyl-clad chain link fence height to be six (6) rather than (4) feet, are hereby granted subject to the following conditions:

- A. The applicant must pay any and all required fees and escrow replenishment amounts that are due or may become due to the Township within seven (7) days notice thereof. The applicant must contact the Quinton Township Planning Board Secretary to settle any outstanding review escrow accounts prior to signature of the applicant's site plan.
- B. The applicant must comply with all representations made through any representative during the course of the applicant's presentation to the Board and in all documents filed with the application.
- C. The applicant must revise the plans and provide additional information as follows to the satisfaction of the Planning Board Planner and Engineer:
1. The applicant must revise the landscape plan to identify the proposed ground cover of areas outside the proposed perimeter fence and any other areas that are not covered by the building, pavement, or plantings.
  2. The applicant must revise the plans to redistribute some of the landscaping that is currently proposed along the wooded northern lot line of the property in order to accomplish a northward extension of the landscaping along the residential neighborhood to the west to provide additional buffering for that neighborhood.
  3. The applicant must revise the plans to redistribute some of the landscaping that is currently proposed along the wooded northern lot line of the property to provide landscaping that extends northward along and within the east lot line of the property from Route 49 to a point equivalent to the rear of the proposed data center building in order to buffer the building from view of westbound traffic.
  4. The applicant must ascertain whether the currently proposed designated handicap parking space is required by law and if not revise the plans to depict three non-designated spaces.
  5. The applicant must revise the plans to increase the width of the proposed driveway and access aisle to twenty-five (25) feet.
  6. The applicant must review the proposed lighting at the entrance of the property and the front of the proposed data center building and revise the plans and provide additional information as necessary to show that sufficient lighting of those areas will be achieved either by additional building-mounted illumination or by adding one or more free-standing lights.
  7. The applicant must provide soil boring information including permeability rates and infiltration time for the proposed stormwater infiltration area and revise the plans as necessary based on that information.
  8. The applicant must revise the plans to provide additional spot elevations and dimensions within the stormwater management basin.

9. The applicant must provide a stormwater management maintenance plan.
  10. The applicant must revise the plans to provide a painted stop bar and stop sign where the proposed driveway meets Route 49.
  11. The applicant must revise the plans to provide details and dimensions of the sidewalk leading to the man door from the parking lot.
- D. The applicant's final major site plan application will not be certified complete until **conditions A. through C.**, above, have been satisfied, and all other final major site plan submission requirements have been satisfied or waived.
- E. As a condition of final major site plan approval, and prior to signature of the final site plan and any land disturbance or development activity at the property, the applicant will be required to post a performance guarantee with the Township to secure the completion of all site improvements in an amount to be determined by the Quinton Township Engineer pursuant to *N.J.S.A. 40:55D-53* and Ordinance § 170-145.A. based on a cost estimate prepared or approved by the Quinton Township Engineer. No less than ten (10%) of the performance guarantee must be in cash as required by Ordinance § 170-145.A. The performance guarantee, including the cash bond for the cash portion, must be submitted to the Quinton Township Solicitor for review and approval before it can be posted with the Township. The performance guarantee must include the deadline for completion of the guaranteed improvements that will be established as set forth in **condition G.**, below.
- F. As a condition of final major site plan approval, and prior to signature of the final site plan and any land disturbance or development activity at the property, the applicant will be required to post a maintenance guarantee with the Township to secure the maintenance of all guaranteed improvements for a period of two (2) years following the date the guaranteed improvements are accepted or approved by the Township. The amount of the maintenance guarantee must be determined by the Township Engineer pursuant to *N.J.S.A. 40:55D-53* and Ordinance § 170-145.B. based on the aforesaid approved cost estimate. The maintenance guarantee must be submitted to the Township Solicitor for review and approval before it can be posted with the Township.
- G. As a condition of final major site plan approval the applicant will be required to complete all guaranteed improvements within **one (1) year** following the date of the Planning Board's adoption of the resolution memorializing final major site plan approval. The completion deadline is an administrative deadline established pursuant to *N.J.S.A. 40:55D-53.b.* and Ordinance § 170-145.C. for purposes of measuring default under the performance guarantee to ensure that that project will be completed to the extent that the site improvements are necessary for proper use of the site, and for the protection and benefit of adjacent property owners and the general public. The completion deadline is separate and distinct from any expiration date of final major site plan approval as may be provided in *N.J.S.A. 40:55D-52*. The completion deadline may be extended by the Board before the guarantees have been posted upon a showing by the applicant that the site improvements are not or will not be needed within the originally

estimated deadline or for other good cause, or by the Township, upon such a showing, pursuant to *N.J.S.A. 40:55D-53(b)* and Ordinance § 170-145.C., after the guarantees have been posted.

- H. As a condition of final major site plan approval the applicant will be required to deposit a cash inspection fee with the Municipal Treasurer/Chief Financial Officer in an initial amount to be determined pursuant to *N.J.S.A. 40:55D-53* based on the aforesaid approved cost estimate, and thereafter replenish the inspection fee escrow as necessary.
- I. As a condition of final major site plan approval the applicant will be required to provide proof, in a form satisfactory to the Township Solicitor, of authorization from the applicant and all other present and future owners or lessees of the property for Township personnel, surety personnel, and their respective contractors, and any other persons as may be necessary, to enter the property to inspect the site improvements and enforce conditions of this approval; to complete and maintain the site improvements pursuant to the performance and maintenance guarantees in the event the applicant fails to do so; and to decommission the solar energy system pursuant to Ordinance § 170-38.J.(20) in the event the applicant fails to do so.
- J. As a condition of final major site plan approval the applicant must obtain approvals or letters of inapplicability to the satisfaction of the Planning Board Planner and Engineer from all other agencies having jurisdiction over the applicant's proposed development, including but not limited to:
- Quinton Township Environmental Commission
  - Quinton Township Fire Marshall
  - Cumberland Salem Conservation District
  - Salem County Board of Health
  - Salem County Planning Board
  - New Jersey Department of Transportation
  - New Jersey Department of Environmental Protection.
- K. As a condition of final major site plan approval, the applicant's approved final site plan will not be signed by the Planning Board Chairperson and Secretary until the requirements set forth in **conditions A. through J.**, above, and any other conditions so specified in the resolution memorializing final major site plan approval, have been satisfied.
- L. As a condition of final major site plan approval, no zoning permit will be issued for the applicant's development until the applicant's approved final site plan has been signed by the Planning Board Chairperson and Secretary.
- M. No construction permit for any aspect of the applicant's development may be issued until the Quinton Township Zoning Officer has issued a zoning permit for the applicant's development.
- N. No land disturbance, site work, or other development activity may commence at the property until (a) final major site plan approval has been granted by the Board; (b) the applicant has satisfied all conditions of final major site plan approval; (c) the applicant's approved final site

plan has been signed by the Planning Board Chairperson and Secretary; and (d) a zoning permit and all applicable construction permits have been issued for the applicant's development.

- O. As a condition of final major site plan approval, no certificate of occupancy or approval may be issued for the applicant's development until it is complete to all code specifications, all site improvements have been accepted or approved by the Township, and all conditions of this resolution and the resolution of final approval have been satisfied.
- P. The applicant may not transfer any of the rights relating to the project or this approval to any other person or entity unless such transfer is accomplished by a three-way agreement between the applicant, the new developer, and the Township. The agreement must also confirm, to the Township Solicitor's satisfaction, whether and to what extent the new developer will assume the applicant's rights and responsibilities under this approval, and how any issues such as the disposition of past and future guarantees, escrows and fees, or other relevant matters, are to be resolved.
- Q. The accessory solar energy system at the property must serve only the data center and must not produce power for off-premises consumption except for the occasional transfer of excess power to the public electric utility system. The accessory solar energy system at the property may not be operated as a principal solar energy system to generate electricity for off-premises rather than on-premises use.
- R. No additional structures or uses other than those depicted on the applicant's approved site plan may be constructed or conducted at the property unless first approval by the Planning Board.
- S. This approval eliminates and replaces any previous development approval that may have been granted for the property.

The undersigned Chairperson of the Quinton Township Planning Board hereby certifies that the above is a true copy of a resolution adopted by said Board on April 11, 2017 to memorialize action taken on February 14, 2017.

*Attest:*



Bonita K. Bell, Secretary  
Quinton Township Planning Board



Cynthia Sherman, Chairperson  
Quinton Township Planning Board