

**City of Ellsworth  
Planning Board Meeting Minutes  
Wednesday, August 4, 2021  
5:30 PM**

Chairman John Fink, Vice-Chairman John DeLeo, Secretary Rick Lyles, Member Marc Rich, and Alternate Member Molly Friedland attended the regular meeting of the Ellsworth Planning Board. Member Nelson Geel and Alternate Member Patrick Lyons were absent from the meeting.

**Five board  
members present**

City Planner Elena Piekut, Code Enforcement Officer Lori Roberts, Watershed Steward John Wedin, and Fire and Life Safety Inspector Thomas Canavan attended the meeting.

**Four staff  
members present**

**1.) Call to Order**

Chairman Fink called the meeting to order at 5:30 PM.

**Call to Order**

**2.) Adoption of Minutes** from the July 7, 2021 meeting. Rick Lyles moved to approve the minutes. Marc Rich seconded the motion, and with no further discussion, the motion passed unanimously **(5-0)**.

**Adoption of  
minutes**

**3.) Preliminary Plan Review for a Major Use Site Development entitled Ellsworth ME Solar LLC for Ellsworth ME Solar, LLC.** The proposal is to construct a 4.98-megawatt solar energy facility on a 48.68-acre parcel (Tax Map 30 Lot 15) located at 889 Bucksport Road. All of the subject property is located in the Rural and Drinking Water Zones.

**Preliminary Plan  
Review Ellsworth  
ME Solar LLC**

Sean Hale of VHB was present to represent the applicant Ellsworth ME Solar, LLC. Joel Lindsay of Ameresco and Caitlin Glass of VHB were also present.

Mr. Hale provided a brief overview of the project for the board. He explained that the proposed project location is 889 Bucksport Road on a 40-acre parcel. The solar farm will be a six-megawatt facility. VHB held pre-application meetings with the Department of Environmental Protection and the Army Corps of Engineers to discuss the project.

**Introduction**

The solar farm is proposed to be installed on the back wooded portion of the property, set back about 1,500 feet from Route 1. There is an existing residential driveway that they will improve and extend to meet the 20-foot width requirement for emergency access. Road sections that pass through wetlands will only be 16-feet in width to reduce wetland impact. The facility will also have a chain link fence installed around the perimeter.

**Deliberations &  
Findings of Fact**

Responses from the Maine Natural Areas Program and the Historic Preservation Commission were both favorable. Neither organization had any concerns regarding the project. A site law application will be submitted to the State because the project is over twenty acres in size. They will also be submitting an application for a permit to the Army Corps of Engineers for the significant wetland impacts. Mr. Hale added that the project will be required to comply with State stormwater standards and a stormwater management plan was included in the application packet. The stormwater plan will also be reviewed by the State under the Site Law application.

Mr. DeLeo inquired about the space between the proposed solar panels and the edge of the property out of concern for residents on Catherine Avenue. Mr. Hale explained that there is a fifteen-foot strip of existing vegetation that will provide natural buffering in addition to the planting of lower growing shrubs and evergreen species. The screening plan was designed specifically to shield views of the facility for residents on Catherine Avenue.

Mr. DeLeo voiced concern regarding the section of the terms and conditions in the lease agreement with the property owner that states that the owner is to pay all the real estate taxes, all personal property taxes, or negotiate with the municipality of other payment in lieu of taxes. Mr. DeLeo explained that although that is not a Planning Board consideration, as a taxpayer, it is concerning.

Mr. DeLeo mentioned acreage discrepancies noted in the project narrative.

Mr. DeLeo mentioned comments submitted by abutter Wayne Burnett in regards to fencing that allows for wildlife passage. Mr. Hale explained that the fencing is designed with a six-inch gap for wildlife passage. Mr. Lindsay added that they are required to comply with the electrical code for providing proper barriers, but they will consider the request.

A brief discussion regarding stormwater treatment ensued. The board requested the applicant provide copies of the stormwater treatment plan.

Mr. DeLeo inquired if there are components of the solar panels that are toxic while the farm is in operation or if a panel were to break. Mr. Lindsay explained that the panels are made from silicon and glass and there are no toxic components to the panels.

Mr. Lyles inquired about the about the setback requirements. A brief discussion followed regarding setbacks and buffering.

Mr. Lyles inquired about the three existing structures on the property. Mr. Hale explained that it is a large property and there is a house located on the

Southern side. Ms. Glass added that the structures have been added to a revised set of site plans.

Mr. Lyles inquired if an easement would be necessary since the solar facility will be utilizing the existing driveway. Mr. Lindsay explained that it is covered in the lease agreement with the property owner. The lease agreement includes provisions for a both a utility and access easement.

Mr. Lyles inquired if there are any proposed turnarounds on the plan for emergency vehicles. Fire and Life Safety Inspector Canavan answered that there are two proposed, one at the beginning of the road and one at the end.

Chairman Fink asked Mr. Canavan if the transition from the residential driveway to the access road is wide enough to meet requirements. Mr. Canavan confirmed that it is.

Mr. DeLeo inquired about the possibility of the road being blocked due to the sharing of a driveway with a residence. Mr. Canavan stated that he will work with VHB and the home occupants to ensure the entrance is always left clear of vehicles.

**Chairman Fink opened a public hearing at 6:07 PM.**

**Public Hearing**

John Wedin, Watershed Steward of the Ellsworth Water Department addressed the board and inquired if the applicant could specify what water body the run off from the catch basins will flow to. Mr. Wedin expressed concerns over the vegetated stormwater buffer being proposed. He suggested that the applicant submit to either the Water Department or the Code Enforcement Office copies of their maintenance logs for the meadows they plan to use as stormwater buffers since meadows take time to grow and stabilize.

Mr. DeLeo asked Mr. Wedin if there is a limit to how many solar facilities or tree cutting is allowed within the Branch Lake Watershed. Mr. Wedin explained that a forested buffer is different from a meadow. Mr. Wedin directed the board to the DEP website where the different run off coefficients are listed. Mr. Wedin added that if the meadow is well established it has the capacity to treat a lot of water and the run off from the meadow will be cleaner.

Mr. Hale approached the board to address Mr. Wedin's concerns. Mr. Hale explained that they do not anticipate enough stormwater run-off that it would make it to any open water body. There are no streams or ponds within close proximity to the site. The stormwater would be infiltrated and not leave the site. Mr. Hale explained that DEP does not consider the solar panels to be impervious surface. The meadow that will be established underneath them will

be an adequate vegetated surface to collect and treat the stormwater on site while meeting Chapter 500 standards. In addition to the meadow they are proposing deed restricted buffers that will be maintained for the life of the project. Based off of the stormwater calculations there is no anticipated impact to adjacent properties.

Caitlin Glass addressed the board and explained that erosion control measures will be utilized to ensure the meadow is properly established. Ms. Glass added that DEP considers the area beneath the solar panels to be self-treating when it is re-vegetated as a meadow. DEP restricts mowing of the meadow to twice per year in order to maintain the stormwater treatment. There are deed restricted buffers in place for the concrete equipment pads and the access road that will effectively treat stormwater run-off from those areas.

Mr. DeLeo inquired if stormwater will run off into the wetlands on the property and ultimately flow onto adjacent properties and into Branch Lake. Mr. Hale explained that they limited clearing within the forested wetlands as much as possible. The wetlands will remain wetlands and will be converted from a forested wetland type to an emergent wetland type. Ms. Glass explained that they are adhering to the State regulations for both water quality and water quantity. They are addressing water quality with the vegetated buffers. They completed a pre and post development drainage analysis to address any water quantity issues. The stormwater basins will ensure that post construction runoff does not exceed pre construction runoff.

Chairman Fink Closed the Public Hearing at 6:20 PM.

**Rick Lyles made a motion to determine the Preliminary Plan for a Major Use Site Development entitled Ellsworth ME Solar LLC for Ellsworth ME Solar, LLC Complete. Marc Rich seconded the motion. Mr. DeLeo asked Ms. Piekut if she is comfortable with the application being deemed complete. Ms. Piekut answered that she is comfortable with that motion. With no further discussion, the motion passed unanimously (5-0).**

**Preliminary Plan  
for a Major Use  
Site Development  
entitled Ellsworth  
ME Solar LLC:  
Complete**

**4.) Sketch Plan Review for a Major Use Site Development entitled BD Solar Ellsworth for BD Solar Ellsworth, LLC.** The proposal is to construct a 3.3-megawatt solar energy facility on a 95-acre parcel (Tax Map 93 Lot 2) located on Nicolin Road. The subject property is located in the Rural and Resource Protection Zones.

**Sketch Plan  
Review BD Solar**

Sean Thies of Haley Ward was present to represent the applicant, BD Solar Ellsworth.

Mr. Thies addressed the board and explained the project was initially submitted as a preliminary plan. However, after TRT review they decided to modify the application to a Sketch Plan. Mr. Thies provided the board and staff with an updated copy of the site plan. Mr. Thies explained the proposed project is a 3.3 Megawatt solar energy facility covering approximately 17 acres located on a 95-acre parcel on the Nicolin Road. The site is wooded and located just beyond a transmission corridor. There are currently no immediate neighbors on either side of or across from the proposed project. The initial design was modified to accommodate the wetlands on the west side of the property and because of a stream on the easterly side that is located within the Resource Protection Zone. After the TRT review, the proposal was amended so that all solar panels are positioned out of the Resource Protection Zone. The access road was also extended at the request of the Fire Department to ensure emergency vehicle access with a hammerhead turnaround installed at the end of the road. The surface beneath the panels will be revegetated and the property will be enclosed with a chain-link fence. Stormwater calculations were not submitted because with the initial plan they were under the impervious surface threshold. Due to the access road being extended stormwater calculations are required and will be included in the preliminary plan submission.

## Introduction

Mr. DeLeo commented that there is currently a wood harvesting operation on the site and inquired if the road they are utilizing to harvest wood will be used for the solar facility as well. Mr. Thies answered that the road proposed for the solar facility is not based off of the wood harvesting road.

## Deliberations & Findings of Fact

Mr. DeLeo commented on an error in the development application, the estimated cost of the project was not entered into the correct field.

Mr. DeLeo asked if the developers would raise the proposed fences to allow for wildlife passage. Mr. Thies stated that he will look into the code regulations to see what the options are.

Mr. DeLeo voiced concerns about the financial capacity letter dated November 8, 2018 and requested that the applicant submit a new up to date letter.

Mr. DeLeo suggested the City request copies of the maintenance and inspection logs from the developers. Mr. Thies stated the logs can be provided to the City.

Mr. Lyles asked Mr. Canavan if he is comfortable with the access road decreasing from a 20 foot wide road down to 12 feet in width. Mr. Canavan explained he had just received the updated site plan and will need to review the proposal.

Mr. Lyles inquired if the silt fence will be installed permanently. Mr. Thies answered that the silt fence is for construction purposes and will remain until the vegetation on the site is established.

**Chairman Fink opened a public hearing at 6:40 PM.**

**Public Hearing**

Mike Hammer, an abutting property owner came forward to voice his concerns. Mr. Hammer explained there is a beaver pond on the site and a tremendous amount of water runs off in that area. The road has washed out several times due to the run off which also runs into Green Lake from the backside of the Boggy Brook Road. Mr. Hammer also noted that he is concerned what a large solar facility will look like in comparison the currently forested land. Mr. Hammer inquired about his ability to be involved in the process as a landowner and expressed his apprehension at the significant changes being proposed to the surrounding environment. He added that there is abundant wildlife in the area that should be considered as well. Mr. Hammer conveyed his concerns about the surrounding watersheds being impacted by solar facilities.

Mr. Fink explained that the City's stormwater ordinance stipulates that there cannot be any more water flowing off a development post construction than there was pre-construction. The applicants are responsible for ensuring the stormwater is properly treated. Mr. Fink also explained that the applicant is required to come back before the board for both a preliminary and a final review. Mr. Fink advised Mr. Hammer to attend the future Planning Board meetings, contact the Planning Office, and contact the developer to obtain pertinent information regarding the project.

Mr. DeLeo asked if the applicant could provide a visual display of what the project will look like from the road when completed. In addition, if they could also provide a picture or display of what the project will look like from Mr. Hammer's property. Mr. Thies stated that he could conduct an analysis of the elevations of the proposed project and Mr. Hammer's house and an approximate height of the trees to estimate the line of site from Mr. Hammer's property. As far as the view from the road, they are required to maintain a 30-foot wooded buffer along the road frontage.

Dale Jellison, address not stated, approached the board to voice his concerns regarding the potential impacts the project poses to Green Lake. Mr. Jellison expressed concerns over the stormwater treatment and not being confident that a DEP Permit by Rule regulations are enough to protect the lake. Mr. Jellison voiced concerns regarding the construction phase of the project and if a detention or retention pond will be required to prevent water from flowing to Boggy Brook, which ultimately flows to Green Lake. Mr. Jellison expressed final concerns surrounding the responsibility and costs of decommissioning.

Audrey Tunney, President of Green Lake Association approached the board. Ms. Tunney inquired if the proposed solar panels are toxic. Mr. Thies answered that they are not. Ms. Tunney inquired how the public can view the application and site plans. Ms. Piekut answered that all application materials are located in the Planning Office and available to the public. Often the materials can be shared digitally upon request as well.

Joe Kitchen, a resident of Harmony Way, located off Nicolin Road, approached the board. Mr. Kitchen referenced an article titled "Anything can go wrong with a solar farm." The article noted the following: perimeter fence damage from people trying to gain access to for theft purposes, injuries, and ground erosion. Mr. Kitchen stated that he feels the project will be a great detriment to Green Lake. He added that the proposed project is surrounded by wetlands on three sides. Mr. Kitchen requested the City thoroughly review the project.

Chairman Fink closed the public hearing at 6:57 PM.

Mr. DeLeo asked Mr. Wedin to share his opinion on potential impacts the development will pose to Green Lake. Mr. Wedin explained that in his opinion every piece of land in Maine is located within a watershed. All run off flows into the nearest river or lake and eventually into the ocean. Mr. Wedin explained that the property is surrounded by wetlands that flow into green Lake or other nearby water bodies. Mr. Wedin advised using the same regulations for solar arrays as any other substantial construction project. Buffers and other measures can be taken to ensure the water is as clean as possible before flowing off the land and into a watershed. Mr. DeLeo requested that Mr. Wedin review the project and report to the board at the Preliminary Review.

Mr. Lyles asked if a hydrological study is required for the project. Ms. Piekut answered that it is required for this project.

**5.) Preliminary Plan Review for a Major Use Site Development and Major Subdivision entitled 64 Pine for Opus One, LLC.** The proposal is to construct a 12-unit residential apartment building on 0.37 acre (Tax Map 134 Lots 91 & 104) located at 64 Pine Street and 33 Spruce Street. All of the subject property is located in the Downtown Zone.

Sean Thies of Haley Ward was present to represent the applicant. Jonathan Bates, owner of the property also attended the meeting.

Mr. Thies approached the board and gave a description of the project. The applicant is proposing to construct a three story, twelve-unit apartment building. The project is located on both Spruce and Pine Streets with all utility access from Pine Street. The proposed building will front on Pine Street with the parking lot located in the back with access from Spruce Street. Stormwater

**64 Pine  
Preliminary  
Review**

**Introduction**

generated from the site will be collected into catch basins that will be connected into the City's existing drainage system.

Mr. Thies informed the board of a possible storm drain line that cuts through the property. The current location of the pipe is unknown, but the City has informed the applicant that it may exist on the property. Mr. Bates added that if the pipe is found during construction he has agreed to give the City access to the line. Ms. Piekut explained that the approximate location of the pipe on the site plan is based off an old City map. There is some water seepage and icing occurring in the winter on the street. The City's Public Works director informed staff and the applicant of the possibility of the line on the property during review of the project.

Mr. Thies explained there is an ADA parking space located on the Pine Street side of the development where ADA access to the building is.

A brief discussion ensued regarding the possible storm drain line and the need for an easement for City access to the line if found.

Mr. DeLeo inquired about the grass underdrain soil filter proposed for stormwater treatment. Mr. Thies explained it is in place to collect the stormwater and then filter it. It is in place more for treatment than retention, but does retain some water. The excess water will drain into the City's drainage system on Spruce Street.

Mr. DeLeo requested a site visit to inspect the property. The Planning Department will schedule it and provide notice.

A discussion ensued regarding access to and from the property from High Street.

Mr. DeLeo asked Mr. Bates if he received the emailed letter received from an abutting landowner. Mr. Bates answered that he had met with the landowner and discussed the exterior façade of the building. Mr. Bates stated that he has complied with their requests and provided architectural diagrams to them. Mr. Bates added that he met with all of the property owners in the neighborhood in March and discussed the project. There was no opposition and he is willing to comply with the requests to maintain the façade of the neighborhood. Mr. Lyles asked if the design concerns brought forth are enforceable by City Ordinances. Ms. Piekut answered that they are not.

Molly Friedland inquired if the units are designed to target a specific demographic. Mr. Bates answered that they are open market apartments. They will be furnished apartments with the location focused on walkability to restaurants, the hospital, etc. Ms. Friedland inquired if the apartments will be

**Deliberations and Findings of Fact**



used as Airbnb rentals. Mr. Bates explained he does not intend to rent the apartments as Airbnb units and will not offer the apartments for any less than a 3-month term.

There was a brief discussion regarding stormwater drainage.

**Chairman Fink opened a public hearing at 7:34 PM.** No one came forward to speak and the public hearing was immediately closed.

**John DeLeo made a motion to determine the Preliminary Plan for a Major Use Site Development and Major Subdivision entitled 64 Pine for Opus One, LLC Complete. Rick Lyles seconded the motion and with no further discussion, the motion passed unanimously (5-0).**

**6.) Staff Comments**  
No Staff comments.

**7.) Signing of Mylars & Adjournment**  
Rick Lyles made a motion to adjourn the meeting after the signing of the mylars. John DeLeo seconded the motion and with no further discussion, it passed unanimously **(5-0)**. The meeting was adjourned at 7:37 PM.

Minutes prepared by: Kerr Taylor, Development Services Coordinator.

10/4/21  
Date \_\_\_\_\_  
Rick Lyles, Secretary  
Ellsworth Planning Board

**Public Hearing**

**Preliminary Plan for a Major Use Site Development and Major Subdivision entitled 64 Pine: Complete**

**Vote to adjourn at 7:37 PM**

*Agendas and minutes posted on the City of Ellsworth's website: [ellsworthmaine.gov](http://ellsworthmaine.gov)  
A video transcript of this meeting is also available on YouTube.*