

City of Ellsworth
Planning Board Meeting Minutes
Wednesday, April 6, 2022
5:30 PM

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

Five board members present

Remote participation by the Applicant and public, in addition to in-person attendance, was enabled using ZOOM webinar technology, pursuant to 1 M.R.S. § 403-B and the Planning Board's Remote Meeting Participation Policy.

City Planner Elena Piekut, Code Enforcement Officer Lori Roberts, Development Services Coordinator Kerri Taylor, and Fire and Life Safety Inspector Thomas Canavan attended the meeting.

Four staff members present

1.) Call to Order

Chair DeLeo called the meeting to order at 5:31 PM.

Call to Order

2.) Adoption of Minutes from the March 2, 2022 meeting. Nelson Geel 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.) Final Plan Review for a Major Use Site Development entitled A & B, LLC for Aaron Wiswell. The proposal is to construct a 1,512 SF automated car wash building on a 0.66-acre parcel (Tax Map 135 Lots 13 & 14 & Tax Map 134 Lot 150) located at 59 & 61 High Street and 62 Deane Street. The subject property is located in the Downtown (DT) Zoning District.

Final Plan Review for a Major Use Site Development entitled A & B LLC

Andrew McCullough, PE attended the meeting to represent the applicant. Applicant Aaron Wiswell attended the meeting remotely via ZOOM.

Introduction

Mr. McCullough addressed the Board and explained that he conducted a traffic study at the development driveway entrance, the High Street and Deane Street intersection, in addition to the Water Street and Deane Street intersection. Mr. McCullough made revisions to landscaping and operations. He stated that overhead electric service is being proposed instead of underground because they will need to bring the service across Deane Street. The hours of operation for the carwash itself have been revised to 7 A.M. to 9 P.M. and the vacuums will be turned off at 7 P.M. An employee will be on site daily to maintain the facility as well as oversee operations during peak days. The name and contact information for the maintenance employee will be provided to the City prior to the issuance of the certificate of occupancy. Mr. McCullough stated that the overhead doors on the exit side of the building will be closed during drying operations to limit noise pollution. Mr. McCullough incorporated landscaping into the three-to-four foot wide strip between the sidewalk and retaining wall on Deane Street. The applicant is proposing an eight-foot tall solid panel PVC fence along the residential properties.

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Mr. McCullough explained that he performed a manual traffic count at the intersection of Deane Street and Water Street at approximately 11:10 A.M. to 12:10 P.M. He subsequently did another traffic count at the same time at the Deane Street and High Street intersection. Mr. McCullough stated that March is the peak month of the year for Mr. Wiswell's other location, so the traffic study is representative of a peak hour of operation.

Mr. McCullough explained that Mr. Wiswell provided him with a video of five hours of operation at his South Berwick facility to monitor vehicle stacking. During that time frame there were no more than five vehicles stacked for the touch-free bay, which is the highest-volume bay.

A brief discussion ensued regarding the traffic volume at Mr. Wiswell's South Berwick carwash location.

Mr. McCullough explained to the Board that for the driveway intersection with Deane Street he had someone assist him with the traffic count. They counted the northbound lane traffic and the southbound lane traffic as well. Mr. McCullough took the vehicle volume that he observed going by the site east and west on Deane Street when he took the count at the High Street intersection. He then integrated the additional trips from the facility into those trips. Mr. McCullough explained that he completed his traffic analysis using the Highway Capacity Manual Procedure for Stop Controlled T Intersections. His results showed that even with the additional trips in and out of the facility entrance, the development would still operate at a level of Service A.

Mr. McCullough explained that at the Deane Street and High Street intersection they took counts and used the analysis from the Highway Capacity Manual. They did not observe any vehicles attempting to make a left hand turn from Deane Street. Based on his assumed distribution he had 14 vehicles entering and leaving the facility.

Mr. McCullough provided a detailed explanation regarding his method to assess the level of service at a stop-controlled intersection.

Mr. McCullough added that he did not observe any vehicles experience more than a five-second delay when pulling out onto Water Street or High Street. Mr. McCullough stated that his observations reflected a level of service A.

Mr. McCullough informed the Board that he did look into the standards for headlights and the elevation of headlights when entering and leaving the site. The State of Maine standards for headlights include a minimum height of 22 inches above ground and a maximum height of 54 inches above ground, with the top of the beam being at the maximum height of the light. The carwash building will block the light from the neighboring Tainter house as vehicles enter. The headlights will be blocked by the fence when vehicles are on the paved yard. On the west side of the development they brought

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the fence up onto the berm of the detention pond area so that when cars exit their lights will be blocked by the fence.

Mr. DeLeo commented that City Planner, Elena Piekut had sent the traffic study to Vice-Chair Rick Lyles for review. Mr. DeLeo asked Ms. Piekut to address the traffic study. Ms. Piekut explained that she summarized Mr. Lyles comments in the memo she prepared for the Board. Ms. Piekut reminded the Board that this project was not required to come before the Planning Board as a Major Use Site Development because it did not trigger major use site development review thresholds. This project is before the Board because the Code Enforcement Officer has the option to send a project to the Planning Board when they feel it is necessary. Ms. Piekut explained that a development on Deane Street would need to be quite large to make a difference in traffic on main roads. Ms. Piekut stated that Mr. Lyles commented that he thought that the intersection at Water Street could have been better examined, but in general, the numbers provided are good. Mr. Lyles' comments reflected that he did not anticipate much of an issue with the Deane Street entrance. Mr. Lyles added in his comments that comparing the development to the prior land use which was a Subway and a couple of residential structures may not explain much unless they had a similar trip generation characteristic. Mr. Lyles remarked that a more detailed analysis probably would not give the Board much more information than what was provided.

Further discussion ensued regarding the traffic study.

Mr. DeLeo informed the audience regarding noise pollution that the noise ordinance written in 2009 encompasses a situation where if someone were using the vacuum cleaners and blasting their stereo, the situation could be handled under the criminal statute of disorderly conduct and most likely a police officer would address the complaint. The last section of the noise ordinance covers decibel levels. Mr. DeLeo commented that he asked alternate member Patrick Lyons to review the noise ordinance because the last section of the noise ordinance seems as though it will be difficult to enforce. Mr. Lyons stated that there is ambiguity in the ordinance. The ordinance is difficult to interpret and sound is difficult to measure. The noise ordinance states that you cannot have noise at 90 decibels or more for more than 30 minutes, but does that mean one continuous 30 minute block or is that one minute 30 times a day. Mr. Lyons added that the 90 decibel threshold is helpful for the Board to consider what the City views as unreasonable sound level. Mr. DeLeo stated that it could be used as a guide for the police department or code enforcement if they need to take a decibel reading. Ms. Piekut noted that the most of Noise Ordinance is only applicable from 10 P.M. to 6 A.M. and the business will not be in operation during those times.

Ms. Piekut stated that part of the reason for landscaping buffers and setback requirements is not just visual it is also auditory. Mr. DeLeo remarked that the fencing and the vegetation will help filter some of the sound.

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Mr. DeLeo asked Mr. Wiswell if he had received the most recent email from abutter Jason Barrett. Mr. Wiswell answered that he had received the email. Mr. DeLeo inquired if Mr. Wiswell had any comments regarding Mr. Barrett's request to reduce the number of vacuums on the property. Mr. Wiswell explained that he is fine with reducing the number of vacuums from three to two. In addition, he has already adjusted the operating hours to appease the neighbors. Mr. Lyons requested that Mr. Wiswell remove the vacuum closest to the Tainter property.

Nelson Geel inquired about the information Mr. McCullough provided at the last meeting about how loud in decibels the operation would be at certain distances. Mr. McCullough explained that this sound is logarithmic function so it is not a linear drop. The sound will either increase rapidly or decrease rapidly as you go out by distance. The sound was down to approximately 50 decibels at the property line to the west, which is the closest to the vacuums. Mr. Geel noted that in Mr. Barrett's email he states that the machines produce 75 to 80 decibels. Mr. McCullough explained that is at the machine. He did not assess the noise level at Mr. Barrett's property line, but at the closest property line, he believes the sound level was at approximately 55 decibels. Mr. Lyons asked if the fence will cover the southern boundary near the vacuums. Mr. McCullough stated yes the eight-foot fence will be installed near the vacuums.

Mr. DeLeo asked Mr. Wiswell if he had any comments regarding Mr. Barrett's second request to install sound dampening backstops behind the vacuums. Mr. Wiswell stated that it excessive considering that he is reducing the number of vacuums and installing a fence.

Chair DeLeo opened a public hearing at 6:21 PM.

Public Hearing

Calvin Anderson, an employee of Harmon Tire approached the Board to voice his comments. Mr. Anderson informed the Board that he worked for the Ellsworth Carwash for 13 years and has worked for Harmon Tire on and off for 10 years. Mr. Anderson stated that he is concerned regarding the stacking issues with traffic. Mr. Anderson remarked that people will wait in line to wash their vehicles and that people will wait in the street. At the Ellsworth Carwash there were times when the cars were stacked past Agway, waiting to enter the carwash. Mr. DeLeo informed Mr. Anderson that he did ask Ms. Piekut to request that the police department issue no parking signs on Deane Street and from High Street down to Edgewood Way. The police chief approved keeping a no parking from here to corner sign on the north side, but did not think it was necessary beyond that to the driveway, but did state that additional parking restrictions can be posed at any time.

Mr. Anderson voiced his concern regarding the drag out water from the washed vehicles. Mr. Anderson informed the Board that he watched videos of the Laser 360 Wash that will be installed at the site and it does stop some of the water from being sprayed into the back of pickup truck bodies, but not all. As people turn out of Deane Street all of that

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water will come out and if they pull out onto Water Street it will come out on that end. Mr. Anderson added that every vehicle brings out a certain amount of water, despite how much they are dried. Mr. Anderson stated that when he worked for Ellsworth Carwash the City required them to take very good care of Beckwith Hill because of the water drug out into the street.

Chair DeLeo closed the public hearing at 6:25 P.M.

Nelson Geel made a motion to approve the Final Plan for a Major Use Site Development entitled A & B, LLC for Aaron Wiswell with the following conditions:

Conditions to be Met Prior to Signing of Plans:

- 1. Add the following notes regarding operations: 1) Hours of operation for the automatic car wash shall be limited to 7:00 am through 9:00 pm, with vacuums limited to 7:00 am through 7:00 pm. 2) Overhead doors on the exit side of the building shall be kept closed during drying.**
- 2. Consult with City Planner and revise note on SP-3 regarding replacement of street tree in High Street right-of-way to identify a tree species that will tolerate salt.**
- 3. Update plans to list all conditions of this approval to be met prior to beginning site work, issuance of building permits, or certificates of occupancy/completion.**
- 4. Reduce number of vacuums from three to two, removing the vacuum closest to the west side of the property.**

Conditions to be Met Prior to Issuance of Building Permits:

- 1. Obtain approval for Highway/Road Opening Permit(s).**

Conditions to be Met Prior to Certificate of Occupancy:

- 1. Provide name(s) and contact information for parties responsible for maintenance of the facility, including winter snow plowing, removal, and salt/sanding.**

Marc Rich seconded the motion and with no further discussion, the motion passed unanimously (5-0).

John DeLeo made a motion to grant a waiver from Chapter 56, Section 813, Buffers, Screening, and Landscaping Standards. Marc Rich seconded the motion and with no further discussion, the motion passed unanimously (5-0).

**Public Hearing
Closed**

**Final Plan: A & B
LLC, approved
with conditions and
waiver**

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4.) **Sketch Plan Review for a Major Use Site Development entitled Dawnland Campground for Tim Stone, Scott Bradshaw, and Matt Krivonen.** The proposal is to construct a campground consisting of 22 campsites (including six tent sites, four camper trailer/tiny house hookup sites, and 12 treehouses) on approximately 3 acres of a 62-acre parcel (Tax Map 53 Lot 16) located on Bucksport Road. The subject property is located in the Rural (R) Zoning District.

Applicants Scott Bradshaw, PE, Tim Stone, and Matt Krivonen attended the meeting remotely via Zoom.

Mr. Bradshaw addressed the Board and shared his screen to display the presentation he prepared for the meeting. Mr. Bradshaw provided background information for each of the applicants. Tim Stone and Matt Krivonen introduced themselves.

Mr. Bradshaw explained to the Board that the vision of the campground is to develop a low-impact, low-density site that maintains the natural character of the wooded property while providing short-term rental guests a solitary, peaceful experience and a benefit to the Ellsworth community.

Mr. Bradshaw informed the Board that the property is currently under contract and set to close on May 2nd. Mr. Stone has completed a site visit of the property. The applicants have reviewed the City and State ordinances, met with the City Fire Department, and attended a sketch plan review meeting with City staff.

Mr. Bradshaw explained the proposal is on a 62-acre parcel located just north of Upper Patten Road. The development will consist of six glamping tent sites that include bathrooms and running water. Including a common space with a pergola and a laundry shed. The applicants are also proposing two trailer sites with tiny homes that would have septic and water hookups. Mr. Bradshaw reported that they are proposing ten treehouses on the property. Each treehouse will have individual bathrooms and running water. An access road will be installed as part of the infrastructure with snow storage areas for winter access. Underground cisterns will be installed in various locations for fire suppression. Mr. Bradshaw stated that they are also proposing 1.1 miles of trails throughout the site. The Rural Zone allows for six dwelling units per acre; they are proposing approximately one camp site and tiny home per acre, with the treehouses spread out a little more.

Mr. Bradshaw explained that they are looking to construct a low-density development by limiting the footings on the treehouses and glamping sites. In addition, they are attempting to minimize the septic system footprints and the extent of the road to disturb as little of the property as possible.

Mr. Bradshaw stated that some of the community benefits of the project are attracting tourists, creating employment, increasing the City's tax base, and providing a trail system.

**Sketch Plan Review
of a Major Use Site
Development for
Dawnland
Campground**

Introduction

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Mr. DeLeo asked if the trail system would be available to the public. Mr. Bradshaw responded that it would.

Mr. Bradshaw displayed a map of the property on his screen to show to the Board and audience. Mr. Bradshaw informed the Board that they are proposing a new access into the site. There is currently an access road that also services a residential property to the west. The applicants would prefer not to use the existing access and they have been coordinating with Maine DOT to install a mid-property access road. The access road will be built in two phases. The trailer sites will be the first sites on the property, the camping sites will be located after the trailer sites and will conclude the first phase of the road construction. The second phase of the project includes the treehouses on the northern portion of the property.

Mr. Bradshaw displayed some examples of the tent sites, tiny homes, and treehouses on his screen. Mr. Bradshaw informed the Board that the treehouses will have a small kitchenette and a minimal bathroom. Mr. Bradshaw displayed an example of a pavilion on his screen for the Board to see.

Mr. Bradshaw provided an overview of ordinance highlights related to the project. Mr. Bradshaw explained that the proposal fits under the campground definition. Mr. Bradshaw explained that Ms. Piekut provided him with the State's definition of a campground and it only includes tents and camper trailers. Mr. Bradshaw expressed concern on whether the City or State definition would apply to the project.

Mr. DeLeo commented that the discrepancy between the two definitions is something that could alter the entire plan. Depending on the final determination of what category the project falls under it will alter how the Board moves forward with review.

Mr. Lyons inquired if the glamping tent sites have bathroom facilities and kitchenettes. Mr. Bradshaw answered yes, but they are also considering constructing a central bathroom. The kitchenettes would not have sinks, just a refrigerator, stove top, and microwave.

Mr. Lyons inquired what type of facilities will be in the tiny houses. Mr. Bradshaw answered that the tiny homes will be manufactured and the kitchen facilities are similar to what is in a camper trailer. The treehouses will have a sink, small stovetop, coffee maker, microwave, and refrigerator.

Mr. Lyons inquired if the sites will be seasonal or available year round. Mr. Bradshaw answered that the treehouses and tiny homes will be available year round. The glamping tents will just be available on a seasonal basis.

Mr. Lyons asked if they are proposing a limit of 30-day rentals. Mr. Bradshaw responded that is correct. Mr. Lyons asked if someone could rent multiple 30-day chunks in a row.

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Mr. Bradshaw answered that they will set the 30-days as the maximum stay. Mr. Lyons stated that in his opinion the proposed units are dwelling units because they have independent cooking, sleeping, and bathing facilities. Mr. Lyons remarked based on the State's comments it may put the project in line with a hotel/motel. Mr. Lyons asked Ms. Piekut if hotels are permitted in the Rural Zone. Ms. Piekut answered that they are.

A lengthy discussion ensued regarding whether the project falls under the definition of a hotel/motel as opposed to a campground and what review standards the project would have to adhere to.

Mr. Lyons inquired if the State would require the applicant to meet the requirements for a lodging facility or a campground or both. Ms. Piekut answered that the State was leaning towards lodging.

Further discussion ensued regarding the classification of the project.

Mr. DeLeo commented that the plans for water and sewage disposal for the project is not definitive and that they have presented multiple options. Mr. DeLeo explained that if the applicant's plan to submit a preliminary plan for review they will need to decide on one option for water and sewage. Mr. Bradshaw stated that since this is a sketch plan they were really looking for feedback on all of the issues regarding the development. As they move toward the preliminary plan, they will select more engineered solutions and make definitive decisions.

Mr. Geel asked what the timeline is for the project. Mr. Bradshaw responded that they are hoping to receive final approval by this spring. They would then like to begin working on the roads and possibly the cisterns and septic systems by summer. Mr. Bradshaw explained that next year they would be looking to develop the glamping sites, camper trailer sites and septic systems for those. In the summer of 2023, they would like to be able to rent the glamping and tiny home sites. The treehouse construction would also begin next year. They anticipate the treehouse construction to take four to six years. Mr. Stone will be the general contractor for the project.

Mr. DeLeo inquired about access to the various sites. Mr. Bradshaw explained that some of the tent sites will be designed so that people can drive up to them and be ADA accessible. The treehouse sites will be difficult to make ADA accessible. Some of the sites will be easily accessible, however, some of them will be designed where people will have to park and then walk in to access them. Mr. Bradshaw informed the Board that he has discussed this concept with the Fire Department to ensure they can still access the more remote sites.

Mr. DeLeo suggested considering providing more parking for the larger treehouses.

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Mr. DeLeo inquired if the treehouses are required to be ADA accessible. Mr. Bradshaw responded that he does not think the treehouses need to be ADA accessible; however, some of the sites on the property will need to be.

Mr. Lyons asked how they chose the name of the campground. Mr. Bradshaw answered that as they understand it, dawnland was one of the original names for Mount Desert Island. Molly Friedland recommended that the applicants do some research regarding the cultural significance of the word dawnland. Mr. Lyons stated that dawnland is what the Wabanaki tribe's interpretation was for the area. Mr. Lyons expressed support for Ms. Friedland's recommendation.

Mr. DeLeo inquired about whether the access road will be paved. Mr. Bradshaw responded that they are anticipating that they will be under the peak hour trip threshold so that they will not have to pave the road. They will continue to research the expected ADT as they get closer to a preliminary plan. They would like to maintain the natural character of the property by not paving the access road.

Mr. Geel asked Fire Inspector, Thomas Canavan if he has any concerns with accessing the property year round if the road is not paved. Mr. Canavan answered that the City of Ellsworth has many dirt roads and if they are properly maintained, they do not pose an issue. Mr. Canavan added that if the project does install dirt roads and issues present themselves, the City can take action to ensure the roads are maintained properly to allow for Fire Department access. Regarding the treehouses in the winter, he has discussed with the applicants the concept of only renting out the ones that are easily accessible.

A brief discussion ensued regarding the design requirements for the access road.

A discussion regarding the classification of the project as a campground, lodging facility, or residential development followed.

Mr. DeLeo noted that the Board received an email from abutter, Lisa Lewis in opposition of the project.

Chair Deleo opened a public hearing at 7:29 P.M.

Public Hearing

Andy Jones, a Bucksport Road resident approached the Board. Mr. Jones inquired if the tiny homes will leave the property. Mr. Bradshaw answered that they intend to leave them there for some time, but they are considering leasing the tiny homes. Mr. Jones asked if the applicants plan to register the tiny homes. Mr. Bradshaw explained that they have not looked that far into it, but he is guessing they would need to be registered to transport to the site.

Tammy Wagenknecht an abutting property owner approached the Board. Ms. Wagenknecht explained that the subject property is very wet. Ms. Wagenknecht inquired

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if the applicants plan to use pesticides on the property. Mr. Bradshaw answered that they will most likely use things such as citronella torches and things of that nature. Ms. Wagenknecht asked if they plan to allow pets on the property. Mr. Bradshaw responded that it has not been extensively considered, but he thinks that they will. Ms. Wagenknecht inquired if they will be offering any kind of entertainment at the campground. Mr. Bradshaw answered that they would like to offer a solitary and quiet experience and will not be holding concerts or movies. Ms. Wagenknecht asked how many other campgrounds the applicants own and if they intend to build the project and then sell. Mr. Bradshaw answered that this will be their first campground and they do not own any other developments. Mr. Bradshaw explained that this is a mom and pop type of business that they are looking to operate on a long term basis.

Eric Wagenknecht an abutting property owner approached the Board to express his concerns. Mr. Wagenknecht asked if an environmental study will be required for the development. Mr. Wagenknecht explained that the locations of the proposed structures are on either swamps or wetlands. There is also beaver flowage that flows through the property. Mr. Wagenknecht expressed concerns with the speed of traffic on the Bucksport Road and previously a new driveway was not permitted on that location because of the traffic. Mr. Wagenknecht stated that he is in favor of the project, but he would like to ensure that the traffic is addressed. Mr. Wagenknecht expressed concerns regarding fire pits on the sites. Mr. DeLeo explained that MDOT will have to approve an entrance for the project and they will determine if there is enough site visibility. Ms. Pickut stated that she believes the project meets the threshold for site law review, which is a substantial review process through the Department of Environmental Protection.

Paul Grant a Bucksport Road resident and abutter to the project approached the Board to address his concerns. Mr. Grant informed the Board that he is not opposed to the project. Mr. Grant explained that his family has owned his property since the 1930's and he also owns a landlocked parcel that abuts the project location. His only access to his landlocked parcel is through the subject property. Mr. Grant stated that he does not have a right of way across the property. Mr. Grant explained that there is an intermittent brook located on the westerly border of the property that is not shown on the map. Mr. Grant informed the Board that he has a firing range on the western border of his property. Mr. Grant reported that there is a brook on the property that is sometimes quite high depending on whether the beavers are active or not. There are also a lot of wetlands located on the site and there is one area 300 to 400 hundred feet wide that would need to be crossed. Mr. DeLeo stated that DEP will be closely involved if the applicants have to cross a brook. Mr. Grant stated that he is concerned regarding the steepness of the access road and the feasibility of fire trucks accessing the sites. Mr. Grant informed the Board that he has a natural spring on his property that is fed by a reservoir located on the proposed project's parcel.

Yvonne Cobb an abutter of the proposed project approached the Board to express her concerns. Ms. Cobb explained that she is concerned due to the traffic that may be created

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by the development. Ms. Cobb stated that there is a lot of water on the property. Ms. Cobb stated that she is concerned about the risk of fire from the development.

Chair DeLeo closed the public hearing at 7:48 P.M.

Mr. DeLeo informed the audience that no decisions will be made on the proposal at this time because it is just a Sketch Plan Review.

6.) Staff Comments

Ms. Piekut informed the Board that the Planning Board was designated as the committee responsible for the Comprehensive Plan process. Ms. Piekut explained that the Board would handle applicable public hearings and make recommendations to the City Council. Ms. Piekut stated that she would like the steering committee to include two Planning Board members and sub-committees to include other Board members.

Ms. Piekut informed the Board that the City Council extended the Solar Moratorium at their March meeting. Ms. Piekut has been in contact with a solar energy consultant to schedule a workshop. Further discussion ensued regarding scheduling the solar workshop. The Board decided to tentatively schedule a workshop for April 27th for itself and staff.

9.) Adjournment

Nelson Geel made a motion to adjourn the meeting after the signing of mylars. Patrick L seconded the motion and with no further discussion, the motion passed unanimously (5-0). The meeting was adjourned at 8:01 PM.

Minutes prepared by: Kerri Taylor, Development Services Coordinator.

Date



Nelson Geel, Secretary
Ellsworth Planning Board

Public Hearing
Closed
No Decision

Staff Comments

Vote to adjourn at
8:01 PM

Agendas and minutes posted on the City of Ellsworth's website: ellsworthmaine.gov A video transcript of this meeting is also available on YouTube.

