

City of Ellsworth  
Planning Board Regular Meeting Minutes  
Wednesday, November 1, 2023 5:30 PM

Chair John DeLeo, Vice-Chair Rick Lyles, Secretary Nelson Geel, Member Marc Rich, Alternate Member Patrick Lyons, and Alternate Member Mike Hangge attended the regular meeting of the Ellsworth Planning Board.

**Six board members present**

City Planner Matthew Williams, Assistant City Planner Elizabeth Ouellette, Code Enforcement Officer (“CEO”) Lori Roberts, and Fire & Life Safety Inspector Canavan were present.

**Four staff members present**

**1.) Call to Order**

**Call to Order**

Chair DeLeo called the meeting to order at 5:30 PM.

**2.) Adoption of Minutes from the October 4, 2023 Regular Meeting.**

**Adoption of minutes**

Vice-Chair Lyles moved to adopt the Minutes from the October 4, 2023 Regular Meeting. Alternate Member Lyons seconded the motion. **The vote to adopt the Minutes from the October 4, 2023 Regular Meeting was UNANIMOUS (5-0).**

**ADOPTED**

**3.) Revision to an approved subdivision entitled Joy Woods for Applicant/Owner Coastal Medical Realty, LLC.** The proposal is to remove a right of way on the property of the applicant. The subject property is an approximately 2.11-acre lot located at 128 Bucksport Road (Tax map 133, Lot 14-1) in the Urban (U) Zoning District.

**Joy Woods Revision**

Chip Haskell from Haley Ward was present representing the project. Haskell began with introducing the project. He said that this is the 6<sup>th</sup> revision of this subdivision. The right of way in question was added in the 5<sup>th</sup> revision. He said that the right of way was put onto the northeast corner of Lot 6B in the subdivision for the benefit of lot 6A. He said that the right of way was 74 feet long. Haskell said that the right of way is now going to be deleted from the subdivision since both lots are owned by the same owner, therefore the right of way is no longer needed. He said that the owner would like to not encumber the property any longer since it is not needed.

**Introduction**

City Planner Williams added that the right of way was never given by deed to the owner of lot 6A therefore there was no legal right given to that owner. He said that the right of way is only existing on the plan and not legally existing. Alternate Member Lyons asked if the right of way was ever legally existing. Williams said that it was not, the right of way was never given in a deed. Chair DeLeo said that he remembers the 5<sup>th</sup> revision request and he understands that it is not needed. DeLeo asked Williams if Staff has any issues with this plan, Williams said that they did not.

**Discussion**

Chair DeLeo opened the public hearing at 5:34PM. There were no members of the public in attendance. DeLeo closed the public hearing at 5:34PM.

**Public Hearing Opened and Closed**

Vice-Chair Lyles moved to accept the revision. Alternate Member Lyons seconded the motion. **The vote to accept the revision to an approved subdivision entitled Joy**

**APPROVED**

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Woods for Applicant/Owner Coastal Medical Realty, LLC was UNANIMOUS (5-0).

4.) Preliminary Plan Review of a Major Use Site Plan entitled SynerGen Ellsworth Solar for Owner Samuel Robert Shea Giffin and Applicant SynerGen Ellsworth, LLC. The proposal is to construct an approximately 10-acre solar site. The subject property is an approximately 55-acre parcel located on Mariaville Road (Tax map 59, Lot 15-1) in the Urban (U) Zoning District.

SynerGen Ellsworth Solar

Evan Jones from Jones Associates and Hillel Halberstam, a representative from SynerGen Solar were present representing the project. Jones began by explaining that the solar site is currently under 10-acres with a projected output of 2 megawatts. He said that there has been recent guidance from the Public Utilities Commission (PUC) stating that all projects that are above 1 megawatt output must be completed by the end of next year. He said that would not be feasible for this project so they are considering reducing the scope of the project to cut the output in half. He said that there were discussions regarding including energy storage on the site so they could produce 1 megawatt during the day and 1 megawatt at night. He said that would not require any reduction in size to fit the new PUC requirements. He said that the site is not zoned for energy storage so it would not be feasible at this time. He said that there is an access road on the east side of the site and 2 turn-around spots. He said that there will be a vegetative buffer 100 feet on the east side next to the road and 40 feet to the south abutting the Versant lot. He said that the area would be wooded 500 feet to the west until the property line and 160 feet to the north to the abutting land owner. He said that everything else would be revegetated per the city ordinance with the required vegetation. Jones then said that there would be a six foot chain-link fence around the site with a locked gate. He said that the Fire Department would be given the access code to the gate through a knock-box. He reiterated that the project will likely be cut in half with the current size of the project being 9.29 acres of panel area.

**Introduction**

Chair DeLeo asked why the PUC changed their guidance. Halberstam said it was regulatory changes on the state level that requires any energy building project be operational by the end of next year if they will be producing more than 1 megawatt. He said that with supply chain issues, they cannot complete the project in the allowed time and the timing with the studies that are required for the site will also prolong the process. He said that given the new requirements, they are keeping the project under the 1 megawatt size. Jones said that they have already received their Stormwater Permit by Rule from the DEP and the Decommissioning permit from the DEP. He said that some of the specifics in the permits and the fee paid to the City would likely change due to the project size changing. City Planner Williams said that if the project size does change then the Board can look at the new layout and review the updated calculations that would need to be done. He asked that if the project were to be smaller, if the panels be shifted over to allow for a 20-foot access road along the entire road. Fire & Life Inspector Canavan said that he would like to see the access road 20-feet along the entire distance. Jones said that if they do shrink the size of the project, then shifting those panels should not be an issue.

**Discussion**

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Alternate Member Lyons asked about the storage not being allowed on that site. Williams said that there are only two zones (business park and industrial) where energy storage is allowed as a stand-alone use. He said that there is an allowance for an accessory storage use, however it is not applicable in this situation and any storage would be a stand-alone use. Lyons asked about the possibility of a zoning change on the lot. Jones said that this new information came out two days before this meeting so they have not had time to really consider their options. He said that there are two lots in between this lot and the business park zone, both of which are solar projects. Lyons said that he believed it would be appropriate situation for rezoning so it would allow for storage. He said that the City needs to consider the trends in the solar industry when looking at the regulations. Williams said that he has discussed the possibility of rezoning, however it would require coordination with the two land owners in between this lot and the business park lot. Secretary Geel asked if they would like to do energy storage if possible. Jones said that they would like to so they can produce the amount of output that they originally planned while staying under the new PUC requirements. He said that this appears to be the direction of solar projects.

DeLeo asked about the solar projects that are in place now. He asked if the lots were rezoned if they would be able to store energy as well. Williams said that as long as they had the space on their lots, they theoretically could have their own storage. Jones said that there is a voltage drop and energy loss the further the electricity travels so it is more beneficial to have the storage as close as possible. Lyles asked if the array would be the same size if they allow storage on the lot. Jones said that they would. DeLeo asked if the PUC would be okay with this type of project. Jones said that they would, and they actually prefer it since it is more resilient. Geel asked about the purpose behind the change in PUC regulations. Jones and Halberstam were unsure about the motivations behind the change in regulations. Geel then asked if they would come back with a second phase of the project if they were only able to complete the smaller plan at this time. Jones said that would be something that they would consider. The representative said that it may not be feasible to do 1 megawatt output now and 1 megawatt later given the interconnection issues with the solar panels. He said that it would have to be framed as two separate projects in the interconnection permits with the PUC.

Lyles asked how large the storage units would be if they were included in the project. Jones said that he was unsure about the specifics of the size since it comes from an electrical engineer. He said that there is plenty of upland space on the lot where the storage unit could be placed. He said that it would require more permitting with the state since there would be an addition in area. Halberstam said that there would need to be a detailed design, however a rough estimate would be between 1/2-acre and 1-acre. Jones said that it would be about a 10% addition in area if the storage unit was included. DeLeo asked Williams about the process should the storage be added. Williams said that it would be changing the use of the site so it would require a preliminary and final meeting for that additional use. He said that the solar panels are a separate use in themselves so that can be approved without any mention of the storage. Alternate Member Hangge asked about the material for the storage unit. Jones said that he was unsure since there is no engineered design. Canavan said that if the storage were to be added, there would be two additional meetings where that would be discussed. Canavan also made a comment that the applicant and their

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representatives have been working very closely with the Fire Department during this entire process and he is confident that if storage were to be added, he would be included in the discussion of the design. Jones reiterated that they would submit a design to the Fire Department once they got one, if they went down that path. Hangge said that the decommissioning plan would need to be revised if storage were to be added. Lyles asked if the decommissioning requirement applied to the storage of energy as well as the panels. Williams said that it was included in the Article 8 Performance Standards. Jones said that this would only happen if they were able to obtain the rezoning.

Lyles asked if the Board should even approve the site now since there is a lot that has yet to be determined. Williams said that the things that are not determined do not actually impact the solar field itself, only the potential additional uses. He said that the plan for the solar field can be approved separately from the storage since it is an allowed use in and of itself. Williams detailed the process for rezoning, if the applicant should decide to apply for it, saying that there would need to be a meeting before Planning Board and the City Council. Lyles asked how many more meetings would be required for the solar project. Williams said that it would only be one if the preliminary project was approved at this meeting. DeLeo asked about the time constraints due to the new PUC regulations. Jones said that they have two options, as he sees it. They could either cut the project scope in half or apply for a rezoning. He said that they will likely cut the project in half due to the time limit and the difficulty in obtaining a rezoning. DeLeo asked Williams if the reduction in scope would require 2 additional meetings since the application is changed that much. Williams said that would be left up to the Board, but he would recommend that it come back for final since the only thing that would really change would be the calculations and a reduction in impact. Williams said that if the Board finds the larger plan fits all of the requirements, then it should fit the requirements in its smaller form. Halberstam asked if there was another potential option of being approved for the larger plan, applying for a rezoning, and then, if the rezone fails, apply for a revision to lower the scope of the plan. Williams said that would be an option, however they would need to come before the Board for a revision should the rezone not be accepted. The representative asked how difficult it would be to obtain approval for the revision. Geel said that he does not anticipate that it would be very difficult if the site plan was only being reduced. Lyons agreed and said that as long as the rules do not change, it should not be that difficult. Lyles said that if they decide to reduce the project, it may alleviate some of the issues that have been discussed.

Hangge asked if they would need to reapply to DEP for new decommissioning permits if they reduce the size of the site. Jones said that they would, however he was unsure if it would be a revision to his already approved application or if it would require an entirely new application. Hangge then asked about the mention in the TRT report which asks for a formal document for the decommissioning plan. Williams said that all of the information that is required for a decommissioning plan was provided, however Staff would like a formal contract-like document that the attorneys can review. Hangge asked if that would be a requirement for final. Williams said that it would be. Lyons asked if Staff had any concerns regarding the solar field that has been presented. Williams said that they did not have any concerns and he thinks it is a very well put-together application. DeLeo asked about the waiver for stormwater which is mentioned in the application. Williams said that

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the applicants were looking at the wrong standards when they requested the waiver. He said that a waiver of the type is not actually required in this case. Lyles asked about the road going through the site. Canavan said that they have already fixed the site plan to show a width of 20-feet along the entire road. Canavan said that this addition was not submitted with the revision but it was presented to him and he has approved it. Lyles asked if Canavan was okay with the two turn-around spaces on the plan. Canavan said that he was. Lyles asked if the Fire Department would need access to the back of the lot as well. Canavan said that they have some access since the applicant will leave the construction road in place after development. He said that there would be enough room for a pick-up truck to reach the back of the lot and they have more than enough hose to reach the back of the lot. Canavan said that he is comfortable with the access to the site.

Lyles then asked about the fencing. He asked about the purpose of the fence and if it is high enough to fit our standards. Williams said that the fence was not being used as screening since there was a lot of vegetation which will be used as a buffer. He said that the fence was really to keep people and larger wildlife out of the site. He said that the fence will comply with the City requirements and the fence would be raised to allow small wildlife to pass through. Code Enforcement Officer Roberts said that the requirement for fencing is only that it cannot be any higher than 6 feet, so this fence is in compliance. Lyles said that the fence would not be a good screen but it would be good for security. Lyles then asked about the corner posts for the fencing. Williams said that 2 of the corner posts would need to be 5 inches in diameter so they are thick enough to allow an animal to climb up and be able to get out of the site. Lyles then asked about the 20-year lease and if that time period has already begun. He asked about it because the life of the project equipment would be 20-30 years and he was wondering if it would be a problem. Williams said that it would not be an issue because if they do end the lease, the City would still have the funds in escrow to complete the decommissioning themselves. Halberstam clarified that the lease period would not begin until the site is operational. He then said that there is an option to renew the lease every 5 years which they will consider based on the condition of the equipment at that time. Lyles asked if the equipment would go back to the lessor if the applicant left the equipment on site. Williams said that it would and the land-owner would have the option to continue the operation if they wanted to. Lyles then said that the figure in the decommissioning plan is too specific and they should have a general number instead. Hangge asked about the location for a potential storage on the site in relation to the solar panels. Williams said that if they did add storage to the plan, it would need to come back for two additional meetings and the Board would be able to consider the entire lot since it is a change of use and therefore not a revision.

DeLeo opened the public hearing at 6:12PM. There were no members of the public in attendance. DeLeo closed the public hearing at 6:13PM.

Lyles asked about snow storage and plow access on the lot. Canavan said that was submitted after the deadline but he has seen it. Jones said that there would be a section of the site for snow storage and showed the Board where it was on his site plan.

**Public Hearing  
Opened and Closed**

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Vice-Chair Lyles moved to find the application complete. Member Rich seconded the motion. **The motion to find the Preliminary Plan Review of a Major Use Site Plan entitled SynerGen Ellsworth Solar for Owner Samuel Robert Shea Giffin and Applicant SynerGen Ellsworth, LLC complete was UNANIMOUS (5-0).**

**COMPLETE**

**5.) Staff Comments**

City Planner Williams said that they have advertised for new Planning Board members. He said that there has been one application so far and encouraged the Board to reach out to citizens who they believe may be interested. He said that they will know how many seats are open at the next meeting and can move forward with the selection process. He said that the selection would likely be in December or January. Williams then said that the Comprehensive Plan survey will close in one week on November 10<sup>th</sup>. He said that the city-wide mailing so they hope to have a fair amount of responses. DeLeo asked when Williams will be taking the revisions from LD2003 to the City Council. Williams said that is on the agenda for the November 20<sup>th</sup> meeting. Lyons asked if Williams could provide a digital copy of the State's presentation for their reference. Williams said that he would and he would also send the workshop minutes.

**6.) Adjournment**

**Vice-Chair Lyles moved to adjourn. Secretary Geel seconded the motion. The vote to adjourn was UNANIMOUS (5-0).**

**Vote to adjourn at  
6:17 PM**

Minutes prepared by: Elizabeth Ouellette, Assistant City Planner.

*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.*

12/6/23

Date



**Nelson Geel, Secretary  
Ellsworth Planning Board**