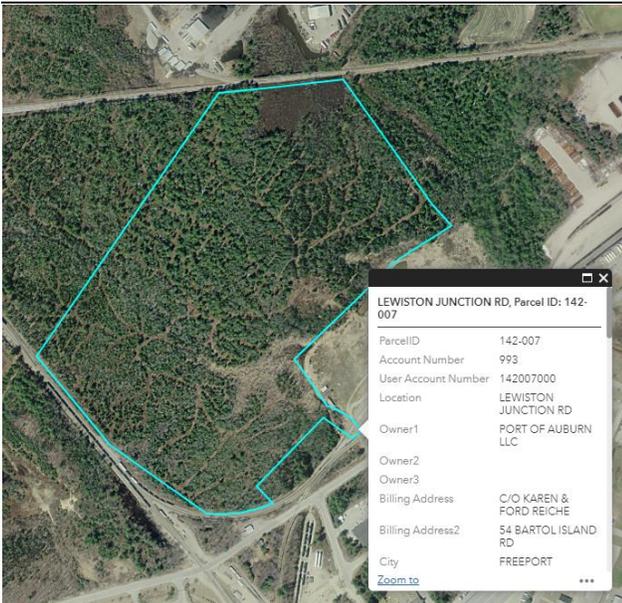


To: Auburn Planning Board
From: Megan Norwood, City Planner II
Re: BD Solar Auburn is proposing a 45-acre, 14.6MW solar array on an approximately 142.74 acre parcel split between the City of Auburn and the Town of Poland on Lewiston Junction Road (PID: 142-007), in the Industrial Zoning District.
Date: March 10, 2020



I. PROPOSAL: CES, Inc. on behalf of BD Solar Auburn, LLC is seeking a Site Plan/Special Exception pursuant to Sec. 60-45 of the Auburn Code of Ordinances to construct a 14.6MW solar array on an approximately 142.74 acre parcel split between the City of Auburn and the Town of Poland. As the Planning Board is aware, an ordinance for these “commercial” type of solar installations was recommended to the City Council at the January Planning Board meeting. The City Council completed their second reading and approved the ordinance on March 2, 2020. BD Solar Auburn, LLC submitted their application for the March meeting on February 10, 2020 so the Planning Board cannot apply the newly developed standards to this project. However, the Site Plan/Special Exception Standards, while not specific to solar, touch upon almost all of the standards the Planning Board included in the

ordinance for solar installations the Industrial District. Below are the objectives/conditions of the Site Plan/Special Exception Ordinance and the standards the Planning Board developed for Solar Energy Generating Systems.

Staff included each of the standards in the newly developed Solar Energy Generating System with a description as to how this project addresses the standards. Since the Planning Board cannot specifically rule on those standards, Staff has also included the complementary Site Plan/Special Exception Standard that, while not phrased specifically for a solar project, achieves the same objective.

Sec. 60-1277. – (Site Plan Review) Objectives.

- (1) Protection of adjacent areas against detrimental or offensive uses on the site by provision of adequate surface water drainage, buffers against artificial and reflected light, sight, sound, dust and vibration; and preservation of light and air;
- (2) Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent areas;
- (3) Adequacy of the methods of disposal for wastes; and
- (4) Protection of environment features on the site and in adjacent areas.

Sec. 60-1336. – (Special Exception) Conditions.

- (1) That the special exception sought fulfills the specific requirements, if any, set forth in the zoning ordinance relative to such exception.
- (2) That the special exception sought will neither create nor aggravate a traffic hazard, a fire hazard or any other safety hazard.
- (3) That the special exception sought will not block or hamper the master development plan pattern of highway circulation or of planned major public or semipublic land acquisition.
- (4) That the exception sought will not alter the essential characteristics of the neighborhood and will not tend to depreciate the value of property adjoining and neighboring the property under application.
- (5) That reasonable provisions have been made for adequate land space, lot width, lot area, stormwater management in accordance with section 60-1301(14), green space, driveway layout, road access, off-street parking, landscaping, building separation, sewage disposal, water supply, fire safety, and where applicable, a plan or contract for perpetual maintenance of all the common green space and clustered off-street parking areas to ensure all such areas will be maintained in a satisfactory manner.
- (6) That the standards imposed are, in all cases, at least as stringent as those elsewhere imposed by the city building code and by the provisions of this chapter.
- (7) That essential city services which will be required for the project are presently available or can be made available without disrupting the city's master development plan.

Sec. 60-1430. (Proposed Solar Energy Generating Systems Ordinance – Approval Requirements).

(1) Yard Requirements. Solar Energy Generating Systems are required to meet the same setbacks required in the Industrial District and Shoreland Zone.

Where the lot is split between Auburn and Poland, Sec. 60-36 allows Staff, when a lot in one ownership lies in more than one jurisdiction, to consider the whole lot for density and lot dimension purposes as if the entire lot were situated in the City. However, Site Plan/Special Exception review of the use or development of the lot in the City is limited to that portion that lies within the City's jurisdiction only.

One pitfall we found with the Solar Energy Generating System Ordinance and the Industrial District Ordinance is that setbacks in the Industrial District only apply to buildings. Buildings are defined as "...a structure having one or more stories and a roof..." Therefore, *a solar panel would not fall under the definition of a "building" and would not have a setback requirement.* This becomes a bigger question for the Planning Board as to whether or not there should be setback requirements for solar panels in the Industrial District. In this case, the abutting property is used as a propane distribution facility. There are no Shoreland Zone areas on this property.

(2) Lot Coverage. The standards apply to the paved, mounting block, or otherwise impervious areas of the site. Photovoltaic cells, panels, arrays, and inverters are not considered impervious areas provided the soil underneath the collector is not compacted and remains vegetated.

The Industrial District establishes a 40% lot density restriction that would apply to this project irrespective of the Solar Energy Generating Systems ordinance requirements. Based on the language in Sec. 60-36, Staff and the Planning Board can consider the whole lot for density and lot dimension purposes as if the entire lot were situated in the City. The Applicant is proposing a 45-acre solar array on an approximately 142.74 acre parcel. Using those numbers, the lot coverage of the entire project would be about 31% which is less than the 40% density restriction in the Industrial District. However, it is important to note that the 45 acres includes the entire area encompassed by the project and the standards the Planning Board created in the Solar Energy Generating Systems Ordinance only applies

to the actual impervious area associated with a project. The impervious area associated with the project is 83,635 square feet (about 2 acres) so the lot coverage for the entire 142.74 acre parcel would be less than 2%. Of the total square footage for the project, approximately 1,180SF are the mounting blocks, approximately 1,272SF are the inverter and transformer equipment pads and approximately 81,300SF is the gravel road. The size of the parcel in Auburn alone is about 87 acres which would yield a lot coverage percentage of about 2%. *The project meets the lot coverage requirements in the Industrial District.*

(3) Height Regulations. The standard establishes a height limitation of 30 feet for all structures associated with the Solar Energy Generating System.

The solar panels are proposed to be approximately 9.8' to 11.5' high at the tallest point of the solar panels and will not exceed 30-feet in height.

(4) Technical and Safety. Requires that an as-built Site Plan for the Solar Energy Generating System (including all means of shutting the system down in an emergency) be submitted to the local Fire Prevention Officer.

Where this is something that takes place after construction, Staff recommends the Planning Board require this as a Condition of Approval:

- Before operation, a copy of the as-built Site Plan for the project shall be provided to the local Fire Prevention Officer. All means of shutting down the project shall be clearly marked.

Complementary Site Plan/Special Exception Standards:

Special Exception (#2): That the special exception sought will neither create nor aggravate a traffic hazard, a fire hazard or any other safety hazard.

Special Exception (#5): That reasonable provisions have been made for adequate land space, lot width, lot area, stormwater management in accordance with section 60-1301(14), green space, driveway layout, road access, off-street parking, landscaping, building separation, sewage disposal, water supply, fire safety, and where applicable, a plan or contract for perpetual maintenance of all the common green space and clustered off-street parking areas to ensure all such areas will be maintained in a satisfactory manner.

(5) Maintenance. Requires that the facility is maintained in good condition.

Where this is also something that takes place after construction, Staff recommends the Planning Board also require this as a Condition of Approval:

- The Owner or Operator of the Solar Energy Generating System shall maintain the facility in good condition. Proper maintenance of the facility means that it is operating as designed and approved. Maintenance shall include, but not be limited to, painting, structural repairs, repairing damaged panels and integrity of security measures. The Solar Energy Generating System must be properly maintained and kept free from all hazards, including, but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety or general welfare. Site access shall be maintained to a level acceptable by the local Fire Prevention Officer for emergency response. The owner or operator shall be responsible for the cost of maintaining the Solar Energy Generating System and any access road(s), unless accepted as a public way.

Complementary Site Plan/Special Exception Standards:

Special Exception (#4): That the exception sought will not alter the essential characteristics of the neighborhood and will not tend to depreciate the value of property adjoining and neighboring the property under application.

(6) Glare. Requires that solar panels be placed to minimize glare from impacting neighboring properties or roadways. For parcels within 2 nautical miles of the Auburn Lewiston Municipal Airport, a Solar Glare Hazard Analysis Tool Report is required to be submitted.

This project is located within 2 nautical miles of the Auburn Lewiston Municipal Airport. A Solar Glare Hazard Analysis Tool Report (SGHAT) has already been submitted to the Airport Manager. From the test results, the project should not be an issue with only minimal glare and no potentially damaging glare. The Airport Manager will be at the Planning Board meeting to answer any questions the Planning Board may have on the SGHAT.

Complementary Site Plan/Special Exception Standards:

Site Plan (#1): Protection of adjacent areas against detrimental or offensive uses on the site by provision of adequate surface water drainage, buffers against artificial and reflected light, sight, sound, dust and vibration; and preservation of light and air.

Special Exception (#2): That the special exception sought will neither create nor aggravate a traffic hazard, a fire hazard or any other safety hazard.

Special Exception (#4): That the exception sought will not alter the essential characteristics of the neighborhood and will not tend to depreciate the value of property adjoining and neighboring the property under application.

(7) Visual Impact. Requires that the Applicant make reasonable efforts to minimize visual impacts associated with the installation of a Solar Energy Generating System.

As discussed in the application, the property currently consists of primarily wooded area, wetlands, and some open grassed and gravel surfaces. The area that will not be within the limits of the solar array will be left to remain in its existing land cover except for vegetation management to avoid shading of the panels. The site will also be visually buffered by the existing woodland.

Complementary Site Plan/Special Exception Standards:

Site Plan (#1): Protection of adjacent areas against detrimental or offensive uses on the site by provision of adequate surface water drainage, buffers against artificial and reflected light, sight, sound, dust and vibration; and preservation of light and air.

Special Exception (#4): That the exception sought will not alter the essential characteristics of the neighborhood and will not tend to depreciate the value of property adjoining and neighboring the property under application.

(8) Lighting. Requires that lighting be consistent with local, state and federal law and that it be limited to that required for safety and operational purposes and reasonably shielded from abutting properties.

The Applicant has stated that no outdoor lighting is proposed for the project.

Complementary Site Plan/Special Exception Standards:

Site Plan (#1): Protection of adjacent areas against detrimental or offensive uses on the site by provision of adequate surface water drainage, buffers against artificial and reflected light, sight, sound, dust and vibration; and preservation of light and air.

(9) When possible, in unbuilt areas, requires that Solar Energy Generating Systems maintain the permeability of the ground and that clearing of natural vegetation be limited to what is necessary for the construction, operation and maintenance of the Solar Energy Generating System.

As discussed above, the area that will not be within the limits of the solar array will be left to remain in its existing land cover except for vegetation management to avoid shading of the panels.

Complementary Site Plan/Special Exception Standards:

Site Plan (#4): Protection of environment features on the site and in adjacent areas.

Special Exception (#5): That reasonable provisions have been made for adequate land space, lot width, lot area, stormwater management in accordance with section 60-1301(14), green space, driveway layout, road access, off-street parking, landscaping, building separation, sewage disposal, water supply, fire safety, and where applicable, a plan or contract for perpetual maintenance of all the

common green space and clustered off-street parking areas to ensure all such areas will be maintained in a satisfactory manner.

(10) Operation and Maintenance. Requires the submission of an Operation and Maintenance Plan for the Solar Energy Generating System.

An Operation and Maintenance Plan was not included in the submission materials, based on the Site Plan/Special Exception requirements, Staff believes the Planning Board could require one be submitted to Staff as a Condition of Approval:

- Before construction, the Owner or Operator shall submit a plan for the operation and maintenance of the solar energy systems, which shall include measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance of the installation.

Complementary Site Plan/Special Exception Standards:

Site Plan (#1): Protection of adjacent areas against detrimental or offensive uses on the site by provision of adequate surface water drainage, buffers against artificial and reflected light, sight, sound, dust and vibration; and preservation of light and air;

Special Exception (#2): That the special exception sought will neither create nor aggravate a traffic hazard, a fire hazard or any other safety hazard.

Special Exception (#4): That the exception sought will not alter the essential characteristics of the neighborhood and will not tend to depreciate the value of property adjoining and neighboring the property under application.

Special Exception (#5): That reasonable provisions have been made for adequate land space, lot width, lot area, stormwater management in accordance with section 60-1301(14), green space, driveway layout, road access, off-street parking, landscaping, building separation, sewage disposal, water supply, fire safety, and where applicable, a plan or contract for perpetual maintenance of all the common green space and clustered off-street parking areas to ensure all such areas will be maintained in a satisfactory manner.

(11) Requires all Solar Energy Generating Systems to be installed in compliance with the photovoltaic systems standards of the National Fire Protection Association and National Electrical Code.

Based on the Site Plan/Special Exception requirements, Staff believes the Planning Board could also require the project meet these standards as a Condition of Approval:

- The Solar Energy Generating System installation shall be installed in compliance with the photovoltaic systems standards of the latest edition of the National Fire Protection Association (NFPA) 1, Fire Prevention Code. All wiring shall be installed in compliance with the photovoltaic systems standards identified in the latest edition of the National Electrical Code (NFPA 70).

Complementary Site Plan/Special Exception Standards:

Special Exception (#2): That the special exception sought will neither create nor aggravate a traffic hazard, a fire hazard or any other safety hazard.

Special Exception (#5): That reasonable provisions have been made for adequate land space, lot width, lot area, stormwater management in accordance with section 60-1301(14), green space, driveway layout, road access, off-street parking, landscaping, building separation, sewage disposal, water supply, fire safety, and where applicable, a plan or contract for perpetual maintenance of all the common green space and clustered off-street parking areas to ensure all such areas will be maintained in a satisfactory manner.

Special Exception (#6): That the standards imposed are, in all cases, at least as stringent as those elsewhere imposed by the city building code and by the provisions of this chapter.

Sec. 60-1431. Abandonment or Decommissioning standards, including the requirement of a financial surety to cover the cost of facility removal in the future.

Staff did not see anything in the ordinance specifically covering decommissioning of the facility. However, there is a standard under Sec. 60-1311. – Deposit of Surety:

The planning board may require the applicant with the submission of the site plan to tender a certified check payable to the city and issued by a surety company or secured by deposits issued by institutions authorized to issue the same by the laws of the state or the United States or irrevocable letters of credit issued by said banking institutions in an amount of money determined by the city planner, with the advice of the various city departments and agencies concerned, to be sufficient to ensure compliance with the approved site plan.

This could be a couple Conditions of Approval; the language would look something like this:

- The Owner or Operator shall, at their expense, complete the removal of the solar energy system within 6 months of the end of the useful life of the solar energy system or within 6 months of the date of abandonment as defined in Sec. 60-1425. The Owner or Operator shall notify the Economic and Community Development Department by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:
 - Physical removal of all ground-mounted Solar Energy Generating Systems including solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.
 - Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
 - Stabilization or re-vegetation of the site as necessary to minimize erosion. The Economic and Community Development Department, in conformance with applicable regulations, may allow the Owner or Operator to leave existing landscaping or specifically designated below-grade foundations in place in order to minimize erosion and disruption to vegetation.

The City shall revoke any approvals and/or pursue removal of the solar energy system at the Owner or Operator's expense in the following circumstances:

- The solar energy system is not installed and functioning within 12-months from the date of approval under this ordinance; or
- The solar energy system is at any time left in an unsafe condition in respect to federal, state or local safety standards (as determined by the City); or
- The solar energy system has not been brought back to a safe condition/operation or removed from the site within the required timeframe; or
- The solar energy system is defective or abandoned and has not been removed from the site within required timeframe.
- Before the start of construction, the BD Solar, LLC shall provide a form of surety, either through escrow account, performance bond or letter of credit from a creditable financial institution, in an amount sufficient to cover the cost of decommissioning in the event the City determines the solar energy system to be abandoned in accordance with Sec. 60-1431(a)(2). The financial guarantee shall include a provision granting and guaranteeing the City the authority to access the funds and property and perform the decommissioning should the facility be abandoned and the owner or operator fails to meet their obligations to remove the solar energy system. This amount shall be based upon a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer, and submitted to the Planning Board at the time of application. The amount shall include a mechanism for calculating increasing removal costs due to inflation. If the Owner or Operator of the Solar Energy Generating System fails to remove the installation in accordance with requirements of this section within 6 months of abandonment of the end of the useful life or

date of abandonment, the City retains the right to use the performance guarantee and all other available means to cause an abandoned, hazardous or decommissioned Solar Energy Generating System to be removed.

Complementary Site Plan/Special Exception Standards:

Site Plan (#3): Adequacy of the methods of disposal for wastes; and

Special Exception (#2): That the special exception sought will neither create nor aggravate a traffic hazard, a fire hazard or any other safety hazard.

Special Exception (#4): That the exception sought will not alter the essential characteristics of the neighborhood and will not tend to depreciate the value of property adjoining and neighboring the property under application.

Special Exception (#6): That the standards imposed are, in all cases, at least as stringent as those elsewhere imposed by the city building code and by the provisions of this chapter.

Sec. 60-579(3)(g)(4) are the standards for landscaping in the Industrial District. Most standards apply to buildings and parking lots but there is one that is not specific and says: Side and rear lot lines between nonresidential uses shall be planted with evergreen trees in the same manner as subsection (3)g3 of this section (evergreen tree line planted in staggered rows having the base of the trees not more than ten feet apart), except that the width of the screened buffer line shall not be less than 15 feet.

(5): Landscaping is considered to be vegetative treatment with trees, shrubs, flowering plants and grass and/or bark mulch. Grass only is not deemed to satisfy this requirement. Evergreen trees shall be used as required in subsections (3)g3 and (3)g4 of this section. Trees shall be a minimum of six feet at the time of planting. Where possible, existing trees shall be preserved, building shall be oriented with respect to natural landscape features, topography and natural drainage areas.

The revised Site Plan, included in your packets revises the tree line in the southeast property corner to maintain the existing woodland within 15-feet of the property line.

There were some specific requirements in the Solar Energy Generating System Ordinance for application materials. The Applicant has complied with the Site Plan submission requirements. The items in bold below are not covered by the Site Plan submission requirements but the Applicant has addressed them in the Response to Staff Comments Memo dated 3/5/2020.

Sec. 60-1429. (*Proposed Solar Ordinance – Application Requirements*).

(2) A narrative describing the proposed Solar Energy Generating System, including an overview of the project; the project location; **the total rated capacity of the solar energy system; dimensions of all components and respective manufacturers;** and a description of associated facilities and how the system and associated facilities comply with the standards of this ordinance.

(3) An accurate scaled site plan of the subject property showing the planned location of the proposed Solar Energy Generating System and all associated facilities; property lines, adjoining streets and access; topographic contour lines; existing and proposed buildings; fencing; structures; **potential shade from nearby trees and structures;** vegetation; driveways, parking and curb cuts on the subject property; **specifications for all proposed electrical cabling/transmission lines, accessor equipment** and landscaping, **including the tallest finished height of the solar collectors and name,** address, phone number and signature of the project proponent, as well as co-proponents or property owners, if any, the names, contact information and signature of any agents representing the project proponent. The site plan shall show **any proposed off-site modifications to provide grid connections,** access the installation, or to maintain the proposed solar energy system.

(4) Information on any connections to the grid including evidence of meeting the **local electric utility's transmission and distribution interconnection requirements (this may be a condition of approval if a copy of the application for interconnection with the electric utility provider is submitted).**

(5) **Documentation that the solar generation equipment has been approved under the UL certification program and that the system complies with all applicable local, state and federal codes/regulations with the standards regarding signal interference. Electrical component and connection information shall be in sufficient detail to allow for a determination that it meets Maine electrical codes.**

(6) **All parcels within a 2 nautical mile radius of the Auburn Lewiston Municipal Airport, as measured based on the runway centerline closest to the location in question, shall submit a Solar Glare Hazard Analysis Tool (SGHAT) report, outlining solar panel glare and ocular impacts, for each point of measurement approved by the Airport Manager at the time of application to the Planning Board.** (This has already been addressed, see above).

On the Site Plan, you probably noticed there is a table describing wetland impacts. There are two types of wetland impacts as they apply to solar installations:

Direct Impact: Fill/Structures in the Resource

Indirect Impact: Panel over a Resource (For Example: An area shaded by a panel)

This project will require permits by both the Department of Environmental Protection (DEP) and the Army Corps of Engineers (ACOE) for wetland impacts and the creation of greater than one acre of impervious area. Staff recommends these be included as Conditions of Approval.

I. DEPARTMENT REVIEW:

- a. *Police* – No comments received.
- b. *Auburn Water and Sewer* – No comments received.
- c. *Fire Department* –

NFPA 1, Edition 2018, adopted by the city on 01/01/2018

1. A vegetation Management Plan or noncombustible base needs to be added. Has a vegetation management plan been submitted? If not what will the surface be finished with? This is to prevent forest fires from damaging the system, or the system causing a forest fire. Damage from weeds and plants can also cause damage to the photovoltaic system, which in turn could create a fire.

11.12.3.2* Vegetation Management Plan. A vegetation management plan or noncombustible base acceptable to the AHJ shall be approved and maintained under and around the installation where required by the AHJ (Authority having Jurisdiction).

APPLICANT RESPONSE: *The design includes planting of grass in all areas under and around the solar panels, other than the access road and equipment pads. Per MDEP requirements, the grass will be mowed no more than 2 times per year.*

2. Clearance around the installation shall be 10 ft.

11.12.3.1* Clearances. A clear area of 10 ft (3048 mm) around ground-mounted photovoltaic installations shall be provided.

APPLICANT RESPONSE: *I believe we have provided 10' around the system.*

3. Road access is too narrow (15 ft), requires 20 ft. If there was a forest fire we would not be able to gain access to the site. Also the road would need to support our vehicles.

18.2.3.5.1.1* Fire department access roads shall have an unobstructed width of not less than 20 ft (6.1 m).

APPLICANT RESPONSE: *We will revise the design to include a 20' wide road.*

4. The current access road has no place to turn around. A turnaround or hammerhead would be required.

18.2.3.5.4 Dead Ends. Dead-end fire department access roads in excess of 150 ft (46 m) in length shall be provided with approved provisions for the fire apparatus to turn around.

APPLICANT RESPONSE: *The Site Plan adds 3 turnarounds for Fire Apparatus (discussed in the Response to Comments Memo dated 3/05/2020).*

d. *Code Enforcement (Electrical) –*

1. Large-Scale (PV) Power Production Facilities is covered under the National Electrical Code Article 691 and requires an engineered design. Will the project have plans submitted by an electrical PE?

APPLICANT RESPONSE: *The electrical design has not been completed yet, but it will be done by a licensed electrical engineer.*

2. Who is the PE/ firm providing the electrical drawings?

APPLICANT RESPONSE: *The electrical design has not been completed yet, but it will be done by a licensed electrical engineer.*

3. All applicable sections of the NEC shall be followed including listing/marketing of all solar equipment Nationally Recognized Testing Laboratory (NRTL).

4. Who is the installing electrical contractor?

APPLICANT RESPONSE: *We also don't know who the contractor will be yet.*

5. Is the entire project boundary protected by fencing?

APPLICANT RESPONSE: *The project area is enclosed with a fence.*

6. The project spans two communities. How will permitting and inspections be performed.

APPLICANT RESPONSE: *I assume that we will need building permits from both Auburn and Poland. It will be up to those municipalities to determine inspection responsibilities.*

7. Which town will the utility grid- tie be located?

APPLICANT RESPONSE: *The grid connection is in Auburn*

- e. *Engineering –* Waiting on the redesign of the width of the access road and addition of turnarounds to accommodate Fire Department comments as it will completely change the stormwater calculations.
- f. *Addressing –* The parcel does not currently have an address, just a Parcel ID. The Addressing Officer will have to assign an address to the property. Staff recommends this be a Condition of Approval.

II. PLANNING BOARD ACTION – Sec. 60-1277. – Objective. In considering a site plan, the Planning Board shall make findings that the development has made provisions for:

- (1) Protection of adjacent areas against detrimental or offensive uses on the site by provision of adequate surface water drainage, buffers against artificial and reflected light, sight, sound, dust and vibration; and preservation of light and air;
- (2) Convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent areas;
- (3) Adequacy of the methods of disposal for wastes; and
- (4) Protection of environment features on the site and in adjacent areas.

Sec. 60-1336. – As conditions prerequisite to the granting of any special exceptions, the board shall require evidence of the following:

- (1) That the special exception sought fulfills the specific requirements, if any, set forth in the zoning ordinance relative to such exception.
- (2) That the special exception sought will neither create nor aggravate a traffic hazard, a fire hazard or any other safety hazard.
- (3) That the special exception sought will not block or hamper the master development plan pattern of highway circulation or of planned major public or semipublic land acquisition.
- (4) That the exception sought will not alter the essential characteristics of the neighborhood and will not tend to depreciate the value of property adjoining and neighboring the property under application.
- (5) That reasonable provisions have been made for adequate land space, lot width, lot area, stormwater management in accordance with section 60-1301(14), green space, driveway layout, road access, off-street parking, landscaping, building separation, sewage disposal, water supply, fire safety, and where applicable, a plan or contract for perpetual maintenance of all the common green space and clustered off-street parking areas to ensure all such areas will be maintained in a satisfactory manner.
- (6) That the standards imposed are, in all cases, at least as stringent as those elsewhere imposed by the city building code and by the provisions of this chapter.
- (7) That essential city services which will be required for the project are presently available or can be made available without disrupting the city's master development plan.

STAFF RECOMMENDATIONS – While it looks like a lot, Staff tried to incorporate conditions that capture the ordinance requirements for Solar Energy Generating Systems and that complement the Site Plan/Special Exception requirements.

To this end, Planning Staff recommends the Planning Board find that the application meets the requirements of Article VI, District Regulations and that the application meets the requirements of Sec. 60-1277 (Site Plan Objectives) and Sec. 60-1336 (Special Exception Conditions) with the following conditions:

- Before operation, a copy of the as-built Site Plan for the project shall be provided to the local Fire Prevention Officer. All means of shutting down the project shall be clearly marked.
- The Owner or Operator of the Solar Energy Generating System shall maintain the facility in good condition. Proper maintenance of the facility means that it is operating as designed and approved. Maintenance shall include, but not be limited to, painting, structural repairs, repairing damaged panels and integrity of security measures. The Solar Energy Generating System must be properly maintained and kept free from all hazards, including, but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety or general welfare. Site access shall be maintained to a level acceptable by the local Fire Prevention Officer for emergency response. The owner or operator shall be responsible for the cost of maintaining the Solar Energy Generating System and any access road(s), unless accepted as a public way.
- Before construction, the Owner or Operator shall submit a plan for the operation and maintenance of the solar energy systems, which shall include measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance of the installation.
- The Solar Energy Generating System installation shall be installed in compliance with the photovoltaic systems standards of the latest edition of the National Fire Protection Association

(NFPA) 1, Fire Prevention Code. All wiring shall be installed in compliance with the photovoltaic systems standards identified in the latest edition of the National Electrical Code (NFPA 70).

- The Owner or Operator shall, at their expense, complete the removal of the solar energy system within 6 months of the end of the useful life of the solar energy system or within 6 months of the date of abandonment as defined in Sec. 60-1425. The Owner or Operator shall notify the Economic and Community Development Department by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:
 - Physical removal of all ground-mounted Solar Energy Generating Systems including solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.
 - Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
 - Stabilization or re-vegetation of the site as necessary to minimize erosion. The Economic and Community Development Department, in conformance with applicable regulations, may allow the Owner or Operator to leave existing landscaping or specifically designated below-grade foundations in place in order to minimize erosion and disruption to vegetation.

The City shall revoke any approvals and/or pursue removal of the solar energy system at the Owner or Operator's expense in the following circumstances:

- The solar energy system is not installed and functioning within 12-months from the date of approval under this ordinance; or
 - The solar energy system is at any time left in an unsafe condition in respect to federal, state or local safety standards (as determined by the City); or
 - The solar energy system has not been brought back to a safe condition/operation or removed from the site within the required timeframe; or
 - The solar energy system is defective or abandoned and has not been removed from the site within required timeframe.
- Before the start of construction, the BD Solar, LLC shall provide a form of surety, either through escrow account, performance bond or letter of credit from a creditable financial institution, in an amount sufficient to cover the cost of decommissioning in the event the City determines the solar energy system to be abandoned in accordance with Sec. 60-1431(a)(2). The financial guarantee shall include a provision granting and guaranteeing the City the authority to access the funds and property and perform the decommissioning should the facility be abandoned and the owner or operator fails to meet their obligations to remove the solar energy system. This amount shall be based upon a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer, and submitted to the Planning Board at the time of application. The amount shall include a mechanism for calculating increasing removal costs due to inflation. If the Owner or Operator of the Solar Energy Generating System fails to remove the installation in accordance with requirements of this section within 6 months of abandonment of the end of the useful life or date of abandonment, the City retains the right to use the performance guarantee and all other available means to cause an abandoned, hazardous or decommissioned Solar Energy Generating System to be removed.
 - An addressing plan shall be submitted to the Addressing Officer before the start of construction.
 - A vegetation management plan or noncombustible base acceptable to the Fire Prevention Officer shall be approved and maintained under and around the installation where required by the Fire Prevention Officer.
 - Signoff from the City Electrical Department is required before the issuance of a Building Permit. All applicable sections of the National Electrical Code shall be followed including listing/marketing of all solar equipment in accordance with the Nationally Recognized Testing Laboratory (NRTL).

- Signoff from the City Engineering Department on stormwater is required before the issuance of a Building Permit.
- The Applicant shall obtain all applicable DEP and ACOE permits prior to the issuance of a building permit.

Suggested Motion: *I make a motion to approve the Site Plan/Special Exception by BD Solar LLC to construct a 45 acre, 14.6MW solar array on an approximately 142.74 acre parcel split between the City of Auburn and the Town of Poland on Lewiston Junction Road (PID: 142-007), in the Industrial Zoning District with the following conditions:*

- Before operation, a copy of the as-built Site Plan for the project shall be provided to the local Fire Prevention Officer. All means of shutting down the project shall be clearly marked.
- The Owner or Operator of the Solar Energy Generating System shall maintain the facility in good condition. Proper maintenance of the facility means that it is operating as designed and approved. Maintenance shall include, but not be limited to, painting, structural repairs, repairing damaged panels and integrity of security measures. The Solar Energy Generating System must be properly maintained and kept free from all hazards, including, but not limited to, faulty wiring, loose fastenings, being in an unsafe condition or detrimental to public health, safety or general welfare. Site access shall be maintained to a level acceptable by the local Fire Prevention Officer for emergency response. The owner or operator shall be responsible for the cost of maintaining the Solar Energy Generating System and any access road(s), unless accepted as a public way.
- Before construction, the Owner or Operator shall submit a plan for the operation and maintenance of the solar energy systems, which shall include measures for maintaining safe access to the installation, stormwater controls, as well as general procedures for operational maintenance of the installation.
- The Solar Energy Generating System installation shall be installed in compliance with the photovoltaic systems standards of the latest edition of the National Fire Protection Association (NFPA) 1, Fire Prevention Code. All wiring shall be installed in compliance with the photovoltaic systems standards identified in the latest edition of the National Electrical Code (NFPA 70).
- The Owner or Operator shall, at their expense, complete the removal of the solar energy system within 6 months of the end of the useful life of the solar energy system or within 6 months of the date of abandonment as defined in Sec. 60-1425. The Owner or Operator shall notify the Economic and Community Development Department by certified mail of the proposed date of discontinued operations and plans for removal. Decommissioning shall consist of:
 - Physical removal of all ground-mounted Solar Energy Generating Systems including solar photovoltaic installations, structures, equipment, security barriers and transmission lines from the site.
 - Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
 - Stabilization or re-vegetation of the site as necessary to minimize erosion. The Economic and Community Development Department, in conformance with applicable regulations, may allow the Owner or Operator to leave existing landscaping or specifically designated below-grade foundations in place in order to minimize erosion and disruption to vegetation.

The City shall revoke any approvals and/or pursue removal of the solar energy system at the Owner or Operator's expense in the following circumstances:

- The solar energy system is not installed and functioning within 12-months from the date of approval under this ordinance; or
- The solar energy system is at any time left in an unsafe condition in respect to federal, state or local safety standards (as determined by the City); or

- The solar energy system has not been brought back to a safe condition/operation or removed from the site within the required timeframe; or
- The solar energy system is defective or abandoned and has not been removed from the site within required timeframe.
- Before the start of construction, the BD Solar, LLC shall provide a form of surety, either through escrow account, performance bond or letter of credit from a creditable financial institution, in an amount sufficient to cover the cost of decommissioning in the event the City determines the solar energy system to be abandoned in accordance with Sec. 60-1431(a)(2). The financial guarantee shall include a provision granting and guaranteeing the City the authority to access the funds and property and perform the decommissioning should the facility be abandoned and the owner or operator fails to meet their obligations to remove the solar energy system. This amount shall be based upon a fully inclusive estimate of the costs associated with removal, prepared by a qualified engineer, and submitted to the Planning Board at the time of application. The amount shall include a mechanism for calculating increasing removal costs due to inflation. If the Owner or Operator of the Solar Energy Generating System fails to remove the installation in accordance with requirements of this section within 6 months of abandonment of the end of the useful life or date of abandonment, the City retains the right to use the performance guarantee and all other available means to cause an abandoned, hazardous or decommissioned Solar Energy Generating System to be removed.
- An addressing plan shall be submitted to the Addressing Officer before the start of construction.
- A vegetation management plan or noncombustible base acceptable to the Fire Prevention Officer shall be approved and maintained under and around the installation where required by the Fire Prevention Officer.
- Signoff from the City Electrical Department is required before the issuance of a Building Permit. All applicable sections of the National Electrical Code shall be followed including listing/marketing of all solar equipment in accordance with a Nationally Recognized Testing Laboratory.
- Signoff from the City Engineering Department on stormwater is required before the issuance of a Building Permit.
- The Applicant shall obtain all applicable DEP and ACOE permits prior to the issuance of a building permit.

Megan Norwood

Megan Norwood
City Planner II