

**Findings of Fact, Conclusions of Law, and Decision on application for a Site Plan Review
Permit for Starks Holdings LLC – Redtail Road (near 486 Anson Road) Solar Project
Planning Board, Town of Starks, Maine**

Date of Decision: July 20, 2020

- 1. Name of Proposed Project:** Starks Holdings LLC – 486 Anson Road Solar Project (Redtail Road)
 - a) Applicant: Jordan A. Betts; Starks Holdings LLC; 2 Union St. Suite 500, Portland, ME 04101; (207) 805-3777; Cell: (207) 631-0113; jbetts@wishcamper.com
 - b) Project Development Partner/Construction Contractor: Nate Niles, ReVision Energy Inc., 758 Westbrook St, South Portland, ME 04106; (207) 208-9178; nniles@revisionenergy.com
 - c) Property Owner: Starks Holdings LLC; (Lyndel J. Wishcamper)
 - d) Proof of Right, Title and Interest: Warranty Deed Somerset County Registry, Bk 5564, pg 327.
 - e) Type Business: Limited Liability Company; A certificate from the State of Maine was provided.

- 2. Is the proposed project part of a subdivision? shoreland zone? floodplain?** No

- 3. Description of Project:**
 - a) Location (Town Tax Maps): Map R-10; Lot 2.2 Public Road frontage (Rte.43): 1,250 feet
 - b) GPS Longitude: 44.737388; Latitude: -69.920444
 - c) Street Address: Near 486 Anson Road (911 address pending 7/8/2020) Redtail Road
 - d) Size of Parcel: 46.5 acres
 - e) Existing Use(s): Forest, vegetated shrubland, hayfield, and existing barn and camp
 - f) Proposed Use and Structure: Solar Array Project¹ – A 2.59 MW DC, 1.8 MW AC (11.14 acres) array, capable of producing 3.1 million kWh annually (enough electricity to serve approx. 375 households, for reference). The primary components of a ground mounted solar array are steel I-beams driven into the earth to serve as foundations, aluminum racking fastened to the I-beams, and solar panels affixed to the racking. The rows of panels would be oriented due south, sloping 35 degrees (away from Anson Rd.). At their peak, the panels would stand approximately 12 ft. above grade. The rows of panels would be electrically connected via underground conduit and wire. Inverters would be positioned on the backside of the racking, and a concrete pad-mounted transformer and switchgear would be located within the array. A small amount of utility infrastructure would be required to connect the project to the local grid – several poles, a meter, and protective equipment. To provide security and safety (in compliance with the NEC), a 7-ft chain-link fence would be constructed around the array. Lastly, a gravel drive to provide construction access and a staging/unloading area would be extended from the existing driveway.

¹ Since the Site Inventory & Analysis component was submitted, the project was downsized approximately 25% from an electrical nameplate (and physical footprint) perspective. This downsizing was driven by the significant cost of utility upgrades required for a larger system.

g) Structures:

Name and type		Area	Length (ft)	Width (ft)	Height (ft)
Ground-mounter solar array	New	11 ac	900'	500'	12'
Gravel entrance/turnaround	Expansion	1 ac	300'	20'	n.a.
Barn	Existing	1,764 sf	49'	36'	20'
Camp	Existing	192 sf	16'	12'	16'

h) Construction timeframe: Construction is expected to begin as early as fall 2020, with the anticipated completion date of the project no later than fall 2021.

4. Summary of Submissions:

- a) Site Inventory and Analysis: January 2, 2020
- a) Application: June 1, 2020; June 23, 2020 (updated/complete application) Included Site Plan dated June 18, 2020
- b) Application Fee (\$75) and Deposit (\$1,000 refundable) received on June 10, 2020
- c) Requests for waivers (included in Site Inventory and Analysis dated January 2, 2020)
- d) Starks Solar Project NRPA Tier 1 Application (DEP) – July 9, 2020
- e) Starks Solar DEP Notification of Project Review – July 9, 2020
- f) Starks Solar Project Stormwater PBR – July 9, 2020

5. Process:

- a) Preapplication conference held on December 5, 2019
Board determined that the project was a “Major Development” requiring a Site Inventory and Analysis (Section 5, 5.2.3 F of Starks Site Plan Review Ordinance)
- a) Action on requested waivers taken on January 8, 2020

Under Existing Conditions

6.2.3 E-10 Lighting and Signage. Waiver approved; the site will have neither lighting nor signage.

Proposed Development Activities

6.2.3.4 F-2 Water Supply and Sewage Disposal. Waiver approved; the project will not require a water supply nor have a need for sewage disposal.

6.2.3 F-4 Disposal of Solid Waste and Hazardous Waste Materials. Waiver denied; Applicant will provide a plan for disposing of materials including stumps and construction debris.

6.2.3 F-6 Landscaping and Buffering. Waiver denied.

6.2.3 F-8 Location of Signs. Waiver approved; no signs will be erected.

6.2.3 F-9 Exterior Lighting. Waiver approved; the project will not have any exterior lighting.

6.2.3 F-11 Waiver denied; the applicant will address anticipated road traffic both during and after construction.

Major Developments

6.2.2 B Grading Plan. Waiver approved; other than grading for road access, no filling or grading will be required.

6.2.2 D Groundwater Impact Analysis. Waiver approved; the project will not require any on-site water supply.

6.2.2 G Traffic Impact Analysis. Waiver approved; although a traffic impact study is not required, the applicant will address anticipated traffic projections- see 6.2.3 F-11 above

- c) Inventory and Analysis: Approved by the Board on January 8, 2020.
- d) Date Board determined the application to be complete: July 1, 2020
- e) Date of Public Hearing: July 20, 2020
- f) Date of Board decision: July 20, 2020

6. Public Comments. A brief description of the substantive materials and testimony received at the public hearing or otherwise (in writing) - Eric Hoar was the only Starks property owner or resident who attended the Public Hearing. He voiced support for the project.

7. Findings of Fact and Conclusions of Law: Section 7 Approval Standards and Criteria (By Section)

7.2 Lot Size and Setback Requirements

Findings and Conclusions: The lot is 46.5 acres; the closest array is setback 125 feet from Route 43. Structure setbacks from property lines are greater than 60 feet from the centerline of Route 43 and greater than 15 feet from the other property lines. The proposed project complies with the lot size and setback requirements and complies with the Building Ordinance for the Town of Starks.

Upon a motion that the application is in compliance with this section, motion carried unanimously

7.3 Utilization of the Site and Preservation of Important Natural and Cultural Features

Findings and Conclusions:

- a) The project area is presently a mix of open field, shrubland, and early-growth forest.
- b) The project reflects the natural capabilities of the site to support the proposed use with the development located on those portions of the site that have the most suitable conditions. (Sec. 7.3.1) (See Site Inventory and Analysis)
- c) The project is located on relatively flat terrain, such that filling, excavation and earth moving activity will be minimal. Site preparation will primarily involve clearing and stumping. Natural vegetation and drainage will be preserved where possible. (Sec. 7.3.2)
- d) The only environmentally sensitive areas identified were wetlands. A wetlands delineation was completed, and the development is designed to minimize impacts to wetlands. See Site Plan C2.0 dated May 22, 2020. (Sec. 7.3.3)
- e) No significant historic or archaeological resources were identified. (Sec. 7.3.4)
- f) The project will not significantly overlap with actively farmland. The construction will neither disturb the topsoil nor cause environmental harm to the soil. At the end of the solar array's useful life (40+ years), it would be entirely possible to convert the land back to farmland. (Sec. 7.3.5)
- g) The applicant utilized available mapped data and on-site wetland delineation to complete the inventory and analysis and project plan. (Sec. 7.3.6)

Upon a motion that the application is in compliance with this section, motion carried unanimously

7.4 Water Quality and Quantity Protection

Findings and Conclusions:

- a) The proposed project will not adversely impact either the quality or quantity of groundwater available to abutting properties or to public water supply systems. (Sec. 7.4.1)

- b) The project will not use water and will not impact ground water quality or quantity. (Sec. 7.4.2)
- c) There will be no on-site water supply or sewage disposal systems. A portable toilet will be used during construction. (Sec. 7.4.3)
- d) The project will not utilize any obnoxiousness, toxic, or other substances that might pollute, cause nuisances, or be harmful to human, animal, plant, or aquatic life (Sec. 7.4.4); there will not be any fuel, chemicals, chemical or industrial wastes, biodegradable raw materials. (Sec. 7.4.5); there will not be any junkyards, auto graveyards, gas stations, bulk storage of petroleum products. (Sec. 7.4.6), and there are no public water supplies within 1,000 ft. of the project site. (Sec. 7.4.7)

Upon a motion that the application is in compliance with this section, motion carried unanimously

7.5 Water Supply

Findings and Conclusions: This requirement was waived because the project does not require domestic water. Water for firefighting will be trucked in by the Starks Fire Department. The Starks Fire Chief has no concerns regarding firefighting (email correspondence). The array will be constructed of non-flammable materials and will meet the requirements of Section 7.5

Waiver approved (January 2, 2020) in accordance with Section 6.2.3.4 F-2 of Starks Site Plan Review Ordinance

7.6 Sewage Disposal

Findings and Conclusions: This requirement was waived because the project does not require a sewage system. A portable toilet will be housed on site during construction and will meet the requirements of Section 7.6, as it is applicable to the necessity of having a portable toilet during construction.

Waiver approved (January 2, 2020) in accordance with Section 6.2.3.4.F-2 of Starks Site Plan Review Ordinance

7.7 Solid Waste Management

Findings and Conclusions: Construction debris (stumps, brush, rock, etc.) will either be used on-site for erosion/sedimentation control or transported off-site. The remainder of the smaller biomass will be left on site for decomposition, while the larger trunks and waste timber will be transported off-site to regional waste/recycling/composting facilities. Waste material (e.g. packaging from the solar panels) will be aggregated on-site in a dumpster and transported off-site via a private service. The project will provide for adequate disposal of solid wastes and will meet the requirements of Section 7.7.

Upon a motion that the application is in compliance with this section, motion carried unanimously

7.8 Storage of Materials

Findings and Conclusions: There will be no permanent storage of materials on-site. During construction, the primary system components (panels, inverters, metal racking) may be staged on site in advance of the construction start for 30-90 days. To the extent possible, the existing barn will be utilized for this material storage. Otherwise, equipment will be kept for this short duration in an open/flat/dry portion of the site.

- a) Given the remote location and temporary storage of materials it is unlikely there will be public health hazards or nuisances to adjacent properties (Sec. 7.8.1), or there will be safety hazard to children (Sec. 7.8.2).

- b) Not applicable since there will not be any permanent storage of materials (trash disposal facility design standards) (Sec. 7.8.3)

Upon a motion that the application is in compliance with this section, motion carried unanimously

7.9 Traffic Access, Internal Traffic Circulation and Parking

Findings and Conclusions: Vehicular access to the site will be from the “Redtail Road”, a private gravel road that also serves as the right-of-way for the property behind the project site. Redtail Road provides access to State Route 43. The only period of noteworthy traffic will be during the approximately 6-month construction period when larger equipment and vehicles will be required for road construction, site clearing, I-beam installation, and primary-component delivery. Expectations are for 5-15 vehicles on-site for the first 3-4 months of construction. During the final 1-2 months, which involve the electrical wiring, project close-out, and commissioning processes, the traffic will be lower. The existing gravel road will be improved/widened (20 feet) to allow for the larger vehicles, and plenty of parking area will exist on site (on the shoulder of the gravel access road system) for the anticipated level of traffic. Once the project reaches operations, it will remain in service for 25-40+ years during which the project will have about 2-6 visits annually for vegetation management, and reactive and proactive electrical/mechanical maintenance.

- a) State Route 43 has adequate capacity to accommodate the development. Redtail Road intersects with Route 43 at a 90-degree angle and safety and drainage concerns will be addressed through the Maine Department of Transportation permitting process (Sec. 7.9.1)
- b) The Starks Road Commissioner has indicated that a Starks Road and Utility Structures Ordinance entrance permit is not required. (Sec. 7.9.2)
- c) Redtail Road and the turn-around (1 acre) will be adequate for internal vehicular use, including parking areas, loading/unloading areas, and emergency access. Vehicles will not need to back into or park along Route 43. Redtail Road will be plowed in the winter (Sec. 7.9.3 and 7.9.4). The proposed project meets the requirements of Section 7.9, with the condition that a Maine Department of Transportation entrance permit is obtained or deemed not necessary prior to issuance of a building permit.

Upon a motion that the application is in compliance with this section, motion carried unanimously

7.10 Hazardous, Special, and Radioactive Materials

Findings and Conclusions: The project will not entail the use of any hazardous, special, or radioactive materials, as identified by a state or federal agency, and will not entail bulk storage of flammable or explosive liquids, solids, and gases.

Upon a motion that the application is in compliance with this section, motion carried unanimously

7.11 Stormwater Management and Erosion and Sedimentation Control

Findings and Conclusions:

- a) Construction will begin with clearing the site of existing trees and vegetation. A portion of the woody material will be chipped and used for perimeter stormwater and erosion and sedimentation controls (bark/mulch berm). Smaller biomass will be left to decompose while the larger trunks and waste timber will be transported off-site. Once complete, nearly the entire site (with exception of the transformer pad, post locations, and gravel driveway) will be re-vegetated with a low-growth grass mix.

- b) The Erosion and Sedimentation Control Plan for the project addresses stormwater runoff and erosion and sedimentation control associated with construction of the gravel drive and land clearing and stump removal. (Secs. 7.11.1, 7.11.2, 7.11.3, 7.11.4)
- c) Pending permit approvals include a Department of Environmental Protection Stormwater Permit and a Maine Natural Resources Protection Act Permit. (Sec. 7.11.5). The proposed project meets the requirements of Section 7.11 with the condition that evidence of all required federal and state permits will be provided to the Code Enforcement Office prior to issuance of a building permit.

Upon a motion that the application is in compliance with this section, motion carried unanimously

7.12 Nuisance and Aesthetics

Findings and Conclusions:

- a) Off-site impacts will be minimal due to the rural location (e.g., lot size, homes some distance away) and existing natural vegetation. The project will not create any odor, dust, smoke, or fumes. Fire and safety services are not anticipated – a 7’ safety fence will encircle the project, and the array will be constructed from non-flammable materials. The contractor/applicant will be responsible for mitigating any nuisances (dust, sediment, etc.) and any damages, particularly during construction. (Sec. 7.12.1)
- b) Once the project is complete it will be virtually silent because the equipment generates no noise while generating electricity. Construction during regular business days/hours will be the only period of noticeable noise. Construction and planned maintenance will occur between the hours of 9 am and 5 pm. (Secs. 7.12.2 and 7.12.3)
- c) The bulk of the glare produced by the solar panels will be directed upwards, and due to the location and orientation of the arrays, and existing vegetation any glare will not impact neighbors or traffic on public roads. (Sec. 7.12.4)
- d) The panels stand no taller than 12 feet above grade. Because the panels face south, no glare will be directed towards Route 43; in fact, due to the existing tree line and topography, the array will hardly be visible from passing traffic on Route 43. (Sec. 7.12.5)

Upon a motion that the application is in compliance with this section, motion carried unanimously

7.13 Signs

Findings and Conclusions: There will not be any project signage, other than warning signs on the 7-foot high fence and in the vicinity of the solar array. There will not be any illuminated, digital, electronic, or governmental sign(s). (Secs. 7.13.1, 7.13.2, 7.13.3, 7.13.4)

Waiver approved January 2, 2020 in accordance with Section 6.2.3 F-8 of the Starks Site Plan Review Ordinance

7.14 Landscaping

Findings and Conclusions: The landscaping plan is designed to stabilize the site, maintain seeded areas, prevent tree growth that might shade the array, and to maintain a visual buffer from Route 43. The vegetation within a 30-foot strip adjacent to Route 43, except for the access road and areas needed for utility equipment, will be left vegetated on the 1,250 feet of road frontage. The applicant does not propose the addition of new plantings in this buffer. The proposed project meets the requirements of Section 7.14 with the condition that the 30-foot buffer is maintained to limit visibility along the Route 43 frontage.

Upon a motion that the application is in compliance with this section, motion carried unanimously.

Not Applicable Sections

Findings and Conclusions:

- 7.15. Common Open Space Areas
- 7.16. Automobile Graveyards, Automobile Recycling Businesses, and Junkyards
- 7.17. Commercial Water Extraction
- 7.18. Kennels and Veterinary Hospitals
- 7.19. Multifamily Developments

Sections 7.15, 7.16, 7.17, 7.18 and 7.19 are not applicable.

7.20 *Capacity of the Applicant*

Findings and Conclusions:

- a) The project will cost approximately \$6 million. Baker Newman & Noyes, tax advisor and tax preparer, provided a letter (May 29, 2020) indicating Mr. Wishcamper’s (sole owner of Starks Holdings LLC) liquid assets are well in excess of the project cost, and Mr. Wishcamper has the financial means to complete the project as proposed.
- b) Mr. Wishcamper has experience in developing solar installations with various partners. For this project, the applicant has partnered with ReVision Energy Inc. as the project developer and construction contractor. ReVision is a vertically integrated solar development, construction, and maintenance company that has been in business in Maine for more than 15 years. ReVision has constructed more than 7,000 solar projects across northern New England and has a strong track record with projects of this scale. Additionally, the site plans are designed by a professional engineering company, vhb of Portland, Maine.
- c) The applicant is the planned long-term owner of both the array and the land but understands it is vital to the town to have a plan in place to remove the array once it has lived its useful life, which is expected to be approximately 35 years.

The proposed project meets the requirements of Section 7.20, with the following conditions:

- a) The owner or operator or any successors or assigns of the solar array, at their expense, shall be responsible for decommissioning and site restoration when the solar array has reached the end of its useful life, or is otherwise determined to be abandoned.
- b) To alleviate the risk of abandonment the applicant agrees to acquire a letter of credit in the name of the Town of Starks in the amount of \$60,000, renewable annually until the array is removed from the site. The conditions upon which the letter of credit can be drawn shall be a notice to the issuing bank from the Chair of the Planning Board that the solar array has been abandoned. (See Appendix A)
- c) The letter of credit shall be issued prior to the applicant obtaining a building permit from the Starks Code Enforcement Officer and shall be maintained for the life of the project.

Upon a motion that the application is in compliance with this section, motion carried unanimously

7.21 *Conformance with Other Laws*

Findings and Conclusions: The applicant anticipates receiving all following required permits by fall 2020.

- Maine Department of Environmental Protection Stormwater Permit-by-Rule
- Maine Department of Environmental Protection Natural Resource Protection Act Permit
- Maine Department of Transportation Driveway Permit
- Army Corps of Engineers General Notice Permit

The proposed project complies with Section 7.21 with the condition that the applicant provide evidence of the required permit approvals prior to obtaining a building permit from the Starks Code Enforcement Officer.

Upon a motion that the application is in compliance with this section, motion carried unanimously

9.3 Improvement Guarantees

Findings and Conclusions: The applicant is not required to provide improvement guarantees.

Section 9.3 is not applicable to the project.

8. Final Decision on the Application for a Site Plan Review Permit for Starks Holdings LLC

Based on the findings of fact and conclusions set forth above, the Town of Starks Planning Board concludes that the applicant for the Starks Holdings LLC solar array located on Redtail Road, near 486 Anson Road, has met the burden of demonstrating the project conforms with the Town of Starks Site Plan Review Ordinance, with the conditions of approval listed below.

Conditions of Approval:

1. All construction and maintenance of the solar array shall be in accordance with this decision, the application (June 23, 2020), including the site plan (June 18, 2020), and all other submissions.
2. Evidence of all conditions of approval as provided in this decision shall be met prior to the applicant obtaining a building permit. (*See conditions under individual review criteria*)
3. Any expanded or modified uses on the property shall require Code Enforcement Officer or Planning Board approval, as applicable.
4. The applicant will obtain an E-911 address from the Starks Code Enforcement Officer prior to obtaining a building permit.

Appendix A. Decommissioning Requirements

A. Definition: Abandonment is the date at which any part of a solar array has been out of service for a continuous period of 12 months, or, if not fully completed and operational, significant construction work has ceased for a period of 9 months.

B. The owner or operator, or any successors or assigns, of the solar array, at their expense, shall be responsible for decommissioning and site restoration when the solar array has reached the end of its useful life, or is otherwise determined to be abandoned, unless an extension is granted by the Planning Board. The owner or operator shall notify the Code Enforcement Officer (CEO) by certified mail of the proposed date of discontinued operations and plans for removal. Removal and site restoration shall consist of the following:

1. Physical removal of all the solar array including solar photovoltaic installations, miscellaneous man-made structures, equipment, security barriers, and underground and above ground transmission lines from the site.
2. Disposal of all solid and hazardous waste in accordance with local, state, and federal waste disposal regulations.
3. Stabilization or re-vegetation of the site as necessary to minimize erosion.

C. Financial Surety. Before the start of construction, the owner or operator of the solar array shall provide a surety (letter of credit from an FDIC insured financial institution) in an amount sufficient to cover the cost of decommissioning in the event the Town determines the solar array to be abandoned as defined above. The financial surety shall provide that the Town of Starks draw on the letter of credit to provide the funds necessary to perform the decommissioning should the facility be abandoned and the owner or operator fails to meet their obligations to remove the solar array. This amount shall be based upon a fully inclusive estimate of the costs associated with removal, prepared by a professional engineer or other professional knowledgeable and experienced in solar array facilities, and submitted to the Planning Board at the time of application.

D. If the owner or operator of the solar array fails to remove the installation in accordance with the requirements above within 6 months of the date of abandonment, ceasing of significant construction of not complete, or the end of the useful life of the array, the Town of Starks retains the right to use the financial surety and all other available means to cause an abandoned, solar array to be removed.

E. The owner may apply to the Planning Board for release of the guarantee at such time that it or its assigns remove the system and associated abandoned structures, and such completed removal is found to be satisfactory by the Code Enforcement Officer.

F. Nothing in these requirements would prevent the property from being "re-powered", which means the replacement and/or repair of the modules, racking or inverters so long as the array is not expanded or runs outside of the original approval.

Decision on an application for the Site Plan Review Permit under the Site Plan Review Ordinance for the Town of Starks

Findings of Facts and Conclusions of Law, and Decision

Planning Board, Town of Starks, Maine

Date July 20, 2020

Upon a motion and second, the Board approved the proposed document as presented.


The Chair then declared that the document was the Planning Board's official written decision


Gwen Hilton, Chair

August 5, 2020

Date

Members of the Planning Board


Signed by:

5 Aug 2020

Date

Ken Lust

August 5, 2020

Signed by:

Date

Claire Nelson

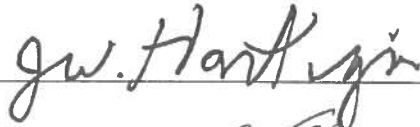


August 5, 2020

Signed by:

Date

Joe Hartigan



August 5, 2020

Signed by:

Date

John Newsom



August 5, 2020