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Phone (207) 582-4200

Debby Willis, Chairperson  
Angelia Christopher, Administrative Assistant

## **PLANNING BOARD MINUTES**

**Tuesday October 13 @ 6:00 PM**

**VIA Virtual Conferencing**

*In accordance with An Act To Implement Provisions Necessary to the Health, Welfare and Safety of the Citizens of Maine in Response to the COVID-19 Public Health Emergency, as enacted to read: Sec. G-1 1 MRSA §403-A Public proceedings through remote access during declaration of state of emergency due to COVID-19*

**1. Call the Meeting to Order:** Chair Willis called the meeting to order at 6:02 pm

**2. Roll Call-** Board members- Chair Willis, Pam Mitchel, Adam Lemire, Shawn Dolley, Lester Young, and Zachary Hanley. City Staff- Tracey Desjardins- Director of Economic Development, Kris McNeill-Code Enforcement Officer, Angelia Christopher- Planning and Development Assistant- Applicants- Amanda Melnick- Maine Cannabis Consulting- Representing Charles Crapps 280 Capen, Jason Haskell- DM Roma Engineering representing Charles Crapps- 280 Capen , Eben Baker, Mark Chrisos, and Rodney Kelshaw representing Con Edison Clean Energy, Jim Coffin- representing PMP Realty

**3. Review of the September 8, 2020 meeting minutes** Pam Mitchel, Page 12- Period needs to come after wastewater. Pg. 13. Third entry 6.5.1.10 should say single user rest room. Chair Willis asks for a motion on the minutes. Pam Mitchel makes a motion to accept the minutes with the 2 small changes. Zachary Hanley seconds the motion. Roll call. Pam Mitchel- yes, Adam Lemire- yes, Shawn Dolley- yes, Lester Young- yes, Zachary Hanley- yes, Debby Willis- yes. All in favor

**4. Public Meeting-** 280 Capen Rd Cultivation expansion- building a 40'X60' building as well as a 50'X30' greenhouse for the cultivation of both medical and adult use. Application is being continued from July 14, 2020. – Chair Willis will recuse herself- Pam Mitchel will chair this application. This application was continued because the board felt it was not complete. Amanda Melnick is here to represent Mr. Crapps, and as is also Mr. Jason Haskell, who is the engineer for the work to be done. The application now has an estimated cost, there should be an updated construction schedule. The project will likely start in the spring 2021 and should take about 4 months. Acting Chair Mitchel asks if there is a copy of Mr. Crapps license attached to this application. He is currently a medical marijuana caregiver. We do not have a copy of that license. Ms. Melnick states that

she can send one. This is an area that can be conditioned for approval, so the board can move on. He does not have the adult use license yet, but will be starting that process. There are site maps attached to this new application, as well as stormwater management plans. Pam Mitchel asks about estimated peak traffic- Ms. Melnick reports that there should be no more than 12 vehicles at any time.

**There are no comments or questions from board members at this time.** There has already been a public hearing on this application at the meeting in July so that is not needed at this meeting. The board will start to go over review criteria.

#### **4. Review Criteria (6.5.1)**

**6.5.1.1 The application is complete and the review fee has been paid.** YES

**6.5.1.2 The proposal conforms to all the applicable provisions of this Ordinance.-** Everything has been done in order to meet applicable provision of Gardiner's Ordinances. Yes

**6.5.1.3 The proposed activity will not result in water pollution, erosion or sedimentation to water bodies.-** Correct. Please find evidence within the Stormwater Narrative submitted by DM ROMA

**6.5.1.4 The proposal will provide for the adequate disposal of all wastewater and solid waste.**

Yes. Very little wastewater is created by the new project. Any runoff water is collected and reused in the cultivation. There is no bathroom being added/built, nor anything else that would affect current wastewater disposal. Solid waste is disposed of in the dumpster onsite. Solid waste is mixed with plant material waste to the point that it is unrecognizable as plant matter.

**6.5.1.5 The proposal will not have an adverse impact upon wildlife habitat, unique natural areas, shoreline access or visual quality, scenic areas and archeological and historic resources.**

Correct

**6.5.1.6 The proposal will not have an adverse impact upon waterbodies and wetlands.**

Correct. Please see the Stormwater Narrative submitted by DM ROMA

**6.5.1.7 The proposal will provide for adequate storm water management.**

Correct. Please see the Stormwater Narrative submitted by DM ROMA

**6.5.1.8 The proposal will conform to all applicable Shoreland Zoning requirements.**

Yes. Survey work was done by Northern Survey Engineering to ensure this. Please see submitted documents.

**6.5.1.9 The proposal will conform to all applicable Floodplain Management requirements.**

Yes. Survey work was done by Northern Survey Engineering to ensure this. Please see submitted documents.

**6.5.1.10 The proposal will have sufficient water available to meet the needs of the development.**

Yes, please find submitted letter from Stewart Plumbing and Heating.

**6.5.1.11 The proposal will not adversely affect groundwater quality or quantity.**

Correct. As noted, there will be minimal new wastewater and management is a top priority.

**6.5.1.12 The proposal will provide for safe and adequate vehicle and pedestrian circulation in the development.**

Yes, the new structures will add minimal traffic to the site, and there are no issues with pedestrian circulation.

**6.5.1.13 The proposal will not result in a reduction of the quality of any municipal service due to an inability to serve the needs of the development.**

Agreed.

**6.5.1.14 The applicant has the adequate financial and technical capacity to meet the provisions of this Ordinance.**

Yes. Please see submitted Financial Capacity info.

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**6.5.2 Site Plan Review Criteria**

**All applications for Site Plan Review shall meet the Review Criteria contained in 6.5.1 and the additional criteria contained in this section.**

Yes, everything has and will continue to be done in order to meet all criteria.

**6.5.2.1. The proposal will be sensitive to the character of the site, neighborhood and the district in which it is located including conformance to any zoning district specific design standards;**

Yes, building fit with neighborhood design, and are built in a log cabin type of style.

**6.5.2.2 The proposal will not have an adverse impact upon neighboring properties;**

Correct. A sound analysis was done based on the only concern brought up by neighbors and abutters. The analysis showed that noise is within ordinance parameters.

**6.5.2.3 The proposal contains landscaping, buffering, and screening elements which provide privacy to adjacent land uses in accordance with the appropriate performance standards;**

Yes. Please see attached pictures of buffering submitted by survey and engineer team.

**6.5.2.4 The building site and roadway design will harmonize with the existing topography and conserve natural surroundings and vegetation to the greatest practical extent such that filling, excavation and earth moving is kept to a minimum;**

Yes, please see attached survey and engineering documents.

**6.5.2.5 The proposal will reflect the natural capabilities of the site to support the development. Buildings, structures, and other features should be located in the areas of the site most suitable for development. Environmentally sensitive areas including waterbodies, steep slopes, floodplains, wetlands, significant plant and wildlife habitats, scenic areas, aquifers and archeological and historic resources shall be preserved to the maximum extent;**

Yes, the project seeks to reflect the natural capabilities of the site to support the development. Survey and engineering team have helped to ensure that.

**6.5.2.6 The proposal will provide for a system of pedestrian ways within the site appropriate to the development and the surrounding area. The system will connect building entrances/exits with the parking areas and with existing sidewalks, if they exist or are planned in the vicinity of the project;**

Yes

**6.5.2.7 In urban and built-up areas, buildings will be placed closer to the road in conformance with setback requirements and parking areas shall be located at the side or rear of the building;**

Please see submitted plans which include set back and parking information.

**6.5.2.8 Proposals with multiple buildings will be designed and placed to utilize common parking areas to the greatest practical extent;**

Yes, Please see submitted plans which include set back and parking information.

**6.5.2.9 Building entrances will be oriented to the public road unless the layout or grouping of the buildings justifies another approach.** Yes. Please see submitted plans which include set back and parking information.

**6.5.2.10 Exterior building walls greater than 50 feet in length which can be viewed from the public road will be designed with a combination of architectural features with a variety of building materials and shall include landscaping abutting the wall for at least 50% of the length of the wall.**

Noted.

**6.5.2.11 Building materials will match the character of those commonly found in the City and surrounding area including brick, wood, native stone, tinted/textured concrete block or glass products. Materials such as smooth-faced concrete block or concrete panels and steel panels will only be used as accent features. Materials shall be of low reflectance, subtle, neutral or earth tone colors. High-intensity and bright colors shall be prohibited except when used as trim or accent. Building materials for industrial or commercial buildings located within an approved industrial park or subdivision are not be required to comply with this provision.**

Understood

**6.5.2.12 Building entrances and points where the development intersects with the public road and sidewalk will be provided with amenities appropriate for the area such as benches, bike racks, bus stop locations and other similar landscape features.**

Ok

**6.5.2.13 A proposal which includes drive-through service will be designed to minimize impact on the neighborhood. Drive-through lanes will be fully screened from adjacent residential properties and communication systems will not be audible on adjacent properties.**

**Applicant shall provide information that demonstrates that the proposal will be sensitive to the character of the site, neighborhood and the district in which it is located by considering the following:**

Not applicable.

**Acting Chair Mitchel will now go over performance standards.**

**Section 8 8.6- 8.7- 8.8-8.9- 8.11 8.6**

**8.6 Essential services** there are some letters attached to the application. There is one from Stewart Plumbing stating that there is sufficient water supply and one from an electrician, stating that the power supply works for the business. When the applicant applies for their City Marijuana license, they will need to obtain letters from city essential services as part of the application process, but they are not needed right now.

**8.7 Lighting-** Acting Chair Mitchel asks where the exterior lighting will be because she does not see it on the plans. After some discussion, Ms. Melnick states that there will be lighting over the doorways, and they will be following the States guidelines for Adult Use licensing. They will also, of course, work with Kris McNeill, Code Enforcement Officer, to make sure that the lighting fits into Gardiner's ordinance. No other comments or questions for lighting

**8.8 Noise-** At the meeting in July an abutter had a noise complaint. There was also a noise study done. The measurements that were found were below the ordinances standards. There are no fans or other equipment that run after 7pm and there are acoustic shields already on the property.

**8.9 Exterior material storage-** Dumpsters need to be screened, from all property lines. The dumpster for this property is going to be out back, away from the road and any view, therefore does not need screening.

**8.11 Screening-** There is a lot of vegetation already there, but there needs to be a semi-screen along the front. They might need to put some little trees or shrubs out front.

**Section 9-** Environmental performance standards.

**9.1 Odor control-** This is set up in the building with activated charcoal systems in the grows and they will also be in the greenhouses after they are built.

**9.2 Water Quality-** Stormwater. Everything is being done inside so there will be no fertilizer released into the ground, and there is no issue here.

**9.3 Groundwater Protection-**No concerns here

**9.4 Waterbodies-** All waterbodies are identified on the plan. There is no plan to disturb the water bodies.

**9.7 Sewer/Septic-** There is a septic on site that addresses everything and will not need updating. There is one bathroom in the current building and there is no plan to add any new ones with this expansion.

**9.9 Erosion control-** Erosion control measures have been identified on the plan.

**9.10 stormwater management-** Stormwater will lead into a culvert that will direct to Rolling Dam Brook, Adam asked about the greenhouse, and wants to know how it will be set up. Amanda states that most, if not all, plants will be grown in pots, not directly in the ground.

**Section 10- Special Activity Performance Standards.** Pam asks if there will be a sign- No.

#### **10.29 Marijuana Establishments**

The hours for the business are fine. There will not be any consumer transactions- This is strictly a cultivation facility. All of the marijuana standards have been met.

**Section 11 Parking.** There are five parking spots, which Amanda states will be more than sufficient. Les feels there needs to be more parking for service vehicles, and there needs to be 2 more spaces. They do not have to have ADA parking, so no handicap spots needed. There is no parking space requirement for this use, so it is not really needed. Jason Haskell states that there is enough room for service trucks to park during deliveries, between the two buildings. Kris McNeill feels that the area that they have is ample for parking for the use they have.

**6.5.1.2** This proposal conforms to all applicable provisions of this ordinance.

The only condition would be the caregiver license.

Acting Chair Mitchel asks for a motion. Adam Lemire makes a motion that this application conforms to all applicable provisions of this ordinance with the condition that they submit their caregiver license. Zachary Hanley seconds the motion No further discussion.

This application has also been submitted as a change of use. Upon Planning Board approval, the applicant will apply for a Tier 4 Adult Use Cultivation license.

Roll call vote. Zachary Hanley-yes, Adam Lemire- yes, Shawn Dolley- yes, Pam Mitchel- yes. Lester Young has abstained, Debby Willis has recused herself from voting. Vote 4 yes- 1 abstain 1 recuse – approved  
Acting Chair Mitchel asks what the board wants to do with this application

We are approving the building with the intention that he will apply for adult use for a Marijuana nursery cultivation facility after Planning Board. Adam makes a motion that we approve this application with the condition that Mr. Crapps submit his caregiver license. Zachary Hanley seconds the motion. Roll call vote. Roll call vote. Zachary Hanley-yes, Adam Lemire- yes, Shawn Dolley- yes, Pam Mitchel- yes. Lester Young has abstained, Debby Willis has recused herself from voting -Application approved.

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**5. Public Hearing-** Con Edison Clean Energy Business proposed to construct a distributed generation ground mount solar facility off Highland Ave. and West Hill Rd. in Gardiner.

Debby Willis will chair, and will go through the application to see if they have standing. She states that there is a deed in the applications that states that Mr. McGee owns the land and that Con Edison has an agreement for the use of the property. She then asks if any board members cannot hear this application in an unbiased manner. She then asks City staff if they had to do anything extra or reach out to anyone for assistance with this application. Kris McNeill- Code Enforcement Officer states no. Debby then asks the applicant (agent) to introduce themselves and tell the board about the application.

Mark Chrisos presents a little about the company, Con Edison. They are the primary provider for Manhattan. They have 2600 megawatts in either construction or operation in 19 states. This project will be 4 MGW ac with the off taker being CMP. This is under the renewable energy program.

Eben Baker works for Stantec, and has already helped to set up a solar project in Gardiner. He states that he will let Rodney Kelshaw present the application. Mr. Kelshaw describes to the board where this proposed project will be placed in the City, and gives details about the land. This is a 40 acre parcel that has been pasture land for many years. He presents that the Solar array will be using slightly less than 20 acres of this 40 acre lot. The access road will come off an existing driveway that is already part of the property. The zoning is in Rural district. Stantec did a wetland delineation, and also was contracted to produce the stormwater documentation of the application. Mr. Kelshaw states that they have already contacted the various agencies, Maine Fish and wildlife, tribal authorities, historic preservation and natural resources, to see if any of these entities had interest in the site. With the wetland and watercourse study 5 waterbodies were identified on site. 2 intermittent streams and 4 vernal pools on site, they have been identified as non-significant pools. They have gotten notification back from IFW that they agree with the assessment and their criteria matched.

. There will be a little over 2000’ of direct wetland impact. This will be posts that will be driven into wetland areas. There will also be roughly 40,000 sf of indirect impact from the shading from the panels. Army of Corp of engineers has sent the letter stating that pounding the posts into the wetlands is permissible. So they have the jurisdictional determination from them. Stantec is also currently working on the DEP –NRPA application for

indirect impacts and direct impacts. They have also submitted a noise impact study as well. Pam asks if the City has received the noise impact study or the Army Corp letter. The city does have electronic copies. Pam asked what the DEP application was for. Mr. Kelshaw responded that it was for the Natural Resources Protection Act due to the wetland impact. Pam asked what the noise study showed- The inverters and the transformers are what make the noise. There will be 2 station transformers, there will be a slight low profile hum during the day. They do not run at night, so that should not be a problem. No other questions for the applicant.

Chair Willis asks if there were any waivers as part of the application- there were none,

Chair Willis will open the meeting for public comment- Chair Willis reports that she heard from 2 different citizens via email: Mr. and Mrs. Gil Raviv, Carrie Trippen

There are abutting neighbors on this meeting, which would like to speak in regards to the application. Gil Raviv and his wife are on the meeting and state that they are in opposition of the project. They moved to their home from Portland and are now fearful their property values will go down. They feel having a power plant in their back yard, will ruin their views, and will ruin the character of the neighborhood. He feels that the property owners of this areas have just as many rights as an out of State Corporation and one property owner. He feels that the property owners should have a say in the matter as to whether this project is approved. He feels that if it is approved, that partial screening is not acceptable. Mr. Raviv feels that that full screening/buffering methods need to be applied. Right now the space is a wide open pasture field, and there is no screening.

Chair Willis that she will address the property value issue- She explains that the board is in charge of LUO issues, and there is no provision for property values, or impact on property taxes.

Chair Willis asks if there anyone else that would like to speak regarding this application. Della Sutherburg lives on West Hill Rd. She agrees with all of the neighbors, it isn't the place for a power plant in our back yard. She understands that the project is good for the City, and good for the environment, but would be best suited elsewhere, further out of town. She also feels that it would eventually lower our property values which all of her neighbors have worked very hard to maintain. Connie Beckim, another abutter, typed comments into the chat. Connie Beckim :I have some concerns which I will type out. I agree with my neighbors. I'm at 254 Highland Ave. My concern is I have an in ground swimming pool with a concrete base. My concern is if there is going to be any blasting which may damage foundations, etc. I understand you will be drilling for posts. If there is ledge will be blasting at the site? What about health hazards coming from the solar panels. Do they emit some type of radiation? I also have the same concerns about property values

Myra Gay's iPad: I am very concerned as well with the view as our house is elevated over the field and there is no current natural barrier. I am also wondering if this project is approved under current zoning.

Connie Beckim: I have another comment to make. I looked at the solar panels being set up on No. Belfast Avenue in Augusta and they are quite an eyesore so I can understand why my neighbors do not want them here.

Connie Beckim: How is this benefitting Gardiner?

I have concerns and I agree with my neighbors. She lives at 254 Highland Ave. She types that she is worried about blasting for posts, which could damage her pool and her property. What about health hazards from the solar panels, do they emit some type of radiation? She has the same concerns about property values Myra Gay, her home looks over the view of the field: "Is this project requiring a zoning change?" No. If the property is 5 acres or more, it can be in HDR but this one is HDR and Rural, Mr. and Mrs. Jamison. He agrees with the other homeowners, it is not a good thing, they don't want it in their backyard. How do they plan to hide 16,000 panels that cover 20 out of 40 acres of land with screening? They would like to know more about what safety measures will be in place, like fencing. Mr. Jamison wants information about how long the construction period will be, where the access roads will be, and how the company plans to address dust control. There is a 10-15 lease plan. What will happen after that? Are the citizens guaranteed to have the property returned to a more natural state? How will the City of Gardiner address the noise pollution, and what will the decommissioning bond look like? These are the questions from the Jamison's, who report that they live at 264 Highland Ave.

There are no other abutters or residents her to speak.

Chair Willis asked City staff if there were any other questions, submissions, or comments to address. Kris McNeill answered No.

Debby closes the application for public comment.

Can the board members hear this in an unbiased manner? All members agree they can hear it

#### **Review Criteria (6.5.1)**

**6.5.1.1 The application is complete and the review fee has been paid-**To the best of our knowledge the application is complete, pursuant to the City of Gardiner Site Review Development Review Ordinance. Requirements. The review fee was delivered to the City of Gardiner with the application on Tuesday, September 15, 2020.

**6.5.1.2 The proposal conforms to all the applicable provisions of this Ordinance.** Come back to it.

**6.5.1.3 The proposed activity will not result in water pollution, erosion or sedimentation to water bodies.** The proposed project has been designed to avoid and or minimize impacts to wetlands and there are not proposed impacts to water bodies (e.g. streams). For further information please see Sections 1.0(Project description). 2.0 (Erosion and Sedimentation Control) and 5.2 (Wetland and Watercourse Delineation) of the application supplement. *Adam Lemire feels that there is question about the impact on the wetlands. He feels that there are a large number of panels being installed over wetlands, and he is unsure if that should be considered a minimal impact. Adam also questions why the array cannot be moved away from the wetlands. Rodney Kelshaw responds with: " The reason why they don't go further south in the property is because of the CMP ROW. They didn't go west because of trees/shading, and wetland areas. " Adam points out that he read that this might not be the exact amount of panels, but that everything will remain within the 'red' boundaries of the plan. Adam asks " Is there any reason why the actual application of the panels couldn't shift a little bit, away from the wetlands? Do panels have to clip together or can they connect with wires? Mark Chrisos states that they strive to use rows of panels with wires behind the panels. Shawn Dolley has a couple of questions about how this construction process will work. Will the company be coming in with some type of an auger and boring 6+ feet down below the frost line for these post holes? Will there be heavy equipment brought in for the boring work? The answer from Con Ed, there will be no blasting, they feel this ground is very suitable for drilling. They will be minimizing the effects on*



*the uplands when the project is over, and not touching the wetlands. Wetland work will be during frozen conditions or in dry summer conditions when the area is less able to rut up and disturb the wetlands. Chair Willis has a question about dust control- they will have a water truck onsite, for any and all construction dusting that may occur.*

**6.5.1.4 The proposal will provide for the adequate disposal of all wastewater and solid waste.** –The proposed project will not require any wastewater disposal. Any construction debris associated with the proposed project will be delivered to a licensed solid waste facility with sufficient capacity (e.g. Hatch Hill Solid Waste Facility in Augusta) by a licensed non-hazardous waste transporter.

**6.5.1.5 The proposal will not have an adverse impact upon wildlife habitat, unique natural areas, shoreline access or visual quality, scenic areas and archeological and historic resources.**–The proposed project has been designed to avoid and or minimize any adverse impacts to wildlife habitat, unique natural areas, shoreline access or visual quality, scenic areas, and archaeological and historic resources. No mapped significant wildlife habitat, unique natural areas, shoreline access, scenic areas, and archaeological and historic resources are located within the project site. Please see Sections 1.2 (Visual Buffers) and 5.1 (Additional Permitting requirements) of the Application supplement for further details.

**6.5.1.6 The proposal will not have an adverse impact upon waterbodies and wetlands.** The proposed project has been designed to avoid and/or minimize impacts to wetlands and there are no proposed impacts to water bodies (e.g., streams). For further information please see Sections 1.0 (Project description), 2.0 (Erosion and Sedimentation Control) and 5.2 (Wetland and Watercourse Delineation) of the application supplement.

**6.5.1.7 The proposal will provide for adequate storm water management.**

The total impervious and developed area for the Project, including the access drive and equipment pad, is only 24,183 sf (0.56 acres). Given this limited developed area, the Project does not require MDEP stormwater permitting, per MDEP Chapter 500 stormwater standards. The construction of this project will incorporate the erosion and sedimentation BMP's or practices as needed or applicable. These measures will be implements, as needed, to protect natural resources and prevent erosion and sedimentation and control stormwater. The Project shall utilized the "Maine Erosion and Sediment Control BMPs" Manual for detailed procedures

**6.5.1.8 The proposal will conform to all applicable Shoreland Zoning requirements.** The proposed project does not occur within any City of Gardiner Shoreland or resource protection zoning areas.

**6.5.1.9 The proposal will conform to all applicable Floodplain Management requirements.** The proposed project does not occur within any mapped Federal Emergency Management Agency (FEMA) floodplain zones.

**6.5.1.10 The proposal will have sufficient water available to meet the needs of the development.** The proposed project will not require any water during the operation phase. Any potential water required for dust control during construction will be provided by the construction contractor.

**6.5.1.11 The proposal will not adversely affect groundwater quality or quantity.** The proposed project will not require any water withdrawal during the operation phase. Any potential water required for dust control during construction will be provided by the construction contractor. The Construction of this project will incorporate the erosion and sedimentation BMP's or practices as needed or applicable. These measures will be implements as needed to protect natural resources and prevent erosion and sedimentation. Additionally the construction contractor will be required to implement a spill prevention control and countermeasure (SPCC) plan.

**6.5.1.12 The proposal will provide for safe and adequate vehicle and pedestrian circulation in the development.** No public vehicle or pedestrian circulation is associated with the proposed project. Access roads have been designed for safe access by operation and maintenance vehicles and potential public safety purposes.

**6.5.1.13 The proposal will not result in a reduction of the quality of any municipal service due to an inability to serve the needs of the development.** The project will not result in a reduction of the quality of any municipal service and the Applicant has obtained communications from Gardiner Police, Fire, and Public Works Departments that the project will not result in a reduction of the quality of municipal services.

**6.5.1.14 The applicant has the adequate financial and technical capacity to meet the provisions of this Ordinance.** The applicant (Con Edison Development, Inc.) has a proven track record of solar development within the region, including financial and technical capacity to meet both local and State requirements. A recent balance sheet showing the Applicant's financial capacity is included in the application. Additionally the Applicant has contracted Stantec Consulting Services, Inc. (Stantec) to assist with the preparation of natural resource assessment, civil and stormwater plans landscaping plans, and permit applications. Stantec has previously submitted applications for numerous similar scaled solar projects throughout the State, including the City of Gardiner.

There was discussion about financial capacity- There is documentation provided in the physical application in relation to this question

**General performance standards.**

Exterior Lighting- There is no exterior lighting on the site proposed for the site.

Noise- there is a noise study attached. This is not considered an issue.

Exterior material storage- there is no exterior material storage at this development

Decommissioning plan. Kris McNeill Code Enforcement Officer would like to hear more about the decommissioning bond. The estimate for the amount to dismantle the array will be bonded with an insurance company. At the end of the lease, the bond can be exercised to ensure that the array can be dismantled to restore the site back to its original condition. The minimum for this project and the solar panels is 25 years.

Buffering- The applicant is asking for some changes to the standard buffering plan. They don't want to buffer the western and southwestern side as there is already vegetation there, and no residential dwellings. There is enough buffering in those areas due to current vegetation. The areas that the buffering is very important are the eastern and northern sides that abuts the residences. There is a list of trees and shrubs that they plan to use in the application. One of the species is the Eastern Red cedar. Pam Mitchel asks if it will grow big enough, because the informational sheet that is in the application states that they only get to be about 6' high. Eben Baker states that they are not a canopy tree, but do get taller than 6' and some of the shrubbery will hopefully help in that area. The panels will be in profile, the side of them is what will be visible. Con Edison and Stantec feel that they can come up with a planting plan that will work with the array, and keep the abutting neighbors happy. Once the current planting plan, is grown, it will be a pretty solid screen. Mark Chrisos points out that Con Edison would like to work with the neighbors, to come up with a solid buffering/screening plan that works with the neighbors. Chair Willis states that this does not come back to Planning Board, but they should work with the neighborhood. Adam Lemire points that there are 2 sections that will be a challenge to screen. There is a gravel road that hugs the edge of the property, and the north side, where the wetlands are, it will be

complicated to plant in that area. Stantec notes Adam's concerns. Adam feels that if they could shift the project, to avoid the wetlands, it would make a big impact.

Pam Mitchel asks if they have applied for their permit, and if so, do they anticipate getting approved. Rodney Kelshaw reports that they are working on their DEP application now, and they do anticipate getting approved.

Eben Baker states the land is currently used for pasture land, so the current values are already degraded.

There will be no subsurface waste water

There is a full plan for Stormwater management and there are no questions or concerns.

The project does not include moving any earth.

There will be no signs advertising this development- just small ones about danger high voltage and 24 hr. emergency contact information.

**6.5.1.2 The proposal conforms to all the applicable provisions of this Ordinance.** –To the best of our knowledge the project, as proposed, conforms to the applicable provisions of the Gardiner Site Review Ordinance (Section 6.5 of the Gardiner Land Use ordinance. **Yes it does.**

Chair Willis asks Mark Chrisos if he can address the comment about health hazards from solar panels. She asks him if he can explain a little about the panels. Mr. Chrisos states that the glass cut panels are designed to absorb sunlight, they are basically black and offer no reflection. There is no evidence suggesting they present a health risk. There are no chemical, no liquids used in the process. In fact, regular vegetable oil is used as the coolant in the transformers.

Chair Willis asks for a motion on the review criteria

Adam Lemire still has questions about the buffering, and how that will be followed up on. Chair Willis explains that is a code enforcement area, and Kris McNeill will work with the developer and the abutters to come up with a suitable solution. Tracey Desjardins proposes that there be an onsite neighborhood meeting, with the developer on site. The developers agree that this is a good idea and will work with City staff to plan a meeting.

Pam Mitchel- This proposal conforms to all applicable provisions of this ordinance-With two conditions: 1.The applicants receive their DEP- NRPA permit. 2. The applicant work with the neighbors to come up with a screening system. Lester Young seconded the motion. Roll call vote. Zachary Hanley-yes, Adam Lemire- yes, Shawn Dolley- yes, Pam Mitchel- yes, Lester Young -yes, Debby Willis- yes - All in favor.

Chair Willis asks “What does the board want to do with the application?” Pam Mitchel makes a motion to approve the application with the two previously mentioned conditions. Shawn Dolley seconds the motion. No further discussion Roll call vote. Zachary Hanley-yes, Adam Lemire- yes, Shawn Dolley- yes, Pam Mitchel-yes, Lester Young -yes, Debby Willis- yes -Application approved. All in favor. Unanimous.

Debby reiterates to the public that has expressed interest in this application, which it is not within the boundaries of Planning Board to consider abutting property values when reviewing applications.

Tracey suggests that we can have a neighborhood meeting if needed to discuss issues with neighbors.

Mark Chrisos adds that his company is willing to work with the neighboring abutters, to make sure that they are pleased with the screening of this project.

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**6. Public Hearing- PMP** Realty is proposing to construct a 5.5 acre laydown area for material storage. This project will require a Site location of Development Application modification to the Department of Environmental Protection (DEP). This project will include three new underdrained soil filters will be constructed to provide the necessary treatment for the project.

Planning is very familiar with this application, and the owner of the property, E.J. Prescott, so they know they have standing. Chair Willis asks the board if any board members cannot hear this application in an unbiased manner. All members agree that they can hear it. Chair Willis asks city staff if they had to obtain any additional information for this application. Kris McNeill states that no extra work was done for this application.

Chair Willis asks the applicant to present some information about the application. Jim Coffin from Coffin Engineering introduces himself and states he is the acting representative for PMP Realty- He tells the board that this application is a little different as there are no buildings at all being erected. This is a five and half acre lay down area for EJP to store pipe and fittings. There will be access from 201, so that tractor trailer trucks can have access to the rear of the headquarters. They have already submitted their DEP permit over a month ago, and hope to have the permit in hand by late fall. The company is also working with Randy Rodrique, from DOT, for the entrance onto 201. There may have to be a 3<sup>rd</sup> slip lane coming up the hill for trucks, but they are still working on what the best approach will be for this.

The only utilities on the entire project are the lights, there will be a large fence that goes around the entire project. The other thing that they will need to work on, when they first cleared the lot, they took a little too much on the SE corner, they will be adding a partial buffer there to make up for what is missing. Mr. Coffin states that all of the abutter letters were done in time, as well as the public notices in the local newspaper. They have also submitted a photometric plan, showing illumination for the laydown area.

He apologizes for the wrong application, but has the right one now.

Chair Willis asked City staff if anyone approached them about this application. It was reported that an abutter, Matthew Murphy, emailed, and visited the city, in regards to this application. He requested a copy of the application be mailed to him, and wanted the connectivity information so he could attend the meeting. He expressed his distaste in the project being visible right outside his back door and their working hours were unacceptable.

Chair Willis opened the meeting for public comment.

Matt Murphy is here to speak at the public hearing. He states that he lives at 49 Libby Hill Rd. He did submit a letter, with his concerns, which has also forwarded to the Planning Board. He tells the board that there is construction equipment 20-30 feet from his property line. He wants to know what future development of this lot is going to be. He appreciates the admission of the 'overzealous clearing of the land, but expresses that nothing

has been done yet to reinstall the buffer strip. He is currently watching listening to construction in the backyard, he says that there is equipment 20-30 from the property line, they have not fixed the buffering yet.

There is no one else for public comment.

Chair Willis closed the public hearing.

She asks the applicant if they will stay while the board goes through the application- Yes.

There were no waivers requested.

Will start with Review Criteria

**A. The application is complete and the review fee has been paid .**The application is complete and the Site Plan Review fee of \$250.00 has been submitted.

**B. The proposed activity will not result in water pollution, erosion or sedimentation to water bodies.** The application contains all pertinent erosion and sediment control devices needed for the project. Three new underdrained soil filters will be installed to provide the necessary treatment for the project.

**C. The proposal will provide for the adequate disposal of all wastewater and solid waste.** Although public sewer is available for the project, it is not needed for this project. No solid waste will be produced with this project or after the facility is operational. This section is not applicable.

**D. The proposal will not have an adverse impact upon wildlife habitat, unique natural areas, shoreline access or visual quality, scenic areas and archeological and historic resources.** A letter has been received from the Maine Historical Preservation Committee verifying that there are not any historical or archeological sites located within the area of the site. A letter has been received from the Maine Department of Inland Fisheries and Wildlife verifying that there will not be any undue adverse effect to essential wildlife habitat. The letter does mention the three Myotis Bat species be protected, but there is not any tree cutting being proposed. The letter also mentions possible vernal pools on site, but our wetlands scientist Vaughn Smith found none during his wetland delineation. A letter has been received from the Department of Conservation verifying that there are not any rare botanical features within the project area.

**E. The proposal will not have an adverse impact upon waterbodies and wetlands.** Vaughn Smith Associates have been retained to provide the wetland delineation and high intensity soil survey. There will not be any wetlands impacted with this project and there are not any other water bodies on site.

**F. The proposal will provide for adequate storm water management.** As mentioned above three new underdrained soil filters will be installed to provide the necessary stormwater treatment for the project. There is a small area that drains to the rear of the corporate headquarters that eventually goes to the detention ponds along Enterprise Drive. The DEP will review the project under a SLODA modification, which includes stormwater.

**G. The proposal will conform to all applicable Shoreland Zoning requirements.** The project is not within Shoreland Zoning and this section is not applicable

**H. The proposal will conform to all applicable Floodplain Management requirements.** The project is not within the 100-year flood elevation and this section is not applicable

**I. The proposal will have sufficient water available to meet the needs of the development.** There will not be any water service needed for this project and this section is not applicable.

**J. The proposal will not adversely affect groundwater quality or quantity.** There will not be any water service or septic system needed for this project and this section is not applicable.

**K. The proposal will provide for safe and adequate vehicle and pedestrian circulation in the development.** The proposed site is being utilized for construction services associated with the applicants operation. Tractor trailers will deliver product into the laydown area and then fork lifts will move it around to the needed location. Pedestrians are not allowed in this area because of the nature of the operation. The site has been designed to allow 67' long tractor trailer truck to enter and exit along the north and south access points shown on the site plan (C-1). There is more than enough area for vehicle circulation associated with the site.

**L. The proposal will not result in a reduction of the quality of any municipal service due to an inability to serve the needs of the development.** A letter has been sent to Jerry Douglass (Public Works Director) asking if the project will create a burden on municipal services.

**M. The proposal conforms to all the applicable provisions of this Ordinance.**

In regards to the General Performance Standards in Section 8 of the LUO:

- **8.2 Access to Lots:** a new access point is proposed off from Route 201. An entrance permit application to the DOT has been submitted.
- **8.7 Exterior Lighting:** Light poles are depicted on the site plan and cut sheets of these fixtures are included with this submission. All of the fixtures will be shielded so that light shines in a downward direction.
- **8.8 Noise:** The development will comply with the maximum permissible sound level of 55dBA along residential property lines
- **8.9 Exterior Material Storage:** None of the listed items in this section are applicable to the proposed development
- **8.11 Buffer Area and Screening Standards:** The project is required to implement a partial screen along Route 201 and a full screen along the rear and side property lines. The partial screen will utilize option 3 with 6 understory trees and 6 shrubs per 100 linear feet. A buffer of 75' has been left in place along the north property line. While the majority of the east property line meets the full screen standard, there is an area near the southeast corner that needs to be enhanced as shown on the site plan (C-1). Full-Screen Option 3 will be utilized in this area including 6 canopy, 10 understory trees and 20 shrubs per 100 linear feet.  
The south property line abuts the corporate headquarters and no screening is proposed due to access and under drained filter ponds needed. The west side of the property fully complies with the full screen standard with the large amount of buffer left in place.

**In regard to Environmental Performance Standards in Section 9 in the LUO:**

- **9.1 Air Quality:** Dust will be controlled during construction will be implemented by applying calcium and water as needed.

- **9.2 Water Quality:** There are three underdrained filter ponds proposed to provide qualitative treatment for stormwater runoff.
- **9.10 Stormwater Design Standards:** The project is being reviewed by the DEP, which includes stormwater.
- **9.11 Historic, Wildlife & Natural Areas:** letters from Historic Preservation, IF&W and the Department of Conservation are included with this submission.

**In regards to Special Activity Performance Standards in Section 10 of the LUO:**

- **10.24.5.7.2 Free Standing Signs:** The applicant is not proposing to erect any new signs for this project.

**Site Review Criteria**

**Considering the following, provide information that demonstrates that the proposal will be sensitive to the character of the site, neighborhood and the district in which it is located.**

**Land use activities:** The on-site uses consist of trucking and construction services. The site is located at 1056 Brunswick Ave will be utilized as a laydown area for the storage of materials used by the applicant. Trucks can enter and exit from the north and south sides of the property. While a large buffer has been left in place along the east boundary to protect the neighbors in that area, there needs to be some enhancement to comply with the Land Use Ordinance.

**Scale, bulk, setbacks and height of existing structures:** There are not any structures currently on the property and this section is not applicable.

**Architectural design:** There are not any proposed building and this section is not applicable.

**The placement and orientation of structures on the site:** There are not any proposed buildings and this section is not applicable.

**The building density of the neighborhood:** There is one residential house on the opposite side of 201. The access drive from Route 201 into the site is about 900' from Libby Hill Road, which has residential homes on both sides of it. This neighborhood is relatively dense with houses on both sides of Libby Hill Road.

**The proposal shall not have an adverse impact upon neighboring properties.** As mentioned above, there is one residential house on the opposite side of 201 from the access drive, but other than that the nearest residence will be over 300' from the proposed laydown area. A natural buffer has been left in place and where there isn't at least a 25' wide buffer there areas will be enhanced to comply with the full screen requirement of section 8 of the Land Use Ordinance. The current operation at the applicant's site will continue as it does today with the only difference being access to the laydown area from the rear of the corporate headquarters. Dust will be controlled during construction by using water or calcium. The project will not have an adverse impact on neighboring properties.

**The proposal contains landscaping, buffering, and screening elements which provide privacy to**

**Adjacent land uses.** The project is required to implement a partial screen along Route 201 and a full screen along the rear and side property lines. A buffer of 75' has been left in place along the north property line. While the majority of the east property line meets the full screen standard, there is an area near the southeast corner that needs to be enhanced as shown on the site plan (C-1). Full-Screen Option 2 will be utilized in the area including 3 canopy and 3 understory trees per 100 linear feet.

The south property line abuts the corporate headquarters and no screening is proposed due to access and underdrained filter ponds needed. The west side of the property fully complies with the full screen standard with the large amount of buffer left in place.

**The proposal provides for the safe flow of traffic within the site and onto the roadway. The traffic generated by the site does not exceed the capacity of the public road providing access to the site:** An entrance permit application has been submitted to the MDOT for the proposed access off from route 201. The site has been designed to allow 67' long tractor trailer trucks to enter and exit along the north and south access points shown on the site plan (C-1). There is more than enough area for vehicle circulation associated with the site.

**The building site and roadway design shall harmonize with the existing topography and conserve natural surroundings and vegetation to the greatest practical extent such that filling, excavation and earth moving is kept to a minimum:** Tree cutting for the site took place a couple years ago and a natural wood buffer was left in place along property lines. The site has a 10-12% slope from the high point in a westerly direction. The cuts and fills are very close to being balanced for the project.

**The proposal shall reflect the natural capabilities of the site to support the development. Buildings, structures, and other features should be located in the areas of the site most suitable for development. Environmentally sensitive areas including waterbodies, steep slopes, floodplains, wetlands, significant plant and wildlife habitats, scenic areas, aquifers and archeological and historic resources shall be preserved to the maximum extent:** There are not any proposed building and the laydown area has been positioned in the most optimum spot for access off Route 201 and from behind the corporate headquarters. Vaughn Smith Associates were hired to delineate wetlands and provide a report. A letter has been received from the IF&W verifying there will not be any undue adverse effect to essential wildlife habitat. The letter does mention the three Myotis Bat species be protected, but there is not any tree cutting being proposed. The letter also mentions possible vernal pools on site, but our wetlands scientist, Vaughn Smith, found none during his wetland delineation. A letter has been received from the Maine Historical Preservation Committee verifying there are not any historical or archeological sites located within the area of the site.

**The proposal shall provide for a system of pedestrian ways within the site appropriate to the development and the surrounding area. The system shall connect building entrances/exits with the parking areas and with existing sidewalks, if they exist or are planned in the vicinity of the project:** There will not be any



pedestrian access into the laydown area as this is an area with heavy equipment and machinery that are constantly moving. Any pedestrians on site will create an issue with regard to public safety.

**In urban and built-up areas, buildings shall be placed closer to the road in conformance with setback requirements and parking areas shall be located at the side or rear. In rural or sparsely built areas, buildings shall be set well back from the road to respect the rural character of the area. Front parking areas shall be landscaped to reflect the rural area:** There are not any proposed buildings and this section is not applicable

**Proposals with multiple buildings shall be designed and placed to utilize common parking areas to the greatest practical extent:** There are not any proposed buildings and this section is not applicable

**The proposed setback and alignment of buildings shall mirror the existing pattern in the neighborhood to the greatest practical extent:** There are not any proposed buildings and this section is not applicable

**Building entrances shall be oriented to the public road unless the layout or grouping of the buildings justifies another approach:** There are not any proposed buildings and this section is not applicable

**Exterior building walls greater than 50 feet in length which can be viewed from the public road shall be designed with a combination of architectural features with a variety of building materials and shall include landscaping abutting the wall for at least 50% of the wall:** There are not any proposed buildings and this section is not applicable

**Building materials shall match the character of those commonly found in the City and surrounding area and include brick, wood, native stone, tinted /textured concrete block or glass products. Materials such as smooth-faced concrete block or concrete panels and steel panels shall only be used as accent features. Materials shall be of low reflectance, subtle, neutral or earth tone colors. High-intensity and bright colors shall be prohibited except when used as trim or accent. Building materials for industrial or commercial buildings located within an approved industrial park or subdivision shall not be required to follow this provision:** There are not any proposed buildings and this section is not applicable

**Building entrances and points where the development intersects with the public road and sidewalk shall be provided with amenities appropriate for the area such as benches, bike racks, bus stop locations and other similar landscape features:** There are not any proposed buildings and this section is not applicable

**A proposal which includes drive-through service shall be designed to minimize impact on the neighborhood. Drive-through lanes shall be fully screened from adjacent residential properties and communication systems shall not be audible on adjacent properties:** There are no drive-thru lanes associated with the project and this section is not applicable.

**The applicant has the adequate financial and technical capacity to meet the provisions of this Ordinance:** E.S Coffin Engineering & Surveying has the technical ability to complete the project. The project will cost \$2,000,000 and the applicant has provided a financial statement indicating that they have adequate financing to complete the project.

**Waivers:** No waivers were requested with this submission

The construction schedule for this project is 10/2020 thru October 2021. There is a site map to scale with existing conditions. There will not be a building constructed, this is strictly land development.

They will be working to reestablish buffering on the SE corner by Mr. Murphy's home. Mr. Murphy is challenging the clear cut saying that it was clear cut wrong, and that he wants an earthen berm along his property line. E.S Coffin will work with Mr. Murphy to make sure that buffering is done to suit.

**6.5.1.2- The proposal conforms to all the applicable provisions of this Ordinance- Yes**

Pam Mitchel makes a motion 'This proposal conforms to all applicable provisions of this ordinance with three conditions 1. That the DOT entrance permit be received, 2.The DEP-SOLDA modification permit be received, 3.The applicant work with Mr. Murphy and any other applicants for screening. Adam Lemire seconded the motion. No further discussion. . Roll call vote. Zachary Hanley-yes, Adam Lemire- yes, Shawn Dolley- yes, Pam Mitchel- yes, Lester Young -yes, Debby Willis- yes.

Kris McNeill will reach out to Mr. Murphy, tomorrow to work on a plan to get him and Jim Coffin in contact to work on a buffering plan.

Chair Willis asks the board what do they want to do with this application

Pam Mitchel makes a motion that we approve this application with the 3 previously mentioned conditions. Zachary Hanley seconds the motion. No further discussion. Roll call vote. Zachary Hanley-yes, Adam Lemire-yes, Shawn Dolley- yes, Pam Mitchel- yes, Lester Young -yes, Debby Willis- yes -Application approved.

**7. Other Business-** none at this time.

**8. Adjourn:** Pam Mitchel made a motion to adjourn at 10:47pm. Zachary Hanley seconded the motion. Roll call vote. Zachary Hanley-yes, Adam Lemire- yes, Shawn Dolley- yes, Pam Mitchel- yes, Lester Young -yes, Debby Willis- yes –All in favor