



6 Church Street, Gardiner, ME 04345
Phone (207) 582-4200

Debby Willis, Chairperson
Angelia Christopher, Administrative Assistant

PLANNING BOARD MEETING

Tuesday August 25, 2020 @ 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 6:04 pm

2.) Roll Call Chair Debby Willis, Pam Mitchel, Lester Young, Adam Lemire, Shawn Dolley, Zachary Hanley. Others present- City Staff- Tracey Desjardins- Economic Development Director, Kris McNeill-Code Enforcement Officer, Angelia Christopher-Planning and Development Assistant. Jacob Foster- Applicant, Michael Blanche- Applicant, Marie Hachey- abutting resident to applicant

3.) Review of the August 11, 2020 meeting minutes- Chair Willis proposes to move the review of the minutes to the next meeting. All agree.

4.) Public Hearing- Sugar Bud Farms Retail Store – Michael and Jennifer Blanche are seeking approval to open a Marijuana retail store at 414 (408) Water St. Map 034 lot 086 in the IT- Intown Commercial District. Jennifer and Michael Blanche are seeking to open a marijuana retail store selling edibles, CBD products, tinctures, pipes, and vapes. They plan on eventually selling some apparel, hats, t-shirts.

Chair Willis starts going through the application to check for completeness and checks for standing. There is a lease, however it is not signed by the landlord. Mr. Blanche states that the approval for the lease, hinges on the approval from this meeting. There is currently a tenant in the building that is moving out, this month. Lester Young feels that there should be a contingency letter, stating that if they get approved, they will be leasing the property, with a signature from the property owner. Mr. and Mrs. Blanche agree to this condition.

Chair Willis asks if the board members hear this application in an unbiased manner. Board members agree that they can. Debby asks if city staff had to do anything for this application. No. Kris states he has additional information that was not included in the packets, which is a letter from Chief Toman stating that this project

should not have a negative impact on City services. Chair Willis states that she has the letter and she has added it to her packet.

Chair Willis asks Mr. Blanche to tell the board a little bit about the project. He states the plan was to provide a service that is more affordable for people. He has run a cultivation business for about 7 years and previously wanted to open his retail business in a different area but there were zoning issues. After finding a new location for their shop, they have decided to pursue a retail storefront at 408 Water St. He describes to the board where his location will be for better clarification. Chair Willis asks the applicant if they want to stay while they go through the application. Mr. Blanche agrees.

Chair Willis states that the applicant has filled out waivers requests in the application. The areas identified include: existing parking and sidewalks, existing flow in and out. Board members are not sure these areas need to be waived as this is an existing building.

Chair Willis opens the application for public comment- The City did not receive any comments and there is no one here to speak against or for it.

Debby will close the Public Comment period now.

Board members will go through application

6.5.1.1 The application is complete and the review fee has been paid. Yes Les feels it needs the contingency letter.

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. There is no growing or manufacturing in the building no

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

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. No not at all

6.5.1.6 The proposal will not have an adverse impact upon waterbodies and wetlands. Not at all

6.5.1.7 The proposal will provide for adequate storm water management. Existing city wastewater

6.5.1.8 The proposal will conform to all applicable Shoreland Zoning requirements. Not in Shoreland

6.5.1.9 The proposal will conform to all applicable Floodplain Management requirements. No space in floodplain

6.5.1.10 The proposal will have sufficient water available to meet the needs of the development. Yes its city water

6.5.1.11 The proposal will not adversely affect groundwater quality or quantity. - We have letters from water district and wastewater treatment, This business is going into an existing building.

6.5.1.12 The proposal will provide for safe and adequate vehicle and pedestrian circulation in the development. Yes, existing parking lot

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. Water district, fire chief, police, sewer, all have letters

6.5.1.14 The applicant has the adequate financial and technical capacity to meet the provisions of this Ordinance-yes, Les wants a letter from the bank, a CPA, we usually ask for a letter for a bank stating they are in good standing. Does not need numbers.

Waivers (6.3.1)

Waiver of Submission Requirements

The CEO or Planning Board may, for good cause shown and only upon the written request of an applicant specifically stating the reasons therefor, waive any of the application requirements set forth in Sections 6.3.2, 6.3.3 and 6.3.4 provided such waiver will not unduly restrict the review process. The CEO or Planning Board may condition such a waiver on the applicant's compliance with alternative requirements. Good cause may include the CEO or Planning Board's finding that particular submissions are inapplicable, unnecessary, or inappropriate for a complete review. Notwithstanding the waiver of a submission requirement, the CEO or Planning Board may, at any later point in the review process, rescind such waiver if it appears that the submission previously waived is necessary for an adequate review. A request for a submission previously waived shall not affect the pending status of an application.

Pam Mitchel makes a motion that we waive the requirements that the application show the location and details for the signs, and for the exterior lighting. Shawn Dolley makes a second. Zachary Hanley- yes, Adam Lemire, Yes, Pam Mitchel, yes, Les Young- yes, Shawn Dolley- Yes, Chair Willis all in favor.

Chair Willis will go through the rest of the application

General performance standards.

There will be no noise issues.

Essential services- there is a lot of info in the application already covering essential services – so no need to address.

Exterior lighting, there are requirements that they will have to meet. Mike will work with CEO on this.

No exterior material storage

No buffering screening – existing building

Air quality- with Marijuana there is a smell. Will there be any odor emitted from your product? They use air sealed jars.

This business is not next to any water bodies, so this is not an issue

Trash removal – Dumpster supplied by landlord

No subsurface waste

No erosion control issues

Stormwater management design is fine

Section 10 special activity performance standards.

Signs- Will work with CEO

Section 10.29 Business is properly located. Store will not be near a school, and 200' from anyone else,

The applicant has received a conditional license from the state of Maine, has already applied for a city license.

Chair Willis asks for a motion. Pam makes a motion that this proposal conforms to all applicable provisions of this ordinance with the conditions of a contingency letter from the property owner, and a financial capacity letter. Shawn Dolley seconds the motion. Roll Call vote. Zachary Hanley- yes, Adam Lemire, Yes, Pam Mitchel, yes, Les Young- abstain, Shawn Dolley- Yes, Chair Willis Yes. 5 approve- 1 abstain.

Chair Willis asks what the board wants to do with this applications. Pam Mitchel makes a motion that we approve this application with the two previously mentioned conditions. Zachary Hanley seconds the motion. Roll call vote. Zachary Hanley- yes, Adam Lemire, Yes, Pam Mitchel, yes, Les Young- abstain, Shawn Dolley- Yes, Chair Willis Yes. 5 approve- 1 abstain.

Application is approved.

5.) Public Hearing Site Plan Review-Cannabis Cultivation and Extraction-Jacob Foster is seeking approval to build a 10,000 sf structure to vertically integrate indoor cultivation and extraction with a C1D1 operated lab at 31 Toms Way. Map 023 Lot 022A in MUV Mixed Use Village District.

Chair Willis states that the applicant has standing with a letter from the property owner. She asks the board if they can hear this application in an unbiased manner. All board members agree they can. She then asks if City Staff had to do anything to get this application ready. No.

Chair Willis asks the applicant to give us some information on the application. Mr. Foster is seeking approval to build a 10000 sf building for cultivation and extraction. They have been doing cultivation and extraction for about 2-3 years now. They run their cultivation both inside and outside.

Chair Willis asks Board members if they have any questions. None at this time.

Chair Willis opens the application for public comment. She asks if City Staff has received any inquiries, or comments about this application. Mrs. Hachey- representing the neighbors of Tilbury Park has come into City hall to ask questions about the application, and to obtain a copy of the application. Mrs. Hachey, and several of her neighbors are on a group Zoom to join this meeting. She has also met with Mr. Foster and she would like to ask him her questions directly, if that is an option. Chair Willis states that is fine.

Mrs. Hachey's first question is 'What system is going help with the odor of manufacturing of the products?' He answers 'That is the harvesting, that is where the odor comes from and they use carbon filters to help with the odor'. Mrs. Hachey asks if they compost, and if there is odor from the compost. Mr. Foster replies that there is some odor that comes from composting marijuana, but it's minimal. They can cover the compost if necessary. Mrs. Hachey reports that when she met Mr. Foster, he showed her when the new building would go. She asks him if he has a surveyed map that shows where the building will be. Mr. Foster answers that he does not have such a map, but he can obtain one if needed. Mrs. Hachey asks about the design for a security system? She also brings up the fact that the State of Maine requires that plants that are outside are fenced in. Mr. Foster responds that this Thursday there are fences are going up and there will be a gate going in before winter. Mrs. Hachey asks about an engineered plan for the stormwater runoff, is there one? Mr. Foster responds that there is not an engineered plan but he is aware that neighboring abutters want to know where the water runoff is going, so he can get a stormwater runoff plan if they need to. Mrs. Hachey asks about gray water, and where it will run to. Mr. Foster states that most of their water is recycled, and he does not anticipate a problem with gray water.

Mrs. Hachey would like more information about extractions. She asks Mr. Foster 'Is your workforce trained to mix and use the propane and butane?' Mr. Foster answers that the staff are just using butane, and yes they are trained. They have a fire suppression system in place that staff know how to use. Mrs. Hachey asks are these gases flammable, are they stored on site? Mr. Foster answers yes, they are flammable, and however they are not a risk to the neighbors. The operation has been inspected by Fisher Engineering, who has done a report, and already signed off.

Marla Morgan is another neighbor- Mr. Foster has said there will be no odor, but growing marijuana outside, harvesting outside, there will be odor. Mr. Foster answers that he has been doing business this way for three years, with zero complaints.

Mary Ellen Gilbert asked if Gardiner Fire has been out to inspect this facility. Chair Willis states this is a PB question, and will be addressed.

There are no other comments-

Chair Willis closed the public comment

Waiver requests- Mr. Foster explains that he was unable to get an engineer drawn Site Map due to Covid-19 and the lack of people working. The giant demand of jobs needing to get done now has prevented him from getting his survey done. He states he can get one done later. He goes on to state that such a survey is over \$4000 and he feels he does not need one with the steel building coming with engineer plans. The existing space was also reviewed by a fire safety engineer in March of 2020.

Chair Willis will start the Site plan review for cannabis extraction and cultivation.

Lester Young feels the application is incomplete, Pam Mitchel feels it is too.

James McLean- Fire Protection Engineer for Fisher Engineering makes some detailed recommendations in his report and it doesn't seem that Mr. Foster has complied with them. Mr. Foster states that he has done everything that was recommended, but Mr. McLean hasn't been back out to do his inspection. Mr. Foster states the only thing they didn't do was put the suggested measures in place on the new building because they don't know when they will be building the new building.

Kris McNeill speaks up and states that Mr. Foster wanted to build, and needed to get licensed with the City. Perhaps we change the whole application--- to get his business licensed and get him licensed as an adult use provided under the City, with as cultivation facility that will have 20000sf of canopy.

Mr. Foster is already doing extraction in the existing building. He has no concrete date of when he is going to build the new building. If we remove the new building from the application this application is complete.

The Board agrees it would be best to work this application without the new building. When the applicant is ready to build, he can come back to planning board. Right now, it would be best to get him approved for his

cultivation, and extraction business. The urgency is to approve the use in his current building, not his future plans.

So the Board is now approving an application that should read The Establishment of a 20,000 sf Marijuana Cultivation and Extraction facility in their existing building and an existing property.

Chair Willis asks that now that we have changed the application, the project cost must have changed. Mr. Foster states that the project is now about 14,000\$.

4. Review Criteria

An applicant shall demonstrate that the proposed use or uses meet the review criteria listed below for the type of application. The Planning Board shall approve an application unless one or the other of them makes a written finding that one or more of the following criteria have not been met.

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. Come back to it.

6.5.1.3 The proposed activity will not result in water pollution, erosion or sedimentation to water bodies. We will be extracting in the CLD explosion proof booth with proper fire suppression. Extraction room is up to our engineer's fire safety reports national fire codes.

6.5.1.4 The proposal will provide for the adequate disposal of all wastewater and solid waste. Septic system will be emptied yearly or more often if required

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. We will not be affecting wildlife around us whatsoever. All waste plant matter and anything biodegradable will be composted. No visual or scenic areas will be effected.

6.5.1.6 The proposal will not have an adverse impact upon waterbodies and wetlands. No we will not be building in or around any waterbodies or wetlands.

6.5.1.7 The proposal will provide for adequate storm water management. We will provide adequate storm water drainage in the ground

6.5.1.8 The proposal will conform to all applicable Shoreland Zoning requirements. Not in the Shoreland area

6.5.1.9 The proposal will conform to all applicable Floodplain Management requirements. Not in the floodplain area

6.5.1.10 The proposal will have sufficient water available to meet the needs of the development. Yes- There is more than enough water for our needs.

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

6.5.1.12 The proposal will provide for safe and adequate vehicle and pedestrian circulation in the development. There will be plenty of rock/paved driving space around the structure. Walkways and plenty of room to enter and exit.

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. No effect on municipal services- we have letters. Chief Toman had reservations at first, because he was not sure who owned the business. After some clarification, he is all set now. Chief Nelson, who is now retired. Said he could not verify the validity of the development, unless the state fire Marshall, inspects, and the new fire chief does his inspection.

6.5.1.14 The applicant has the adequate financial and technical capacity to meet the provisions of this Ordinance Yes we have every intention to follow through and believe we have adequate financial means for this project.

Chair Willis will go over General Performance Standards.

Section 8

Exterior lighting- there are existing floodlights on the buildings. Nothing needs to be added. There are motion detectors on their cameras

No noise issues- fans are inside, no concern yet.

Exterior material storage- Butane is stored in an OSHA certified cage outside, and yes there is a dumpster. The whole property is screened with buffering, so the dumpster is well hidden.

Don't have to do any additional buffers, there is all kinds of vegetation around the property.

Essential services- have been covered with letters from Gardiner Fire and PD

Environmental performance standards.

Odor- There is not much that can be done about the outside odor. Product can be brought inside and harvested there. After harvest season is over, the odor will be gone.

Water quality, There are no concerns at this time. Most of their water gets recycled.

Groundwater protection – They water their plants with salt based fertilizer in it and drainage does not go to Tilbury Park, all drainage is contained.

Not affecting potable water supply- and there is a sufficient amount.

No Wastewater concerns, or subsurface or phosphorus.

#10 sign- There will **not** be a sign

The facility is over 1000 ft. from any school and fits all other Marijuana ordinance requirements

He does live in the building but he is registered caregiver, so he is fine to live there.

Does he have a conditional license? He is in process- and working on it, and then he needs to go to the City for their approval.

The establishment will have just two employees. There is plenty of parking

Section 11.

Fire suppression system should be approved by the fire marshal

Pam Mitchel makes a motion that this application conforms to all applicable provisions of this ordinance with the condition of the fire suppression system be approved by the fire marshal. Second motion by Shawn Dolley. Roll

Call vote. Zachary Hanley- yes, Adam Lemire, Yes, Pam Mitchel, yes, Les Young- abstain, Shawn Dolley- Yes, Chair Willis Yes. 5 approve- 1 abstain.

Pam Mitchel makes a motion that we approve this application with the above mentioned condition Zachary Hanley seconds the motion. Roll Call vote. Zachary Hanley- yes, Adam Lemire, Yes, Pam Mitchel, yes, Les Young- abstain, Shawn Dolley- Yes, Chair Willis Yes. 5 approve- 1 abstain.

Application approved.

6.) Other Business- Tracey Desjardins addresses the board- In regards to upcoming meetings and the increase in Planning Board applications. We have Gardiner Green that is being reviewed by Mark Eyerman- City Planner. The goal is to have a submission review of that application n 9/8 and on 9/22 review the Preliminary Subdivision plan. Everyone is on board with having a second meeting in September in order to get caught up with applications.

7.) Adjourn: Chair Willis asks for a motion to adjourn. Pam Mitchel makes a motion a to adjourn at 8:19pm. Shawn Dolley seconds the motion. All in favor.