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Debby Willis, Chairperson
Angelia Christopher, Administrative Assistant

PLANNING BOARD MEETING MINUTES

Tuesday February 9, 2021 @ 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.

Call the Meeting to Order- Chair Willis called the meeting to order at 6:00PM and declared that there was a quorum.

Roll Call- Board Members- Chair Debby Willis, Pam Mitchel, Zachary Hanley, Justin Young, Shawn Dolley and Lisa St. Hilaire. City Staff- Tracey Desjardins- Economic Development Director, Kris McNeill- Code Enforcement Officer, and Angelia Christopher- Planning and Development Assistant. Others present included applicants- Stephanie Hansen, Rob Harrington, and Mike Kahn. Others present included Matthew Sica, Jessica Lowell, and an attendant who was listed as BG.

Review of the January 12, 2021 meeting minutes –

Pamela Mitchel and Lisa St. Hilaire both submitted corrections via email, which were completed. After discussion, it became apparent that members did not have a copy of the corrected minutes. Angelia Christopher will forward the corrected minutes to Board members. Chair Willis suggested that minutes be tabled for review until the next meeting.

Pam Mitchel made a motion that the board table the minutes from 1/12/21 until the next meeting. Lisa St. Hilaire seconded the motion. No further discussion. Roll call vote. Zachary Hanley- yes, Adam Lemire- yes, Pam Mitchel- yes, Lisa St. Hilaire-yes, Justin Young-yes, and Chair Debby Willis-yes. All in favor- motion approved.

1. Public Hearing- Proposed Land Use Amendments dealing with Tiny Homes- Tiny homes have generated a big interest in Maine and in the City of Gardiner. Tiny Homes could also fall under the category of Accessory Dwelling Unit- ADU. These types of dwellings would allow residents to have the ability to have a second dwelling for someone (family member- etc.) to be close to them. This LUO amendment started in ORC, where performance standards, a definition, and accepted areas of the city were identified. ORC also updated the requirements for ADU's to state that tiny homes could be considered for use as ADU's. As long as the ADU meets the standards for tiny homes and has a minimum lot size of 20,000, it can be used in designated areas of the city.

There was a discussion about where tiny homes may be built. Kris McNeill, CEO, stated that there is no minimum building size at this point. Chair Willis questioned if there were already people building tiny homes? CEO McNeill stated that there is one being built, but that is the only one he knows of. He also stated that one of the reasons this topic was presented to ORC is that like manufactured homes, tiny homes are not always built to code. Tiny homes need to meet MUBEC, manufactured homes regulations, etc. The ORC worked on this to clarify what standards tiny homes would have to meet. The goal was to set some guiding principles in concern to tiny homes. CEO Kris McNeill states that there are many MUBEC codes that cannot be met with a tiny home, one being wastewater disposal. Even if the tiny home is only temporary, they still need to be safe and have facilities. Areas like wastewater hook ups and how long a tiny home can be parked in one space are just a few of the reasons that the ORC developed this.

The Board suggested changes to number 10.29.7, as it is already being used. It will likely end up being 10.30.7. The last sentence of the Special Activity Performance Standards currently reads; 'The Code Enforcement Officer is authorized to grant a waiver or partial waiver of these provisions to reflect potential differences in the design and size between manufactured housing and a tiny home, so long as such waiver or partial waiver is not inconsistent with the purpose and intent of the installation standards.' With the requested changes this statement would read; 'The code enforcement officer is authorized to grant a waiver or partial waiver of the installation standards to reflect potential differences in the design and size between manufactured housing and a tiny home so long as such waiver or partial waiver is not inconsistent with the purpose and intent of the installation standards.' Board members agreed with this edit.

Chair Willis asked if the board was ready to make a motion. Pam Mitchel made a motion that the board forward these changes in the LUO to City Council with the two changes that were proposed in the last section of the Special Activity Performance standards. The section is currently numbered 10.29.7, but because this number is already taken, it should be 10.30.7 in the LUO. One of the other requested changes is in the second line. The board feels that 'whether temporarily or permanently placed, should be between 'home and shall'. The second change is in the last sentence; change 'these provisions' to 'the installation standards'. There are also several grammar changes that need to be completed. There needs to be capitalization consistent with definitions in MUBEC, the State of Maine statutes, and the Gardiner LUO. Zachary Hanley seconded this motion. Roll call vote. Zachary Hanley- yes, Adam Lemire- yes, Pam Mitchel- yes, Lisa St. Hilaire-yes, Justin Young-yes, and Chair Debby Willis-yes. All in favor- motion approved.

Public Hearing- Change of use at 11 Technology Drive, Gardiner, ME to a Marijuana Testing Facility in the Libby Hill Business Park. City Tax Map(s) 007 Lot(s) 018-A-013. Change of use at 11 Technology Drive, Gardiner, ME to Marijuana Testing Facility. The laboratory will test marijuana for potency and contaminants. The laboratory will be required to receive ISO/IEC 17025:2017 accreditation, Maine CDC Certification, and an Office of Marijuana Policy Adult-Use Marijuana License.

Chair Willis explained that the applicant has standing. There is a lease included in the application. She declared that the applicant has right, title, and interest. This will be a marijuana testing facility that will only test marijuana and hemp products. There will not be any cultivation, manufacturing, sales, or distribution of marijuana or marijuana products. The company hopes to be ready for business this spring. There is no major construction planned at this time. The applicants may need to take out or move some interior walls, but that is all that is planned. Present and representing MCR Labs are Michael Kahn, Robert Harrington, and Stephanie Hansen. Chair Willis asked if the Code Enforcement Officer had to do any extra work on this application. CEO McNeill stated he did not.

Chair Willis asked if city staff receive any inquiries or comment about this application. None was received.

Chair Willis asked if any member could not hear this application in an unbiased manner. All members answered no.

Michael Kahn, Rob Harrington and Stephanie Hansen were present to speak on behalf of this application. Rob Harrington explained that they have been looking for a site in Maine for their next lab. They were impressed with the site, the building and land that it offers, and the location of the business park. He goes on to say that having this lab right off of the interstate will be very good for their business. They are excited about starting this new project in Gardiner and hope to expand in the future. Mr. Harrington expressed that they may want to add an expansion to the building at a future date, but that will not be for at least a couple of years. Eventually there will be a couple of tanks outside, but this will not be until the Maine marijuana laws change. Their main goal right now, is to get to Maine to get their facility set-up and running. Lisa St. Hilaire wanted to know if when they expand, will they need to come back to the Planning Board. CEO Kris McNeill explained it would depend on the size of the expansion and it would need to come through him for permitting and approval. Lisa St. Hilaire asked if the gases will be inert and how large the tanks will be. Mr. Kahn explained that the tanks will in fact contain inert gasses, likely Argon and Nitrogen, which will eventually be used for testing products. Mr. Harrington explained that the tanks would be installed on the back of the property somewhere and would need to be filled by a gas delivery company. They would install the tanks on the property based on the recommendation of the gas company they will use. The tanks will vary in size but will approximately be 500 gallons. Pam Mitchel stated that according to the ordinance, expansion of any marijuana business needs to go before the Planning Board. CEO Kris McNeill stated that this provision is for expanding the business, not the building.

Mr. Harrington stated that they are in business to help people with their health. Their mission is to keep people safe, by looking for mold, pesticides and other contaminants. This is a new industry, and there are many opinions and thoughts. He went on to say that, their mission is public health with a goal to maintain compliance and standards. Mr. Kahn stated that since marijuana testing has begun, marijuana products have become safer, which further ensures public safety. They will test for mold, bacteria, pesticides and potency. In the future, testing standards will change and they will begin checking for lead, arsenic, and other harmful metals or minerals. He stated that there is a considerable amount of contamination that they are finding since they started testing. Mold in the product is a big issue. Mr. Harrington stated that they are a third party vendor working with the state. He also pointed out that they do not grow or sell marijuana and there will not be an excess supply at their facility. He told the board that samples are very small, would fit into a container the size of a 35 mm film container, and they will be locked up for security. Lisa St. Hilaire asked what they do with any excess product. Mr. Kahn answered that any extra material is ground up with organic matter, placed in a separate dumpster, and hauled away. The overall goal to grinding it up is to make it unusable and unrecognizable. They have to follow very strict rules set in place by the State of Maine when it comes to disposal of product.

Lisa St. Hilaire asked why they chose Maine and Gardiner. Mr. Kahn states they like the positive attitude and the fact that Maine has already done major work in regards to medical marijuana businesses. Mr. Harrington stated that it was an obvious choice because Gardiner chose to opt in and they do not want to be anywhere they are not welcome. They looked at several other areas but it came down to the geography of the Gardiner site. They did not want to just stay in southern Maine, as they wanted to be more centrally located in order to be able to cover more area. He went on to say they loved the business park with its access to the highway, and central location, as it is the right fit. They will have small vans that will go out to pick up products and having the highway right there is very convenient. He then introduced Stephanie Hansen who is designated to be the General Manager of this site. Stephanie is originally from Maine and lives nearby. She will be the person representing the company.

Adam Lemire asked a couple of questions. He is unsure of what the current state of the property is, but it looks like there are at least two entry points for traffic. Mr. Harrington stated that the parking lot is open gravel of which they have no intentions to pave. They may eventually pave an area for the tanks to sit on and an area for a loading dock. They may put some walkways around the building, but that is all that is planned at this time. Mr.

Harrington asks if they will have some guidance for signage, as they want to make sure that they can be found. They will work with whatever is required, but would like to have some kind of permission to install a sign.

Pam Mitchel had questions about the entrance. When she looked at the original plans, it appeared that at the back of the building there was some storm water management and a catchment at what was the original driveway. Behind the building, it looked like a catchment and possibly some check dams. CEO Kris McNeill stated he is unaware what is there, but it was previously approved, as this is an existing building. Pam Mitchel questioned whether there were problems with the property, and if the catchment was designed to keep water out of the building. Rob Harrington stated that they were under the impression that this property was all set and had been issued an occupancy permit. They are not prepared to deal with a construction site. Chair Willis stated that the Planning Board heard an application for this particular lot less than two years ago and there were no issues then.

Chair Willis opened the public hearing for comment at 7:50 p.m. She asked if there are any parties interested in speaking. Tracey Desjardins stated that there were attendants in the zoom waiting room, but none had asked to speak when given the opportunity. Chair Willis asked if city staff received any questions, or comments. None was received.

Chair Willis closed the public hearing at 7:55 p.m.

The proposed development activity for which approval is requested includes: (6.3.2.7.2).

The property already exists with no physical exterior changes planned. The only item might be some walkways after the weather breaks for employee safety and possibly paving a small section of the parking area for better delivery access. We may be required to add additional lighting for security reasons and cameras on the exterior. Traffic will mostly be composed of employees and a few vans that go out during the day to pick-up samples. Occasionally a larger truck would come to refill needed gases.

1. The estimated demand for water supply and sewage disposal together with the proposed location and provisions for water supply and wastewater disposal including evidence of soil suitability if on-site sewage disposal is proposed; **MCR answered that the lab does not have any abnormal water or sewerage usage.**
2. The direction of proposed surface water drainage across the site and from the site together with the proposed location of all storm water facilities and evidence of their adequacy; **There is no construction planned that will alter storm water runoff.**
3. The location, dimensions, and ground floor elevations of all proposed buildings and structures including expansions or modifications to existing buildings that change the footprint of the building; **No external construction planned.**
4. The location, dimensions and materials to be used in the construction of drives, parking areas, sidewalks and similar facilities; **Possibly some walkways in current lot, after the weather breaks, for employee safety and a possibility of paving a small section of the parking area for better delivery access.**
5. The proposed flow of vehicular and pedestrian traffic into and through the property; **Expected to start with 1-2 deliveries per day, which may grow to 5-10 deliveries per day. Expected to start with 2-4 employees and grow as needed.**
6. The location and details for any signs proposed to be install or altered; **They would like to install a small sign as zoning law allows and ask for approval for either on the building or near Technology Drive.**
7. The location and details for any exterior lighting proposed to be installed or altered; **Will be dictated by OMP and CDC approval process. This includes lighting and security cameras around the building.**

8. Provisions for landscaping and buffering; **No additional landscaping planned at this time.**

c.) Evidence that the applicant has or can obtain all required permits necessary for the proposal: (6.3.2.8).

They have met with OMP and CDC and believe they will have success with the licensing process. They run two laboratories – in Massachusetts and Pennsylvania – and have confidence that they will receive ISO/IEC 17025:2017 accreditation.

Additional Information Required: (6.3.3).

Building and structure drawings showing the footprint, height, front, side and rear profiles and all design features necessary to show compliance with this Ordinance; **This is an existing building.**

An estimate of the peak hour and average daily traffic to be generated by the project and evidence that the additional traffic can be safely accommodated on the adjacent streets; **The Libby Hill Business Park is designed for much higher traffic than they would create. Traffic is mostly employees and small vans in a 3,500 square foot building. With an estimated twenty-five parking spaces, ten employees to start, and they will grow as needed. They expect 5-10 deliveries / week and expanding to 10-50 deliveries per week over the next two years.**

An erosion and sedimentation control plan; and a storm water management plan demonstrating how any increased runoff from the site will be handled if the project requires a storm water permit from the Maine Department of Environmental Protection or if the Planning Board determines that such information is necessary based on the scale of the project and the existing conditions in the vicinity of the project: (6.3.3.4).

No additional construction planned which could alter runoff, erosion, or sedimentation.

Review Criteria: (6.5.1).

An applicant shall demonstrate that the proposed use or uses meet the review criteria listed below for the type of application. The Code Enforcement Officer and/or 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. **We believe it does or will with the Planning Board approval.**

6.5.1.3 The proposed activity will **not** result in water pollution, erosion or sedimentation to water bodies.

Existing buildings will not result in water pollution, erosion, or sedimentation to water bodies. Waste streams will be closely monitored to ensure that testing activity will not result in water pollution, erosion, or sedimentation by contracting licensed Waste Disposal / EHS providers.

6.5.1.4 The proposal **will** provide for the adequate disposal of all wastewater and solid waste. **We will contract a licensed Waste Management / Disposal provider and ensure waste disposal is compliant with all relevant regulations, as we do in our Massachusetts and Pennsylvania operations.**

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 structural change to the building is planned, and as such, no impact to wildlife habitats, unique natural areas, shoreline access or visual quality, scenic areas and archeological and historic resources is anticipated.**

6.5.1.6 The proposal will **not** have an adverse impact upon water bodies and wetlands. **MCR Labs Maine, LLC, will contract a licensed waste management and disposal provider and ensure waste disposal is compliant with all relevant regulations. We do not anticipate any adverse impact upon water bodies and wetlands.**

6.5.1.7 The proposal will provide for adequate storm water management. **No structural change is being planned for the site; therefore, storm water management is unchanged and adequate.**

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

6.5.1.9 The proposal will conform to all applicable Floodplain Management requirements. **No structural change is planned for the site. Existing buildings should conform to all applicable Floodplain Management requirements.**

6.5.1.10 The proposal will have sufficient water available to meet the needs of the development. **No structural change is planned for the site. A small number of employees should have sufficient water for daily non-work-related activities.**

6.5.1.11 The proposal will **not** adversely affect groundwater quality or quantity. **MCR Labs Maine, LLC will contract a licensed waste management and disposal provider and ensure water management is compliant with all relevant regulations. No change to the building therefore we will not adversely affect groundwater quality or quantity.**

6.5.1.12 The proposal will provide for safe and adequate vehicle and pedestrian circulation in the development. **No structural change is planned for the site, and any parking improvements / pavement will provide safe and adequate vehicle and 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. **No structural change is planned for the site nor are we aware of anything we do that has a high use of municipal services. We have engaged with Fire, Police, Public Works, and Wastewater Treatment departments to make sure we are not and do not become a burden.**

6.5.1.14 The applicant has the adequate financial and technical capacity to meet the provisions of this Ordinance. **MCR Labs Maine LLC has extensive experience building Marijuana Testing Laboratories in other states, and we are confident in our success in Gardiner, ME.**

There will be state lighting requirements. They are aware of this and will work with the Code Enforcement Officer to make sure everything is compliant. There will be a dumpster, which will need to be screened. The applicant is not sure where on the property the dumpster will be located yet. Pam Mitchel stated as long as it is screened, it is fine. Buffers on the site seem fine, and the property is very well screened.

Environmental performance standards: This is an existing building and there are no issues or concerns.

Noise- All of the noise will be inside the building. There may be a low hum from some of the machinery but it will be inside.

No other concerns for section nine.

Special activity performance standards. The applicant would like to put up a sign so customers can find them. There are standards and CEO Kris McNeill will set them up for it. They asked if they can have a sign at the entrance of the park on Brunswick Ave. EDD Tracey Desjardins pointed out there is a directory at the entrance that they can use. CEO Kris McNeill explained to the applicant the best way to propose a sign is to let them know what they want, and he will work from the ordinance.

Roads traffic parking standards-The applicant states that they will start with 2-4 staff and eventually they hope to employ 10+ people. The original site map for this property shows twenty-two spaces, so there is ample parking.

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Back to **6.5.1.2 Does this proposal conform to applicable standards of the LUO?** Pam Mitchel made a motion that this application conforms to all applicable standards of this ordinance. Shawn Dolley offered a second. Chair Willis asked if there is any further discussion. Lisa St. Hilaire had a couple of questions. She asked if the waste management company will follow all guidelines under state rules and OMP for disposing of waste. The applicant agreed to this, and Chair Willis explained that it will be up to the waste company to follow the law regarding waste from this facility. Her next question referred to water usage, and if there would be a lot of water used for testing? The applicant explained that they will probably order special testing water, and eventually might look into a water purifier. Adam Lemire would like to refer to the three items that have been brought up: the signage, lighting, and dumpster location/screening. These are items that the applicant will have to work with CEO Kris McNeill on. Lisa St. Hilaire asked about any planting that might happen. The applicant stated that if they do any planting, they will need to work with the CEO to make sure that they are non-invasive native plants.

Chair Willis asked if the board is ready to vote if this proposal conforms to applicable standards of the LUO. She asked for a roll call vote. She noted that Zachary Hanley has left the meeting. Roll call vote: Adam Lemire- yes, Shawn Dolley- yes, Justin Young-yes, Lisa St. Hilaire- yes, Debby Willis- yes. All in favor- motion approved.

Chair Willis asked, “What does the board want to do with the application?” Pam Mitchel felt that this application does not need to be conditioned as that is information that is written in the ordinance. Kris McNeill stated that the dumpster may need to be a condition. Signage- they have not applied yet, but will have to when the time is right. Screening is already in place and does not apply. Lighting needs to meet the city standards along with the state standards. The only area that may need to be part of a condition is the dumpster and the plantings. Pam Mitchel made a motion to approve the application with three conditions: 1. There needs to be a screened dumpster. 2. They will need a lighting plan that will comply with state and city standards. 3. Any planting or landscaping will only utilize native plants. Second motion from Justin Young. No further discussion, Roll call vote- Shawn Dolley- yes, Adam Lemire- yes, Pam Mitchel- yes, Lisa St. Hilaire-yes, Justin Young- yes. Debby Willis-yes. All in favor. Unanimous vote. Application approved.

Lisa St. Hilaire asked when the applicants anticipated opening the lab. Rob Harrington tells the board that they need to go through OMP’s licensing process. After that, they will work to obtain their city license, and then they will work on getting their CDC license. Therefore, there is still a lot to do, and this is a process. They propose to open in May- June if everything goes well.

Other Business-The City has several applications for the Planning Board to review in March. One of the projects coming up is a Preliminary Subdivision Plan for 134 Spring St. There will be a community meeting for this application so that the developer can answer neighbor’s questions. Chair Willis asked if the Board will need a site walk at 134 Spring St. The property is just over one acre and may have potential drainage issues. Pam Mitchel felt the site walk is not necessary for her. It is a wooded lot, but she stated that she could not think of any questions that cannot be answered in the application process. We do have an application so they could do a site walk after they receive them. After the Planning Board has had a chance to review applications, a decision will be made about a site walk.

There are a total of four applications to be heard. One of the applications is Gardiner Green, which will be a large application, with a Site Review and Final Subdivision plan. In the past when there are several applications,

there have been two Planning Board meetings. The property at 134 Spring Street will be a preliminary subdivision plan application. Preferred pump is going to be a Site Review for their project in Libby Hill Business Park. There is another company, PODS, that has a project for Libby Hill. These applications are all large projects, which is a lot to try to accomplish in one night. Tracey Desjardins asked if it was possible for a second meeting in March. Members agreed to **March 23rd** for the second meeting. Gardiner Green and Preferred pump will be heard on March 9th, with Pods, and 134 Spring Street being heard on March 23rd.

Lisa St. Hilaire will have to recuse herself for Gardiner Green. She asked that if she cannot participate in the application, can she talk with the neighborhood as a community member about the application. If you recuse yourself, you then become a member of the public. Tracey Desjardins will check into this and let them know so everyone will be heard in March. There will be three lots left at Libby Hill Business Park after all these developments. Iron mine subdivision application could be ready to come back to the Planning Board in April.

Pam Mitchel stated that the Planning Board needed to make a decision about the flag lot in the Gardiner Green application. She is concerned about an application coming in which they have not made the decision about the flag lot. The area of the development hinges on what their decision is on the flag lot. CEO Kris McNeill stated that the new submission has changed the outline of the lot, particularly in the area of the flag lot. He is aware that the Planning Board can call the land useless and not usable for the application. The ordinance states that a flag lot cannot be created to finish a proposal. Pam Mitchel stated that she has read Jon Pottle's response as to whether the lot can be used. Jon Pottle, City Solicitor, has left it up to the Planning Board to decide as long as they follow the rules in the Ordinance. City staff will send the information from Jon Pottle to board members for their review.

Adjourn: Chair Willis asked for a motion to adjourn. Pam Mitchel made a motion to adjourn-Lisa St. Hilaire seconded the motion. No further discussion. Roll call vote. Pam Mitchel- yes, Adam Lemire- yes, Lisa St. Hilaire- yes, Justin Young- yes, Debby Willis- yes. All in favor. Meeting adjourned at 9:05 p.m.