



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

Debby Willis, Chairperson  
Angelia Christopher Administrative Assistant

**PLANNING BOARD MEETING  
PUBLIC HEARING  
Tuesday January 21, 2020 @ 6:00 PM  
City Hall Council Chambers**

- 1. Call the Meeting to Order:** Chair Willis called meeting to order at 6:00 pm
- 2. Roll Call:** Chair Debbie Willis, Pam Mitchel, Zachary Hanley, Lester Young  
**New Board members-** Adam Lemire, Kristine Johnson

**Others present-** Mark Eyerman- City Planner, Tracey Desjardins- Economic Development Director, Kris McNeill- Code Enforcement Officer, Kristin Collins- Attorney- PretiFlaherty, Charlie Langston, and Angelia Christopher- Planning and Development Administrative Assistant.

City Clerk Kelly Gooldrup performed swearing in ceremony for new board member Kristine Johnson, and continuing members Chair Debbie Willis, and Lester Young.

Chair Willis welcomed new Board members and thanked them for joining Planning Board. Having additional members will help the board to do its work more effectively. She states that this meeting is a little different from a traditional Planning Board meeting. There is no applicant for this meeting; we will be reviewing Land Use Ordinance changes only.

**3. Review of the December 5, 2019 meeting minutes** The Board had the chance to review meeting minutes from 12/05/2019 prior to this meeting, and were requested to send changes in prior to this meeting. Pam Mitchel had changes that she sent to this writer via email.

Changes are as follows: Page 3- paragraph 3 has an incorrect statement. It should state that the board member did not measure the area, so she was not sure if it would fit 2 parking spots.

Page 3, last line: change 6.28 to 6:28.

Page 5, last paragraph, 2nd line: change phrase to fear and retaliation to 'fear of retaliation'.

Page 7, 2nd to last paragraph: Mitchel is spelled incorrectly.

Chair Willis had a couple of spelling errors that she presented to the writer prior to the start of the meeting. Pg.2 Hamlin was spelled incorrectly.

Pg. 5- first paragraph, should be definitely not defiantly.

Pam Mitchel questions if correcting minutes this way is acceptable, procedurally, and is concerned about public record. Tracey Desjardins points out that they are draft minutes; they are not adopted into public record yet. If grammar, spelling and minor content errors/ changes are made before they are adopted it is acceptable. Major content errors/ changes should be reviewed at the new meeting. All changes will be discussed at the next meeting and voted on for approval for adoption.

Chair Willis asks for a motion to accept the minutes for 12-05-2019.

Pam Mitchel makes a motion to approve the minutes with small changes identified. Zachary Hanley makes a second. All are in favor.

#### **4.Public Hearing – Land Use Ordinance Changes**

The Ordinance Review Committee, on January 9, 2020 by a vote of 5-0-1 (L. Young chose to recuse himself from this vote), recommended proposed changes to the Land Use Ordinance relating to the Treatment of Marijuana Establishments

-Mark Eyerman presents some history about how we got here. This work started with the Recreational marijuana taskforce. Their goal was to figure out how should the City of Gardiner deal with the changes concerning Marijuana across the state, and eventually work towards developing new ordinances. The Task Force passed their work on to Ordinance Review Committee. Ordinance Review started by looking at the original Task Force plans, looked at the Land Use ordinance to decide what types of facilities could go where in the City, and also came up with licensing provisions. Ordinance Review put together two different packages to send to City Council.

One is a licensing provision. Anyone that wants to run a facility in the City of Gardiner needs first to obtain a state conditional license. The applicant then goes through the process of being approved within the municipality. This involves checking safety, security, operating plans, and review from City Council. Once local approvals have been obtained, the state is notified of approval. Renewals and relocations need to go through the local approval process to make sure that things are running well and parties are compliant.

The second part of the proposal is what is before planning board tonight. The ORC created a look at where in the City, Marijuana establishments should be allowed and created some performance standards.

There was some discussion about the amendments and the rules around them.

-What kind of rules do new medical and new adult use facilities need to meet? Both laws have separation distance from schools. Adult use is 1000ft. -Medical is 500ft. The ORC felt that this rule should include preschool programs, private schools as well as a public school.

10.28.2 Set limits of operation- neither Medical nor Adult use can have public activity between 8 pm and 8 am.

10.28.3 Separation distance between Medical and Adult use facilities is 200 ft. from the other. This rule was developed out of concern of downtown becoming congested with Marijuana establishments.

10.28.4 Product manufacturing should not be allowed in buildings that have one or more dwelling units unless the operator is a registered medical marijuana caregiver in their own home.

If you are going to create a new or expanded facility, you have to go to planning board for review.

Adam Lemire has a question about how the definitions are written. Pam Mitchel asks if the wording should be different in the immature plant definition. There seems to be some confusion with immature and seedling, and how those definitions should read. Are the definitions from the state definitions? Kristin Collins states that our definitions look different from the states. Adam asks for a statutory reference for the definitions. Mark will add the statutory info in for the final.

Adam Lemire, a new Board member asks if Note 13 is still the right note. If so, should we put a reference in about when the 180 days kicks in on note 13? Should it be from the date of the original state license or from the date of the city license? Les Young would like it to say 180 days of the city's approval. The rest of the board agrees. Pam Mitchel will come up with the wording.

Adam also points out that in the definitions marijuana establishments, should be capitalized because it is a definition.

Recommendations for the Land Use table-Any changes or questions? Not at this time.

### **Chair Willis opened the Public Hearing**

Kristin Collins- Attorney for PretiFlaherty and Charlie Langston- General Manager of Wellness Connection are here. They are requesting a change to the IT zone as described in the letter dated 1/16/2020. Mr. Langston is the manager for four of Wellness' dispensaries. He goes on to tell us that in the basement of the Gardiner business, there is a commercial kitchen that the company is using to make 'edibles'. He reports that they are using extracts- that are obtained at other sites; he states that extraction is not done at the Gardiner site. Mr. Langston states that the extract is brought to the Gardiner facility, and there are four full time employees doing food production for four Wellness dispensaries. Under the proposed ordinance, they will not be able to do production, due to IT zone not allowing production. If for some reason in the future, Wellness decides to switch over to Adult Use retail, under the proposed ordinance, they will not be able to do production of edibles. Mr. Langston reports that there is no negative impacts to what they are doing with food production and they would like to continue. They would like to see the IT zone reconsidered to Permitted with Review, so that the option is available for them.

### **Chair Willis closed public hearing.**

The Board discussed options. Chair Willis asks if they would like to send this back to ORC, Table it, or move it City Council with changes? The Board decided to move it forward to Council with changes.

Wellness would like to see IT changed from and N to a P.

The Board discussed the need to look at the definitions, and to refer to Maine Revised Statutes

Kristin Collins reports that the definitions we had in the draft do not match the state definitions. The City might want to include reference of Title 28B section 102 Maine Revised Statutes in the definitions.

Pam Mitchel- lists **Changes that need to be made:**

**Definitions-** The Board agreed that the definitions for immature, seedling and mature marijuana plants need to have reference to the state law included.

**Marijuana Plant – Immature:** A marijuana plant that is not a mature marijuana plant or a marijuana seedling as defined in Title 28-B M.R.S. Chapter 1.

**Marijuana Plant – Mature:** A marijuana plant that is flowering as defined Title 28-B M.R.S. Chapter 1.

**Marijuana Seedling:** A marijuana plant that is not flowering, is less than six (6) inches high and less than six (6) inches in width as defined in Title 28-B M.R.S. Chapter 1.

- Table of land uses – change marijuana products manufacturing facility to be a P in IT with a footnote #14

*(NOTE 14: A Marijuana Products Manufacturing Facility in the Intown Commercial District is only allowed if conducted within a commercial kitchen setting of less than four thousand (4,000) square feet and not using any “inherently hazardous substances” as defined by Title 285B Section 102(20) M.R.S. Chapter 558-C. )*

- Footnote #13, and again 10.28.5 add language that says-

*(NOTE 13: An applicant that has received a conditional license from the State of Maine for a marijuana establishment may apply for City approval of that category of establishment. Any approval based upon a conditional state license shall be conditioned on the applicant receiving an active license from the state within one hundred eighty (180) days of the date of the City’s approval. If the applicant fails to obtain an active license within that period, all City approvals and permits are void.)*

- 6th line under Marijuana establishments, correct typo- should state ‘feet’ not ‘fet’.
- Add 10.28.6, which is a repeat of Footnote #14.

Pam Mitchel makes a motion to send Marijuana Land Use Amendments to City Council with a recommendation to be adopted with changes. Zachary Hanley makes the second.

Five board members are in favor. One member will abstain. Let the record read that the final vote is 5-0-1.

## **5. Hearing – Land Use Ordinance Changes**

The Ordinance Review Committee, on December 16, 2019 by a vote of 6-0-0, recommended proposed changes to the Land Use Ordinance relating to Solar Arrays.

Solar Electric Production Facility: defined as -A use that is engaged in the production of electricity through the use of solar technology that is either the principal use of the property or that is a secondary use on the property that is not associated with or accessory to the principal use of the property.

There was discussion about what special standards, if any, would need to be put in place for Solar Arrays.

Pam Mitchel asks if there is there a risk of erosion, and if Special Standards need to be developed to protect against that. Kris McNeill- CEO reports that there is no real impervious surface threat in a Solar Development. When site selection is done, all areas are taken into account, and potential erosion is addressed. Stormwater management of the site is one of the first steps that usually happens if needed, but there are no real Special Standards in regards to this.

Kris McNeill will work on defining how to add Solar arrays to the building permitting process. The City has a developer that is interested in setting an array on a lot, and we will likely see a Planning Board application to be heard for March.

**Chair Willis opens the meeting for Public Hearing.**

There appears to be no one in the audience for or against this meeting with Land Use amendment. Chair Willis asks City employees if there have been any inquiries- Employees from Planning and Development report that there have been no inquires about this matter.

**Chair Willis Closed the Public Hearing.**

Chair Willis asks if we should send it to City Council, or send it back to Ordinance Review?

Adam Lemire asks if he can have some clarification about setbacks first and how this will affect a Solar development. Kris McNeill reports that each zone is different and, the developer will be expected to follow the established setbacks unless otherwise stated when the project goes before planning board review.

Pam Mitchel makes a motion to send the Treatment of Commercial Solar Arrays to City Council with recommended adoption without changes. Lester Young seconds the motion.

The Board finds that a couple of changes should be made and asks to withdraw the motion.

Adam Lemire asks about the Zone choice in this matter. Kris McNeill states that due to the requirements for a Solar project many zones were eliminated. ECR was taken off due simply because of lack of buildable area. Adam Lemire points out that places like the future Boys and Girls Club could be a place for a rooftop array, and should be allowed the opportunity. Board members agree. After some discussion, the board agreed that ECR should be changed from an N to a P.

In addition, there is an error in the # on footnote 13. It should read 15, and in HDR in the Land Use table.

Let it show that the Board requests changes to 7.6.4 Land Use Chart- Zone ECR should be changed from N to P.

Change the number of the footnote from 13 to 15, in HDR on the Land use table.

Chair Willis asks for a motion.

Pam Mitchel motions that Treatment of Commercial Solar Arrays be sent to City Council with the recommendation that it be adopted after changes are done. Lester Young seconds the motion. All are in favor. Final vote is 6-0

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**6. Other Business-**

MMA will be offering training to Planning Board members. New members and those that would like a refresher are encouraged to attend. This class is offered now, in areas across the state. The closest one to Gardiner is happening in November in Augusta. The class in Augusta is scheduled for 11/18 at MMA offices in Augusta from 4:30-8:30pm. Tracey Desjardins asks which Planning board members might be interested in attending this training- Lester Young, Adam Lemire, and Zachary Hanley report that they would like to go. Planning Board will discuss this again before the registration date for the training.

**7. Next meeting-** scheduled for February 11, 2020 at 6pm

**8.Adjourn:** Chair Willis asks for a motion to adjourn. Pam Mitchel makes a motion to adjourn. Zachary Hanley seconds the motion- All members are in favor.

**Adjourn at 8:25pm**