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ORIGINAL

GARDINER
PLANNING BOARD

DECISION ON THE GARDINER GREEN
PROJECT

SUBDIVISION &
SITE PLAN REVIEW

APPLICANT: Hathaway Holdings, LLC/Paul Boghossian

PROJECT NAME: Gardiner Green Project ("Project")

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FINDINGS OF FACT **AND** **CONCLUSIONS OF LAW**

The Gardiner Green Project proposes thirty-four (34) dwelling units to be developed in an existing former main hospital building located on property located at 150 Dresden Avenue in Gardiner (Tax Map 032, Lots 023-023A), together with associated improvements as detailed in the final subdivision and site plan application materials submitted by the Applicant (the "Application").¹

After review of the Application presented by Hathaway Holdings, LLC/Paul Boghossian (the "Applicant") for the Gardiner Green Project, the Gardiner Planning Board hereby adopts the following findings of fact and conclusions of law pursuant to the Planning Board's Subdivision and Site Plan² review authority together with corresponding Orders.

I. Background, Procedural History, and Significant Issues Review

The Project's original application was submitted on or about June 16, 2020. The Project's review proceedings followed two parallel tracks on subdivision and site plan review standards.³ This involved numerous meetings⁴ through both the preliminary and final plan review processes, culminating on August 9, 2023 by adoption and execution of this written Decision on the Gardiner Green Project (the "Decision") and corresponding Orders.⁵

In the course of the Project's review, the Planning Board identified certain threshold issues to address as part of its review, which included (i) minimum square feet per dwelling unit; (ii) financial and technical capacity; and (iii) character of the site, neighborhood and district and related design provisions.⁶

¹ The Application consists of a series of updates and revisions incorporated in submissions dated July 20, 2022 and accepted by the Planning Board as complete on August 25, 2022 (see minutes and recording of August 25, 2022), together with additional subsequent application revisions that further updated and refined Project development elements all as reflected in the administrative record.

² This review included consideration of General Performance Standards (Section 8), Environmental Performance Standards (Section 9), Special Activity Standards (Section 10), Roads, Traffic and Parking Standards (Section 11), Site Plan Review Criteria (Section 6), all as further detailed in this Decision.

³ While the Project involved two separate applications, for the purposes of review and the administrative record for each application, the Planning Board considered all proffered evidence and argument from the Applicants and any members of the public as part of the administrative record for each application (i.e., evidence and argument on subdivision items were incorporated by reference or otherwise combined in the site plan review, and vice versa). The Planning Board did so in light of significant overlap in several substantive standards comparing site plan and subdivision reviews.

⁴ The Planning Board's review spanned across 17 meetings from July 14, 2020 to August 9, 2023, largely as a result of ongoing Project revisions proposed and pursued by the Applicant.

⁵ The Planning Board includes as part of this Decision an adopted written order pursuant to its Subdivision Review.

⁶ Other issues were raised as part of the Planning Board's review, such as affordable housing requirements and phasing, but due to revisions to the Application they were no longer applicable or necessary for the Planning Board to review and make a final determination as part of the final Project proposal. These revisions had the effect of narrowing and scaling down the Project (e.g., lower number of proposed dwelling units; reuse and redevelopment of main hospital building only).

Notably, throughout the review process the Application was revised such that only reuse and redevelopment of the former main hospital building for 34 dwelling units were proposed for the Project. This Decision therefore does not address or authorize reuse of any other buildings on the Project site or the development of other dwelling units, and any additional development or reuse of the property will require additional review by the City of Gardiner Planning Board and any other applicable City reviewing body or official.

A. Density

The minimum square footage required per dwelling unit (i.e., the minimum density dimensional requirement) is governed by the type of use proposed and the LUO's corresponding dimensional requirements.

Here, the Project is located in the High Density Residential zoning district pursuant to the Gardiner Zoning Map (the "HDR District"). The HDR District allows multi-family dwelling developments,⁷ subject to meeting all applicable ordinance standards.

A multi-family dwelling is a "dwelling designed for occupancy by three or more families, each living in its own separate quarters". *LUO Section 17, Definitions*. A dwelling is defined as "a fixed structure, containing one or more dwelling units", and dwelling units are defined as a "room or group of rooms designed and equipped for use as living quarters for only one family, including provisions for living, sleeping, cooking and eating." *LUO Section 17, Definitions*.⁸

Here, the Project proposes 34 dwelling units in the main hospital building, which meets the definition of "multi-family dwelling" as a use allowed in the HDR District subject to review by the Gardiner Planning Board, since they are all designed as separate living quarters for one family (i.e., are dwelling units) and more than three dwelling units are proposed in a fixed structure.

Under the LUO Dimensional Requirements, there is a general requirement that there be at least 10,000 square feet per dwelling unit in the HDR District; however, for multi-family dwelling developments the LUO is more specific and states the minimum requirement is at least 5,000 square feet per dwelling unit in the HDR District, meaning the area suitable for development of the Project must be at least 170,000 square feet or 3.90 acres. The Project as proposed satisfied this minimum requirement, as shown on the final Site Plan.⁹

⁷ See LUO Section 7.6.2, Residential Uses (i.e., the Land use Table for Residential Uses); see also *LUO Section 7.5.5*, stating the HDR District "incorporates many of the older and developed residential areas of the city with a mix of single and multifamily homes, schools, hospitals, and some existing commercial uses."

⁸ The LUO also defines the term "multi-unit residential", but that is not an expressly enumerated use in the Land Use Table. Regardless, based on the above definitions and scope of the Application, the term multi-family dwelling would encompass multi-unit residential.

⁹ The Applicant and participants disagreed on whether an abutter transfer resulted in a flag/odd shaped lot when the Project proposed 56 dwelling units. Because of the decrease to 34 dwelling units, while the Planning Board made provisional rulings on the flag/odd shaped lot considerations as shown in the administrative record, due to revisions of the Project to reduce the number of dwelling units the Planning Board finds it unnecessary to make a final determination on that item since the minimum area suitable for development is met with or without the area that was part of the abutter transfer.

B. Financial and Technical Capacity

The LUO requires an applicant to demonstrate financial and technical capacity to perform a proposed development in compliance with applicable standards LUO. See *LUO Section 6.5.1.14*; see also *LUO Section 14.4.10*.

The Planning Board recognized that it is customary for applicants to have information on both of these items in the permitting stage, but not final complete information that would be associated with project construction. Stated differently, the project costs and team will necessarily be updated as the Project prepares and commences construction activities.

This is because for most projects obtaining committed financing generally requires an applicant to first obtain all necessary permits, licenses, and governmental approvals. From a technical standpoint, there may also be downstream considerations post-permitting to secure further details. Because of these practical considerations, it is typical for any approval to be conditioned upon submission of more detailed and final financial and technical capacity to ensure those standards are met. The Planning Board thus determined that such conditions are necessary predecessors before any construction can be commenced for the Project, as detailed further below in this Decision.

C. Character of the Site, Neighborhood, and District, and Design Standards

LUO Section 6.5.2.1 requires a proposed development “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.” *LUO § 6.5.2.1*. The LUO contains numerous other related provisions, such as (i) LUO Section 6.5.2.2, which requires the proposal not to have an adverse impact on neighboring properties; (ii) LUO Section 7.8.4.3, which requires reconstruction of an existing principal building or structure to be compatible with the established character of the neighborhood where it is located, with enumerated criteria (subsections 1-5); (iii) LUO Section 6.5.2.9, which requires building entrances to be oriented to the public road unless another approach is justified; (iv) LUO Section 6.5.2.10, which requires certain exterior walls viewed from public roads to be designed with a combination of architectural features with a variety of building materials and landscaping, (v) LUO Section 6.5.2.11, which requires exterior materials to match the character of those commonly found in the City and surrounding area; and (vi) the LUO buffering/screening requirements. These provisions necessitate a review of the character of the site (e.g., existing buildings and improvements), the neighborhood and district, and City and surrounding area in the context of the proposed reuse and redevelopment of the subject property. Collectively, the Planning Board views these related LUO provisions instructive on interpreting and applying LUO Section 6.5.2.1 using objective criteria to determine whether this and other character-based and design standards are met.

Specifically, the Planning Board determined the Project involved the reconstruction of an existing structure triggering applicable criteria from LUO Section 7.8.4.3 (which sets forth zoning district design standards for the HDR District). While the term “reconstruction” is not defined in the LUO, the Planning Board found that the scope and scale of the reuse and redevelopment of the former main hospital building rose to the level of being a reconstruction that would require compliance with applicable HDR District design standards. This is because of the extensive work proposed to completely transform the main hospital building from its former use and

function to an entirely new one (namely, multi-family dwelling residential development, with extensive façade work).¹⁰

In reviewing LUO Section 7.8.4.3, the Planning Board recognized the main hospital building is an existing building, and its footprint and overall dimensions (at least in a substantial sense) were not proposed to be altered, but other design features were (e.g., the building facades). Accordingly, the Planning Board focused on LUO Section 7.8.4.3.5 regarding the appearance of the wall facing Dresden Avenue to determine whether those specific design standards were met (since the scope of the Application involved updating that façade), in addition to other design-related LUO provisions including Section 6.5.2.1 (which, as noted, directs the Planning Board to review any zoning specific design standards).

Specifically, the Planning Board determined that the final façade design of the wall facing Dresden Avenue was sufficient to be consistent with other buildings on neighbor lots on the same side of the street. The proposal includes addition of a front entrance, installation of windows, installation of a pergola structure for outdoor use by residents, and installation of new exterior siding materials (e.g., cypress panels replacing rubbed concrete) (collectively resembling for example, though not mimicking, a front porch in appearance, function and use in combination with a front entrance and windows consistent with other buildings found on that side of Dresden Avenue). See *Application, Isometric Renderings*.

The Planning Board also determined that the exterior building walls viewable from the public included a combination of architectural features and building materials that matched those commonly found in the City and surrounding area (e.g., wood; glass products), and that landscaping was proposed for at least 50% of the length of walls and helped provide privacy to adjacent land uses. Compare *Application Isometric Renderings and Buffer Plan, with LUO Sections 6.5.2.3, 10, & 11*.

Further, the Planning Board noted that, in reference to the Project site itself, the proposal utilizes existing improvements and ultimately reduces the amount of impervious area on the overall Project site. See, e.g., *below on LUO Sections 6.5.2.4 & 5* (regarding building site and roadway design and reflecting natural capabilities of the site).

Taking all of the above into consideration, the Planning Board determined the Project met the site plan review criteria that it "will be sensitive to the character of the site, neighborhood and the district it is located including conformance to any zoning district specific design standards" and further that it will not have an adverse impact upon neighboring properties. *LUO Section 6.5.2.1 & 2*.

II. Standards Review: Subdivision

In addition to the issues and standards set forth above, the Planning Board determined the Project met the following Subdivision Review Standards, as set forth below.

¹⁰ By way of reference, other provisions of the LUO consider reconstruction to constitute an amount of proposed work involving more than 50% of the market value of a property. See *LUO Section 3.6.4*, regarding reconstruction of certain non-conforming structures. Here, work constituting more than 50% of the market value of the main hospital structure is being proposed. While LUO Section 3.6.4 is not applicable since the main hospital building is not a non-conforming structure in a shoreland zone, the Planning Board nonetheless finds this comparable LUO provision instructive in interpreting whether a reconstruction is proposed in the context of HDR District design specific standards.

LUO Section 14.4.1 (Water or Air Pollution)

The Planning Board by unanimous vote determined the Applicant satisfied LUO criteria 14.4.1 because the Project will not result in undue water or air pollution based on the record information set forth in the application materials dated July 20, 2022 (the "Application"), demonstrating: (i) the Project is not located in a floodplain as shown in the FIRM Map; (ii) the Project utilizes public water and sewer as represented by the Applicant; and (iii) appropriate measures for dust are provided for in the erosion control plan.

LUO Section 14.4.2 (Sufficient Water)

The Planning Board by unanimous vote determined the Applicant satisfied LUO Section 14.4.2 based on the letter in the Application from the Gardiner Water District stating sufficient water is available for the reasonably foreseeable needs of the subdivision.

LUO Section 14.4.3 (Unreasonable Burden on Water Supply)

The Planning Board by unanimous vote determined the Applicant satisfied LUO Section 14.4.3 based on the letter in the Application from the Gardiner Water District stating the Project will not cause an unreasonable burden on existing water supply.

LUO Section 14.4.4 (Soil Erosion)

The Planning Board by unanimous vote determined the Applicant satisfied LUO Section 14.4.4 because the Project will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results based on the submitted stormwater and erosion control plans contained in the Application that include provisions for a reduction in impervious surface, peak hour flows, and erosion control devices.

LUO Section 14.4.5 (Traffic)

The Planning Board by 4-0 vote, with one abstention, determined the Applicant satisfied LUO Section 14.4.5 because the Project will not cause unreasonable highway or public road congestion or unsafe conditions based on the Sewall traffic report in the Application stating a net reduction in peak hour traffic would result from the Project when comparing traffic counts to the prior medical facility use.

LUO Section 14.4.6 (Sewage)

The Planning Board by unanimous vote determined the Applicant satisfied LUO Section 14.4.6 because the Project will be connected to public sewer and based on the letter in the Application from the Gardiner Wastewater Director stating the Project will not cause an unreasonable burden on municipal sewer.

LUO Section 14.4.7 (Solid Waste)

The Planning Board by unanimous vote determined the Applicant satisfied LUO Section 14.4.7 because the Project will not cause an unreasonable burden on the City's ability to dispose of solid waste since the Application states a private hauler will be used for solid waste services.

LUO Section 14.4.8 (Scenic or Natural Areas)

The Planning Board by unanimous vote determined the Applicant satisfied LUO Section 14.4.8 because the Project will not have an undue adverse effect on scenic or natural beauty of the area, aesthetics, historic sites, archeological sites, significant wildlife habitat or rare or irreplaceable natural areas or public rights for physical or visual access to the shoreline based on the scope of the Project (e.g., redevelopment of existing structure and related site improvements) and based on a letters in the Application from Maine IF&W and Maine Natural Areas Program stating there are no concerns with wildlife and plant habitat/species.

LUO Section 14.4.9 (Conforms to all Standards)

The Planning Board by 4-1 vote¹¹ determined the Project conforms to all applicable standards of the Ordinance based upon the findings and conclusions contained herein.

LUO Section 14.4.10 (Technical and Financial Capacity)

The Planning Board by 4-1 majority vote determined the Applicant conditionally met the technical and financial capacity requirements of LUO Section 14.4.10 to meet the requirements of the Ordinance based upon the resumes and experience of project participants (various technical consultants) and letters and other documents from financial institutions regarding financial capacity.

Conditions of approval that must be satisfied are the following:

1. Prior to commencement of any construction, the Applicant shall submit to the Code Enforcement Officer detailed information on the technical capacity of all project participants for construction of the Project. The Code Enforcement Officer, in consultation with other City Staff, as appropriate, shall review the submitted information to determine if this condition of approval has been satisfied; and
2. Prior to commencement of any construction, and no later than one year from the date of this Decision per LUO 4.4.1 or as may be amended from time to time, the Applicant shall submit to the Code Enforcement Officer detailed information regarding the construction budget and schedule, as well as documentation that demonstrates adequate funds are committed and available to complete construction of the Project. The Code Enforcement Officer, in consultation with the City Manager, City Finance Director, City Solicitor, and any other appropriate City Staff, shall review the submitted information to determine if this condition of approval has been satisfied.

LUO Section 14.4.11 (Water Quality)

The Planning Board by unanimous vote determined the Applicant satisfied LUO Section 14.4.11 based on the stormwater control plan (e.g., reduction in impervious surface and runoff), the non-impact of the Project on the wetlands and associated drainage on the site, and because the Project is not in a shoreland zone or in close proximity to any great pond or river.

¹¹ The 4-1 vote on this "catchall" LUO provision is reflective of the votes on each Subdivision review standard.

LUO Section 14.4.12 (Ground Water)

The Planning Board by unanimous vote determined the Applicant satisfied LUO Section 14.4.12 because the Project will utilize public sewer and water (i.e., no ground water withdrawals or other activities that would affect quality or quantity of ground water).

LUO Section 14.4.13 (Floodplain)

The Planning Board by unanimous vote determined the Applicant satisfied LUO Section 14.4.13 because the FIRM map shows the Project is not in a floodplain.

LUO Section 14.4.14 (Wetlands)

The Planning Board by unanimous vote determined the Applicant satisfied LUO Section 14.4.14 based on the plans submitted identifying any wetlands and because the Project does not propose to impact any wetlands.

LUO Section 14.4.15 (River, Streams, Brooks)

The Planning Board by unanimous vote determined the Applicant satisfied LUO Section 14.4.15 because the plans identify all rivers, streams, or brooks within the proposed subdivision parcel and on abutting parcels.

LUO Section 14.4.16 (Stormwater)

The Planning Board by unanimous vote determined the Applicant satisfied LUO Section 14.4.16 based on the submitted stormwater control plan that will result in less impervious surface and runoff post construction of the Project, therefore making provision for adequate storm water management.

LUO Section 14.4.17 (Phosphorus)

The Planning Board determined this was not applicable since the Project does not flow into a great pond.

LUO Section 14.4.18 (Subdivisions that cross municipal boundaries)

The Planning Board determined this was not applicable since the Project does not cross municipal boundaries.

LUO Section 14.4.19 (Shoreland Lots)

The Planning Board determined this was not applicable since the Project does not involve shoreland lot considerations.

LUO Section 14.4.20 (Timber Harvesting)

The Planning Board determined this was not applicable since the Project does not involve property or activities involving liquidation harvesting.

III. Standards Review: Site Plan

In addition to the issues and standards set forth above, the Planning Board determined the Project met the following General Performance, Environmental Performance, Special Activity, Roads, Traffic Access and Parking, and Site Plan Review Criterial Standards, as set forth below.

A. General Performance Standards (Section 8)

LUO Section 8.6 (Essential Services)

The Planning Board by unanimous vote determined the essential services standards were satisfied since they are existing on the Project site.

LUO Section 8.7 (Exterior Lighting)

The Planning Board by unanimous vote determined the exterior lighting standards were satisfied based on the Project's photometric plan.

LUO Section 8.9 (Exterior Material Storage)

The Planning Board by unanimous vote determined the exterior material storage standards were satisfied based on the availability of dumpsters and collection containers and related disposal services.¹²

LUO Section 8.11 (Buffer and Screening Requirements)

The Planning Board by unanimous vote determined the buffer and screening requirements were satisfied based on the buffer/screening plan in the application. The buffer/screening plan shows both twenty-five and fifteen foot buffers, and details parking lot landscaping. As a condition of approval, the Project must implement and maintain the plantings in the buffering/screening/landscaping components of the Application, including timely replacement of any mortality to ensure compliance.

B. Environmental Performance Standards (Section 9)

LUO Section 9.1 (Air Quality)

The Planning Board by unanimous vote determined air quality standards are met, noting the application includes provisions for erosion and dust control.

LUO Section 9.2 (Water Quality)

The Planning Board by unanimous vote determined water quality standards are met, as the Project does not present any improvements or activities that trigger these issues (i.e., it is an existing built site, which will result in a net reduction in impervious area).

¹² The Planning Board noted the Project involves removal of an existing propane tank associated with the neighboring property that provides memory care services.

LUO Section 9.3 (Groundwater Protection)

The Planning Board by unanimous vote determined groundwater protection standards are met, since it does not involve withdrawal of groundwater and there are no discharges raising groundwater protection issues.

LUO Section 9.4 (Water Bodies)

The Planning Board by unanimous vote determined water quality standards are met, since there are no water bodies on the Project site.

LUO Section 9.5 (Solid Waste)

The Planning Board by unanimous vote determined that solid waste standards are met, since during construction the Project will utilize organic debris on the site and any non-organic material will be disposed off-site. When the apartments are occupied solid waste will be handled by on-site dumpsters that will be serviced by a private hauling solid waste contractor.

LUO Section 9.6 (Potable Water Supply)

The Planning Board by unanimous vote determined potable water standards are met, since the Project utilizes water utility service and as based on letters from the Fire Chief and Gardiner Water District.

LUO Section 9.7 (Sewer)

The Planning Board by unanimous vote determined sewer standards are met, since the Project utilizes City sewer utilities and as based on the letter from the City's Director of Wastewater.

LUO Section 9.8 (Phosphorus)

The Planning Board by unanimous vote determined phosphorus standards are not applicable since the Project is not located in the watershed of a Great Pond.

LUO Section 9.9 (Erosion Control Plan)

The Planning Board by unanimous vote determined erosion control standards are met based on the submitted erosion control plan.

LUO Section 9.10 (Stormwater)

The Planning Board by unanimous vote determined stormwater standards are met, noting the Project reduces the amount of impervious area compared to existing resulting in a corresponding reduction in stormwater runoff.

LUO Section 9.11 (Historic, Archeological, Wildlife Habitat, Scenic, and Rare and Natural Areas)

The Planning Board by unanimous vote determined historic, archeological, wildlife habitat, scenic, and rare and natural area standards are met, noting letters from applicable

governmental agencies have been received on these items (e.g., Inland Fisheries & Wildlife; Maine Historic Preservation Commission; Maine Natural Areas Program).

LUO Section 9.12 (Earth Moving Activity)

The Planning Board by unanimous vote determined earth moving activity standards are met, noting the Project does not involve moving more than 500 cubic yards.

C. Special Activity Standards (Section 10)

LUO Section 10.16.3 (Multi-Family)¹³

The Planning Board by unanimous vote determined the special activity standards applicable to multi-family were satisfied by the Project, as shown in the final site plan depicting the Project site characteristics including yard/garden areas and amenities. Specifically, the minimum road frontage is 200 feet or more, the minimum side setback is 30 feet or more, there are at least two parking spaces for each dwelling unit (i.e., more than 68 spaces on plan), and more than 34,000 square feet of yard/garden areas are provided (see as delineated on Open Space Plan, C-1.2, revised March 6, 2023).¹⁴

D. Roads, Traffic Access and Parking Standards (Section 11)

The Planning Board by unanimous vote determined the parking standards are met based on the Project's proposed number of parking spaces and associated dimensions, with notes that spaces will be re-painted as shown on the final plan depicting proposed parking and vehicular flows.

E. Site Plan Review Criteria (Section 6)

LUO Section 6.5.1.1 (Application complete and fee paid)

The Planning Board by unanimous vote determined the application was complete and fees had been paid.

LUO Section 6.5.1.2 (Conforms to applicable provisions of LUO)

The Planning Board by 3-2 vote determined the Project conforms to all applicable standards of the Ordinance based upon the findings and conclusions contained herein.¹⁵

LUO Section 6.5.1.3 (Water pollution, erosion or sedimentation)

The Planning Board by unanimous vote determined the Project will not result in water pollution, erosion or sedimentation to water bodies based on the Board's subdivision review and

¹³ The Planning Board notes any multi-family conversion involving an existing structure, which is what the Project proposes, requires compliance with all dimensional, density, and performance standards for new multi-family dwellings. See LUO Section 10.16.4

¹⁴ The Planning Board noted any signs are reviewed for compliance by the Gardiner Code Enforcement Officer.

¹⁵ The 3-2 vote on this "catchall" LUO provision is reflective of the votes on each Site Plan review criteria and standards.

supporting Application materials for the Gardiner Green Project on these items (expressly incorporated herein).

LUO Section 6.5.1.4 (Adequate disposal of wastewater and waste)

The Planning Board by unanimous vote determined the Project will provide for adequate disposal of wastewater and solid waste based on the Board's subdivision review for the Gardiner Green Project on these items and supporting Application materials (e.g., Letter from City Director of Wastewater; dumpster availability and disposal services) (expressly incorporated herein).

LUO Section 6.5.1.5 (Wildlife habitat, unique natural areas, shoreline access or visual quality, scenic areas, and archeological and historic resources)

The Planning Board by unanimous vote determined the Project will not have an adverse impact upon wildlife habitat, unique natural areas, shoreline access or visual quality, scenic areas, or archeological and historic resources, based on the Board's subdivision review on these items and supporting Application materials (expressly incorporated herein).

LUO Section 6.5.1.6 (Water bodies; wetlands)

The Planning Board by unanimous vote determined the Project will not have an adverse impact upon waterbodies and wetlands, based on the Board's subdivision review on these items and supporting Application materials (expressly incorporated herein).

LUO Section 6.5.1.7 (Stormwater)

The Planning Board by unanimous vote determined the Project provides for adequate storm water management based on the Board's subdivision review on this item and supporting Application materials (expressly incorporated herein).

LUO Section 6.5.1.8 and 9 (Shoreland zoning; floodplain management)

The Planning Board by unanimous vote determined the Project does not involve or implicate shoreland zoning or floodplain management requirements, and therefore they are not applicable.

LUO Section 6.5.1.10 (Available water)

The Planning Board by unanimous vote determined the Project will have sufficient water available to meet the needs of the development based on the Board's subdivision review on this item and supporting Application materials (expressly incorporated herein; e.g., Letter from Gardiner Water District).

LUO Section 6.5.1.11 (Groundwater quality and quantity)

The Planning Board by unanimous vote determined the Project will not adversely affect groundwater quality or quantity based on the on the Board's subdivision review on this item and supporting Application materials (expressly incorporated herein).

LUO Section 6.5.1.12 (Vehicle and pedestrian circulation)

The Planning Board by unanimous vote determined the Project will provide for safe and adequate vehicle and pedestrian circulation in the development based on the design and related features of vehicular flows, pedestrian travel areas, and parking considerations as detailed in the Application.

LUO Section 6.5.1.13 (Municipal services)

The Planning Board by unanimous vote determined the Project not result in a reduction of the quality of any municipal services due to an inability to serve the needs of the development based on the sufficiency/adequacy letters provided by municipal and quasi-municipal service providers in the Application.

LUO Section 6.5.1.14 (Financial and technical capacity)

The Planning Board by 3-1 vote determined the Project will have demonstrated adequate financial and technical capacity based on satisfaction of the following conditions:

1. Prior to commencement of any construction, the Applicant shall submit to the Code Enforcement Officer detailed information on the technical capacity of all project participants for construction of the Project. The Code Enforcement Officer, in consultation with other City Staff, as appropriate, shall review the submitted information to determine if this condition of approval has been satisfied; and
2. Prior to commencement of any construction, and no later than one year from the date of this Decision per LUO 4.4.1 or as may be amended from time to time, the Applicant shall submit to the Code Enforcement Officer detailed information regarding the construction budget and schedule, as well as documentation that demonstrates adequate funds are committed and available to complete construction of the Project. The Code Enforcement Officer, in consultation with the City Manager, City Finance Director, City Solicitor, and any other appropriate City Staff, shall review the submitted information to determine if this condition of approval has been satisfied.

LUO Section 6.5.1.15 (Historic or archeological resources)

The Planning Board by unanimous vote determined the Project site/property does not contain any identified historic or archeological resources.

6.5.2.1 (Sensitive to the site, neighborhood and district, including conformance to any zoning district specific design standards)

The Planning Board by unanimous vote determined the Project will be sensitive to the character of the site, neighborhood, and the HDR District, including conformance with LUO Section 7.8.4.3, based on the discussion above in Part I and supporting Application materials.

LUO Section 6.5.2.2 (Neighboring properties)

The Planning Board by unanimous vote determined the Project will not have an adverse impact upon neighboring properties based on the discussion above in Part I and supporting Application materials.

LUO Section 6.5.2.3 (Landscaping, buffering, and screening)

The Planning Board by unanimous vote determined the Project satisfied landscaping, buffering, and screening standards, based on the Board's findings and conclusions on these items set forth herein and in the Board's subdivision review and supporting Application materials (expressly incorporated herein). As a condition of approval, the Project must implement and maintain the plantings in the buffering/screening/landscaping components of the Application, including timely replacement of any mortality to ensure compliance.

LUO Section 6.5.2.4 (Site and roadway design)

The Planning Board by unanimous vote determined the Project satisfied building site and roadway design criteria such that it will harmonize with the existing topography and conserve natural surroundings and vegetation to the greatest practical extent, based on the Board's findings and conclusions on these items set forth herein and in the Board's subdivision review and supporting Application materials (expressly incorporated herein).

LUO Section 6.5.2.5 (Natural capabilities of site)

The Planning Board by unanimous vote determined the Project will reflect the natural capabilities of the site to support the development. This is based upon the Board's findings that the site has existing improvements, and also based upon the Board's findings and conclusions on items set forth herein and in the Board's subdivision review and supporting Application materials related to natural capabilities of the site relative to the Project (expressly incorporated herein).

LUO Section 6.5.2.6 (Pedestrian ways)

The Planning Board by unanimous vote determined the Project will provide a system of pedestrian ways appropriate to the development and surrounding area, based upon the Board's findings and conclusions on items set forth herein and in the Board's subdivision review and supporting Application materials related to pedestrian ways (expressly incorporated herein).

LUO Section 6.5.2.7 (Building location)

The Planning Board by unanimous vote determined the Project meets this criteria, noting the building and parking features are existing improvements.

LUO Section 6.5.2.8 (Multiple buildings)

The Planning Board by unanimous vote determined this is not applicable since the Project's scope is limited to redevelopment of one building.

LUO Section 6.5.2.9 (Building entrances)

The Planning Board by unanimous vote determined the Project meets this criteria, noting the building and its entrances are existing improvements and orientated to the public road.

LUO Section 6.5.2.10 (Exterior building walls)

The Planning Board by unanimous vote determined the exterior walls greater than 50 feet that can also be viewed from a public road will be designed with a combination of architectural features and a variety of building materials and landscaping based upon the buffer/screening plan and final architectural drawings and renderings submitted in the Application materials.

LUO Section 6.5.2.11 (Building materials)

The Planning Board by 3-2 vote determined the Project's building materials will match the character for those commonly found in the City and surrounding area based on the proposed architectural plans (isometric renderings and other plans), which include utilizing wood and panel-based materials of low reflectance and subtle, neutral or earth tone colors (e.g., cypress panel siding replacing rubbed concrete) and glass products all as detailed in the final Application materials.

LUO Section 6.5.2.12 (Building entrances)

The Planning Board by unanimous vote determined the Project meets this criteria based on the amenities (e.g., benches, etc.) depicted on the final site plan.

LUO Section 6.5.2.13 (Drive-thru)

The Planning Board by unanimous vote determined this criteria was not applicable (i.e., no drive thru features involved in the Project).

[Orders and Signatures Appear on Next Page]

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SUBDIVISION ORDER

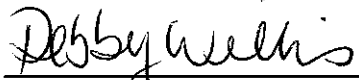
BASED ON THE FOREGOING, the Gardiner Planning Board pursuant to its reviewing authority for subdivisions and through this Decision and Order hereby **CONDITIONALLY APPROVES** the Gardiner Green Project as stated herein, and further **CONDITIONALLY APPROVES** the Gardiner Green Subdivision Plat in the form attached hereto, such approval to be signified by a duly executed and recorded Gardiner Green Subdivision Plat.

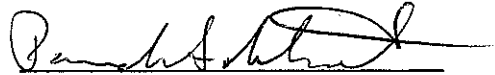
SITE PLAN REVIEW ORDER

BASED ON THE FOREGOING, the Gardiner Planning Board pursuant to its reviewing authority under Site Plan Review and through this Decision and Order hereby **CONDITIONALLY APPROVES** the Gardiner Green Project as stated herein.

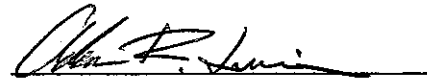
* * *

Dated this 9th day of August, 2023 in Gardiner, Maine.¹⁶


Debby Willis, Chair


Pam Mitchel


Zach Hanley


Adam Lemire


Shawn Dolley

IMPORTANT NOTICE

This Decision of the Gardiner Planning Board may be appealed within thirty (30) days of August 9, 2023 to the Gardiner Board of Appeals in accordance with the appeal provisions of the Gardiner Land Use Ordinance.

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¹⁶ Member Jacob Waltman, who lives proximate to the Project, recused himself as a Planning Board member in the Gardiner Green Project review proceedings. Member Lisa St. Hilaire, who also lives proximate to the Project, did not participate in the Gardiner Green Project review proceedings as a member of the Planning Board, but instead recused herself and participated as a member of the public.