

**City of Ellsworth
Planning Board
Minutes of April 6, 2016**

Chairman John Fink, Vice Chairman Darrell Wilson, member Mike Howie, member Roger Lessard, member Jim Barkhouse, and alternate member Barbara Hegenbart attended the regular meeting of the Ellsworth Planning Board.

City Planner Michele Gagnon, Assistant to the City Planner Janna Newman, Fire Inspector Mike Hangge, and Code Enforcement Officer Dwight Tilton also attended.

Chairman Fink called the meeting to order at 7:00 PM.

Call to Order [7:00 PM]

1. Adoption of Minutes from the March 2, 2016 meeting.

Barbara Hegenbart moved to adopt the minutes as written and Mike Howie seconded the motion. With no discussion, the motion passed unanimously.

**Adoption of minutes:
APPROVED.**

2. Proposed zoning amendment to the Ellsworth Code of Ordinance Chapter 56 Unified Development Ordinance Article 8 Section 817

Medical Marijuana Dispensary. The proposal is to allow the Medical Marijuana Dispensary use in one additional zoning district, the Commercial Zone, and to allow the use within a multi-tenant commercial building.

- a. DISCUSSION OF PROPOSED AMENDMENT.
- b. PUBLIC HEARING
- c. RECOMMENDATION TO CITY COUNCIL.

Darrell Wilson stated that he wished to recuse himself from this agenda item and left the table to sit with the audience.

City Planner Michele Gagnon stated that the Medical Marijuana Dispensary ordinance currently allows the use in the Urban and Industrial zones. She noted that the dispensary has been in operation since 2011 and has come forward to ask the City to consider allowing the use in the Commercial Zone. The Medical Marijuana Dispensary ordinance currently only allows the use in a standalone building. Ms. Gagnon noted that in addition to allowing the use to operate in the Commercial Zone, also the proposal before the Board would allow the use to operate out of a multi-tenant commercial building.

Ms. Gagnon explained that there are regulations incorporated into the City's current Medical Marijuana Dispensary ordinance as to where the dispensary can be located, some that are more stringent than State law. For example, the City's ordinance regulates that the use has to be 500 feet from the property line of an existing school, but also from a church and park. These regulations limit the number of available sites from where the

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dispensary can be operated.

Ms. Gagnon provided a brief overview of the City's business licensing process that the Medical Marijuana Dispensary is required to abide by. She noted that the dispensary's business license needs to be secured annually and is reviewed by the City Council only after every City Department has provided feedback on the dispensary's operation. Ms. Gagnon stated that since the beginning of the dispensary's operation in 2011, that the City, including the Police Department, has had no concerns or issues with the business.

Ms. Gagnon explained that the City mailed public notices to all property owners in the Commercial Zone and to all those who are direct abutters of the Commercial Zone, informing them of the proposed zoning amendment and of the Public Hearing. A Public Notice was also published in the Ellsworth American and on the City's website, as well as posted at City Hall.

Ms. Gagnon noted that Joe Lusardi, the owner of the Medical Marijuana Dispensary, was present at the meeting.

Roger Lessard confirmed with Mr. Lusardi that the marijuana product was not to be grown on-site in Ellsworth and that it would continue to be grown off-site in the future.

Chairman Fink inquired with Ms. Gagnon as to the reasoning behind amending the use to be allowed in a multi-tenant commercial building. Ms. Gagnon explained that given the dispensary was a new use in 2011, that the ordinance allowing the use was designed to be more stringent in order to protect the City and the public from a use they were not familiar with. She further explained that the dispensary is a retail business that would like to join other retail businesses allowed in the Commercial Zone. Given that the Commercial Zone is comprised of multi-tenant commercial buildings, this amendment is also being proposed before the Board. She noted that the City would require the owner of the property be made aware that the dispensary was operating in their building.

Mike Howie asked if a liquor store was an allowed use within the Commercial Zone. Ms. Gagnon explained that the City's ordinance does not specifically define a liquor store as a use and that a liquor store is considered to be a retail use, which is allowed. Mr. Howie asked if in the future, a use such as a daycare facility were to occupy the same multi-tenant building as the dispensary, if that would be allowed. Ms. Gagnon explained that the 500 foot buffer is only applied to pre-existing uses at the time that the dispensary occupies the building. She further noted that if a

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use such as a daycare facility decides to move into a building where the dispensary is operating, that is allowed, but that the opposite cannot happen.

It was clarified that daycare facility is not currently listed as a use that the Medical Marijuana Dispensary must be 500 feet away from in the ordinance.

Jim Barkhouse inquired with Mr. Lusardi as to if consumption of marijuana was allowed on-site in the dispensary. Mr. Lusardi responded that on-site consumption, as well as loitering, is not allowed per State regulation.

Barbara Hegenbart inquired to the advantages and disadvantages of moving the Medical Marijuana Dispensary from its current location. Mr. Lusardi explained that a move could offer a more centrally located and more easily accessed site in comparison to his current location, which he describes as being "in the woods" and not located near any other retail. Mr. Lusardi also testified that he feels compelled to do something in response to the opiate problem currently facing the State. He offered statistics on opiate prescriptions in Maine in comparison to the national average and made a correlation between opiate prescriptions and heroin use. He noted that he wants people to know that medical marijuana is available to them as an alternative to opiate-based prescription drugs and believes his current business location does not allow for this level of public visibility.

Ms. Gagnon explained that there is only one Medical Marijuana Dispensary allowed per District per State law and that the District that the City falls within includes both Hancock and Washington counties. She added that some patients therefore need to drive a significant distance to the dispensary, which is currently located on the Bucksport Road. Mr. Lusardi invited the Planning Board to visit the current site and mentioned that the average age of patients who use the dispensary is 53 years old. He added that many of the patients have chronic, debilitating diseases, such as cancer and AIDS.

Barbara Hegenbart asked if Mr. Lusardi had looked at potential sites for his business to move. Mr. Lusardi responded that he has been looking for a potential new site.

Roger Lessard confirmed that only organic marijuana was sold from the dispensary. Mike Howie asked which zone the current dispensary is located in and Michele Gagnon responded it is located in the Urban Zone.

Chairman Fink opened the Public Hearing at 7:18 PM.

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Mr. Joseph Segari of McDonald Avenue in Ellsworth came forward to state that he is a 61 year old post traumatic stress disorder patient that goes to Maine Organic Therapy. He testified that he uses product from the dispensary (oil) to make banana bread and that eating this allows him to sleep through the night. He stated his belief that the current site location is not ideal and should be moved to a place that is more easily accessible and visible to the public.

Mr. Donald Piper, president of the Maine Elks Association, came forward to state that by law customers must have a prescription card to purchase products from the dispensary. On this basis, he posed the question as to why the business needs to move to another location in order to pick up more drive-by traffic.

Mr. Tim Davis of Buttermilk Road in Ellsworth came forward to state two concerns of allowing the dispensary to operate in the Commercial Zone: 1) property valuations and 2) an increase in traffic.

Michele Gagnon explained that in order to move, the dispensary will have to submit an application and come before the Planning Board again and that a traffic study would be taken into consideration at that time.

Mr. Segari came forward again to question if those who are against the dispensary moving are also against liquor stores and other stores that dispense pharmaceutical drugs.

Chairman Fink closed the public hearing at 7:24 PM.

Barbara Hegenbart questioned if Mr. Lusardi had determined a specific site where he wanted to move his business. Mr. Lusardi explained that he did identify a site where he would like to move, but that was pending Planning Board and City Council approval of the zoning amendment, discussions with the landlord, and final Planning Board approval of the re-location.

Chairman Fink stated that the location within the City was not of concern at this time and that this meeting was focused on allowing the use in an additional zone and not focused on a particular site.

Chairman Fink moved in regard to the proposed zoning amendment that the Planning Board makes a favorable recommendation to City Council and also urges the Council to add language to the ordinance to add childcare to the list of activities that the dispensary has to be 500 feet from the property line. Roger Lessard seconded the motion and the motion passed with Barbara Hegenbart opposed.

**PUBLIC HEARING:
OPENED.**

**PUBLIC HEARING:
CLOSED.**

**RECOMMEDATION
TO COUNCIL:
FAVORABLE.**

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3. Signing of Mylars.

4. Adjournment.

Darrell Wilson (who had recused himself but came back to the table) moved to adjourn the meeting and with no discussion, the motion passed unanimously. The meeting was adjourned at 7:33 PM.

Adjourned [7:33 PM]

Minutes prepared by: Janna Newman, Assistant to the City Planner.

Minutes approved by:

5/13/16
Date


Mike Howie, Ellsworth Planning Board Secretary

NOTE: For agendas and minutes, see:
ellsworthmaine.gov