

*A regular meeting of the
Deerfield Planning Board
held on
January 3, 2022 at 7:00 pm*

Minutes

This meeting will be held in a hybrid fashion with the opportunity for both in-person attendance and remote participation in accordance with the Governor Baker's June 16, 2021 Act Extending Certain COVID-19 Measures Adopted During the State of Emergency, including an extension of the remote participation provisions of his March 20, 2020 Executive Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A §20. Please note that while an option for remote attendance and/or participation is being provided as a courtesy to the public, the meeting/hearing will not be suspended or terminated if technological problems interrupt the virtual broadcast, unless otherwise required by law. Members of the public with particular interest in any specific item on this agenda should make plans for in-person vs. virtual attendance accordingly. For purposes of in-person attendance, the Town of Deerfield will host the meeting in the Main Meeting Room of the Deerfield Municipal Offices, with remote participation details noted below.

Meeting available on YouTube:
https://youtu.be/oIGgeiMiJ_c

1. Chair Called the meeting to order at 7:01PM.
2. Members in attendance: (in person) Denise Mason, Rachel Blain, Analee Wulfkuhle, Andrea Leibson, (via Zoom) Kathy Watroba, Kathy Sylvester, Ann Mary Cloutier
3. Minutes reviewed from 11/01/2021 meeting.

Motion to approve 11/01/2021, Leibson, Second; Mason

**VOTED: Mason y, Leibson y, Blain y, Watroba y, Sylvester y, Cloutier y,
Wulfkuhle y,
7-0-0**

4. Minutes reviewed from 11/15/2021 meeting.

Motion to approve 11/15/2021, Mason Second; Blain

**VOTED: Mason y, Leibson y, Blain y, Watroba y, Sylvester y, Cloutier y,
Wulfkuhle y,
7-0-0**

5. Minutes reviewed from 12/06/2021.

Motion to approve 12/06/2021, Leibson Second; Mason

**VOTED: Mason y, Leibson y, Blain A, Watroba y, Sylvester y, Cloutier y,
Wulfskuhle y,
6-1-0**

6. **Public Hearing** – Ember Gardens, Change of Ownership Public Hearing (Site Plan Review, Special Permit, Stormwater Management). Public hearing read by Leibson Represented by Shane Hyde CEO of Ember Gardens, and Lesley Delany Hawkins, Legal representation for Ember Garden.

- Requesting to amend the existing decisions re: special permit, site plan review, and stormwater management from Suns Mass to Ember Gardens and amend Condition 19 to give the Planning Board the ability to waive the non-transferability.
 - They will be purchasing the property from Suns Mass.
 - They hope to be operational by summer.
 - They will provide monthly reports of progress to the Planning Board.

Public Comment

Kathy Melnick (Abutter)

- What will actually be transferred?
- Will they be transferring the gas storage?
- Owner is listed as Pioneer Garden on the application.
- Will they be doing manufacturing?
- Was Suns Mass terminated or did they pull out?

Bruce St. Peters.

- Are the Stormwater permit and the Site Plan Review included in this waiver?
- What happens to the host agreement that we have?
- Who is paying for the additional expenses?
- Is it possible to have a bond on § 4666 f.VI?

Lesley Delany Hawkins-Counsel for Ember Gardens

- Condition 19 includes the Special Permit, Site Plan Review and Stormwater permit. The language in Condition 19 only refers to it as a Special Permit.
- New Host Agreement with Selectboard being worked on.
- A bond can be discussed with further consideration. There is a bond requirement at the state level in case of winding down of operations. That state-required bond would cover any outstanding taxes to the town.
- They have filed a package including plans that were previously approved (from Suns Mass) by the Planning Board.

Phil Silverman-Counsel for Suns Mass

- Suns Mass business plan changed.
- Had to abandon the license for this location as it would violate the CCC regulations for number of licenses for a single provider.

Shane Hyde CEO Ember Gardens

- This will be cultivation and extraction facility.
- Plans for 3 other retail locations in Boston, Cape Cod, and New Bedford.
- They are hoping to obtain their state license by the end of the spring.
- Construction to begin in the summer.
- Shane is aware the previous plans included an additional septic system be put in.
- Odor control; same odor mitigation as Suns Mass would be required in the use of carbon filters in the greenhouses.
- This will be Ember Gardens first cultivation and manufacturing facility.
- Plans are to purchase the land from Pioneer Gardens

MOTION: To close the public hearing-Sylvester **SECOND:** Blain

VOTE: Mason y, Leibson y, Blain y, Watroba y, Sylvester y, Cloutier y, Wulfkuhle y
7-0-0

Discussion; There is a timeline of three years on the permit; can that be shortened? Lesley Delany Hawkins advised building permits have been pulled on the Special Permit. Town Counsel advised the three-year time has been met.

The Host-User Agreement between the Selectboard and Ember Gardens is being negotiated. The Planning Board requests the Selectboard include: (1) monthly updates to the Selectboard and the Planning Board from the applicant on progress of construction and beginning operations; and (2) the applicant cover any expenses related to additional filings.

MOTION: Accept and transfer the existing decisions regarding Site Plan Review, Stormwater management and Special permit to the new operators Ember Gardens. This includes a notation that previous Condition #19 is all inclusive of Site Plan Review, Special Permit, and Stormwater permit shall be waived. - Blain

SECOND: Sylvester

VOTE: Mason y, Leibson y, Blain y, Watroba y, Sylvester y, Cloutier y, Wulfkuhle y
7-0-0

7. **Public Hearing** – To construct a town park and playing fields, 135 North Main St. Presented by: James Martin from Roberts and Donovan Attorney, and Jesse Moreno (Proterra), and Tom Johnson (via Zoom).

Power Point Presentation by Jesse (Proterra)
Applicant has met pre-application qualifications per bylaws.
Discussion regarding maintenance of the park.

James Martin for Selectboard request the peer review includes the storm water management in the scope, to avoid a second peer review. The peer review addresses issues under the jurisdiction of the Conservation commission and Planning Board.

MOTION: To send out a proposal for Peer Review of the Stormwater Management Plan and the Site Plan Review application. The peer review to be conducted as soon as possible with consideration that the Conservation Commission have access to the Peer Review Request for Proposal/RFP and report. -Blain

SECOND; Leibson

DISCUSSION: Peer Review also should ascertain that the project is in accordance with our new Site Plan Review bylaws.

**VOTE: Mason y, Leibson y, Blain y, Watroba y, Sylvester y, Cloutier y, Wulfkuhle y
7-0-0**

Public comment: Questions from the public regarding North Main St. Park Project.

Items for Peer Review

- Scope for peer review
- Traffic
- Maintenance issues
- Wetlands

Andrea Leibson

- How many peers would be picked?
- What is the time frame?

Tim Hilchey

- Con Com- Concerns: How much fill will be brought in for the project?
- Erosion control information
- What effects fertilizers would have on created wetlands?
- Is all of the parking pervious surface?
- What are best practices for Erosion Controls

Patty Pirog

- Will water remain in culverts to the south to protect the property to the south.
- What is the plan proposed to get athletes to the field from Frontier?

Julie C.

- What is the plan to have people move back and forth on foot?
- Is there an opportunity for a walking path in the back between Frontier and park?

Judith Rathbone.

- Requests an 8ft fence for 800 feet
- Parking to the back for sound pollution
- Parking spaces reduced to 30 spaces
- Bandshell and buildings put in the back
- Why was there no competitive bid for the design of the park?

Attorney McLaughlin

- What is the reference in the application for ART 16 Park?
- Eager to see “memorandum of understanding” with the school district?
- Is the applicant relying on the memorandum of understanding with the school for any type of educational exemption?
- Are they relying on Article 8 from 10/01/2021? It has not yet been approved by the Attorney General
- What are the setbacks of buildings?

Analee Wulfsuhle Would like public works, emergency departments to discuss the plans with the Planning Board

MOTION: To continue the public hearing to the next meeting 02/07/2022 AT 7pm-Leibson

SECOND -Blain

VOTE: Mason y, Leibson y, Blain y, Watroba y, Sylvester y, Cloutier y, Wulfsuhle y
7-0-0

8. Old Business

- Planning Board Priorities will be submitted to Analee via email -Chair asks that they be sent via email and she will review and provide next meeting.

- Tourism Overlay District: Selectboard will address our questions at our next meeting.

- Sugarloaf Condos stormwater enforcement – What are the procedural issues and who has the enforcement responsibility and where can funding for engineering be obtained. Questions were sent to town counsel and returned to the Zoning Enforcement Officer. He feels an engineer should review and inspect. Town counsel advises the Building Commissioner will ask for an As Built Plan to see that what was approved is what was built prior to releasing Certificate of Occupancy.

Bruce St Peter resident- Question: Is there a performance guarantee as required by the Stormwater permit and Site Control document.

Town Counsel. There is a covenant securing completion. Absent of the release of that covenant. The developer can not get occupancy for the remaining units.

Robert Walden Building Commissioner- requested clarification about holding up the Certificates of Occupancy until a peer review

Town Counsel – affirms that BC would hold up occupancy permits until the developer files for a release of the covenant.

9. New Business

- FY '23 Budget – Planning Board- will most likely be submitting level funded budget or something to include a Planner.

10. Reports (committees, seminars, etc.)

- CCI – Denise Mason- meeting 01/04/2022 (Zoom) reps will be giving reports.

11. Next Meetings: 02/07/2022 @ 7pm (remote/in-person/hybrid format to be determined by Chair in time for posting the meeting); 3/7, 4/4

12. Adjourn

Respectfully Submitted

Sue Brulotte

APPROVED 03/07/2022

