



# Town of China

571 Lakeview Drive; China, Maine 04358  
(207) 445-2014 info@chinamaine.org

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*Approved by Planning Board by a vote of 4-0 on January 23, 2024*

Planning Board Meeting

Meeting held in Meeting Room at China Town Office and via ZOOM

January 9, 2024

Begin 6:30 PM

Board members in attendance: Toni Wall, Natale Tripodi, Michael Brown, Elaine Mather

Attendees: Mary Grow

Code Enforcement Officer Nick French - Present

Board meeting opened by Chair Wall

Pledge of Allegiance to the American Flag

Chair Wall brought Board Member Tripodi into voting capacity.

## **Review/Approve Minutes December 12, 2023 Meeting**

- Board Member Tripodi motioned to approve minutes.
- Board Member Brown seconded motion.

Board Member Mather advised of additional corrections needed. Unanimously approved. No further discussion.

Chair Wall advised the Chair Wilkens has resigned from the Planning Board due to upcoming surgeries.

## **Solar Ordinance Draft**

- Chair Wall opened discussion on solar ordinance and stated emailed draft of ordinance to Planning Board members. Chair Wall explained that when they talked about the solar ordinance the last time, they wanted to include some other specific requirements in relation to the Novel project and to projects in the past. Chair Wall advised she updated Section 8 and add more based on Vassalboro ordinance under screening and maintenance section. She continued that there was not a section on modifications, this is Section 10, regarding if someone already has an approved solar farm, the only time they would need to meet the differences is if they had on add or change the footprint. Chair Wall advised of performance guarantee on Section 11 and how often it should be updated. She further explained that she referenced the DEP decommission plan which states needs to be updated every 5 years.
- Chair Wall advised she alphabetized the definitions and included the term “solar farm” and “solar garden” since they have heard the terms in previous applications. She continued that she put the definition as “see solar energy system”. Chair Wall advised that the application and permit fee is \$100 for anyone. CEO French advised he has been doing \$50 if it is roof-mounted and \$50 for inspection. He continued that they usually must provide schematics of the roof load but is \$100 unless it is in the Shoreland and then it is \$150. Chair Wall explained solar energy systems can



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only be in Rural District and their fee would still be \$100. CEO French explained when they are not on an existing building, it would be based on square foot which is \$35 per square foot so would be looking at \$85 plus the square footage based on solar array. Chair Wall commented would be looking at less than \$200. Chair Wall stated she has looked at some of the other town ordinances and Chair Wilkens had made the comment at a previous meeting that some municipalities charge \$2,500 for an application fee. Chair Wall stated that the application fee should be discussed by the Select Board. Chair Wall inquired if the building permit is \$100? CEO French explained if the panels are already on the building, it would just be a renovation with no change in footprint.

- Chair Wall stated under dimensional requirements, the project cannot exceed 20 acres. CEO French advised that is for the system itself cannot exceed 20 acres. He continued they still have a 20% lot coverage which would mean 100 would be the largest they could do. Board Member Brown asked what the biggest solar farm they have in town currently? CEO French advised the biggest is Route 3 which is 13 acres, and they were only allowed to use 20% of the 13 acres. Board Member Brown advised that Novel was only 11 acres. He further advised that future projects would have to have 100 acres total just to fill out 20 acres. Chair Wall read section regarding height of 25 feet. She continued that she did change the minimum front, side and back to 100 feet based on discussion that was had with the Novel project regarding distance from abutting properties. Chair Wall explained that the Novel project was only 80 ft from Ms. Whitney's property line to the fence of the solar garden. She advised the 100 feet is being respectful of landowners and abutting properties. Board Member Brown suggested 150 feet. CEO French advised 100 feet sounds reasonable and advised he found out that there needs to be 100 from a cemetery and 200 feet from a well. Board Member Mather explained that if they have that 100 ft around, would preclude some smaller lots of land from use. Board Member Brown reiterated that would make lot placement more difficult. CEO French explained the project would want to be far enough back to get the sun and not have a tree line right next to it. Chair Wall inquired if Route 32 is 100 feet from the road? CEO French confirmed is 75 feet to the fence and then 100 to the first panel. Chair Wall explained solar gardens will only allowed be allowed in Rural District and any others such as roof-mounted would be CEO review.
- Chair Wall advised she added in a description of the owner of the Solar Energy System (SES) and read section regarding owner leasing land. She advised that many of the project are leasing the land and gave examples. She continued that it is a good idea to have a copy of the agreement that outlines the relationship and how long SES will be operating. Chair Wall explained most are 25 years since that is the life of the panels. Chair Wall advised they would want an interconnection agreement showing agreement with local transmission and have transmission lines. Board Member Mather advised should state "Solar Energy Systems" and then have hereafter referred to as SES" to make sure people are clear what the acronym SES stands for. Chair Wall advised they would require a construction plan with a timeline including who contractors and site director are for CEO. Chair Wall explained in the past they have received soil reports mainly to make sure the soils can support the construction. She continued that they would require a site plan identifying the locations and dimensions. She further explained the site plan would give acreages, property boundaries, any historic sites, location of wildlife habitat area, natural resource areas, topography to see slopes and contours, the location of structures, road and onsite and adjacent waterbodies



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and erosion and soil control measures used onsite. Chair Wall questioned if “site plan” is the correct term? CEO French advised plan is good. Chair Wall inquired if they need a description for the panels to be installed including make and model and associated major components? Board Member Brown stated it would be helpful in the case of the individual that thought that interference from the panels that could cause issues with her pacemaker and would be good to have it brought up at a public hearing. Chair Wall advised would need stormwater management plan that is certified by a licensed engineer and must meet DEP stormwater management requirements. Chair Wall asked Board Member Mather if “shall” is a stronger word than “must”? Board Member Mather advised in legal documents, shall means must, there is no other option. She advised if there was an option, would use “may”. Chair Wall explained would need a phosphorous control plan that adheres to China Development Code, Chapter 4. Chair Wall explained will need approval from local China Fire Chief that access road has adequate access for emergency vehicles. Chair Wall advised she added approval of Department of Transportation if access road enters or exits onto main road. CEO French commented would be driveway entrance authorization. Board Member Mather suggested “intersects” or “bisects” for language for road. Chair Wall explained will need Decommissioning Plan that has been approved by DEP. She continued that they would need also need an Erosion & Sediment Control Plan that has been approved by DEP. Chair Wall explained this gives them documents to look at when they receive an application.

- Chair Wall advised of Section 9 and read section aloud. Chair Wall explained she would like to add that onsite buffering must provide adequate protection for abutting properties. Board Member Brown explained that wildflower mixes for pollinators only have 2–3-year life span seeds and then will be taken over by other plants such as foxtail and other native species. Chair Wall advised even though it states chemical vegetation control is prohibited, she wanted to make sure to spell out that herbicides, insecticides, fungicides are prohibited. Chair Wall explained that where a natural buffer does not exist, one of mixed conifers that are native to Maine will need to be planted and gave examples. She continued that the visual buffer will be maintained over the life of the SES and would be the responsibility of the operation or owner to replace any damaged or dead trees in buffer. Board Member Mather questioned if there would be anytime that an herbicide, insecticide, or fungicide maybe used? She provided the example of the brown tailed moth caterpillars, and would something want to be done if the area became a breeding ground for them? Would they want to have some approval that needs to be obtained to use insecticide or herbicide or do they just want to blanket and say no to all? Board Member Brown explained are looking at the vegetation control and keeping the vegetation off the panels and not really the insect control so they should remove “insecticide”. He continued that the Town and/or State can supersede and can spray if needed. Chair Wall advised of section on fencing and advised added the fence needs to be a minimum of 6 feet to stop humans and other wildlife from accessing area. She also added that the fence needs to be 6 inches from the ground to allow small animals access and needs to go around the entire project specifically it should go between the SES and the buffer. She further advised the gate required should be equipped with a Knox Box or similar device and a key should be provided to the local Fire Chief for emergencies. Chair Wall explained contact information needs to be on a sign, on the fence. Chair Wall added “local” to anywhere that it said Fire Chief since they have 3 of them. Chair Wall explained the owner/operator is responsible for maintaining the SES unless contracted with other company and a copy of that agreement will



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need to be submitted with the application. She continued that Novel stated they will have a contract with someone local to do the mowing and the agreement should be provided to the CEO. Chair Wall explained that any modification needs to adhere to state and local laws, regulations, and ordinances. She continued that any SES in place before the effective date of the ordinance, if they have any modifications such as changes expand or relocate the footprint will be required to adhere to ordinance. She explained routine maintenance does not require a permit. Chair Wall advised of expansion of existing SES that had to come back for approval due to expanding. She continued that if any of the existing have any physical modifications, they will need to come before the Planning Board.

- Chair Wall advised the performance guarantee is the surety bond and needs to be issued prior to construction. She continued it must 150% of the demolition costs and the applicant can apply to CEO for release of the guarantee. Chair Wall read section outlining that the Town needs to have access to funds and the bond needs to be reviewed every 5 years to update surety bond if needed to maintain 150% of decommissioning costs. Chair Wall explained they will go over the solar ordinance one more time at the end of the month. CEO French advised need to define “abandon” and how long considered abandon?

## **Chapter 2 Proposed Changes**

- Chair Wall opened discussion on Chapter 2 proposed changes. She advised the biggest change what will be needed is for LD2003 that was passed by the Maine Legislature. Chair Wall explained there are several things that will need to be adopted and some items that will need to be changed. She advised that she has asked Town Manager Hapgood if KVCOG could review and suggest changes needed. She advised they have reached out to other municipalities for help. Chair Wall explained will send email link to Planning Board members for LD2003. Chair Wall explained some other changes have come from CEO French working with the manual and commenting on items that need to be changed. She explained some of the changes are for spelling errors, inconsistent grammar, references to paragraphs that no longer exist, and issues with 2013 DEP shoreland zoning that need to be added back in to become compliant with regulations. Chair Wall mentioned possibly taking the term “volume” out of requirement for expansion for non-conforming. CEO French advised they already have height restrictions based on the distance from the water and only applies to non-conforming structures which are 100 feet from the high-water mark. He continued that they already have provisions in place for the height of a structure and the footprint. CEO French advised it would save time in the long run and has been in place since 1991 Shoreland. He continued that it is still restrictive, and they still need to go through the DEP to get their approval for anything within 75 feet of the water and once outside the 100-foot zone, can do whatever anyways. CEO French explained it would not really change anything aside from reviewing compliance. He continued a basement cannot go below the water line. CEO French gave example of 1 story camp and being able to go up 20 feet. Board Member Brown stated that the cases where volume would be used would be few. CEO French explained the DEP put in a maximum footprint and maximum height based on distance. Chair Wall advised volume was kept out of caution. Chair Wall advised made changes in grammar. She continued that there are 2 definitions; “building height” and “height of structure” which are both measured differently. Chair Wall advised will be keeping “height of structure” and deleting building height. Chair Wall explained that in Section 4, #12 it states emergency operations as defined but there is no



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definition. Chair Wall states has asked CEO French for clarifications and states is working on getting sections more aligned and making sure references are defined.

- Chair Wall explained she will scan and send out to Planning Board members for review. She continued they would like to have ready to vote on in June. Chair Wall explained changes for the DEP will need to go back to DEP for approval.

## **CEO Report**

- CEO French explained he has been trying to track down violations and clear up. He explained there was a mobile home that was put in without permits and was not hooked up to a septic system. CEO French explained he is working on finishing up open permits that are set to expire. He also advised that he came across another place that was starting construction without a permit and a real estate listing with unpermitted structure.
- CEO French advised of Home Occupation permits and advised photography is still a business. Chair Wall explained if they are selling something out of their home, it is a business. CEO French explained they require the CEO permit and file sole proprietor certificate if doing business under another name.

## **Chairperson Communications**

- Chair Wall explained she has submitted 2024-2025 budget and will send a copy to Planning Board members. She continued to explain that she is currently working on writing Planning Board report. Chair Wall explained Chair Jim Wilkens has resigned due to upcoming surgeries this year. She advised Chair Wilkens had 18 years of services on the Planning Board. Chair Wall advised she has 15 years of service on the Planning Board.
- Chair Wall advised Planning Board ordinance will be on the June warrant and there will be a public hearing for all warrant articles, but no date has been set for the public hearing. Chair Wall commented that she has been attending Select Board meetings. Board Member Brown inquired if Select Board if fine with Solar and Chapter 2? Chair Wall advised they still under a timeline on but has told town manager will hopefully have Solar ready at end of month.

## **Future Schedule and Adjourn**

Next Planning Board Meeting: January 23, 2024

Motion to adjourn meeting made by Board Member Mather

Motion seconded by Board Member Tripodi

There was no further discussion and the motion to adjourn was unanimously approved.

Respectfully Submitted,  
Dawn Kilgore  
Planning Board Secretary