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3 **Town of Charlotte**
4 **PLANNING COMMISSION**
5 **Meeting Conducted at Town Hall and via Teleconference**
6 **March 23, 2023**

7
8 *As approved by the Planning Commission – 4.6.2023*

9 **Planning Commission:** Charlie Pughe, Gerald Bouchard, Robert Bloch, Carrie Spear, Linda Radimer, Kyra Wegman (virtual).

10 **Staff:** Larry Lewack, Town Planner; Aaron Brown, Zoning Administrator; Nicole Burnell,
11 Recording Secretary

12 **OTHERS:** Frank Tenney, Paul Plante, JD Herlihy, Scooter McMillan, Peter Joslin, James Faulkner,
13 Jennifer Adsit, Liberty Darr, Jen Banbury, Andy Hale, John Stern, Reuben Mann, Alexa Lewis,
14 Thomas Cosinuke, Claudia Mucklow, David Miskell, Lynn Hale, Lewis Mudge.

15
16 **Posted Agenda:**

17 7:00 PM Call to Order

18 7:02 PM Changes to Agenda (if any); Public Comment

19 7:05 PM Public Hearing on proposed amendments to the Charlotte Land Use Regulations:
20 cannabis business standards

21 8:10 PM Next steps in this process; opportunities for additional public comment

22 8:20 PM Set schedule for LURs amends: topics for upcoming meetings

23 8:45 PM Adjourn

24
25 **Call to Order:** Charlie Pughe called the meeting to order at 7:04 p.m. Charlie noted that Kelly
26 Devine has resigned from the Commission due to her recent election to the Charlotte Selectboard.

27
28 **Changes to Agenda (if any):** None.

29
30 **Public Comment:**

31 JD Herlihy commented on the March 9th Planning Commission meeting, during which
32 discussion surrounding a pending Development Review Board (DRB) case took place. As a DRB
33 member, JD asked that pending DRB cases not be discussed by the Planning Commission; this is
34 not their role & could open the town up to appeals. Charlie agreed.

35
36 **Public Hearing on proposed amendments to the Charlotte Land Use Regulations:**

37 Charlie opened the hearing and encouraged participants with comments to also put them in
38 written form and submit to Town Planner, Larry Lewack. Charlie presented a synopsis of the draft
39 Land Use Regulations (LURs) providing guidance for cannabis operations in Charlotte. Charlie
40 emphasized the goal in creating this draft was ease of use, to head-off potential conflicts, and
41 ensure equitable treatment of cannabis operations. Charlie pointed out the local Cannabis Control
42 Commission is the Selectboard. Charlie opened the floor to comments.

43 Jen Banbury remarked the state Cannabis Control Board seems to favor the interests of
44 growers above those of residents. Jen noted apparent contradictions, such as the alleged
45 treatment as any other business, yet concealing addresses of operations. Jen stated a 200 ft. buffer
46 is inadequate, advocated for 500 ft. buffer as is mandated from schools, and pointed out a
47 residence may serve as a homeschool site. Jen doesn't understand why neighbors' perception of
48 odors does not carry the same weight as others.

49 Frank Tenney suggested that mixed-use cultivation licenses be defined and included in the
50 definition section of the LURs. For example, the state defines mixed cultivator for Tier 1, this state
51 classification allows 1,000 sq. ft. indoor and 50 plants outdoor.

52 Andy Hale commented on proposed buffers, advocated for 500 ft., and applying buffers to
53 indoor as well as outdoor cannabis cultivations. Andy suggested that DRB consider requiring
54 larger buffers when cultivation abuts a residence, and a need to specifically address dumping of
55 waste materials within the LURs. Regarding detection of nuisance odors, Andy stated preference
56 for reduction from three consecutive days, to two, to be considered a nuisance.

57 John Stern (licensed operator of the Prindle Rd. cultivation) said he does not want to see
58 cannabis treated as a moral issue. The state has determined these businesses can legally operate
59 in Vermont; the town's regulations must follow suit. He does not support a minimum 200 ft.
60 buffer for cannabis cultivation; he believes that's too stringent. John pointed out that timelines for
61 remediation (of alleged violations of standards by cannabis businesses) are not defined. He asked
62 the PC to consider the financial ramifications for cannabis businesses if they have to shut down
63 due to their inability to comply with unrealistic standards, like these.

64 David Miskell recounted the history of cannabis cultivation at the Dutch Glass greenhouse
65 he built for growing vegetables on Greenbush Rd. He believes proposed odor regulations are
66 unrealistic for greenhouse cultivation of cannabis, as venting is required to minimize fungus
67 growth. Proposed 200 ft. buffers are overly restrictive for many existing farm structures, including
68 the Greenbush Rd. greenhouse. 100 ft. surface water and well setbacks are also overly restrictive,
69 as wells are frequently located close to existing structures that could be otherwise be repurposed.
70 Taken together, the proposed rules would rule out many otherwise viable cultivation sites.

71 Lynn Hale thanked the PC for taking on this project. She noted that the overlapping
72 jurisdiction of state and local licensing and enforcement appears ineffective in regulating these
73 businesses. Lynn advocated that rules not allow for existing operations to be grandfathered in.

74 Aaron Brown, Interim Zoning Administrator, pointed out that the draft standards imply
75 that Tier 1 outdoor cultivation enjoys exemption from permitting as agricultural. In fact, it may
76 not be exempt; it depends on whether the state Agriculture Agency agrees it is, by issuing a
77 determination letter to that effect for each instance. Aaron recommended that this be spelled out:
78 adding cannabis to an existing diversified agricultural operation will require conditional use and
79 site plan review for the cannabis addition, NOT for continuing existing agriculture crops like
80 tomatoes. Aaron also agreed with Frank's suggestion to define mixed cultivation.

81 Peter Joslin emphasized that under state statute, cannabis cultivation is a business, not
82 agricultural, therefore should be treated, and held to same standards, as any other business.

83 JD Herlihy commented on guidance on what municipalities may not do including any
84 regulations to any greater extent than any other business; performance standards and buffers for
85 cannabis contradict this. Larry noted that Chapter 4 of LURs include regulations for specific kinds
86 of businesses, such as motor vehicle sales, golf courses, contractor's yards and earth extraction. JD
87 remarked that none of those apply performance standards that are more stringent than what is
88 specified in Sec. 3.12. He suggested we focus on tightening those general performance standards,
89 instead; e.g. odor standards that would apply to all businesses. JD also suggested we not restrict by
90 size; e.g. don't rule out Tier 4, 5, and 6 and testing facilities under 10,000 sq. ft. where desirable.

91 Jen Banbury added concerns on state enforcement, and lack of follow-up. Jen suggested
92 that the town be prepared to enforce state guidelines, if the state can't or won't do that, in addition
93 to enforcement of our own local standards.

94 Gerald Bouchard commented he's unsure about the difference between hemp and cannabis
95 as a crop, as they're grown from the same plant. Charlie Pughe and Larry responded that under

96 state statute, hemp is considered an agricultural product, whereas in statute (and in these
97 proposed LURs standards), adult use cannabis is clearly defined as a commercial product.

98 Hearing no further comments, Charlie Pughe closed this public hearing.

99 **Next steps in this process; opportunities for additional public comment:**

100 Larry outlined next steps, which include the Planning Commission considering comments
101 received during this hearing, and in writing. Going forward:

- 102 1. the Planning Commission will decide what revisions are needed to this draft, based on that
103 feedback. Then the Commission will produce a revised draft.
- 104 2. Then the town attorney will review the PC's revised draft, which will then
- 105 3. Be passed on to the Selectboard for consideration.
- 106 4. The Selectboard must warn their own public hearing to accept comments from the
107 community on that draft. Following that hearing:
- 108 5. The Selectboard can then make additional changes. If they do change the draft, they must
109 warn an additional public hearing.
- 110 6. Once the Selectboard approves the revised draft, they have three options:
 - 111 a) Standards shelved as untimely.
 - 112 b) Standards move forward, via normal route for amendments: submitted to voters for
113 town-wide vote in a scheduled or special election.
 - 114 c) Selectboard could adopt these as an interim zoning bylaw, which will remain in effect
115 two years from date of adoption, unless endorsed (or rejected) by voters before that.

116 David Miskell asked about petitioning against an interim zoning bylaw, questioning how many
117 signatures would be required. Larry will investigate this and respond to David.

118 *Next steps:* Larry was asked to prepare a redline version of all proposed LURS cannabis
119 standards in context & share with the Commission & the public. Larry will research the process
120 for residents to challenge an interim zoning bylaw & get back to David Miskell with the answer.

121
122 **Set schedule for LURs amends: topics for upcoming meetings:**

123 April 6th and 20th: discuss feedback from this public hearing and amend, then finalize draft
124 LURs. If time permits on the 6th, finalize Rules and Procedures. Charlie referenced the Unified
125 Planning Work Program (UPWP) grant, which Larry confirmed is pending. Larry noted need for
126 CCRPC staff to finish up contract work, which includes a briefing for the Commission on the long-
127 term work plan. Charlie suggested that presentation be set for our May 4th meeting. Charlie
128 suggested that consideration and review of the Town Plan update should ideally begin sooner
129 than later (it's due in 2026).

130
131 **Review & Approve Meeting Minutes:**

132 **MOTION by Robert Bloch; seconded by Gerald Bouchard to approve the Planning**
133 **Commission meeting minutes as drafted for March 9, 2023. VOTE: 5 ayes, motion carried.**
134 (Charlie Pughe abstained.)

135
136 **Adjournment:**

137 **MOTION by Robert Bloch; seconded by Linda Radimer, to adjourn the meeting. VOTE:**
138 **6 ayes, motion carried.** The meeting was adjourned at 8:23 p.m.

139
140 Minutes respectfully submitted:

141 Nicole Burnell, Recording Secretary, with edits by Larry Lewack, Town Planner