

## **ITEM 1 - ROLL CALL**

Present: Dennis Lentz - Chairman, Christine Bennett, Ed Cieleszko, Melissa Horner, and Casey Snyder - Alternate.

Also Present: Emily Cole-Prescott, Town Planner.

Absent: Larry Bouchard, (excused).

Voting members: Dennis Lentz, Christine Bennett, Larry Bouchard, Ed Cieleszko, Melissa Horner, and Casey Snyder – Alternate (appointed).

## **ITEM 2 – PLEDGE OF ALLEGIANCE**

## **ITEM 3 – MOMENT OF SILENCE**

## **ITEM 4 – 10-MINUTE PUBLIC INPUT SESSION**

There was no public input.

## **ITEM 5 – OLD BUSINESS**

**A. 495 Harold L Dow Highway (Map 53/Lot 8); B18-9; Request to amend a previously-approved site plan to add a medicinal caregiver storefront, greenhouse, and fence. Determination of completeness by Planning Board and Public Hearing Scheduled.**

**Received: July 3, 2018**

**1<sup>st</sup> Heard: July 17, 2018**

**Public Hearing: August 28, 2018**

**2<sup>nd</sup> Hearing: August 28, 2018**

**Site Walk: N/A**

**Approval: August 28, 2018**

Hughes and Kristin Pope, applicants, were present for this application.

Mr. Lentz said that it is very important that we determine whether this is a finished application, a finished Site Plan, before we go to Public Hearing; that he will not open the Public Hearing if we don't agree that this is a finished application. He added that the first portion of this will be for the applicants and PB to review the material that was submitted. He asked the applicants to give the PB an update on what they have submitted since the last meeting.

Mr. Pope said that, previously, there was a question about contour lines, the slope of the property, and how we handle stormwater. Pointing to the plan, he said that water flows to the retention pond, works its way out into the ditch the Town of Eliot oversees and,

eventually down to the river, cleaner with every foot that passes; that we are taking advantage of the natural slope of the property. He said that we have included a French drain around the 48'X72' greenhouse, with expanded dimensions for the 6-foot fence required by the State. He added that we have provided setbacks; that part of the reason they weren't included last time was that the printers at Staples repeatedly left things out; that we have also provided an adequate view of the driveway dimensions off of Route 236 coming into the property. Regarding the store parking, it indicates that 14 Thuja G, 'Smaragd' (arborvitae) will be planted and that is the only planting we are doing here. He added that we are asking for a waiver for any plantings that would normally be in the ordinance around the actual, proposed storefront because our landlord has politely asked that we not plant there because it's difficult to snowplow. He said that we have provided ample space for parking and turning around. He added that another question that was proposed to us was about Flower Company Properties' future hoop house location; that that is not part of our lease and has nothing to do with us, at all. He said that we've also made dimensions for the soils storage bins; that they're much like Mike Lewis' York Woods set-up, with concrete blocks on either side and with a cover to keep the weather out; that we have also described what it is we would be storing in there – coco core, rock dust, and things of that sort, but no chemical inputs are used; that we have no fear of explosions or anything that could be misconstrued with synthetic-based fertilizers. He said that we moved our employee parking right next to the proposed greenhouses, across from our existing building. He discussed his written response to Planner comments and said that we did not get together face-to-face but we had correspondence with the Fire Chief through email on August 7<sup>th</sup> and 15<sup>th</sup>; that we had a brief exchange about the importance of Knox Boxes, and the importance of that, and provided information to us so that, when we do buy them, we put his registration number on them, or something like that, so that we're on the same page. He added that we will be meeting all the NFPA-1, Chapter 3 requirements and any other fire codes adopted by the Town of Eliot and State of Maine at this time; that, in addition, we intend to include a fire alarm system in the caregiver offices and will coordinate with the Fire Chief on this front. He said that, per Chapter 33 §127 (18), for the purposes of the planning permission, the building materials listed are not required but we will provide this during the building permitting process upon approval by the Board; that proposed demolition of the front building, which is actually the middle building looking at the Site Map, will be undertaken by the landlord who, with our assistance, will obtain all necessary permits when she decides to do so. He discussed the verbal permission received from the outgoing CEO to temporarily set up our greenhouse and the premise behind that was that we needed to clear out the building and, in order to do so, we needed a place not subject to being fined by the State; that we had to put in a 6-foot fence and have a locked, enclosed facility so there is a roof, walls, and a lock. He added that the Town does not allow outdoor cannabis plants without a roof, walls, and a lock, either, so that worked out well. He clarified that there has never been a provision under Maine State law requiring Medical Caregiver operations to be non-profit; that this restriction only applies to dispensaries; that, under the new Caregiver laws, Caregivers are permitted to open and maintain caregiver storefronts as a normal course of business; that this is not a change of use as a storefront is now an incidental part of a Medical Marijuana Caregiver Facility under State law. He also said that we believe the caregiver storefront is incidental and assert that the use most similar to the nature of

the proposed retail storefront is 'Professional Office' space; so, if you're uncomfortable with the word 'retail' storefront, that works in the zoning we are in – a professional office space – yoga facilities, lawyers, doctors, all sorts of people fall under that category. At this time, he submitted his response document regarding the Planner's comments of August 24, 2018 to the PB. He clarified that the majority of the space of the proposed storefront will be used for the headquarters of the company's business operations and that patients are seen by appointment, only; that it is our understanding that the PB has historically considered doctor's offices, chiropractors, yoga studios, as he mentioned, to be categorized under professional offices, which is relevant. He said that he wanted to remind everybody that LD 1539 is not yet in effect and our application should be considered in light of the current legal frameworks formally adopted by the Town of Eliot and State of Maine; that this is especially true in light of Eliot's ordinance Chapter 1 §20 that states: once an application has had one substantive review, that application is considered to be pending and under the purview of the then-current laws and ordinances as of that initial review. He said that there was concern that we hadn't provided adequate construction drawings for the new greenhouse and that he believes that that information has been provided; that in the event that it hasn't, the dimensions are 24 wide, 72 long, the walls go up 12 feet and they hit the peak less than 16 feet. He added that we have a handicap access to the front door, as well as 3-4 stairs there; that as the PB can see in the photo topographically, 'this' is the entrance and, before you can even get to the entrance, there will be a motion-detector outside, with a camera, so that whenever anyone pulls into the parking lot, we can see who they are, what their license plate is, what kind of car they drive; that when they get up to the door, they are greeted by somebody to make sure they are carrying adequate proof, such as a driver's license, a patient card, and, if they are from out-of-state, adequate documentation from a doctor in Maine to prove they are legitimate patients in the State. He added that the room to the right will be for consultations; so, after they are checked in and verified, they will go to the right side of the building and that is where he will most likely be sitting down and talking with people individually, not in groups, and talking about their needs and relationship to the plant and what they would like to get from that. He further added that, based on that consultation, they will come across the hall and there is where we will have a little display case with whatever the consultation came up with, as far as their needs; that a lot of people these days don't necessarily just want the flower, they want salve for arthritis or capsules, suppositories, etc. He reiterated that we will have a fire alarm, which isn't required, but he thinks it's very important for public safety. He again said, referring to the graphic representation of the proposed greenhouse, that the greenhouse is fully enclosed and we are meeting all security provisions of applicable State and local law relating to cannabis cultivation and otherwise; that what the PB doesn't see on the graphic picture is the fence and the cameras that will not be visible but will be everywhere. He said that the storefront building will be delivered by December; that the future hoop house and demolition will occur at the discretion of our landlord. He said that we respectfully request approval conditioned upon the future inclusion of the scale of the plan submitted (§33) – ours is too large, the presence of the owner's name (§33-127(2)), the specific timeframe of the work proposed (§33-127(17)) because it is still unclear without approval to line up contractors, the formal plans for the greenhouse structure (§33-127(18)) as it took a long time to get them structurally sound for snow loads and they are now stamped in

California and in Maine, and the completion of a favorable site walk, if the PB deems it necessary. He added that, if this is not possible, he would like to request we have a meeting in two weeks rather than a month. He also said that the septic system will currently allow the use of up to 12 employees. He asked if Ms. (Heather) Ross could speak to what she gave him permission to do.

The PB agreed.

Ms. Ross, Eliot CEO until 3 weeks ago, said that, earlier this summer, she and Mr. Pope had a discussion about putting a temporary greenhouse in place and the fencing required by State law for a period of up to 6 months while construction was taking place inside the building. She added that she did give him verbal permission to do so at that time and, when he stated that he was having some issues with that, on August 2<sup>nd</sup> she sent an email to the Town Planner; that she didn't know if the PB was privy to that but she would be more than happy to read it aloud, if they like. She read the email, "Past practice in Eliot has been to allow temporary structures that would be up less than months. These temporary structures did not require a permit. I told Kristin and Hughes that the temporary greenhouse and fencing enclosure would be allowed without a permit. It's kind of like thinking of it as a construction trailer on a construction project while it's taking place. A temporary greenhouse would be allowed so that he could grow the plants while the construction is taking place. I told him a fence would be allowed to enclose the greenhouse because State law requires the growing to be secured."

Ms. Horner asked if that was just a one-story building.

Mr. Pope said yes.

Ms. Bennett asked what was the height of the storefront building.

Mr. Pope said that the height is 19' 6"; that he believes the ordinance says no more than 55'.

The Town Planner confirmed that 55' is allowed in the Commercial Zone. She said that, regarding the temporary and permanent structure, she did respond to the email; that her initial question to the outgoing CEO was just to get the building code exemption or the State law exemption relative to putting up the temporary structure on the site only because her reading of the ordinances clearly define structures as both temporary and permanent objects that maintain goods in (and?) storage, so that is where we stand on that. She added that the applicant has put the greenhouse structure up, and the fence as well, for reasons the outgoing CEO has explained. She said that she did respond to the applicant, as well, on August 9<sup>th</sup>, going through and explaining in detail the Site Plan Review category; that she would be happy to share that with the PB but that was the reason for her note on the Plan Review regarding the Town Manager asking the applicant to cease moving forward until PB review was finalized. She said that she has been in the office for the last few months working with these applicants so she has been available if it

was a matter of the two offices speaking together; that she would have been happy to look at that and move forward in that way if the two offices had collaborated on that.

Mr. Cieleszko said that the applicant doesn't have some things he was looking for on the plan, like dimensions between structures, or is he mistaken.

Mr. Pope said that there should be, pointing them out on the plan.

The Town Planner confirmed that they are on the plan in blue.

Mr. Cieleszko asked, for parking, that he had 22 slots; that he didn't understand the parking totals.

Mr. Pope said that we have 11 total; that our lease covers only 'this' side; that it doesn't cover any of the Flower Company property's parking spaces.

Mr. Cieleszko asked if the square foot area the applicant is working in that formula is 4,450.

Mr. Pope said that we are on a 3-acre lot so the calculations are quite low when you compare it to the overall guidelines.

Mr. Cieleszko clarified that parking is contingent on building area. He said that he doesn't see the formula to get 11 spaces that qualify as being for your service. He asked what was the formula used.

Mr. Pope said that our parking spaces are slightly larger than they need to be and the storefront public access space is dictated by parking spaces; that being our total square footage for the storefront is 700 square feet, and public access is not 700, we're actually doing one better than what the requirement is in that department.

Mr. Cieleszko said that he was looking at the parking calculations note that based the number of parking spaces on 4450 square feet, which would require 20+ parking spaces, asking why the applicant doesn't have that.

Attorney (Justice) Ryan, representing the applicants, asked if the formula in question is with respect to the storefront or the facility at-large.

Mr. Cieleszko said that what was presented to us is that the facility is 4451.

Attorney Ryan said that that was the cultivation facility.

Mr. Cieleszko said that it says using that number, in regard to the parking requirement, it's supposed to be one space per 200 square feet.

Attorney Ryan said that he believes the formula was misstated; that it was meant to represent the public access; that the parking spaces back 'here' are intended for the employees of the operation. He added that he believes you can get to the calculation, which is not the entire footprint of the storefront, but a portion of it is used for offices; that the spaces at the front of the location are adequate.

Mr. Cieleuszko confirmed that the number on the plan is not accurate in regard to the calculations used for the parking spaces.

Attorney Ryan said that he believes the calculations were meant to represent for the public access portion of the building.

The Town Planner said that she believes the PB needs to make a determination of use before they can have the question of parking determined because that will determine what formula is used. She explained the different formulas.

Mr. Cieleuszko asked if 45-495(9) covers this business that they envision.

The Town Planner said yes, if the PB determines to review it under that use; that she could go into a little bit of the use if the PB preferred.

Mr. Lentz said yes.

The Town Planner said that her notes on the use in the Plan Review Memo having to do with Primary Caregiver Retail Stores is just to let the PB know that there is no use in the use table in §45-290; that it's a Non-profit Medical Marijuana Dispensary. She added that §33-189 does discuss provisions; so, since the use is not specifically listed on the Town's land use table, the applicant has requested review of uses similar to uses requiring PB permitting, which requires a Site Plan Review. She said that the PB should consider how the use is similar to other uses on the proposed table, considering the performance standards listed in §33, Division 5 of the ordinances, which would cover §33-189 as well as standards found in §45 of the ordinances. She said that the applicant has responded to reasons why the use should be similar to other uses so the PB should make a determination on how the use is similar to other uses, if they move forward with that review. She added that she included recent State law updates because the specific use that the applicant is asking for will be a municipal opt-out as of 90 days after the special legislative session adjourns, per LD 1539. She said that it gives the PB, as well as the applicant, the actual title of Register Primary Caregiver Stores. She said that, currently as well, recent State law allows the municipalities to regulate registered primary caregivers, like any other use, provided that you don't prohibit the number or prohibit them altogether. She said that, in 2016, §33-189 was updated to include provisions for registered primary caregivers; that the use of primary registered caregiver was not added to the table at that time so there is no use listed on the table for retail and there's no use, either, for the registered primary caregiver retail store. She clarified that the State law information was to give the PB background on what is currently effective as well as what has been approved but is not yet effective in State law. She added that this was not to say

that the PB would hold the applicant relevant to that, specifically, but just in light of the legislation, a careful consideration of the use is what she was recommending and how a use fits in with uses similar to other uses. She said that it is a change of use, in her opinion, because you will have people coming in to the property, and to the store, and it was an existing office/warehouse space, according to the previous plan and notes previously submitted by the applicant.

Mr. Pope said that he might have brushed over it but this would be a good time to remind the PB what he was proposing as a use, which was 'Professional Offices'; that they are used by people that are MD's, yoga practitioners; that yoga practitioners and chiropractors are consulting with individuals on a holistic basis and providing a service or a good, such as a massage and, then, herbal remedies; that that is one of the reasons he came up with professional office space.

Mr. Cieleuszko said that, regarding parking, the applicant has 150 feet per retail space; that that fits your formula and, above and beyond, the applicant would meet the parking requirements, if you present yourself as what your plan says – a retail storefront; that whatever that front area is where your customers are allowed, that's the only square area we're looking at and, if that number is 700, that is miniscule for parking; that everything else is extra; so, he has no problem with it if we pursue this as a retail store. He clarified that he has to stop looking at it as a marijuana facility and just look at it as a business developing further.

Ms. Bennett asked, regarding parking, what the requirements are for 'professional office' if we review this as the applicant has asked.

Mr. Cieleuszko said that he has trouble buying that, to begin with; that Public Building and Professional Offices are one parking space for each 200 square feet or major fraction, thereof, of floor area, exclusive of bulk storage areas; that that puts the applicant in the 22 spaces category; that bulk storage is not the applicants' processing facility; that bulk storage is warehousing finished product, or something, but the plants growing in a place are part of that square-foot are for him.

Ms. Bennett said that she sees it differently; that she sees that existing building that's 4,500 square feet as one use that we have approved for this site and, now, the applicant has come forward asking for an accessory use, which is now a professional office space that is accessory to the primary use of the property; so that, right now, we are not considering that existing warehouse space, when it comes to the parking calculations, but with this application, just the professional office space or what has been marked on the plan – caregiver retail store.

Mr. Cieleuszko asked if that 4,000 was the new building or is it the new building plus the whole kit-and-caboodle out back.

Mr. Pope said that anything in black is old; that the answer is no, it's not the whole kit-and-caboodle; that we're already approved for this and the area we are focusing on is the storefront, the greenhouse, and the bulk storage space for our pre-made soils.

Mr. Cieleuszko asked if that area was 4,000 square feet.

Mr. Pope said that the new greenhouse is a total of 4,674 but not all of it is truly plant canopy; that you still have walking aisles, and all that.

Mr. Cieleuszko said to Ms. Bennett that the applicant is talking about the new structure.

Ms. Bennett clarified that the applicant is talking about two new structures; that one is an expansion of the existing cultivation, which is the primary use of this property, and then he's also talking about adding an accessory use, in her mind, of a professional building, which is 700 square feet.

Mr. Cieleuszko said that he thinks the storefront, the little piece at the front of that, is 700; that the building, itself, is 4,000, asking if he was wrong.

Mr. Pope said that the entire thing is 700 square feet; that it's considered an in-law apartment; it's a pre-fab modular Maine-built, premium construction in-law apartment; that it doesn't go on a foundation, it goes on pillars.

The Town Planner said that the applicant meant relative to size.

Mr. Pope said yes.

Mr. Lentz asked if we could hold the parking back.

Mr. Cieleuszko said yes.

Mr. Lentz said that there is a referendum straw vote going on the ballot in November that's going to ask the citizens if they want to opt-in for retail sales. He added that we talked about this before, and he thinks the gentleman had a comment about 'retail storefront'; that he knows it's accepted, he doesn't like it because it's going to scare people, and you're shaking your head in agreement. He said that, when he looks at the layout, there is public access to 'caregiver storefront', there are parking spots for 'retail store', there is 'registered caregiver retail store', asking if he can go in off the street and buy what he wants to buy.

Mr. Pope said no, you cannot; that that's the hard part about it.

Attorney Ryan said that the reason for that nomenclature is because that's what the State law has called it; that we consider it to be more a consultation office, like in keeping with a doctor's office or a yoga studio or an herbalist or anything of that sort.



Mr. Lentz said that my neighbor is your neighbor and they aren't going to talk about it that way, unfortunately. He asked the PB what the basis is for calling it a business office.

Ms. Horner said that the applicant said it is an incidental use to being a medical caregiver and, much like a yoga studio, etc., there's consultations happening and work being done with clients, privately, in a private medical setting.

Mr. Lentz asked if the PB would accept that.

Mr. Cieleuszko said that he was uncomfortable with that.

Ms. Bennett said that she would accept it.

Ms. Horner said that she would definitely accept it.

Mr. Snyder said that he would accept it.

Mr. Lentz asked what his discomfort was.

Mr. Cieleuszko said that there's nothing he can argue; that they're selling a product and he doesn't see this as an office setting; that no matter how limited the applicant is having drive-up people. He added that he doesn't mind being overruled by the will of the PB.

Mr. Pope said that we are selling a medical product.

Ms. Horner said that it would be like going to the dermatologist and getting acne ointment in the office.

Mr. Cieleuszko said that most doctors send you to the pharmacy.

Ms. Pope said that she has to disagree; that there are numerous clinicians in the Town of Eliot, chiropractors, you walk into their office and they have shelves of herbal supplements, whether it's in capsule form or in a bottle sealed with a label or a tincture, which is a sublingual liquid; that they are consulting with their patients that come in and they are providing their medicine right there, on-the-spot. She added that that model is what we're replicating; that that's the model that's been built by the State and the laws we're forced to follow; so, that's the only option we really have.

Mr. Lentz asked, again, if the PB accepted that for a usage.

**Mr. Cieleuszko moved, second by Ms. Bennett, that the Planning Board accept the application parameter that the structure they are building will be a professional office.**

**VOTE  
4-1-0 (Mr. Cieleuszko)  
Motion approved**

Mr. Cieleuszko asked if the temporary structure the applicant built will be permanent if things go well here.

Mr. Pope said not at all.

Mr. Cieleuszko said that it truly is a temporary structure.

Mr. Pope said that it's a pipe-vent hoop house with poly film; truly temporary.

The PB reviewed the Town Planner checklist.

Ms. Horner suggested they discuss the waivers first; that they are requesting waivers to the Perimeter Survey §33-127(4), High Intensity Soils Report §33-127(12) and Landscaping (Foundation Plantings) §33-175(c).

**High Intensity Soils Report §33-127(12)**

Mr. Cieleuszko said that he didn't see any need for the applicant to supply this because they are one building down and one building up; that there is no disturbing going on there.

The PB agreed.

**Mr. Cieleuszko moved, second by Ms. Horner, that the Planning Board grant a waiver to PB18-9 to waive the requirement for a High Intensity Soils Survey under §33-127(12).**

**VOTE**

**5-0**

**Motion approved**

**Perimeter Survey §33-127(4)**

**Ms. Bennett moved, second by Ms. Horner, that the Planning Board waive §33-127(4) Perimeter Survey for PB18-9.**

Ms. Bennett said that she thinks that the applicants put forward a very valid reason for not requiring the full Perimeter Survey for this property; that it is very large, they are only going to be developing a portion of the property that's already been developed, and the setbacks are clear.

**VOTE**

**5-0**

**Motion approved**

**Landscaping (Foundation Plantings) §33-127(c).**

Mr. Cieleuszko said that he doesn't see the need for the waiver, yet; that this is the owner of the property presenting this, it is not the Popes presenting this. He added that he didn't

think we were asking to block the driveway; that this is pretty standard stuff unless there is some explanation that is better.

Ms. (Jacqueline) Nooney, property owner, said that, with that building and the other existing building that's adjacent to it on the front of the property towards Route 236, there's a very narrow drive-through between the two; that we need all of that to move snow because there is an access to the building adjacent to it that needs to be kept free of snow; that it's like 14 feet there.

Mr. Lentz asked if we were all talking about the same spot.

Ms. Bennett asked if 'this' was the building that was going to be demolished.

Ms. Nooney said, using the site plan, that it was the space between these two buildings, here; that 'this' is an existing building and 'this' is where we plow, and we've got to keep that open.

Mr. Pope said that the public doesn't have access back 'here'.

Mr. Lentz asked if that building in front of it will remain.

Ms. Nooney said yes.

Mr. Lentz asked if it was blocked from the highway, for the most part, visually, because of the building in front of it.

Ms. Nooney said yes.

Ms. Bennett asked if she was correct that that first building near the road is going to be demolished at some point.

Ms. Nooney said no; that the pole barn, where the applicant is building to put in offices, will be demolished.

Mr. Lentz asked which building was going to be demolished.

Ms. Nooney said it was the middle one, the one you can't see from the road.

Ms. Horner said that it is a one-line sentence in the Landscaping portion and she thinks it's for beautification purposes, not for drainage; that if it's impeding the snow removal, per the property owner's request, then she believes we should waive it.

Mr. Lentz asked for a motion.

**Ms. Horner moved, second by Ms. Bennett, that the Planning Board waive §33-175(c) for PB18-9 due to snow plowing.**

## DISCUSSION

Mr. Cieleuszko said that he could agree with the snow-plowing reasoning and that the building is going to stay.

Ms. Horner added that, to Ms. Nooney's credit, she has one of the best properties on Route 236.

## DISCUSSION ENDED

## VOTE

**5-0**

**Motion approved**

Mr. Lentz said to the Town Planner that one of the items was that 'The applicant should consider alternatives for the location of the structure'; that there was an email from Attorney Saucier and how he interpreted that ordinance.

The Town Attorney was that Note E would apply to future expansion; so, anything labelled 'future' on the plan would have to show a reserve percentage. She added that this is back to the point about the construction schedule and getting clarity around when things would be moved and what they would be used for, more detail around that, because even though they're not part of the lease, they are still on the site and you are approving the entire site plan. She added that those types of things you would consider parking for, if there's parking out there, now, what the use is for because they are part of the entire site plan; that they are listed as 'future' and 'to be removed'. She said that, previously, the applicant had indicated that it was a possibility to remove that front structure that is a currently existing business/warehouse; that it just needs to be clear whether that is going to be removed, what is going to be put in that place, as well as whether or not, and when, the future hoop house will be relocated. She said that, if the applicant has put that information on the plan, there should be some clarity as to when those items will occur, as well as the need to, when those uses are going to be put into place, making sure they meet the requirements at that time separately, or, if they're going to be part of this plan, what the finished product will look like without the removed front structure and with the hoop house, and how that will affect the site, totally.

Mr. Cieleuszko said that the Planner's concern seems to be mostly in construction scheduling; that he doesn't see any construction scheduling, at all. He asked the applicant if he had some kind of a game plan; that, in addition, we've just been presented that that front structure is going to stay; so, in regard to that, we need some kind priority on whether this print needs to be adjusted. He clarified to the applicant that his plan to the PB indicates 'existing warehouse/business office to be demolished' and, if that's not the case, then the plan has to be adjusted.

Mr. Pope asked, in that case, for conditional approval that the site plan will be adjusted.

Mr. Cieleuszko said that that was doable for him. He added that he didn't see even a rough construction schedule in his packet.

Mr. Pope said that he had many people lined up to do the work; but, when he felt that he wasn't going to be able to execute them based on getting approval from the Town, he had to put everybody off. He added that, provided that he has approval this evening, CMP will be there September 15<sup>th</sup>, the storefront will arrive the end of December, and the concrete pads for the greenhouses will be put in the beginning of September, as well. He said that, essentially, everything is happening in September, with a conditional approval at the PB's discretion.

Ms. Horner said that she thought the applicant had a certain amount of time to begin construction after approval; that she doesn't remember ever getting a construction timeline on anything like this before. She added that she thought they had a year, or something; that she appreciates your answer but she is just clarifying for historical purposes. She said that she doesn't remember ever asking an applicant for a timeline; that they have a certain amount of time to start and that time is of the essence.

The Town Planner said that §33 does allow them two years to start construction, three years to complete it, as long as they show some substantial work toward it. She clarified that her point for the construction schedule was just getting clarity around 'this' will be the first thing, 'this' will be the second thing, 'this' will be the third thing; that construction schedule is part of §33 and the PB could opt to waive this; that they have in the past but it is on the full Site Plan Review; so, her preference and her reason for bringing that up was just to get clarity in the application that these are the timelines. She added that it doesn't have to be September or October; that it can be one month out we'll be doing 'this' or 'this' is Phase I and 'this' is Phase II and 'this' is Phase III; that it can be somewhat flexible. She said that, if the PB wants to waive it, that is certainly within their rights to waive it. She added that the applicant has responded with the start of what would be in Phase I on the notes provided tonight. She said that an estimated progress schedule is §33-127(17) on the Site Plan Review Checklist so that is the reason why she brought it up. She reiterated that it is an estimate; that it's just something she noticed we could ask for more detail, if the PB wanted it; that, again, the PB can waive it and has waived it in the past. She added that larger projects usually see a phasing schedule; that this isn't substantially large but is a note that you could waive it or discuss it with the applicant to ask for more information.

Ms. Bennett said that she had the same sort of thought that Ms. Horner had, initially, that she doesn't remember requiring this and, then, in thinking back, she seen that we have just a one-page included in the packet that says basically what the applicant told us right now, agreeing that it is totally subject to getting a contractor, but just so that the Planner and CEO sort of know how it's going to spool out. She added that she would comfortable, having heard your explanation, to approve conditionally that the applicant could provide that, after-the-fact, the construction schedule one-pager.

Mr. Lentz commented that this has been very difficult; that the applicant has a vision and their vision, piecemeal, has been put on paper; that we're not used to looking at visions; that we like to see things where they're going to be. He added that he's not being critical; that he still looks at the application and the request to amend the previously-approved site plan; that we're going to construct a greenhouse, outside storage, etc.; that, somehow, we are demolishing buildings and we're still asking questions regarding which building is going to stay, and we've met numerous times. He reiterated that it's difficult and he isn't being critical. Mr. Lentz added that one of the conditions of approval would certainly be that the applicant will meet all of the fire codes sent out in Chief Muzeroll's memo and that will be documented.

Attorney Ryan asked, respectfully, if those had been adopted by the State or approved by the Town.

Mr. Lentz said several months ago.

The Town Planner confirmed that the codes the Chief has referenced have been adopted at the State level and, if there are any that are not adopted at the State level, they are recommendations; that he did make a recommendation memo to the PB and presentation in May discussing recommendations from the standards. She added that one of the things the applicant had expressed interest in is maybe sitting down and meeting with the Fire Chief and we just haven't been able to coordinate that; that the PB can only condition what has ordinance approval for or statutory approval for; so, maybe, the Fire Chief could present information exactly on the State law references and a condition, possibly, if the applicant is willing to meet with the Fire Chief and review more information.

Mr. Lentz agreed that Mr. Pope did say he would be willing to sit down with the Fire Chief.

Chief Muzeroll clarified that the adoption of the new NFPA 1 code came out in 2018 with a specific chapter for process controls for growth of marijuana and its derivatives; that it will not be adopted by the State for probably another cycle; that they are usually at least three years behind. He said that he would like to say and, hopefully, when we get through the amendment process this fall with voting that, whatever the current edition is of any code – Fire Chief or the authority having jurisdiction, which could be the CEO – can use those codes by adoption of the Town's ordinance and not necessarily by the State Fire Marshall's office. He added that it does not make sense to him to hide behind something that's there for the protection of the occupant, the environment, the structure, and the tax structure and not use that as a basis to set fire safety regulations. He said that he isn't trying to prevent anybody from doing anything but trying to get a clear picture as to what's going on and how the end product is going to be processed. He reiterated that the NFPA-1 chapter applicable to that process is a recommendation, only, at this point; that if the applicant chooses not to follow that, those are conditions that the PB can determine that the applicant will follow the recommendations of the current edition. He said that, when we get to the Public Hearing portion, he has a few clarification questions.

Attorney Ryan said that it was his understanding that, if we do go with the extraction processes, then we'd likely have to get a Class A Facility License from the State, asking if that was correct.

Chief Muzeroll said that he may.

Attorney Ryan said that he thinks we'll likely be held to a much higher standard when it comes to manufacture.

Chief Muzeroll said, just to clarify where he's going, the only knowledge he has is what he has in front of him; that he doesn't have a great knowledge about what may be coming down the road or what may be required.

The Town Planner said that there is a boiler-plate condition that gets put on every notice that talks about State and federal applicable approvals; so, this is one step but, then the applicant, who is well-aware, would follow the other steps to fulfill those conditions. She said that the application lists a 48'X72' greenhouse, which is 3,456 square feet, but the greenhouse on the site plan is 4,674 square feet and that we just need to get that clarified on the application and also mention on the plan that this is a site plan review, or even writing site plan amendment with substantial changes per §33-140, because what's shown, now, on the application and site plan are slightly different; that we need to make sure the records are very clear throughout.

Mr. Cieleszko asked the applicant to address the dimensional discrepancies for the proposed greenhouse structure.

Mr. Pope said 3,456 square feet is the total space for the greenhouse; that the fence along the outside of it is larger; that in doing the math he isn't sure why it came put to 4,674; that he's allowed 4 feet on either side for snow-blowing.

Mr. Cieleszko asked if the applicant was still envisioning the same structure in our package at the two dimensions that come up to 3,456 square feet.

Mr. Pope said yes.

- Mr. Cieleszko said that a condition of this application would be to change that, also, on this print (plan).

NOTE: At this time, the fire alarm at the Fire Station went off.

The processing facility will be considered bulk storage as it relates to parking; that there will be 5 – 6 employees.

Ms. Bennett said that, at the end of the checklist, there were additional concerns, one of which was whether the existing septic could accommodate this new professional office space; that she brought the original approval for the Flower Company, who put in the

second system, and it was designed for 180 gallons/day and 15 gallons per employee, which works out to twelve employees.

The Town Planner said that there are copies of that in your packets that the applicant has submitted.

Mr. Lentz discussed the proposed greenhouse, asking if he had the actual dimensions, other than a rough number.

Mr. Pope said that they're 24'X72' and, then, on the paper, there, it says 16' but it's actually less than that; that it actually goes to 14' but he figured an extra 2' in case we open the spine of the roof.

Mr. Lentz said that the applicant's words say 'rough dimensions', asking how rough is it.

Mr. Pope said that that's not rough, it's very accurate.

Mr. Lentz said that we were going to update the layout with the exact dimensions, asking if that was correct.

Mr. Cieleuszko said yes, as a condition.

Mr. Lentz asked if there were going to be any type of chemicals.

Mr. Pope said that they were non-existent; that the only thing he might have is Simple Green, which is for cleaning. He added that he is regulated by MOFGA, as well, and they are very stringent about any sort of input.

The Town Planner said that her note on the greenhouse was just to make sure we have the correct dimensions; so, if it is going to be 48'X72", just making sure that the dimensions that are in the plan showing the exterior of the greenhouse match the 48'X72" plan; that 24'X72' is mentioned and that is 1,728 square feet; that this one says 4,000 and she thinks what they are aiming at is 3,456 square feet of structure, which is what we've talked about.

Mr. Pope said that that is correct.

Mr. Cieleuszko asked, if the applicant's odor control fails in some way, is there any controlling ordinance or any State mandates for smells emanating from the place.

Mr. Pope said not to his knowledge.

Ms. Pope said that the Town has an odor ordinance that doesn't allow it off the property; that if there's a complaint that comes in, there's a department at the State that comes down and an official guy that can smell and determine if it's a nuisance odor.



The Town Planner said that there should be something on the plan noting how odor will be controlled, though, because if the PB determines that they would like to have that information, the ordinance does allow us to ask how odor will be controlled on-site.

Mr. Cieleszko said that a reference in the plan that the applicant will put the odor-control unit, previously discussed, in the plan as described.

Ms. Bennett said that we have something within the submission of August 7<sup>th</sup>.

The Town Planner said that you can make a reference in the Notice of Decision to it, indicating that that odor control will be used; that the ordinance reference is §45-409, "No nonfarming land use or establishment shall be permitted to produce offensive or harmful odors perceptible beyond their lot lines, measured either at ground or habitable elevation."

The Town Planner said that the applicant has submitted additional information on where this has been used in other places; that the PB could always request additional information on how that's working in other places, if the PB so chooses, or ask for additional information on condition.

Mr. Cieleszko said that he didn't see any need for that; that without an affidavit, anybody could say anything.

Mr. Lentz asked the PB if the application was complete and, if not, what was missing.

Mr. Cieleszko said that it was complete with the recommendations.

Ms. Bennett agreed that once all that we discussed this evening is added to the site plan, she would deem this complete.

All PB members agreed.

**Mr. Cieleszko moved, second by Ms. Bennett, that the Planning Board approve the application for review.**

**VOTE**

**5-0**

**Motion approved**

Mr. Lentz asked if we needed a site walk.

Mr. Cieleszko said no.

Ms. Horner said that she has seen the property.

Ms. Bennett said that it was recommended by the Planner.

**Ms. Bennett moved that the Planning Board schedule a site walk. There was no second and the motion fails.**

The Town Planner said that, now, the PB has the option of opening the public hearing or asking the applicant to return with a revised set of materials and re-notice the Public Hearing.

It was the **consensus of the PB** to hold the Public Hearing tonight.

**8:50 PM      Public Hearing opened.**

Mr. (Eugene) Wypyski, 38 Creek Crossing, said that his thought, at this point, is simply that Eliot has, as he understands it, decided we don't want the retail sale of marijuana in the community.

Mr. Lentz clarified that there has been no decision at all.

Mr. Wypyski said that Eliot has the option to decide we don't want retail sale in the community. He added that his concern is simply that, if we have a large wholesale manufacturer cannabis, albeit initially for medicinal purposes, that it could very quickly become a staging area for the retail sale; that his concern, if that happens, is simply that this manufacturing is about ½ a mile from a middle school, about a 1/3 of a mile from a primary school, and he's not sure that location would be appropriate for a retail establishment where one didn't need a card or any kind of proof of any kind of medicinal purpose, other than simply going there to buy some dope. He added that he's not sure we'd want a liquor store that close to a school, a gentlemen's club, notwithstanding the traffic they make coming into southern York County for, perhaps, the retail purchase of marijuana; so, his concern to the PB is that this all looks like it's going to become a retail establishment and, if that is the case, he would just express a lot of concern as a member of the community for its location in the context of schools and school buses; that it's not going to be under wraps very long once this operation really gets off the ground.

Mr. Lentz said that there are restrictions, as far as where most of those things can be; that that is built into the ordinance. He reiterated that there is going to be a referendum question on the November ballot, which would ask Eliot citizens if they would want to opt-in to retail stores selling marijuana products; that it's a non-binding straw vote and, once we can see what the public wants to do, they will begin developing a lot of the educational materials, where to put things and where not to put things, what can be and what cannot be, taxes, all those kinds of things.

Chief Muzeroll said that he's been involved with this project, or similar concerns with different projects, along this line for a couple of years. He added that some of these things he's had answered before and we have new information or different ideas as to what's going to happen, or what may, and what's proposed. He agreed that he and the applicant have not met and the reason for not meeting is that there have been so many revisions to these plans that he doesn't have any idea what he's commenting on. He explained that he

wanted to wait, and he's spoken to the Planner about that, until we get to the point where we have a set of plans for site plan that's accurate and for access and egress to the property. He said that, as far as process controls go, the applicant has said that he's willing to sit down and discuss with him what process controls may be needed for what's going on. He said that he will look into how the applicant does things but, what he has referenced in NFPA-1, and in his previous meetings, kind of mirror what the City of Denver has done for like operations, which he thinks most people across the country have followed; the NFPA-1 Chapter 38 provisions, and the states chose to either be a little bit more restrictive or less restrictive. He clarified that one of his frustrations about all of this is that the State Fire Marshall's office has their head in the sand over the whole thing and leaving it up to local rule, which he's okay with; but, when we ask them for advice, the generic answer is for us to figure it out but, if we really have to do something, we're not going to do much because we consider it a certain type of operation. He reiterated that he's here in the interest of occupant safety, fire safety, his own safety if he shows up if the applicant has a catastrophe, the environmental safety issues that may be encountered for this type of operation. He said that he will go on record that he is in total disagreement with any temporary structure in this community, whether it's permitted or not; that, in this case, it was not permitted, there is no tracking of this, nobody is tracking the days for a temporary structure; that we're not talking a 400-foot shed that he puts his golf cart in but something of substantial size.

Mr. Pope said that there's no hi-pressure lights hanging inside; that there's nothing to burn down.

Chief Muzeroll said that the CEO gave the applicant permission, which he's in disagreement with, to put a temporary structure in place to produce a product for sale. He added that he's tried to reason that this can be looked at as a construction trailer, storing equipment; that storing equipment and growing a product is completely different. He added, however with that being said, when Mr. Cieleuszko asked a question about the construction timeframe, his concern is that the applicant said the foundation for the greenhouse would be in place in September, asking when the greenhouse was going to be in place.

Mr. Pope said that the greenhouse will be erected by the end of September.

Chief Muzeroll said that the other problem with that is that he doesn't have any idea what the greenhouse is made of; that the applicant says he has a set of engineered plans but nobody has seen those engineered plans.

Mr. Pope said that he believes he provided a lot of information about the greenhouse; that he's not sure it got to the Fire Chief.

Chief Muzeroll said that his reference is that the applicant said that he has a detailed drawing and an engineered, stamped plan.

Mr. Pope said that he just got the stamped plan.

Chief Muzeroll said that, not that it would be detrimental to the applicant or application, he would like to know what it's made of because there are certain requirements that may be in place, safety-wise, and he's sure, if there's an engineer stamp on it, a lot of that stuff goes away but he would like to know about that for fire suppression procedures. He added that, as part of the conditions, he would like a set of plans for that.

Mr. Pope agreed that he would be happy to provide that.

Chief Muzeroll asked if this was going to be a locked facility.

Mr. Pope said that it must be.

Chief Muzeroll asked if this is the building the applicant indicated would have a fire alarm system in it or is it not.

Mr. Pope said that the store will have a fire alarm system that the public has access to.

Chief Muzeroll said that the public isn't going to come in and ask to see what the applicant is doing and look at the bud process, and where we are, before that person buys; that there would be no public access.

Mr. Pope said no; that he could lose his license.

Chief Muzeroll clarified that different rules apply for public access versus private access. He said that the applicant indicated his willingness to put a fire alarm in that small building.

Mr. Pope said of course.

Chief Muzeroll asked if the applicant was utilizing the 4,500-square-foot building that would be beside that building, not the one we're talking about 'to be demolished'.

Mr. Pope said that he is but he's been very limited because he's been in limbo with what he can do; that the whole purpose was to put everything out so that he can actually do all his construction.

Chief Muzeroll asked what the end result would be of that building; that he just has a modified plan and realized that it was approved previously; is it office space, storage space.

Mr. Pope said that it's for cultivation, kitchen – no animal fats, etc., and processing.

Chief Muzeroll said that the applicant is going to use a couple different buildings for process; the greenhouse for growing (part of a process) and, on this plan that the applicant has provided from BrightBuilt, it shows three independent 1,200...

Attorney Ryan said that the 4,500 square-foot building is pre-existing and that will also be used for cultivation processing and a test kitchen.

Chief Muzeroll asked if the cultivation would be in the same manner as in the greenhouse.

Mr. Pope said yes.

Chief Muzeroll asked if the applicant was in agreement that the same process controls could be applied for not just the greenhouse but for this building.

Mr. Pope said no; that the greenhouse is different in that we're growing plants in soil under either artificial light or sunlight; that one's outside in a greenhouse and enclosed with a roof, and one is not; one is under a roof with insulation.

Chief Muzeroll said that he is trying to tie the two things together that the end result is going to be the sale of a product no matter where you're growing it on the property.

Mr. Pope said that that was correct; that space is the differentiator.

Chief Muzeroll said, to clarify, that the applicant has a 3,600-square-foot greenhouse that is doing part of the operation and a 4,500-foot wood building, with a roof on it, that will essentially be doing the same thing.

Mr. Pope agreed that that was correct.

Chief Muzeroll asked if the applicant was planning to have any fire alarm system in that building.

Mr. Poe said yes; motion sensor, alarms, all sorts of things; fire alarms. He added a Knox Box, as well, because there will be a gate that separates the storefront from the growing facility. He added that there are two gates, one at Route 236 and the other where the green tarp is (storefront).

Chief Muzeroll asked if we are going to work with what we need for access controls.

Mr. Pope said yes.

Chief Muzeroll asked if the applicant understood that it was a bond issue and not everyone in the world has a key to it; that nobody has a key to it and all that kind of stuff.

Mr. Pope said yes.

Chief Muzeroll said that, if the applicant is telling him that the greenhouse will be built in September, then nobody needs to track what's going on with the temporary structure.

Mr. Pope said that it goes up in four days; that it's very quick.

Chief Muzeroll said that he would be upfront that, even though the Town Planner took the hit for it, he was the one that complained the most about a security fence going up and an operation going up without prior approval; that he still stands by the fact that he doesn't look at it as a construction operation. He said, to relieve the PB a little bit of trepidation about approval of the BrightBuilt office space, the size of it does not meet the requirements of a mercantile operation or a sales point that would require any further review other than a local review by the CEO; that all it has is two offices and a small sales space; that they may be independent of one another and we can't control who they rent space to, but it's a small building. He said that, as we walk away from this, he'll get an assurance from the applicant, and the applicant will get an assurance from him, that we'll work together when, and if, this application gets approved to establish process controls in accordance with NFPA-1 Chapter 38 and NFPA 101 requirements for the buildings that the applicant will be occupying or utilizing; that anything more stringent may come from another agency; that these are minimum guidelines.

Mr. Pope said that we will do it for what's on the books right now.

Chief Muzeroll asked if the applicant was denying the fact that he wants to set fire safety controls and process controls; that the applicant doesn't want to do that.

Mr. Pope said no, that he is not denying that; that he's just denying the Chief imposing something that's not currently applicable by the Town and the State.

Chief Muzeroll said okay; that if the applicant doesn't want to set controls based on added information because it's not on the books...

Mr. Pope clarified that he does want to work with the Fire Chief and he wants to set up controls that are going to be safe for himself, his employees, and the public, or for any firefighter, or anybody, that comes in to save the people and anything that's there.

Chief Muzeroll commented that, then, the applicant shouldn't have any objection to him using a document that has been looked at by a million people and having that discussion with the applicant.

Mr. Pope said that he is open to having a discussion but, not having read in-depth what that is...

Chief Muzeroll said that the applicant was provided with that previously.

Mr. Pope said certainly; that he was also provided a plethora of information to know that it wasn't imposed, yet, and that it can be a recommendation; that when we previously spoke and Ms. Bennett asked if he would be willing to consider it, he said that he would be willing to consider it; that he's still willing to consider it.

Chief Muzeroll said that his thought is that he is providing information that's available to us, and available nationwide, and many communities are utilizing it; and that the applicant wants to pick and choose as to which chapter, or which lines out of that chapter, you want to follow.

Mr. Lentz said that the Fire Chief has expressed himself; that we need to see the requirements documented and have an understanding of what they are; that they need to work together. He thanked the Fire Chief for his input.

The Town Planner suggested an option to the PB that could come under consideration. She said that the PB has the option of keeping the hearing open; that she understands the applicant's timeline and that this is his second meeting but there are a number of things; that the application is considered complete with the amendments that have been discussed; that there are a number of things that could easily be captured and put together as one final packet of information, based on all the discussion we've had tonight; that the applicant could just put together one documentation and, in the interim, have time to meet with the Fire Chief; that the Public Hearing could remain open so that they could work out their review to the next meeting, whenever that would be, perhaps a special meeting. She added that that package would give the public what was discussed tonight to take another review on, letting them know what exactly was on the record for the application.

Mr. Pope said that his thought was that there was an agreement that the application was complete, provided that he gives the PB what was requested.

Ms. Bennett said that she doesn't think the Town Planner is contesting that.

Mr. Lentz agreed that she was not; that he is in total agreement; that he has a lot of loose ends, here; that he's not saying that they need more answers but, somewhere, we need to bring these things together into one final document.

Mr. Cielezsko said that he wants to proceed; that we've worked out everything we need and addressed reservations; that we cannot force a person to meet a code that we haven't adopted, nor has the State; so, that's off the table for him. He added that the applicant's insurance company has more pull than the Fire Chief, right now, and he has a formidable task ahead of him to insure the place. He added that we have conditions of approval that, if we list them properly between us, we can do this, if we're going to accept it. He said that he doesn't see the need for a continuation.

Ms. Bennett said that she is of two minds; that she thinks the applicant has done an exceptional job getting a lot of materials together in a relatively short period of time, and we have volumes of answers to questions; that they have come in different spurts, so it is a little disorganized, and might speak to the merits of continuing just organizing all the material so that everyone, not only the PB, but the Fire Chief and the public could see all the pertinent information, all together, and a site plan that has everything on it but she's not hung up on that. She added that wanted to discuss the Fire Chief and applicant discussion, saying that she agrees that the PB can't hold the applicant to any standard

that's not on the books but, when she asked the applicant if he would make the effort to meet with the Fire Chief and to consider some of these other national standards that have come forward and adopted by other states that are a little more on the forefront in this realm, she was pleased to hear the applicant would make a good-faith effort to do that. She said that every point along this process, in your application and amendment to that application, the applicant has demonstrated himself to have a very professional organization and people that are putting a lot of diligence and concern into doing the right things; that the applicant could pave the way in an uncertain future for all of us; whereas we know new rules are coming. She commented that she was equivocal about continuing the Public Hearing and could be swayed either way.

Ms. Horner said that, unless there are other people from the public who want to speak, she thinks we should close the Public Hearing.

Mr. Snyder agreed with Ms. Horner.

Chief Muzeroll said that one of the concerns he has with the direction we're going in, right now...that he's in agreement that certain things aren't on the books, whether he thinks they should be there or not, but, he's concerned about how we're going to view, in the future, any recommendations that come from his office or any other safety planning officer, CEO, that are not on the books. He asked what about people who have had recommendations suggested by his office that have had them incorporated into their application approval process. He asked if we could be setting a precedent regarding not having to do it because those are recommendation and not law.

Mr. Lentz said that he agreed that there is no way we can hold an applicant responsible for something that isn't defined or on the books. He added that, on the other hand, he thinks it's important that we help to promote a willingness of the applicant to be able to work with the Fire Chief, the Police Chief, the Public Works Director, and so many like that; that that's his personal feeling; that to answer the Fire Chief's question, he doesn't know the answer.

Mr. Cieleuszko said that, in his looking at this, previously if the Fire Chief made a recommendation and, in the process, the applicant agrees to and the Fire Chief feels is important, then anything the applicant agrees to can be used as part of the requirements of the job; but, if any applicant doesn't agree with what the Fire Chief recommends and it can't be backed up by an existing ordinance, then we can't hold that applicant to that standard.

Chief Muzeroll asked if he just told him that if there isn't a law, rule, or regulation on the books that verifies anybody's recommendation, that it's a waste of words.

Mr. Cieleuszko said that, if he wants to put it that bluntly, he will go with that. He added that that's not a bad thing because we're public officials and we have to go by the rules.



Ms. Horner said that she feels like there's been ample time to give us recommendations because the application that we are looking at is essentially an addition of a greenhouse and an office space; that they've been approved as a Medical Marijuana Caregiver for quite some time. She added that all of this stuff that is coming up, in her humble opinion, could have been fleshed out the first time around; that she doesn't think it's fair, and she actually thinks it's very smart of the applicants to not give the Fire Chief a blanket yes to agreeing to recommendations that they haven't had the opportunity to review, yet.

Chief Muzeroll disagreed.

Ms. Horner reiterated that she thinks there's been ample time; that she agreed with Mr. Cieleuszko and Ms. Bennett that we can't hold people to laws that aren't on the books. She added that, while she 100% admires and respects the Fire Chief's position in this Town, whenever the Fire Chief comes to us with a recommendation and the applicant agrees to it, we put it in there; that, as of right now, she feels it's too broad of a recommendation to throw into an approval without even knowing exactly what the Fire Chief would be asking them to agree to, and, the applicants said that they don't want to agree to it without going over it with the Fire Chief. She added that she thinks they are open to working with the Fire Chief on that and that is where it should start.

Mr. Lentz said that a question is whether to leave the Public Hearing open; that he heard from some that it may be a good thing to put together one good set of documentation.

Mr. Cieleuszko said that he thinks we should close the Public Hearing.

Ms. Bennett agreed; that although she loves organization, she thinks we have everything here.

**9:21 PM      Public Hearing closed.**

Mr. Cieleuszko said that the applicant is writing in the plan that this is a caregiver retail store; now, he wants to make sure that the applicants understand completely that their business model hasn't changed, other than the people they were going to visit are now coming there (site) to pick up their stuff; that there's no retail here, we don't have retail marijuana sales in Eliot and, if that is approved, the applicant will have to come back for a retail establishment; that that's another change of use. He clarified that, if this Town says that we want marijuana retail stores, what we're giving the applicant has nothing to do with an okay by the Town, in his mind, and he wanted to make that abundantly clear. He asked the applicant if we can, as a condition, change the name of this to 'professional office space', some other name than retail store; that retail should not be in that definition.

Mr. Pope agreed that we can do that; that what we sell is not recreational and the people have to have a card. He added that, it can't convert, even if retail was approved; that we would have to come back to the Town.

The PB discussed possible loopholes and leaving it as retail with the caveat that no recreational sales are authorized.

Mr. Pope said that, in order to get a recreational license to sell cannabis to anyone over 21 in the Adult Use Program, you have to have the municipality's permission to do so; that he would risk losing his license if he were to sell to just anybody.

The Town Planner clarified that the Registered Primary Caregiver Store was recently included in an approval; that it will be effective 90 days after the second special legislature adjourns; that after that 90 days, the Town will be automatically opted out, unless it chooses to specifically add this use to the ordinance and opt in; that any stores operating when that goes into effect would have grandfathered status; additionally, any retail sales, now, with marijuana required a municipality to have actually opted in, per ordinance requirement or regulation. She said that we could add to the Decision Notice that any change would require pre-approval. She added that, with the term 'Primary Caregiver Store', you could take 'retail' out but that comes down from the State.

Mr. Cieleuszko said that, so long as it's Caregiver Store and with that information, he's good with that.

The Town Planner said that the applicant could write something on the plan and initial it so that there is something clear for tonight's meeting.

**Mr. Cieleuszko moved, second by Ms. Horner, that the Planning Board accept the application for Site Plan Amendment, PB18-09, 495 Harold L. Dow Highway, for the applicants' Amended Site Plan, with the following Conditions:**

- 1. The property may be developed and used only in accordance with the plans, documents, material submitted, and representations of the applicant made to the Planning Board. All elements and features of the use as presented to the Planning Board are conditions of approval and no changes in any of those elements or features are permitted unless such changes are first submitted to and approved by the Eliot Planning Board. Copies of approved permits from Maine DEP, Army Corps of Engineers, if applicable, and State shall be provided to the CEO before construction on this project may begin.**
- 2. The permit is approved on the basis of information provided by the applicant in the record regarding the ownership of the property and boundary location. The applicant has the burden of ensuring that they have the legal right to use the property and that they are measuring required setbacks from the legal boundary lines of the lot. The approval of this permit in no way relieves the applicant of this burden. Nor does this permit approval constitute a resolution in favor of the applicant of any issues regarding the property boundaries, ownership, or similar title issues. The permit holder would be well-advised to resolve any such title problems before expending money in reliance on this permit.**

3. The applicant authorizes inspection of premises by the Code Enforcement Officer during the term of the permit for the purposes of permit compliance.
4. The applicant will submit an estimated progress schedule to the Town Planner.
5. The applicant will remove the note on the existing warehouse business, followed by 2,360 sq. ft. to be demolished, from the Plan.
6. The applicant will re-write and identify the greenhouse dimensions to reflect the actual building.
7. Parking calculations will be re-written to reflect calculations used, including reference to §45-495(9) Public Building and Professional Offices.
8. The applicant will update the Site Plan to the required scale.
9. The applicant will add the owner's name.
10. The applicant will submit a stamped plan to the Fire Chief.
11. The applicant will change the title of the Site Plan to Amendment to Site Plan.

**VOTE**

**5-0**

**Motion passes**

Mr. Lentz said that the application stands approved and there is a 30-day period from which the PB decision can be appealed by an aggrieved person or parties – move forward but move forward cautiously.

**9:35 PM      The PB took a 5-minute recess.**

**ITEM 6 – NEW BUSINESS**

**A. 13 Bittersweet Lane (Map 22/Lot 6) and 112 Beech Road (Map 22/Lot 6-4):  
PB18-11 – Property Line Revision.**

**Received: August 14, 2018**

**1<sup>st</sup> Heard: \_\_\_\_\_, 2018**

**Public Hearing: \_\_\_\_\_**

**2<sup>nd</sup> Hearing: \_\_\_\_\_**

**Site Walk: \_\_\_\_\_**

**Approval: \_\_\_\_\_, 2018**

The applicant was not present for this application.

The PB agreed that they would table this application until the applicant could be present.

**Ms. Bennett moved, second by Ms. Horner, that the Planning Board table PB18-11 until September 18, 2018.**

**VOTE**

**5-0**  
**Motion approved**

**ITEM 7 – REVIEW AND APPROVE MINUTES**

Ms. Bennett moved, second by Ms. Horner, to approve the minutes of August 7, 2018, as amended.

**VOTE**  
**5-0**  
**Motion approved**

**ITEM 8 – CORRESPONDENCE**

There was no correspondence.

**ITEM 9 – UPDATES FROM TOWN PLANNER & PLANNING OFFICE**

**a) Previously-approved By-laws (review and possible approval of suggested revisions from the Select Board).**

**b) Updates: State law – adult cannabis use(s).**


Due to the lateness of the evening, the PB agreed to put this on the September 4 agenda.

**ITEM 10 – SET AGENDA AND DATE FOR NEXT MEETING**

The next regular Planning Board Meeting is scheduled for September 4, 2018 at 7PM.

**ITEM 11 – ADJOURN**

There was a motion and a second to adjourn the meeting at 9:47 PM.

  
Dennis Lentz, Chair  
Date approved: 09/04/2018

**Respectfully submitted,**

**Ellen Lemire, Recording Secretary**