

ITEM 1 - ROLL CALL

Present: Acting Chair Christine Bennett, Melissa Horner, Carmela Braun, Bill Olsen – Alternate.

Also Present: Abbie Sherwin, Planner; Ms. Goodwin, Land Use Administrative Assistant.

Absent: Dennis Lentz – Chairman (excused), Ed Cieleuszko, (excused).

Voting members: Acting Chair Christine Bennett, Melissa Horner, Carmela Braun, Bill Olsen – Alternate.

ITEM 2 – PLEDGE OF ALLEGIANCE

ITEM 3 – MOMENT OF SILENCE

ITEM 4 – 10-MINUTE PUBLIC INPUT SESSION

Mr. (Ken) Wood, Attar Engineering, said that §45-467 of our ordinance addresses Open Space Development and are allowed in the Rural District and, in Overlay District, they are actually encouraged. He added that the section is pretty clear that Open Space Developments have to meet the requirements of Subdivision, referencing Chapters 33, 37, and 41. He said that the ordinance, to him, is silent on frontage and he doesn't know if we have a minimum frontage requirement for Open Space. He added that, if the ordinance says that Open Space lots have to meet the requirements of Subdivision, and it's clear on frontage in the Shoreland Zone and also the need to meet setbacks, it seems that in the Rural Zone, Open Space lots would have to have 200 feet of frontage. He said that, of course, that flies against the definition of Open Space lots. He added that Ms. Sherwin has done quite a bit of research on it and we haven't really got to the point of a determination of frontage. He explained that he wanted to raise the question because we do have a possibility of doing an Open Space Development in Eliot; that he thinks it's the first one.

Ms. Lemire said that there is one.

Mr. Wood asked if anyone remembered what they used for frontage.

Ms. Bennett said that she didn't recall but it might have been on Frost Hill Road.

Mr. Wood said that that might have the answer to his question.

Ms. Sherwin said that the ordinance does suggest that all of the other dimensional need to be adhered to apart from the minimum lot size.

Ms. Bennett thanked Mr. Wood for sort of teeing up for the PB so that we can review and familiarize ourselves with that ordinance.

ITEM 5 – REVIEW AND APPROVE MINUTES

Ms. Horner moved, second by Ms. Braun, to approve the minutes of June 4, 2019, as amended.

DISCUSSION

Ms. Horner asked if we needed to appoint Mr. Olsen as a voting member.

Ms. Bennett agreed that they did. She explained that Mr. Lentz and Mr. Cieleuszko are absent this evening. She appointed Mr. Olsen as a regular, voting member.

DISCUSSION ENDED

VOTE

4-0

Motion approved

Ms. Horner clarified that, in the minutes, she was trying to make the agricultural ordinance before us easier so that we didn't have to bring it to the Town and she wanted to make sure she was clear on that because she doesn't want it used against her that she always wants the Town to vote on things. She said that that was sort of the conversation we had been having where he wanted it to go to the Town and she was trying to make it easier so that he didn't have to; that that wasn't, maybe, her intention with that, that she was just trying to make something, maybe, that was potentially very complicated a little less complicated to the benefit of the Town. She added that she is always for bringing things to the Town, if necessary.

ITEM 6 – PUBLIC HEARING

A. 291 Harold L. Dow Highway (Map 37, Lot 2-1) PB19-6: Site Plan Review – An application to request a Change of Use from Cold Storage to Non-profit Medical Marijuana Dispensary. The applicant is proposing to convert the rear Storage Building to a Medical Marijuana Cultivation and Processing Facility. Applicant is Attar Engineering (Mailing address: 1284 State Road, Eliot, ME 03903). Owner is Paolucci Realty Trust (mailing address: 291 Harold L. Dow Highway, Eliot, Maine 03903). Property is located in the Commercial/Industrial District and Limited Commercial District.

Received: April 10, 2019

1st Heard: April 16, 2019

2nd Hearing: May 21, 2019

3rd Hearing: June 18, 2019

Public Hearing: June 18, 2019

Site Walk: June 4, 2019

Approval: _____, 2019

Mr. (Ken) Wood, Attar Engineering, the applicants, Mr. (Dana) Brearley and Mr. (James) Folan, and Mr. (Peter) Paul, property owner, were present for this application.

Ms. Bennett explained the public hearing process for the benefit of the attending public.

7:12 PM Public Hearing opened.

Mr. Brearley said that he and Mr. Folan are here to get the use changed to a cultivation /processing/commercial kitchen on the property at Northern Pool & Spa. He added that our ultimate goal, here, is to get approval tonight so we can meet the demand of the patients we are seeing.

Mr. Wood discussed the site plan:

- 3-acre parcel
- Pertinent structure is the rear building (Bldg. #2) on the parcel
- Structure is 5,000 square feet
- Everything is done inside the secure facility
- The Plan has been updated since the site walk
 - Show existing gravel access way around building
 - Incorporated the other Fire Chief comments re: security, securing secondary access, having MSDS sheets, Knox Box at main access
 - Access to facility also controlled by gate adjacent to the Northern Pool & Spa building/gate locked during non-working hours and has a Knox Box
 - Propose using a combined dumpster – very little waste and dumpster screened and locked during non-working hours
 - Provided additional screening with arborvitae
 - Facility needs 9 parking spaces & we provide 10.

Mr. Wood said that we believe we've met the requirements of §33-189 that controls this type of facility and, if the PB is willing and able, we would like the PB to consider approval tonight. He added that the applicants have a construction schedule in mind and they also have a growing roster of patients that they care about.; so, if we could bring the facility online, it would help their patients and allow the applicants to provide care for the patients.

Ms. Bennett asked if there was anyone from the public that would like to ask a question of either the applicants or the PB on this application.

There was no one from the public who spoke.

7:16 PM Public Hearing closed.

Ms. Bennett said that, before we start our conversation of the current state of the application and what we've received from the Fire Chief and Town Planner, she would like to ask two of the PB members, one who has been absent due to maternity leave and the other a brand new member, if they feel they have had enough opportunity to review

the materials available in terms of printed material and/or taped meetings that they can participate in the conversation with enough information.

Ms. Horner said that she has reviewed the minutes, she did not watch any of the videos, and she just realized that she has not reviewed the Fire Chief's most recent comments.

Ms. Bennett asked Ms. Horner if she felt she could participate fully in the conversation if we were to proceed this evening to review the merits of the application.

Ms. Horner said yes.

Ms. Bennett asked Mr. Olsen if, as a brand-new member, if he could do the same.

Mr. Olsen said that he is very much brand new and unfortunately for our applicant he had a medical procedure that was much more significant and he has basically lost a week; so, he has not been able to go through all the material and, because of him being the last vote and certainly as a business person understanding deadlines and all that, he apologized, saying that he didn't feel that he is appropriately to task for this important vote in order to do this tonight.

Ms. Bennett said that she appreciated his being forthright and it's what is required of us. She added that what she unfortunately has to say is, given that, we don't have a quorum to proceed this evening on the possible acceptance of this application and we will have to table it to our next meeting. She said that our next meeting is administrative and asked what our schedule looked like.

Ms. Sherwin said that this is on that agenda so there is space on the agenda.

After some discussion, the PB agreed to continue the conversation in preparation for the next meeting.

Ms. Horner asked, wanting to be clear, if the applicant's business was as a caregiver.

Mr. Brearley said that that was correct.

Ms. Horner asked if he needed to have a separate license from the State to be a caregiver and another license to be a dispensary.

Mr. Brearley said that that was correct.

Ms. Horner said that, in Eliot, the applicant doesn't have to apply for caregiver status because we only have the non-profit dispensary going on.

Mr. Brearley said that, currently in the Land Use Table, there is only an application option to check the box for Dispensary, Non-profit; that under the legal jurisdiction of the State of Maine law there are two entities that can operate a cannabis business, the

Dispensary, Non-profit and Caregiver. He added that we fall under the Caregiver model, as previous applicants in the past, however, there is no box to be checked in the Land Use Table for Caregiver.

Ms. Horner said that in the opening description of this application, the word 'commercial kitchen' was used but that isn't on the application so she wanted to make it clear that we aren't looking at this as a food space; that she thinks they may have to come back.

Ms. Bennett agreed, saying that if they are seeking approval for a commercial kitchen involved in the application, then they need to amend their application, she believes.

Mr. Wood said that the kitchen is part of the production of the facility and it's been shown on the floor plan, and it's part of the licensing. He asked if the applicant had to apply for a licensed, commercial kitchen.

Ms. Horner said she wanted to make sure we're all on the same page, her, as to what's being approved; that in her limited knowledge, if they go to the State with Town approval, which they need, she would hate for them to have to come...there could be a hiccup, there, if they need approval from this PB for food production. She added that she was under the impression that if they want to do food, regardless if it was hemp or marijuana, it would need to be approved.

Ms. Sherwin said that she was not at the Site Walk, and apologized, but this is the first time she is hearing the term 'commercial kitchen'. She added that it does say 'kitchen' on the plan.

Ms. Bennett said that she thinks we were all under the assumption that that was a break room; that she was not under the assumption that there would be food-grade processing.

Ms. Horner said that that was fine; that it just needed to be clarified.

Mr. Brearley said that we do qualify with all the State requirements for that.

Mr. Folan said that it is a DHHS requirement where they basically say 'these' are the things you need to have; that he doesn't know the process, as well, but, at the same time, we are looking into that and making sure we're compliant with DHHS requirements to make sure that everybody is cool with the idea of a commercial kitchen. He asked if, regarding the commercial kitchen, if that was just a verbiage change on their part in the application.

Ms. Horner said that she would defer to the Planner because this is the first time 'commercial kitchen' has come before the PB.

Ms. Sherwin said that the 'commercial kitchen' was new to her so she would want to review the ordinances and find out more information from the applicant as to what exactly would be going on.

Mr. Folan agreed, apologizing that they didn't have a lot of data on that.

Ms. Bennett said that that was a great question; that she had noted the 'commercial kitchen'. She asked if there was enough time between now and July 2nd to bring forward more explanation about this 'commercial kitchen'.

Mr. Brearley said yes.

Ms. Bennett said that we would like the applicant to work with our Town Planner on this to get more explanation on this so that she can inform us about what that is.

Ms. Horner said that she had the DHHS document and it says that "licensed caregivers must comply with regulations applicable to food establishments."

Ms. Bennett said that we need to review that the applicant is doing that, if they want to do that.

Mr. Brearley agreed, saying that they did want to do that.

Ms. Horner asked if Northern Pool & Spa would have a contract with the dispensary.

Mr. Wood said that he believed they would have a lease.

Ms. Horner asked if any of the owners or employees or family members, there, involved with the board they are going to have to create under non-profit status.

Mr. Brearley said that, with the Caregiver model, you don't have to do that.

Ms. Horner asked if we received a Certificate of Incorporation from the Secretary of State; that she was under the impression that, to be a dispensary, you need a board, a set of by-laws, etc.

Mr. Brearley said that that is entity formation for Dispensary, Non-profit but the Caregiver model is different.

Ms. Horner said that the only other thing was regarding the stuff they got from the Planner's review; that she thinks a lot of that has been addressed. She asked if we got a lighting plan.

Mr. Wood said that there is no additional lighting proposed.

Ms. Horner said that, in all the DHHS stuff, it requires the applicant to have lighting to deter bad stuff.

Mr. Brearley said that most of those laws are around because most non-profit dispensaries have patients coming to visit the facility and purchasing from the dispensary;

that this is really manufacturing and we felt it was more fair to check the non-profit dispensary box, seeing as it's in the same industry as it was to check the manufacturing box.

Ms. Horner said that she was nervous for their State application, asking if they were working on that.

Mr. Brearley said that we are already licensed.

Ms. Horner asked if they were just waiting for Town approval.

Mr. Brearley said yes.

Mr. Wood said that he believed the caregiver cards have been submitted.

Ms. Bennett said yes.

Mr. Olsen asked Mr. Paul if, to the left of the entry to the backlot – the fence that moves, it seemed that you could easily take a vehicle around that and asked if he missed something on the Site Walk.

Mr. Paul said that you would never get a vehicle through there.

Ms. Braun asked the applicant to clarify how the product was going to be delivered; that it's going to be packaged individually and the applicant will take it to the patient, as she understands. She also asked how the applicant was going to do that, by private vehicle, by truck.

Mr. Brearley said that they would package and that they will have a vehicle for use for that; that it wouldn't necessarily be a dedicated vehicle, as both he and Mr. Folan are caregivers and will probably use both of our vehicles. She added that she knew she had asked before about security issues but asked if they would go by themselves to deliver the product without any possibility that they might be stopped; that she was concerned about the product getting into the wrong hands.

Mr. Brearley said yes, explaining that the general rule of thumb is that they don't carry much product or very much cash.

Ms. Braun asked if, when they deliver it, they hand it directly to the patient and have the patient sign for that product.

Mr. Brearley said yes; that there is a delivery slip, as well as a receipt, that we use to track the sale itself; that the slips stay at the building that records the estimated time it left the building, arrival to patient, and signed by one of use that delivery was made, and receipt of sale.

Ms. Braun said that Mr. Folan's license had run out in June, asking if he had presented the renewed license.

Mr. Folan said that he actually called DHHS; that they are just behind and haven't mailed it out. He added that, as soon as he has it, he will give the Town a copy.

Ms. Braun said that, if he doesn't have it by the end of the month, she suggested he call them and ask them to send him a statement to that effect so that it is in your application file.

Mr. Folan said that that would not be a problem.

Ms. Horner added that, if this application is approved, that could be a condition of approval.

Ms. Braun said that she was under the impression that the applicant was supposed to have a dedicated dumpster locked at all times for their facility; that she doesn't see that on the site plan.

Mr. Wood said that he doesn't believe that §33-189 requires a dedicated dumpster but would look it up. He added that he thought, at the Site Walk when he pointed out the dumpster, we had talked about the combined use of the dumpster and would be locked during non-working hours.

Mr. Folan said that we will produce anywhere from 10 to 15 lbs. of waste anywhere from 2 to 3 weeks at a time; that it would be minimal and fit in a trash bag. He added that he had reviewed with the PB mixing that with inert material and, in that case, it could be potentially composted; that it is carbon material, leaf matter, with no real value. He said that they recycle all of their water inside the facility and reclaim it all so there is no water waste. He added that he knew, in the Site Walk, we had gone through where Mr. Paul has his two locked dumpsters that he could apportion one to them that they could keep locked; that he knew that was something we all went through quickly and he doesn't remember if the PB was okay with that at the time.

Ms. Bennett asked if he was proposing that one of the two dumpsters would be dedicated for their use and locked.

Mr. Folan said yes, that he believes that is what we discussed.

Mr. Brearley said that Mr. Paul wasn't utilizing both spaces so we just elected to share one; that there are no materials that come from their facility that contain THC that would be a hazard to people and doesn't know if that would affect the application at all. He added that when all is said and done, with dumpsters, he wasn't too concerned about it but they would add their own dumpster if that is necessary.

Ms. Braun said that she would prefer to see a dedicated dumpster.

Mr. Folan said that that would be fine. He added that he would make the appropriate change to the site plan.

Ms. Bennett apologized that the PB could not take action this evening on the application because of a lack of quorum but we will see the applicants, if they are amenable, on July 2nd.

The applicants agreed to be at the July 2nd meeting.

ITEM 7 – OLD BUSINESS

A. Agritourism Ordinance Discussion

1. Review of Farmland Overlay Ordinance examples from other surrounding towns.

Ms. Bennett asked Ms. Sherwin to discuss what she had prepared on this.

Ms. Sherwin said that this was an example from the Town of York having to do with the town's Farmland Enterprise Overlay District, which is essentially a form of zoning that the town has applied to allow specific uses that are traditionally considered accessory to agricultural use on those specific parcels that have been identified and incorporated into the Overlay District. She added that the town has also developed an accompanying ordinance that specifies allowed and prohibited uses on those parcels, addresses information about specific events and how those may or may not occur on each of those parcels, and incorporates some specific performance standards for certain uses on those parcels. She clarified that this all relates back to just allowing traditional agricultural farms to diversify in what they're doing beyond the traditional agricultural use but also include accessory uses.

Ms. Bennett asked if she knew if Mr. Widi had an opportunity to see this.

Ms. Sherwin said that he came into the Planning Office and she shared this with him.

Mr. Olsen said that, in reading this, York has done a good job talking about what's allowed under this; that while weddings (as Mr. Widi suggested) are a completely different thing from agriculture and it seems that York has done a nice job ruling that out, right from the get-go, that that's not what this is about.

Ms. Sherwin agreed that they do; that she thinks, in §10-G.2.c. of Article 10, it addresses special events in excess of 50 people, which would typically be a wedding or some large gathering of people, and specifically says that those types of events need to go to the SB, and they have a special events permit and process associated with that type of activity, so it's not incorporated into the permissible uses that are considered accessory to the agricultural use.

Mr. Olsen said that this ordinance has been around since 2000 and asked if this was their original; that there is an amendment in 2014 or does it go back as far as 1993.

Ms. Sherwin said that she doesn't know when they first adopted this overlay district but she could certainly find out. She added that the map is periodically updated as new farms come online.

Ms. Horner said that she was going back to what she said at our last meeting, which is that our current ordinance, in her opinion, protects him from what he's asking to be protected from except for the wedding piece; however, there's nothing she can see in our ordinance that would prohibit him from doing that until there's enough complaints in Town that something would need to be addressed with him, possibly as a civil matter and not necessarily as Planning & Development matter. She added that she is all for working on this and eventually putting it to the Town and incorporating it into our ordinances; that she thinks it's a smart thing to do and it might allow other farms in Town to be motivated because there would be an ordinance that states we are encouraging it. She said that she thought that York's ordinance was great and very clear.

Mr. Olsen said that he's not speaking for Mr. Widi but his two examples were a birthday party and a wedding so that's outside of this and that would be what would require you, if you were going to build a \$200,000 beautiful barn to have those; that that seemed to be the push, to get some clarification on his side would probably be helpful.

Ms. Bennett agreed.

Ms. Horner asked if she couldn't have a wedding at her house.

The PB agreed that she could.

Ms. Horner said that she could do it every weekend until the neighbors complained; that that is where she feels he is right now and anyone else in Town, as well.

Ms. Braun said that he was basically asking for protection against any possible suit from angry neighbors or anything along that line.

Ms. Bennett added explicit parameters as to what was allowed and what wasn't for a farm.

Ms. Horner said that, if we allowed weddings with a specific ordinance to protect one person, the neighbors could still call and complain; that just because he's allowed to do it doesn't mean people will be happy about it. She added that she's not sure what direction to go in and it's too bad he's not here to help push the conversation in a certain direction. She said that she's onboard with this if this is something we decide to pursue; that it's certainly an encouraging ordinance.

Ms. Bennett agreed. She said that, looking at the overlay map, not all the farms in York have decided to be part of this overlay.

Ms. Sherwin said that there are also specific criteria as to what has to be in place for a farm to meet the definition of a farm according to this overlay district, so not just any farm could be incorporated.

Ms. Bennett said that notably missing is Zacharias (Zach's Farm); that he's not part of this overlay. She added that Mr. Widi had used Zacharias as an example with the corn maze, saying that they didn't need to be part of it because they were grandfathered.

Ms. Sherwin said that the map is dated 2013 from online and it is possible that they have updated the map but not uploaded it yet.

Ms. Horner asked if anyone knew if this overlay protected farms from development, even in the future from something like real estate development.

Ms. Bennett said that she thinks this would be separate from something like 'current use' protection. She added that she thought 'current use' would potentially assess a tax penalty. She said that, at this point, we don't have the applicant before us to ask in going forward and we don't have the full Board present in terms of outlining next steps.

Ms. Horner suggested we invite Mr. Widi to the next meeting, as he was advocating for us to do this soon to get it on the ballot and be able to do it next year, which she is happy to do but government moves slow.

Ms. Bennett said that we are pushing a timeline, too.

Ms. Goodwin clarified that the absolute latest date we could have a public hearing, and allow the SB to do all of their stuff, would be July 16th; that, ideally, it would be nice to have a public hearing on some ordinances on July 2nd but that is with her pleading with the newspaper to post it so we get the 10-day notice requirement out. She said that the other option is to have a special public hearing for the ordinance revisions in between those two dates.

Ms. Horner said that she was thinking that this would go to voters next June.

Ms. Sherwin said that she believes that, at the last meeting, there was discussion about taking time with the ordinance but, perhaps, putting a non-binding question on this June ballot on whether there is appetite in the Town for something like this.

Ms. Bennett said that, for that, we do not need a public hearing; that we can have a discussion amongst ourselves and the applicant about a non-binding question.

Ms. Horner asked if we didn't talk about that the last time.

Ms. Lemire said that you did; that someone was supposed to write it (Ms. Sherwin).

The PB agreed to make this an agenda item for the July 2nd meeting to formalize a non-binding ballot question, discuss the overlay district, and invite Mr. Widi to attend.

B. Adult Use Marijuana Ordinance Revisions

Ms. Horner said that she incorporated Mr. Murphy's grammatical edits; that some of his changes, as she previously said, she is taking as suggestions and not final edits; that she thought it would be worth going through those to see if the PB is in agreement with adding them, or not; that she had said that she would review the minutes of May 21 joint meeting with the SB. She added that she went through those and, unless she is missing something, didn't feel like there were a lot of changes suggested or made; that there were some things that came up that were just clarification ideas and then there were suggestions but the tricky part of the minutes was that nothing came to a resolution.

Ms. Horner reviewed §33-190, saying that she capitalized the words 'marijuana establishments' throughout the document. She added that there was a lot of discussion around 'sensitive uses' in §33-190(e) regarding the word 'public facility' and she put in 'government facility' as a placeholder because she thinks, as we've been working through this, 'public facility' meant post office or Town Hall, that sort of 'public facility', and she thought we should talk about that again.

Mr. Olsen said that the place he would start would be to ask what is our intention, we want 500 feet from what.

Ms. Horner said that she thought this came up because of an application that was before the PB because, to her knowledge, we hadn't run into an issue with this word – public facility – before, that roads started getting thrown in there. She added that she thinks the intent, here, is to have a clear definition of where we're trying to restrict this use.

Mr. Olsen asked if it was a physical structure, some type of public use activity.

Ms. Horner said that that's the question.

Mr. Olsen asked Ms. Sherwin what the normal verbiage is in planning land for public use property.

Ms. Sherwin said that 'public facility' is commonly used; that she would just point out that 'public facility' is specifically used in this ordinance, she believes, because it's also specified in the Non-profit Medical Marijuana Ordinance. She added that she thought there was discussion about changing the definition of 'public facility' specifically for the Adult Use and Non-profit Medical Marijuana Dispensary sections of the ordinances so that it didn't incorporate things like public roads.

Ms. Horner asked members of the audience if they were at all educated on the recreational marijuana draft that the State of Maine just put out.

A member of the audience said yes.

Ms. Horner said that she knew that, in there, they talk about this; that you can't be near a school, as an example, but does the speaker know if they only speak on schools or do they touch on 'public facilities' or government buildings.

The audience member said that he didn't want to get quoted but he's pretty sure that they only say schools.

Another audience member said that their concentration was definitely around schools, day cares, kindergartens; that they seemed to have ruled out some other facilities, in that sense, like post office; that it wasn't verbatim mentioned in that document but definitely heavy verbiage around schools where children are.

Mr. Olsen asked if there hadn't been some verbiage around religious structures.

The same audience member said that he thought 'places of worship' was in an earlier draft.

Another audience member said that that is currently in the Non-profit Medical Marijuana Ordinance that they have to be 500 feet from houses of worship and, whether that carries through to retail.

Ms. Horner agreed that houses of worship was in the Non-profit Medical but we talked about taking it out of this ordinance.

Ms. Bennett said that it seems we will be more lenient with adult retail than we would with medical.

Ms. Horner said that the argument was made by Mr. Cieleuszko and we decided, as a PB, to remove that; that she took the language directly from our current ordinance.

Mr. Olsen asked if the PB did that based upon our thought of sensitive use relative to religious...

Ms. Horner said that our PB removed that; that 'places of worship' was in there, originally, and it was struck out but everything else remains the same until the workshop on May 21st.

Mr. Olsen said that he wanted to note that he wanted to revisit that; that it doesn't matter what religion you belong to, education is a pretty significant piece of it, and it seemed contrary to the school; that if retail is much freer than medical, it seems like it is completely backwards to the way he would think of it. He added that, with medical,

nobody is going to know your operation is even going it but these are going to have cars going in and out, which is going to bring those folks...it seems backwards.

Ms. Horner said that maybe she could review the State of Maine language, because she knows they touch on it, on sensitive uses; that she doesn't think they talk about 'places of worship' but she is pretty sure they talk about 'schools' and the school thing needed to qualify under something; that an argument could be made that if a church has a preschool, for example, that could potentially be a school that follows the guidelines that the State of Maine has qualified what a 'school' is.

The PB agreed to revisit this topic.

Ms. Bennett said that she liked the 'government facility' piece versus the 'public facility' piece because that really is more explicit.

Ms. Horner said that we would then have to revisit the 'public facility' definition; that it's all just a can of worms. She added that she thinks the only other change is §33-190(j), striking out 'marijuana cultivation facilities'; that that was from Mr. Murphy's grammatical edits because a 'marijuana cultivation facility' is a 'marijuana establishment'. She said that in the State of Maine draft guidelines, they break out the definition for 'marijuana establishment' and 'marijuana store' – "marijuana establishment means a cultivation facility, a products manufacturing facility, a testing facility or a marijuana store" under the ordinance in these rules and, then, they break out 'marijuana store', which means "A facility licensed under this chapter to purchase adult use marijuana, immature marijuana plants, and seedlings from a cultivation facility to purchase adult use marijuana and adult use marijuana products from a products manufacturing facility and to sell adult use marijuana, adult use marijuana products, immature marijuana plants, and seedlings to consumers." She added that the only reason she brought that up is because, in our definitions in Chapter 11...we do have Marijuana Store under 'Marijuana Establishment' and she didn't think we did.

Ms. Horner said, regarding definitions, that she basically wanted to cut-and-paste all of these definitions into our Chapter 11, clarifying that she wanted to delete all of these and use the ones from the draft (State guidelines) to make sure that we have everything that they have because all of these definitions are pulled from South Portland and not the State; that she would rather use the State definitions. She added that, on that topic, the State has a really nice definition of 'plant canopy' that she would like to use.

Ms. Bennett said that what we are looking at right now and what we started from was the basis from South Portland because we were blind not knowing what the State would be putting forward; that now we do have a good indication from the State.

Ms. Horner asked, in lieu of how this might be potentially updated, if we could write in our ordinance just to reference this document instead of changing it as they change it versus breaking out every single definition in our own code.

Ms. Sherwin said that they could do that and not include individual definitions in this; that that might cause a lot of confusion, though, when the PB is needing to review applications or if an applicant wants to read through the ordinance for a sense of what they are required to do; that it would just make the document less user-friendly.

Ms. Horner asked, if she were to take the definitions from the State draft and incorporate this in here would it make sense, then, to add a thing at the very beginning of the definitions that says "or as amended by the State". She said that she just didn't want Eliot to fall behind and having to change the ordinance every time; that maybe we have to do that anyway. She added that we do cover ourselves in that way in other places with "or as amended" or something like that.

Ms. Sherwin said that we could do something like that.

Ms. Bennett agreed that was a good thought because we know it's going to change; that it's a changing industry all the time, but our rules can be stricter than the State, we can't be less strict. She added that, if we take the State right now and the State gets more lenient, then we can think, perhaps, about going in that direction; that if they get more strict we, by necessity, will be more strict because that will compel us, or we would have the choice to give the voters to become more lenient. She said that we could take the State where we're at, at this time, and then watch it to see where it goes.

Mr. Olsen said that he was a little confused with 'Marijuana Social Club' and 'Marijuana Store', asking if a marijuana social club was like a bar you sit down and have a drink in.

Ms. Horner said that a social club would be a place where you consume a product on-site; that a store is where you would purchase the product but leave the site to consume it.

Mr. Olsen said that a social club is prohibited but a store is okay.

Ms. Bennett agreed. She clarified that we are putting the social club definition in so that people will know what it is about. She added that we did a straw poll on the ballot and what came back from the voters was that they were willing to have retail but there was no support for social clubs.

Ms. Horner said that she knew the (marijuana) fine schedule was brought up at the last meeting; that she thinks she pulled the fine numbers from the alcohol fines but she thinks we were set to review that and she is unaware of how fines are set, what the legal implementation is of dollar amounts; that she doesn't know if the State sets that and we follow it.

Ms. Braun said that the State fines the individual for the same violations so it would be a double whammy. She asked who polices that.

Ms. Horner said that the Town does.

Ms. Bennett agreed, saying that at the last meeting we had discussed increasing the fine. She added that she remembers a discussion with the Cannabis Committee suggesting we shouldn't make the fines too high because then you start to become too harsh and you start to push people into going black market. She asked how we would go about getting some guidance on fine-setting; is there a best practice out there or are there specific parameters that the State would place upon us.

Ms. Sherwin said that she would look into that and find out what other communities are thinking about doing.

Ms. Horner said that, for the record, we did strike out background checks because the State is doing that. She also discussed 'severability', saying that she thinks, maybe, that the severability clause wasn't strong enough, that it was pulled right from our ordinance and thinks it was in the adult entertainment ordinance; that it is consistent language throughout our ordinances.

There was discussion regarding the "No Town Liability" clause suggested by the Cannabis Committee in the Key Findings document discussed at the joint meeting with the SB.

Ms. Sherwin said that she could incorporate that into the next packet. She clarified that the recommendation of the Cannabis Committee and the discussion of the PB was really centered around including that liability language in the licensing application form that the Town uses and not necessarily in the ordinance language.

Ms. Horner said that those were the edits she had from Mr. Murphy and the workshop meeting; that then, at the last meeting, we decided to table the document being referenced from the Town Manager because it was hard for us to understand. She added that she thought that we were trying to get some clarification on that at the last meeting and she doesn't know if we did; that she didn't see anything so she doesn't know where we are on that.

Ms. Sherwin said that she spoke with the Town Manager about this and communicated the concerns of the PB with him about the thought that the process for reviewing the applications for land use considerations was the responsibility of the PB was somewhat conflated with the responsibility of the Town in reviewing the application to get the license from the Town to operate. She added that she believes that he and the Cannabis Committee are having a meeting tomorrow night to wrap up recommendations for this; that she can share with him more what the concerns of the PB are. She added that we talked about having sort of a process diagram outlining how the concurrent process would go for both reviewing the development plan or change of use or whatever it is for the land use side of things and also the license review and approval process. She said that, in the after-the-fact packet, both of the adult use-related documents are included, which are primarily Chapter 11 marked-up copy that include revisions that tried to incorporate the Cannabis Committee's and Mr. Lee's recommendations for how the licensing process would go; that that is still a work in progress because as she was working through it,

based on Mr. Lee's discussions with the SB and others, they really thought the applications should go to the CEO and the Planner prior to making it to the Town Clerk's desk so that the Clerk isn't reviewing materials that may or may not be consistent with the land use regulations; that she thinks that process needs to be further sorted out and clarified because, right now, they are a little too interwoven.

Ms. Bennett questioned whether that needed to be worked out here, at this level; that she sees us as dealing with the land use and that the process of getting a license/licensing the facility after we review and say whether or not it is consistent with land use rules...

Ms. Horner asked Ms. Bennett if she was saying that we shouldn't be working on Chapter 11.

Ms. Bennett said no, clarifying that she was saying that who sees the application first and where it goes within the Town Hall is not something we should really have to be working through.

Ms. Braun said that on page 6 of Chapter 11 under (b) it says "Completed application. In the event that the Land Use Administrative Assistant..." so the Town Clerk is not recognized here.

Ms. Bennett said that that was a very good point; that we need to know where it's going to go. Amending her comment, she said that it is part of the ordinance but it's not something that we have, necessarily, the expertise to hammer out.

Ms. Sherwin clarified that 'land use assistant' replaced 'town clerk' terminology based on what Mr. Lee had discussed with her on it as far as feedback from the SB; that she thinks that is a discussion that the PB should have about whether or not this draft needs to have a separate section that addresses the land use side of things and, then, the licensing side of things, which it really only focuses on right now, should identify the role of the Town Clerk and the planning/land use side should identify the roles of the Planning Department and CEO.

Ms. Horner asked if that wasn't already defined because of where the chapters lie within our ordinances; that, as an example, §33-190 is under Planning & Development, whereas Chapter 11 is its own entity/stand-out chapter, which already defines who is doing what.

Ms. Sherwin agreed that it does but she thinks the intent of the Cannabis Committee and the SB and Mr. Lee's recommendations was the hope that applications for licensing purposes would not come to the Town Clerk until and unless they had been reviewed and approved by the PB so that the Clerk isn't granting a license for something that isn't going to pass muster with the PB.

Ms. Horner said that in her current draft "Complete application" would include approval from the PB; that that's her interpretation because part of the complete application is approval from the PB. She added that, other than the fact that the term 'Town Clerk' was

change to 'Land Use Administrative Assistant', she still feels like we are all on the same page.

Ms. Sherwin agreed but said that, after talking with Mr. Lee, this section suggests that the application could be submitted to the Town Clerk without having the okay from the PB; that what the feedback from other folks was that they didn't even want an application making it to the Town Clerk's desk until they knew it was okay and complete and complied with all of the land use regulations.

Ms. Horner said that she totally got that. She asked if there was a suggestion on how that language should be put in there.

Mr. Olsen asked if this wasn't in our marijuana licensing procedure, starting at Line 140, it sounds like we're going through the steps; that, at some point to him, it would be very clear that you had to have a review but is that after a completed application that that's when it goes to us.

Ms. Horner said that she feels it's before because it's part of the complete application, which is in there already. She added that she understood what was being said but she felt it already says that.

Ms. Goodwin said that if anyone goes in to the Clerk's Office and they request anything of any kind and the office feels like it's going to hit our land use table at all, they would be sent over to Planning; so, maybe the thought is to make sure that's a very clear part of the process.

Mr. Olsen asked if we wouldn't change Line 163, (b) Responsibilities and review authority., to say the 'Land Use Administrative Assistant shall be responsible for the initial investigation of the application'.

The June 17 draft version places review authority on the Planner and CEO. Ms. Sherwin said that this is really talking about the license, and it's up to the discussion of the PB, but she doesn't know that the Planner and CEO should really have much to do with the license.

Ms. Horner said that it's just a suggestion from the Cannabis Committee and Town Manager; that she doesn't personally agree with it because she thinks the Town Clerk or Administrative Assistant handling the licensing application, when someone comes in to get a license for a marijuana retail store and ask what is needed to do that, they will say to that person that they need to check in with the Planning Department first.

Ms. Goodwin said that, if they wanted to open a facility, then that would have to run through the licensing piece. She used a bar as an example, saying that if someone wanted to open a bar, they would come in here and do all of that but the license piece would go to the SB for their review; that there are two different things that happen here. She added

that there are parts that happen with land use and, if this sort of licensing is going to mimic what the alcohol licensing does, then that happens on the other side of the hall.

Ms. Horner said that she thinks we should keep it 'Town Clerk', and not Planner and CEO', for licensing. She added that what she's hearing from Ms. Sherwin is that they want to make sure that no one comes and gets a license application until they've gone through PB approval, which is how every other license that requires land use is done in Eliot already, anyway.

After further discussion, it was suggested to add this to the Land Use Table (45-490) and to replace 'Town Clerk' with 'Town Manager' because he can delegate it to whomever it should go to; that he is ultimately the CEO.

Ms. Bennett proposed that we put in Town Manager for Town Clerk everywhere it says Town Clerk and then Town Hall can organically figure out, via the Town Manager, who is tasked with these sorts of duties to figure out who does what and how; that you can always delegate down and if we give it to the Land Use Administrative Assistant, she will not be able to pass it off anywhere.

The PB agreed by **consensus** to this.

Ms. Horner asked for feedback from Ms. Sherwin on this.

Ms. Sherwin said that she would defer to Ms. Goodwin on this because she works in the Town Hall.

Ms. Goodwin said that she thinks that the proposal has always been that the closest thing that we'll be able to come to is whatever we follow for licensing for alcohol, and kind of what we're doing, is what somebody would do for a bar; that we know what our responsibilities are, and she is going to say 'the other side of the hall' just to keep it separate in our mind, know what their responsibilities are, as far as licensing goes; so, she thinks if you put the Town Manager in instead of the Clerk, then if he feels like it should continue to follow what we do for liquor licenses, that we could defer to his administrative assistant, who usually does that. She added that if he felt, for some reason, that it would be best served by the Clerk, then it does keep it kind of open.

Ms. Sherwin said that she would talk to Mr. Lee and have him further discuss this with the Cannabis Committee tomorrow night at their meeting; that she thinks it makes sense to reference the Town Clerk or somebody else who's an appropriate individual for this to be going to for the licensing piece, which she doesn't think is the CEO or Planner or Land Use Administrative Assistant. She added that we could remove all references to those folks from this Chapter 11 and maybe just include a clarifying statement in the licensing procedure section, which starts on Line 138 reiterating what it says in §11-5 (a) that nobody could come forward with a licensing application to the Clerk until they have received approval from the PB. She said that she would also create an internal process document showing the two tracks for licensing and land use review and approval.

Ms. Horner said, so, all applications shall have PB approval before applying for a license.

Ms. Bennett asked if they would all come before us or are they just going to make sure that they are complying with our ordinance.

Ms. Sherwin said that it would be a change of use, at this point, but she will make sure that the language is worded such that after a few years, if a use has been established on a parcel but somebody new is coming in, because the license isn't transferable, they would need to apply for their own license, and they wouldn't necessarily have to come before the PB for the full review and approval process.

Ms. Horner volunteered to develop that language addition for the next meeting. She discussed her concern that the Town Manager might delegate to the PB and we have been discussing that that's not okay.

Ms. Bennett suggested that the Planner draft a memo to the Town Manager and Cannabis Committee to put forward our logic, here, that we don't feel like this is something that should be wholly housed in the land use side of Town Hall and that, though there is definitely a role for review for consistency on the other land use portion of the ordinance that we've proposed, that we made that change so that it would be more of a general administrative function, not a specific land use function; that it just doesn't seem to fit.

Ms. Sherwin said that she would be happy to draft that tomorrow morning.

ITEM 8 – NEW BUSINESS

Ms. Horner said that she would like to start working on ADU's to allow people of a certain age to have people stay in their home, legally, and there is a lot of zoning in Town that restricts mother-in-law apartments, or to supplement their income, etc.

There was discussion regarding 'pods' and 'tiny homes' and other non-traditional dwelling units.

There was general agreement that this would be a good idea.

Ms. Horner asked if it would be wise to have another public hearing on the marijuana draft ordinance in September or October.

Ms. Bennett said yes, that we are required to have two for an ordinance change.

ITEM 9 – CORRESPONDENCE

There was no correspondence.

ITEM 10 – SET AGENDA AND DATE FOR NEXT MEETING

PB19-6 further review.
Adult Use Retail continued review.
Agritourism continued review.
Finalize non-binding question.
Open space discussion regarding frontage.

The PB discussed the change to the Planner's and Land Use Administrative Assistant's hours.

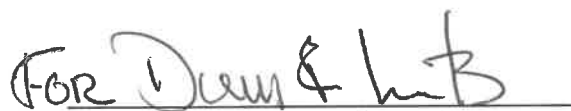
The PB discussed consideration of reducing the lot size requirement in the Rural District and the Town's intent focus growth in the Village and Suburban Districts, along with going to the Comprehensive Plan for guidance.

Ms. Sherwin said that Mr. Lee provided a draft application form for the licensing process for the Adult Use and the form does specify that upon approval the application will be forwarded to the SB for a public hearing consistent with the recommendations of the Cannabis Committee and all that for Chapter 11; so, along with her memo, she will make a note on the application draft that that should be changed and submit that all as part of the packet for the Cannabis Committee's meeting tomorrow night. She added that that will be included in the next PB meeting, as well.

The next regular Planning Board Meeting is scheduled for July 2, 2019 at 7PM.

ITEM 11 – ADJOURN

There was a motion and a second to adjourn the meeting at 9:20 PM.


Christine Bennett, Acting Chair
Date approved: 07/04/19

Respectfully submitted,

Ellen Lemire, Recording Secretary