

**ITEM 1 - ROLL CALL**

Present: Dennis Lentz - Chairman, Ed Cieleszko, Melissa Horner, Carmela Braun, Bill Olsen – Alternate.

Also Present: Eric Sanderson, Interim Planner.

Absent: Christine Bennett (excused), Abbie Sherwin (excused).

Voting members: Dennis Lentz, Ed Cieleszko, Christine Bennett, Melissa Horner, Carmela Braun, and Bill Olsen – Alternate

**ITEM 2 – PLEDGE OF ALLEGIANCE**

**ITEM 3 – MOMENT OF SILENCE**

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

There was no public input.

**ITEM 5 – REVIEW AND APPROVE MINUTES**

Mr. Cieleszko moved, second by Ms. Braun, to approve the minutes of October 1, 2019, as amended.

**VOTE**

**5-0**

**Motion approved**

**ITEM 6 – PUBLIC HEARING(S)**

Mr. Lentz explained the public hearing process to the public.

**A. 495 Harold L. Dow Highway (Map 53/Lot 6) PB19-8: Site Plan Amendment – Applicant is proposing to increase the size of a medical marijuana cultivation facility by proposing to construct a 32,832 sq. ft. facility in place of an existing 4,500 sq. ft. building lost to fire. Applicant: Sweet Dirt, LLC. Owner: The Flower Company Properties.**

**Received: July 2, 2019**

**1<sup>st</sup> Heard: August 6, 2019**

**Public Hearing: September 17, 2019**

**2<sup>nd</sup> Hearing: August 20, 2019**

**3<sup>rd</sup> Hearing: September 17, 2019**

**Site Walk: N/A**

**Approval: October 15, 2019**

Mr. (Ken) Wood (Attar Engineering), Attorney Rines, Mr. (Brian) Nielsen (Attar Engineering), Mr. (Dan) Stout, and Mr. Hughes Pope were present for this application.

**7:08 PM      Public Hearing opened.**

Mr. Wood discussed how they would present information tonight. We have the Permit-by-Rule from the DEP and he believes Mr. Sanderson's memo at least supports the PB's consideration for approval. Any of us would be more than happy to answer any questions.

Mr. Lentz noted that, on the application, Sweet Dirt, LLC has been changed to Sweet Dirt, INC.

Attorney Rines said this is our plan to rebuild our facility after we lost our main cultivation facility on June 10<sup>th</sup> to a fire. As it turns out, the fire was related to a legacy issue in the retro-fitted building that we had and was not due to any of our cultivation equipment or activities there. It was something that could have happened in that building with any operation. As a result of that fire, we are really at a standstill with our business, we are struggling to wholesale in product from other producers, who produce a quality, clean, unadulterated product that passes the tests mandated by the State. Our business is significantly suffering, at this point. We have some contractors lined up, we have equipment lined up, we have deliverables that are coming on-site, and it's getting very difficult for us to be a viable, long-term business, at this point. The facility is quite a bit larger. It is a state-of-the-art cultivation facility, not a retro-fitted building. We don't use hazardous fertilizers, we don't use any hydro-chemicals or hydro-carbons or other petrochemicals or solvents in our processes. Everything is organic and natural. We would implore the Board, tonight, to consider not just the public hearing but consider an approval of this application, as we are very much in a holding pattern. Our business is suffering significantly due to the fire and due to the time it has taken us to get our plans in order.

Mr. Nielsen said that he just wanted to make sure that the PB was aware that we addressed all the Planning Department comments that have come in to us. We corrected the Post-construction Stormwater Management Plan so the Chapter 35 references, fixed all the typos, and we also did get MEDEP approval for our Stormwater Permit-by-Rule; so, they've seen the site and evaluated it and given us approval. We recently, as in minutes ago, got a short memo from the Fire Chief. He attempted to address maneuvering concerns, which is what he believed the memo to state but he can't say that, for sure, without the Fire Chief commenting. He increased the turning radii around the greenhouse, using a program called AutoTURN, which simulates which types of vehicles can maneuver on the roadways we design. He used the largest fire truck that Eliot uses and it will go around the building. If the Fire Chief has any other concerns, as they come up, we're happy to address those as a condition of approval. He said that, if there are any questions, he would be happy to answer them.

There were no questions from the public.

**7:13 PM      Public Hearing closed.**

Mr. Lentz asked if the applicant received the Fire Chief memo that we received today.

Mr. Nielsen said yes, as he came into the meeting tonight.

Mr. Olsen said that it seems that Chief Muzeroll is talking about the perimeter road, which he imagines is on the right or left side of the structure.

Mr. Nielsen said that it goes all the way around the structure.

Mr. Olsen asked if that was going to be a regular packed gravel road, plowed all winter.

Mr. Nielsen said yes.

Mr. Olsen said that, just because he doesn't have scale, he asked what that distance is from where the boundary line is to the building.

Mr. Nielsen said roughly 20 feet because the building is out of setback, just.

Mr. Stout said that there was an issue on a previous plan that the smaller greenhouse was in the 20-foot setback but the applicant has shown that it will be moved outside of the setback, as part of the revised plan.

Attorney Rines said that that is actually our landlord's building and, when she first did that, she didn't have an accurate survey. We realized when we did a survey and she is going to undertake to move that but we are making that part of our plan revision.

Mr. Cielezsko asked if the upkeep of the stormwater is through a maintenance agreement made with the Town.

Mr. Nielsen said correct.

Mr. Cielezsko said that he sees it in rough form but not as done. In regard to that, if we were to pass this tonight, one of the conditions would be to have that established and signed by both parties.

Mr. Nielsen said 100%; that it is his understanding that, as Eliot does it, you have to specifically state that you need the date of your project's approval as well as the recording book and page number, which you can't get until after PB approval. He believes, as Mr. Sanderson's memo states, that it is made a condition of approval, which we're happy to comply with.

Mr. Cielezsko asked within 30 days or something like that.

Mr. Nielsen said that there is a specific limit but he doesn't know what it is off the top of his head. We'll get it over to the office as soon as we can.

Mr. Lentz said that the perimeter road could also be made a condition of approval, Mr. Sanderson, is that correct.

Mr. Sanderson that that is correct. He believes the Chief is more concerned with what the actual method of fire protection would be. He knows the Chief's memo mentioned the perimeter road won't safely provide emergency vehicle access, so it would be personnel only, no apparatus.

Mr. Cieleuszko said that he doesn't know where the Chief got that from.

Mr. Lentz agreed; that what he just heard was, through the software program, they now have enough room for vehicles. Is that what he heard.

Mr. Nielsen said that that was correct.

Mr. Olsen said that he thinks that the fact that there is a 20-foot swath that you can physically get a fire truck in is what he thinks the Chief might be...and the Chief isn't here so he can't ask him but what he thinks the Chief is saying is that, if you were in a situation where you have a fire, that is too tight to run a fire truck down. He thinks that's what the Chief is talking about as opposed to hooking a tanker into the building for suppression.

Mr. Cieleuszko said leaning the fire truck directly against the building while you're fighting the fire, probably isn't the best.

Mr. Olsen said that, if he's already known that that's going to be gravel and 20 feet wide, the Fire Chief should be able get a truck through there.

Mr. Nielsen said that that kind of makes sense to him but, unfortunately, without the Chief being here, the best he can do is speculate as to what he intended. He added that we will do the best we can to do whatever he requires; that he wished it had come up earlier than the day of; that this has been at the Town in this form or another form for the better part of a month and a half, reiterating that we will do the best that we can.

Ms. Horner asked the applicant if he was willing to adhere to the Chief's Knox Box recommendation.

Mr. Nielsen said of course.

Ms. Horner said that the memo says the retention pond has no fire protection value because it will freeze over.

Mr. Nielsen said that the Chief had mentioned, or he had asked, anecdotally, whether it was the intention to use that retention pond for a fire pond because that's sometimes what you do if you have a wet pond, you'll say it's going to retain X amount of water the rest of the year. That was not the intention with this retention pond.

Ms. Horner asked if they were willing, as suggested, the master lock shut-off installation.

Mr. Nielsen said yes; that there are knox boxes on the plan but his request is fine.

Ms. Horner asked about the lighting plan.

Mr. Nielsen there is a lighting plan that we do have. It may need to be updated when the State reviews but, as far as Eliot's ordinance, we believe it meets the Eliot ordinance. We are not putting light on any other properties. We have the entrance properly lit. We have a plan that has specific photometric data, the lighting models as they will be installed.

Attorney Rines said that, as he reads the plan, it does meet the State; that each area of ingress and egress has to be illuminated within a 20-foot circle and the parking lot and the front gate are also illuminated; so, he believes they meet those standards.

It was determined that the waivers were already granted and the application found complete.

Ms. Braun asked how close they were to a water source if they do have a fire. What would the Chief use if they had a fire.

Mr. Nielsen said a tanker truck.

Ms. Braun asked if that was enough to put out a fire.

Mr. Hughes said that it would be nice to have a sewer system.

Mr. Wood said that there was a hydrant at Beech Road and Route 236 and there's a plan to extend water; that one of our clients, who will be coming before you, Mr. Estes, (purchased Dick Johnson's piece) has been working with the Kittery Water District to extend it that far; so, just south of Dollar General. We do have some TIF money so that would be a good source for at least extending water on Route 236.

**Mr. Cieleuszko moved, second by Ms. Horner, that the Planning Board approve PB19-8 to replace an existing burned building with a 32,000 square-foot greenhouse, with the following conditions of approval:**

- 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 provide, within 30 days, the Stormwater Management Plan made between the Town of Eliot and the applicant.
  5. A Fire Department Safety and familiarization walk-thru prior to the issuance of an occupancy permit.
  6. The modified Knox Box recommended by the Eliot Fire Chief.

**VOTE**

**5-0**

**Motion approved**

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.

**B. 29 Addison Lane (Map 41/Lot 6) PB19-14: Shoreland Zoning Permit Application – Proposal for a 6’X20’ accessway, a 6’X100’ fixed pier, a 6’X24’ landing float, and an 8’X24’ main float.**

**Received: August 22, 2019**

**1<sup>st</sup> Heard: September 17, 2019**

**Public Hearing: October 15, 2019**

**2<sup>nd</sup> Hearing: October 15, 2019**

**Site Walk: N/A**

**Approval: October 15, 2019**

Mr. (Steve) Riker, Ambit Engineering, and Mr. (Michael) Lopez were present for this application.

**7:27 PM      Public Hearing opened.**

Mr. Riker summarized the tidal docking structure project:

- 6'X20' accessway; 6'X100' fixed pier; 3'X45' gangway, leading to a 6'X24' landing float to an 8'X24' main float
- All floats secured with moorings and chains
- Dock plan view in Sheet C1 – bottom contours of the Piscataqua River
  - Mean low water datums
- Sheet D1 shows dock in plan view and profile view
  - Tidal datum shows fluctuation of floats with the tides
- Revised Title of Plan – 'Town of Eliot Permit Plan'
- Reflectors depicted on plan and added Note 12 (§44-35(C)(14) on Sheet C1
- Added Resource Protection line to the plan

Mr. Riker said that he emailed the ACE authorization to the Town, which has been approved. The MEDEP application is still under review, with statutory approval required by December 19, 2019.

There was no public input.

**7:30 PM      Public Hearing closed.**

Mr. Lentz said that the PB received a new scale plan today.

The PB agreed that they were okay with the scale plan.

Mr. Sanderson said that the applicant updated the plan to correct the landing float dimensions throughout the documentation.

Ms. Horner asked if we didn't get photos with the application.

Mr. Sanderson said yes but added that they also have to be provided after the structure is built.

**Mr. Ciesleszko moved, second by Ms. Horner, that the Planning Board approve PB19-14 to build a dock and float assembly according to the final, presented plans, with the following conditions of approval:**

- 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 Maine DEP permit approval shall be submitted to the Planning Department prior to beginning construction.**

**VOTE**

**5-0**

**Motion approved**

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.

#### **ITEM 7 – OLD BUSINESS**

**A. 160 Pleasant Street (Map 1/Lot 70) PB12-12: Home Business and Change of Use – An application for a yoga and Reiki studio at a residential property.**

**Received: August 19, 2019**

**1<sup>st</sup> Heard: September 17, 2019**

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

**2<sup>nd</sup> Hearing: October 15**

**Site Walk: N/A**

**Approval: \_\_\_\_\_, 2019**

The applicant, Ms. (Andrea) Bristol, was present for this application.

Mr. Lentz asked if the PB had asked for additional information.

Mr. Cieleuszko said that we were waiting for the Board of Appeals (BOA) approval, which she has received. He sees a rough-drawn plan, which is good, with dimensions.

Mr. Olsen said that the things we asked for he thinks the applicant has provided. It clearly shows where the parking is going to be, the sign, some dimensions, as well as a clarification of the applicant's hours of operation. He saw the nice letter from an abutter, which is important. The BOA decision he thinks was the larger piece.



Mr. Lentz said that our job tonight is to decide if this application is complete and, then, to schedule a public hearing.

**Mr. Cieleuszko moved, second by Ms. Braun, that the Planning Board find PB19-12 for a Home Business is complete.**

**VOTE**

**5-0**

**Motion approved**

A public hearing is scheduled on November 19, 2019.

## **ITEM 8 – NEW BUSINESS**

**A. 525 Harold L. Dow Highway (Map 53/Lot 8) PB19-16: Site Plan Amendment – Request to amend the previously-approved site plan by moving the pipeline unload skid from the approved location to another location.**

**Received: August 19, 2019**

**1<sup>st</sup> Heard: September 17, 2019**

**Public Hearing: N/A**

**2<sup>nd</sup> Hearing: October 15**

**Site Walk: N/A**

**Approval: October 15, 2019**

Mr. (Jeff) Ciampa, XNG VP of Operations was present for this application.

Mr. Ciampa said that this was a very minor change. The decompression skid is a piece of engineering apparatus built in the shipping container and modified. The original plan had this unit located on a steel structure, which would be erected over a soil filter. When we started the construction phase, he took a look at that, and he doesn't want to do that because it would block light to the soil filter and maintaining that would be problematic; that we would prefer to leave the soil filter, which works well as it is designed now, with open access so that it can be maintained. We would simply re-locate that piece of equipment to an existing impacted area, which is adjacent to the office building; that it's backfill from when the concrete supports for the piping that is immediately adjacent was put in.

Mr. Lentz asked Mr. Ciampa to point out on the plan where the new location is proposed.

Mr. Ciampa did so. He said that it would be on gravel and would be on small concrete piers for support; that we are changing the base, not the apparatus; that this is just for maintenance as he didn't want to put a piece of equipment over the soil filter.

Mr. Lentz asked, if there are no questions, if the Board believed there was no impact to abutters or on the environment with this change.

Mr. Cieleuszko asked, when they are done, if they will do a decibel reading at the edge of the property.

Mr. Ciampa said yes; that that is not affected by this at all. There is no change in our operating plan.

Mr. Lentz asked if there would be any change, as far as odors are concerned.

Mr. Ciampa said none.

Ms. Horner asked if this should be considered an administrative change.

Mr. Lentz said that he would think it's a minor change, yes.

The PB agreed.

**Ms. Horner moved, second by Mr. Olsen, that the Planning Board approve the administrative change to PB19-16.**

**VOTE**

**5-0**

**Motion approved**

**B. 787 Maine Street and 0 Main Street (Map 6/ Lots 44 and 154) PB19-18:  
Subdivision Application – Applicant submitted an application for a Subdivision  
Sketch Plan.**

Mr. Sanderson said that he and Ms. Goodwin received an email today that the applicant is withdrawing that application. The applicant's two contractors were not aware of each other's work; that there was a proposed 7-lot subdivision on the lot where they were applying for the Shoreland Zoning application. Initially, when we got both applications, we wanted to treat the subdivision first and then, after the land was subdivided, have the Shoreland Zoning application go back and revise all the plans to reflect the change in the lot size, layout, and everything like that. The applicant indicated that the subdivision isn't as important as the docking structure to him. So, the applicant wants to withdraw his subdivision application, which was scheduled tonight, and have his Shoreland Zoning application be considered, as is.

## **ITEM 9 – CORRESPONDENCE**

There was no correspondence.

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

Discussion of Open Space with the Conservation Commission will be on December 3<sup>rd</sup>.

Animal Control Ordinance October 29<sup>th</sup>.

Truck Terminal PB19-13 will not be on the agenda until they have addressed PB requests. There was discussion regarding that they have been in operation for awhile without formal approval. The CEO needs to make a determination on whether this is an amendment to an existing use or a change in use before the PB considers the application.

Mr. Sanderson said that there was a second Sweet Dirt application that we have reviewed and is ready for PB action, as well as two Shoreland Zoning applications for docking structures.

The PB agreed to hear those applications on October 29<sup>th</sup>.

Ms. Horner asked to follow up on the definitions. She was excited that she found a definition for 'gardening'. She also said that they are all done; that we could spend some time tonight looking at them instead of the next meeting.


Mr. Lentz suggested they be printed out tonight so that we can look at them for the next meeting.

The PB agreed and scheduled this item for October 29<sup>th</sup>.

The next regular Planning Board Meeting is scheduled for October 29, 2019 at 7PM.

#### **ITEM 11 – ADJOURN**

There was a motion and a second to adjourn the meeting at 7:57 PM.

  
Dennis Lentz, Chair  
Date approved: 10/29/2019

**Respectfully submitted,**

**Ellen Lemire, Recording Secretary**