

ITEM 1 - ROLL CALL

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

Also Present: Eric Sanderson, Interim Planner; Ms. Goodwin, Land Use Administrative Assistant.

Absent: Christine Bennett (excused).

Voting members: Dennis Lentz, Ed Cieleuszko, 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. Cieleuszko moved, second by Mr. Olsen, to approve the minutes of October 15, 2019, as amended.

VOTE

5-0

Motion approved

ITEM 6 – NOTICE OF DECISION

PB19-8 (Sweet Dirt, Inc.):

Mr. Lentz said that we neglected to put a couple of conditions of approval on there; that we are not opening the application back up. He added that he thought we would be okay if we added them to the conditions of approval or the findings of fact. One was the master lock shut-off agreed to by the applicants and the other was the fire alarm system for the storefront, which was talked about in a prior application. We will also add the Fire Marshall issue.

Ms. Lemire said that the master lock shut-off is part of #11 in the Findings of Fact.

Because the fire alarm for the storefront was part of a prior application, and not this one, the PB agreed it should not be added to this Notice of Decision.

Mr. Cieleszko moved, second by Ms. Horner, that the Planning Board approve the PB Notice of Decision for PB19-8, Amended Site Plan, from October 15, 2019.

VOTE
5-0
Motion approved

PB19-14 (pier):

Mr. Cieleszko moved, second by Ms. Braun, that the Planning Board approve the PB Notice of Decision for PB19-14, Shoreland Zone, from October 15, 2019.

VOTE
5-0
Motion approved

PB19-16 (XNG, Administrative Change):

Mr. Lentz said that we did not add the standard conditions of approval so those will have to be added. He asked if there were any other items.

Ms. Lemire said that the applicant has not paid the Site Review Plan Application fee, yet.

The applicant asked if they could pay it tonight with a check.

Mr. Lentz said yes.

Ms. Goodwin said that that was fine. She explained that she and the Planner had a discussion regarding the fee and she was working through something and the fee was a piece of it that we missed reconnecting on.

Ms. Lemire said that the PB made this an Administrative Change and the minimum fee needed to be paid is \$100.

The PB agreed that they were in favor of adding the standard conditions of approval.

Mr. Cieleszko moved, second by Mr. Olsen, that the Planning Board approve the PB Notice of Decision PB19-16, Request for Planning Board Action, from October 15, 2019, as amended in our discussion.

VOTE
5-0
Motion approved

NOTE: At this time, the XNG applicant submitted a check for the \$100 application fee.

ITEM 7 – OLD BUSINESS

A. Animal Control Ordinance

Ms. (Sarah) Plocharczyk discussed her memo. There is only a definition for ‘domestic animal’, which is pretty vague – ‘and/or’ depending on ‘food’. So, really, by this definition that could be your bird feeder, as you are making birds domestic animals. Also, when you get into ‘animal noise’, that starts to tie into what’s called a ‘public nuisance’, which, once you start getting into farms (problematic) and Eliot is a rural agricultural community, especially in the Rural Zone. Basically, farmers are people who want to keep livestock. Because there’s no differentiation between ‘domestic animal’ and ‘livestock’, they could be considered a public nuisance. At the State level, in §61, commercial farming is pretty much exempt from this. So, if you are a farmer and abiding by best management practices (BMP) within the State of Maine, you cannot be considered a nuisance. Farmers, for the most part, are covered by this but this doesn’t cover people that are homesteading or just trying to get along out in the rural community; that there are a lot of chicken-keepers in Town, as well as goats, etc. She described the noise portion of the ordinance as being intermittent over 30 minutes; so, as an example, a dog barks, or a goat bays, or a rooster crows once, if it does it again within another 29 minutes, you get popped as a public nuisance. She recommended adding the definition of ‘livestock’ because livestock are not pets or domestic animals and, then, possibly breaking it down to exempt those things from the Rural District. She added that she didn’t know, or have suggestions, how the PB would handle the Suburban and Village Districts. Her suggestion is to keep it more in line with preserving the rural character of Eliot, Maine.

Ms. Horner said that we are also working on the definitions. In our Eliot definitions, we have ‘Animal breeding and care, which is mostly about dogs and, to Ms. Plocharczyk’s point, there’s nothing in our definitions about farms. So, I proposed that we add ‘Animal Husbandry’ to our list of definitions and, as you can see in my notes, it is to add this and follow the intent of the designated uses, explaining the designated uses and how they might be tweaked.

Ms. Plocharczyk said that that is all great and is allowed but you’re still going to have to deal with the definition of ‘domestic animal’ because, by this current definition, they have put it all in the cart – “such as but not limited to dogs, cats, cattle, horses, swine, fowl, sheep and goats.” That’s why I wanted to break it down between a definition of ‘domestic animal’ versus ‘livestock’.

Ms. Horner said that she looked into that, thoroughly, and was very murky to her, because the argument could be made that anything can be domesticated. I get what you’re saying but that’s the argument – the definition of domestication.

Ms. Plocharczyk suggested one in her memo. The point here is that domestic animals are for pleasure; livestock are making a produce and bear a burden. So, while a chicken can be a pet, it can also be livestock. It all depends upon use. So, some people treat their

chickens as pets, some people eat them, and I would argue that there's a difference, even from the egg-producing ones.

Mr. Cieleuszko said that he thinks we need to work on that 'domestic animal' definition within the Animal Ordinance because that is where the problem lies. The major problem is noise; so, any of the definitions that have been suggested do not alleviate the condition that somebody can start ranting at a farm animal for disturbing the peace.

Ms. Plocharczyk said that at the end of that noise ordinance it says it's for the purpose of a dog unless that dog is being provoked by a human. I can make that argument that, if a rooster crows at night, it's not a human provoking it but an animal trying to get into the coop. It's defending the hens. Is that a nuisance. I don't know. Since the rules are on the books, I think it needs to be clearer because, as it is written now, we're going to start eliminating our rural character if people can't keep roosters and chickens, etc. We try to be good neighbors but what's the line.

Ms. Horner asked who decides if your roosters that are being a nuisance is a pet.

Ms. Plocharczyk said that, right now, it's up to the Animal Control Officer (ACO). If you have a noise complaint, the ACO investigates, they talk to both parties, and make the determination.

Ms. Horner asked if Ms. Plocharczyk was saying that, if we change the ordinance, then that means that no one can ever complain about their neighbor's rooster.

Ms. Plocharczyk said no; that that's why you depend on where you're going to do your zoning. For instance, that's why I said in the rural area; if you have livestock, regardless of what you define livestock is, the intent is to bring the protections that exist for the commercial farmers within the State of Maine law down to people that homestead that are out in the rural, agricultural area doing rural, agricultural things. They may not fall under commercial farming because they are providing for themselves, and this Town has several food sovereignty laws that we're trying to protect. This falls under food sovereignty, as well.

Mr. Lentz said that noise is okay as long as you're in the rural area.

Ms. Plocharczyk said I would like to get there because that's the point of the rural, agricultural area is farming and farms stink and they are loud.

Mr. Cieleuszko said that it makes sense putting it in the rural area because most of the problems that occur with chickens and such is trespassing and noise in the Village.

Ms. Plocharczyk said that all I'm arguing is that you let the practices, like farming, be contained within the farming area. I don't want to get into Suburban and Village. If you guys want to go down that path...but let farmers farm and people homestead.

Mr. Sanderson said to basically separate out the definitions so that you can have livestock and domestic.

Ms. Plocharczyk clarified so that livestock can occur in the rural, agricultural zone. That's why I wanted to add 'livestock' and it has a mention in her memo that this occurs within the rural, agricultural district. Animal husbandry doesn't cover you for noise.

There was some discussion regarding a clear definition for 'livestock'. It was also discussed to have this apply just to the Rural District and not include dogs.

Mr. Cieleszko asked if Ms. Plocharczyk could come back with a better definition.

Ms. Plocharczyk said yes.

Mr. Cieleszko said that, if we work from there with a good definition for 'domestic animals' and 'livestock', and part of that 'livestock' definition would be only in the Rural Zone.

Ms. Plocharczyk suggested "Livestock is commonly defined as [domesticated animals](#) raised in an agricultural setting to produce labor and [commodities](#) such as [meat](#), [eggs](#), [milk](#), [fur](#), [leather](#), and [wool](#)" (Wikipedia).

Mr. Lentz asked for Mr. Sanderson's thoughts.

Mr. Sanderson said that you can either separate them out, as Ms. Plocharczyk is suggesting, or get rid of the 'except in the Rural Zone' section of the ordinance.

Ms. Horner said that she wanted to steer clear of this livestock/domesticated animal murky stuff that could happen. Whereas, if you exempt animal husbandry from the Animal Control Ordinance under Noise, although she's not sure how that would happen but it just seems cleaner to her.

Ms. Plocharczyk said that my suggestion would be to add a definition of livestock to the Animal Control Ordinance to read as: 'Livestock is defined as domesticated animals raised in an agricultural setting to produce labor and commodities such as meat, eggs, milk and, for the purposes of this definition, shall only be applied to the rural, agricultural zone.'

There was discussion regarding the removal from domestic animals 'limited to' and take out such things as cattle, horses, etc. out of that.

Ms. Plocharczyk said that I'm pretty sure that you have those things in the Suburban Zone. I know of people with horses, a couple of cows, and you don't want to prevent them from all this stuff. My point was really to let farmers and homesteaders farm in the rural area because they move there to do it and it's per the historical Eliot.

Mr. Lentz asked if we are at keeping it in the rural area and the definition. Is that the bottom line.

Mr. Cieleuszko said, speaking to Ms. Horner, that 'animal husbandry' was available in Suburban and Village and, if you tried to turn 'husbandry' into 'livestock' in the Village District, for example, the housing, and such, is much denser. I know there's chickens and goats and ducks and all kinds of animals down there but the neighborhoods should be protected a little better. I think the noise ordinance would need some teeth in those areas, a lot more than someone moving out into the rural zone.

Ms. Horner clarified that her words "exempt from the rural" doesn't include domestic animals. It would include animal husbandry. The only reason I'm going back to animal husbandry is because it includes "and the raising of livestock" and she gets that we now have to define livestock.

Mr. Lentz asked if someone wanted to take a shot at writing this up.

Mr. Cieleuszko said that he would like to see a good definition of livestock. Not Wikipedia but Webster's or a State rule.

Mr. Olsen asked if we could add Ms. Horner's definition of animal husbandry, as I think that adds value, as well, then add a livestock definition.

Mr. Cieleuszko said that he would like to see it all on the table so we could work it out.

Mr. Olsen said that he would draft something, working with Ms. Plocharczyk, for the December 3rd meeting.

Ms. Horner asked if there was an extraordinary number of complaints coming in to the CEO's office about livestock in the rural zone.

Mr. Sanderson said not as far as I know. I haven't heard the CEO mention it. He agreed to ask that question to the CEO.

The PB agreed to have this on the December 3rd agenda.

B. Definitions (§1-2 of Code of Ordinances)

Animal breeding and care:

Ms. Horner said that she proposed removing 'and care' because then I feel like animal husbandry falls under that. Mostly because the definition is mostly about breeding anyway.

The PB agreed.

Animal husbandry:

This was previously discussed.

Assembly place:

The PB previously agreed to replace this with 'Places of worship'.

Auto junkyard:

Ms. Horner said that this was one we needed to find a definition for because we have it as a use, even though we don't allow it.

The PB agreed.

Bed and Breakfast:

Ms. Horner said that she tweaked this to include 'lodging or lodgings with meals served before noon', which she thought was pretty clear. The only place Bed and Breakfast shows up is in the Shoreland and Land Use Table as a separate breakout from hotels and motels, lodging stuff.

Ms. Lemire commented that a couple of B&B's in Town have more than 6 bedrooms and they serve meals at night, as well. She said that Home Occupation is a specific ordinance with its own criteria, which may not match this.

Mr. Olsen suggested removing "before noon" and not put a limit to six guestrooms.

Mr. Cieleuszko said that unintended consequences are just screaming at me here. Home Occupations are in the Village District, and everything, and all of a sudden, we're going to let...we were worried about the Yoga Studio with a couple of cars and now we're talking six bedrooms, or more.

Mr. Sanderson said that the PB may have an application forthcoming from Shiloh Farm for an amendment to their site plan to expand their allowed uses. When Ms. Bishop and I first met with them B&B wasn't really defined, so we went with a recreational use, as defined in the ordinance. So, this could be applicable for future applications, as well.

Mr. Cieleuszko said that, without referencing anything coming up, I see problems with this definition. As an example, calling it a Home Occupation. Some Bed & Breakfasts have a barn structure for housing or some accessory structure, unattached. And it's a regular business. I don't like Home Occupation, limits until noon. Site plan review is what it needs as a business.

Mr. Olsen said he was looking at a definition, which is: “a guest house or small hotel offering sleeping accommodations and a morning meal.” Then take away Home Occupation.

Ms. Horner said that the other thing to consider is that we do have a land use that is ‘lodging businesses’ including bed and breakfast, boarding homes or houses, hotels, inns, lodging houses, rooming homes, and the like. The only reason why we need to define Bed and Breakfast is because it’s an allowed use in the Shoreland Table of Land Uses and she thought we might want to have it as a Home Occupation in the Shoreland Zone. In any other zone, they can have a lodging business.

Mr. Lentz asked what the definition of lodging is.

Ms. Horner read: “Eating and *lodging* place or *lodging* places means every building or structure or any part there is kept, used on, maintained as, advertised as, or held out to the public to be a place where eating and sleeping, or sleeping accommodations are furnished to the public as a *business*, such as hotels, motels, guest homes, and cottages.” It talks about Bed and Breakfast in the Land Use Table. We are deciding right now if they are going to be serving a meal before noon and if they’re going to have less than six bedrooms, then that’s okay in the Shoreland Zone. Maybe a 12-room B&B isn’t a great idea in the Shoreland Zone because of the impact to the environment – the septic, the road, etc.

The PB agreed to further consider this.

Churches:

This was deleted and replace with Houses of worship.

Cluster housing:

This is tabled while the PB discusses Open Space.

Earth material removal, less than 100 cubic yards *and* 100 cubic yards or greater:

Ms. Horner said that this is allowed in all zones. She added ‘and’ for grammatical purposes. Also, it requires site plan review.

The PB agreed.

Equipment storage, trucks, 3 or more:

Ms. Horner said they are only allowed in the C/I Zone. I found a definition and amended it to add ‘3 or more’ because that’s in the definition itself.

Mr. Cieleuszko asked if this is indoor or outdoor.

Ms. Horner said that the word is 'containment'.

The PB agreed to come back to this for further consideration.

Farm equipment store:

The PB agreed.

Fences:

The PB agreed.

Firewood sales:

The PB agreed.

Fireworks sales:

The PB agreed.

Gardening:

The PB agreed.

Gasoline stations:

The PB agreed to change 'retail station' to 'business'.

Government buildings or uses:

The PB agreed to come back to this.

Grain or feed store:

The PB agreed to change 'store' to 'business'.

Harvesting wild crops:

The PB agreed.

Indoor commercial recreation & amusement facility:

The PB agreed.

Library:

The PB agreed to change 'people' to 'public'.

Museum:

The PB agreed.

Mr. Lentz thanked Ms. Horner for her work and asked that we try to get this back on for December 3rd.

ITEM 8 – NEW BUSINESS

A. 483 Harold L. Dow Highway (Map 54/Lot 2) PB19-19: Request to amend a previously-approved Site Plan by changing the use of two existing greenhouse structures from Wholesale Business Facility to Registered Primary Caregiver for the purpose of medical marijuana cultivation. Applicant: Sweet Dirt, Inc. Owner: The Flower Companies, Inc.

Received: September 17, 2019

1st Heard: October 29, 2019

Public Hearing: _____

2nd Hearing: _____

Site Walk: _____

Approval: _____, 2018

Attorney Rines and Hughes Pope, applicant, were present for this application.

Attorney Rines said we are viewing this as a sketch plan. The idea is that the two existing greenhouses would be a change of use for cultivation and, then, the last bay of the commercial building would be secured off for manufacturing – mainly trimming, curing, packaging, things of that sort. The reason why we are doing this is, again, we lost our cultivation, manufacturing, extraction in the fire event. Our landlord has been nice enough to say we can relocate 'here' while we rebuild the rest of our facility that we've already been approved for. It's really the path of least resistance for us in terms of being able to operate as a medical company, longer-term. As you know, the challenge of getting real estate in this industry is significant. Zoning, setbacks, buffers, all of these things come into play and then towns are not sometimes allowing it; that the fact we have a landlord who is willing to let us use her property for this purpose to help us bridge this gap in our business, and the resources we have available, is something we're really excited about. As you are looking at the site plan, all of this exists today. The only thing we would be adding to the site plan would be a security fence around the two greenhouses and security and lighting. It has enough water, power, everything is already there. It's really securing that back bay and those back greenhouses so that we can meet the standards and security standards provided under State law under the medical cannabis program.

Mr. Lentz said that some documents show Sweet Dirt, LLC and some Sweet Dirt, Inc. and those should be cleaned up.

Attorney Rines said that we are in the throes of reorganization so that is actually going to revert back to LLC. We are finalizing that, now, and asked the PB to bear with us on that.

Mr. Lentz asked if they were moving any of the buildings.

Attorney Rines said no. The only addition that would be discernable is the security fence from the outside. The fence would be around the perimeter of the two greenhouses and then diving in to meet the building after those doors where we would enter and exit that final bay, so the entire footprint will be behind the fence. There will be no access to that final bay of the building from the rest of the building.

Mr. Olsen asked if this was temporary until their structure is rebuilt.

Attorney Rines said likely not. We, again, in this business, if we're going to be able to scale and meet the market pressures coming, we really feel that this will be a long-term situation.

Ms. Braun asked if they were new greenhouses or are they existing greenhouses that would be used for purposes before.

Attorney Rines said that this is from the Jacquelyn Looney Landscaping. This was where she was growing her wholesale plants, which, as she's moving out of that business, she has agreed to let us use these greenhouses.

Ms. Braun asked if we have any sort of document stating that she is allowing you to do this.

Attorney Rines yes, the document is in the packet.

Ms. Braun said that there are no notes or anything on the site plan.

Attorney Rines said that we are treating this as a sketch plan.

Mr. Sanderson said that, as Attorney Rines said, this is just a change in use for the two greenhouses and, under the Town's ordinance, that would mean the Board would treat this as a new sketch plan for tonight's purposes.

Attorney Rines said that this is immediately adjacent to 495 Harold Dow Highway. We will be renting that footprint and, with that, we would get a few parking spaces.

Mr. Cieleuszko said that it is still land that is not associated with Sweet Dirt.

Attorney Rines said that that was correct but, under the ordinance as we understand it, we wouldn't be able to divide the use. It has to be for the entire property.

Mr. Cieleszko asked if their lot coverage would actually be reduced, as this covers a lot doesn't it, or does your lot coverage go up or down.

Attorney Rines said that nothing changes, with the exception of the addition of the fence. Everything here is how it exists today.

Mr. Cieleszko asked if this was going to be a separate business or part of the rest.

Attorney Rines said that it would be part of our medical business.

Ms. Horner said that I would like to see that you are not located within 500 feet of an existing public or private school.

Attorney Rines said that we will definitely do a sensitive use. We will be seeking a setback waiver for the Transfer Station from the Appeals Board, as well.

Mr. Cieleszko said that this is an addition to your business so you have to start from scratch almost. This isn't a small change; this is a full site plan review.

It was agreed that this was for full site plan review.

Ms. Horner said that this is just a sketch plan, now, so that they know what they need.

Mr. Lentz asked if the parking was changing.

Attorney Rines said no. Literally nothing will change on this site. We will be digging some holes, pouring some concrete, putting some fenceposts in, and putting the fence up. We may have to run some electrical conduit but, again, nothing appreciable from a site development perspective. He added that we will have an additional, single dumpster, locked and controlled, which is illuminated and under video-surveillance at all times.

Ms. Horner asked that the dumpster be shown on the plan.

Mr. Cieleszko said that there seem to be no filters as, from the pictures presented, they look open.

Attorney Rines clarified that they do have roof ridgements and vents at either end. We will be using carbon pads on the outlets, which work really well. We also have a device, when the ridge vent is open, that actually sprays a mist. It's a natural botanical and works really well.

Mr. Cieleszko said that he was thinking more in terms of odors. He asked if you can see through them.

Attorney Rines said not when we will be cultivating in there. Right now, they are transparent poly but we are going to be replacing the poly with a screening.

Mr. Pope said that there would be nothing but a privacy fence.

Mr. Cieleuszko said that you would not be able to see through the security fence.

Attorney Rines said that that was correct and, the way that lot is situated, you would basically have to be trespassing, as a member of the public, to view in. From 495 Harold Dow Highway, where we're presently located, it's significantly lower than 483; so, with a privacy fence he thinks, from that lot, you definitely would not see it.

Ms. Horner asked if she was planning to change any of her buffering or landscaping in the front.

Attorney Rines said no. What you see here, nothing changes. He added that it has a separate well. Apart from the fact that her operation is more seasonal than ours, it will probably be about the same water consumption.

Mr. Cieleuszko asked if this was the same exact use as the place we just approved.

Attorney Rines said that that was correct.

Mr. Cieleuszko asked if the processing area would be additional while you are getting the new one built.

Attorney Rines said no. That's excess manufacturing capacity.

Mr. Cieleuszko said that this is going to run just as it is, probably forever, or for the foreseeable future.

Attorney Rines said yes.

Mr. Olsen asked if there was going to be an entranceway connecting the two properties.

Attorney Rines said that there already is, pointing out the location on the plan.

Mr. Lentz said that the packet needed to go to the Fire Chief and Police Chief.

Ms. Horner said that the application says that the change of use is to medical marijuana and cultivation. The memo we have is for Registered Primary Caregiver for the purpose of...so I just don't know, logistically, where that needs to line up. We have a use for Registered Primary Caregiver, and of course you can cultivate medical marijuana within our ordinance, but we don't have an allowable use for medical marijuana cultivation. I know it's a nuance but I want to make sure it's the same.

Mr. Sanderson said that the applicant submitted a new application and that says Registered Primary Caregiver.

Attorney Rines agreed.

Ms. Horner said okay; that she just wants to make sure all the "I's" are dotted and "t's" crossed.

Mr. Cieleuszko asked how they were doing with the State on this. Do you need any further licensing.

Attorney Rines said that, from the State, they do not. We are fully-licensed medical caregivers. Remember that the larger greenhouse that we've been approved for will not be done and completed until 2020 so we're looking for space to continue to operate now. We are still limited by 72 plants, with the dual caregiver husband and wife that we have. 72 flowering plants and 120 vegetative plants. That's our limit and we can't go over that limit no matter what we do.

Mr. Lentz said that, for the PB's consideration, look at Sheet 1 Site Plan Review. At the bottom there's a note that says: "Town of Eliot definition of 'registered primary caregiver' is no longer consistent with State definition." That needs to be looked at.

Attorney Rines said that the definition of Non-profit Marijuana Dispensary should be looked at, too.

Ms. Horner said that we should have the definition reference the State definition.

Attorney asked a question about the setback waiver. Because we're not using the entire building, do we request the waiver from the front corner of that building or the portion of the building where our use starts.

Ms. Goodwin said that it would be the building that is closest to the property line in question. It would be the closest corner to the building that the use is to the property line of Public Works.

Attorney Rines asked if we can have two uses in that building if we're going to go through this change in use. Can JNL continue to operate their business at the front of that building while we have a change in use for the back and the greenhouses.

Mr. Sanderson said that he thought as long as that use is noted on any submitted plan and that use was allowed in the zone.

Mr. Cieleuszko said that there should be some delineation between the two businesses for security.

Attorney Rines said absolutely. There would be absolutely no access permitted from the rest of the building. We would actually have to build that in. That's one of the reasons we want to extend the fence beyond those doors because we want to control access to that portion of the building as much as possible.

The applicant will update the plan in preparation for site plan review.

B. 787 Main Street (Map 6/Lot44) PB19-15: Shoreland Zoning Permit Application: Application for a 4'X4' landing, a 4'X30' accessway, a 6'X100' fixed pier, a 3'X45' gangway, a 6'X35' landing float, and an 8'X30' main float. Applicant: Jesse Realty, LLC. Owner: Jesse Realty, LLC.

Received: September 3, 2019

1st Heard: October 29, 2019

Public Hearing: _____

2nd Hearing: _____

Site Walk: _____

Approval: _____, 2018

Mr. Steve Riker (Ambit Engineering) and Mr. Shawn Moriarty (Ambit Engineering) were present for this application.

Mr. Riker said that there are two components to this application – a tidal docking structure and a riprap stabilization. He discussed the tidal docking structure first:

- **C-1 is the existing conditions plan**
 - Lot is 4.8 acres
 - Bounded to the southwest by the Piscataqua River
 - Currently no docking structure located on this parcel
 - Parcel shoreline is well vegetated
 - Forested component
 - Very steep slope
- **C-2 is the Permit Plan**
 - Shows proposed tidal docking structure
 - 4'X4' landing
 - 4'X30' accessway (stairway that leads to fixed pier)
 - 6'X100' fixed pier
 - 3'X45' aluminum gangway
 - 6'X35' landing float
 - 8'X30' main float
 - Very long structure
 - Need for length demonstrated by water depth
 - Mean low water line and mean low, low water line shown
 - Main float in location to secure a boat with a 2' to 4' draft, have all-tide access
 - Fixed pier supported by piles
 - Landing float and main float secured by piles, not chains and moorings

- Main float equipped with batter pile (provides ice protection, structural support)
- Reflectors shown, as required by the Eliot ordinance
 - Note #12 cites the ordinance requirement

Mr. Anderson asked if that was added on the plans the applicant brought tonight, not what we had previously. He wasn't sure the PB wanted to review those tonight.

Mr. Riker said that he dropped those plans off previously.

Ms. Braun said that she had the new set of plans. They came in the package on Friday.

Ms. Goodwin clarified that there are two sets of plans. For future reference, when an applicant brings in a whole, entire application, I give that to you and, then, if they continue to submit, I continue to add to it. It's not my judgement on what you should and should not be getting. There is one dated when the applicant first dropped the application off and a newer one (October 24th).

All members have the newer plan.

Mr. Riker said that we also depicted on C-2 the riparian lines (25 feet):

- **D-1 is the dock in profile view**
 - Shows high tide and low tide
 - Tidal fluctuation of landing float and main float

Mr. Riker went back to C-2 to discuss the riprap stabilization. This site, in particular, has a fair amount of fetch from the west, which creates a significant erosional force on this lot, and has eroded the shoreline. The wave action and current action has created an undercut bank. There are numerous trees along the shoreline that are leaning and/or have already fallen into the water. This problem will not stop on its own. It needs to be repaired and one way to do that is to use riprap, which is essentially rock or large stone. It is underlaid by geo-textile fabric, which holds things in place and acts as a sock. Water is allowed to pass through it but sediments behind it are not allowed to pass through. It keeps those smaller, finer sediments in place, which are essentially the backbone foundation for any earthen- or stone-constructed what an engineer likes to call a 'revetment'. The geo-textile fabric is key to the long-term longevity of a riprap slope. It is a very commonly-used material not only in revetments but in all sorts of other stormwater management-type applications. The riprap will be placed along the entire shoreline property and we believe that will solve this issue. Sheet D-2 shows some details and we have provided two cross-sections. We did have to start the riprap out a little bit from the mean high water line because, if we started it directly at the tow, we would have to provide a cut and would have to essentially excavate, or destroy, almost the entire vegetated? slope to make it work. We pushed the tow out a little bit to be able to bring the slope back and tie it into the existing slope, essentially minimizing the footprints of the riprap area. He said that he did bring some plans today as a result of Mr. Sanderson's

planning memo that he received last Friday regarding tree removal in the Shoreland Zone. If we could hand those out, I would discuss what that plan is and what it means.

It was noted that what was handed out was for PB19-15, which is for 787 Main Street. At this point, both plans say 787 Main Street.

Mr. Riker said that what we wanted to do with Sheet C-3 was to demonstrate compliance with the zoning ordinance regarding tree removal. We surveyed the parcel and depicted all the trees that will be removed as a result of the shoreline stabilization project. Trees are red dots, with labels showing the tree diameter at breast height. We've colored the trees that will remain (green dots, labeled). The zoning ordinance requires that you maintain a score of 24 for all of the grids and our calculations show we have a score of at least 24 in all of the grids. He thanked everyone for taking a look at it late.

Ms. Horner said that, while I appreciate the work, I am not thrilled we got this today or being presented to us at 9PM. If the PB remembers, we worked really hard on that calendar about when things need to be submitted so that the Planning Department can review it properly, we can review it properly. I'm happy to look at this tonight but I'm sort of getting sick of all these things coming in at the last minute – being accepted, being thrown at us for the meeting, and then us being expected to just look at all this, which is fine if that's what we want to do.

Mr. Lentz said that it isn't. It's not fair to us, it's not fair to the applicant. Ms. Goodwin and I have had that discussion this week.

Ms. Horner said that it's not you (Mr. Riker). It's just that this is the perfect moment to talk about it.

Mr. Lentz said that we need to pull Ms. Prescott's memo.

Ms. Horner agreed and said that I think we should stick to it for fairness to us and the applicant and, most importantly, our employees that are working so hard for us. It's not fair to them when we worked really hard to assure that that was stopped.

Mr. Lentz totally agreed.

Mr. Riker said that I agree, as well. We don't like to show up the night of with new plans, either. I do want to mention that I emailed a Town employee with this specific question on how I should address this. I have still not received an email back. It took submitting an application and having Mr. Sanderson review it to get that answer. That's another reason I showed up tonight with this plan but I had wanted to get that answer even before I prepared any of these applications.

Mr. Riker said that there should be a copy of the DEP application in your packets, which has been approved and a copy provided. There are photos that show the erosion issues on these lots. The ACE approval is pending. He talked with the ACE inspector and he said it

was forthcoming. There were some historic eel grass beds nearby and I think that's what's extending their initial review.

Mr. Cieleuszko asked, regarding the trees, if he was going to do any replanting.

Mr. Riker said that we are still above so I don't think we need to do any replanting. I also looked at the ordinance and I didn't see anything in the ordinance that provides for replanting.

Mr. Cieleuszko said that he didn't know about lessening the point score per square and that would be something I would like to have addressed before we go too much further.

Mr. Riker agreed.

Mr. Sanderson said that the CEO looking at these plans is going to be helpful, too. As far as I know, the only stipulation is only trees that need to be removed for the project to be completed, which it sounds like for the erosion purposes that these tree removals are for.

Mr. Cieleuszko said that he didn't think all of them; that there is some aesthetics, here, because some of those trees are way above any riprap.

Mr. Riker said no. He clarified that the heavy dotted line at the bottom is the riprap, so, the trees you see within that are colored red. He added that the area is about 14 feet along its length. When the riprap is constructed, it's arranged much like a jigsaw puzzle. Everything in the water (stones, etc.) along the shoreline will remain the same.

Mr. Cieleuszko said that your packet says 'unknown frontage'. Can that question be answered.

Mr. Riker said that our scope of work only included this area of the lot. I could give you an answer but it would be from someone else's plan but I could certainly give you a number.

Mr. Cieleuszko said that he didn't expect to see it on this plan but in the application. He asked if there's a house there.

Mr. Riker said that there is so we show a portion of it.

Mr. Olsen asked if the gangway went through Grid #4.

Mr. Riker said that the dock does go through Grid #4. We have placed the dock on the land to not require the dock, itself, any tree removal. The accessway, the portion of the dock over upland, is only 4 feet wide and we were able to place that so as not to have to remove any trees. That is shown on Sheet C-2.

Ms. Horner said that both of these applications are labeled 787 Main Street. I know we are looking at the Glidden application, now, and there is a separate application for the Chase application but they are both labeled the same. I find that to be problematic.

Mr. Riker said that I will rename PB19-17 as 0 Main Street for clarity.

Mr. Cielezsko moved, second by Ms. Horner, that the Planning Board consider this site plan complete, with recommendations.

VOTE

5-0

Motion approved

Ms. Goodwin said that we have one meeting scheduled this month for November 19th so we have plenty of time to notice a public hearing.

The PB scheduled the Public Hearing for November 19th.

C. 0 Main Street (Map 6/Lot 154) PB19-17: Shoreland Zoning Permit Application: Application for a 4'X24' accessway, a 6'X100' fixed pier, a 3'X45' gangway, a 6'X35' landing float, and an 8'X30' main float. Applicant: CPN Realty, LLC. Owner: CPN Realty, LLC.

Received: September 26, 2019

1st Heard: October 29, 2019

Public Hearing: _____

2nd Hearing: _____

Site Walk: _____

Approval: _____, 2018

Mr. Steve Riker (Ambit Engineering) and Mr. Shawn Moriarty (Ambit Engineering) were present for this application.

Mr. Riker said that we will title these plans with 0 Main Street as the address. This lot is located directly northwest of the application you just heard. A very similar application:

- **Two components**
 - Proposed tidal docking structure
 - Proposed riprap stabilization
- **Sheet C-1 is the existing conditions plan**
 - Very steep vegetative slope
 - No structures on this lot
- **Sheet C-2 shows the proposed tidal docking structure**
 - 4'X24' accessway
 - 6'X100' fixed pier
 - 3'X45' aluminum gangway
 - 6'X35' landing float
 - 8'X30' main float

- Main float secured with batter piles
- Fixed pier supported by piles
- Shows riparian lines that show the 25-foot required distance
- **Sheet D-1 shows the dock in profile view**
 - Based on tidal datum
- **Sheet D-2 shows riprap detail**
 - Much smaller area, not entire shoreline
 - Portion constructed in the wetlands; a portion constructed in the upland
 - Removing 6 trees to accommodate the riprap area
 - Same erosion issues – fetch/slope failure in this section
 - Parent soil is marine sediment – very fine clay
 - Minor mudslide on this slope
 - Undercut bank
 - Minor erosion along entire slope

Mr. Riker said that this application has ACE approval and DEP approval is pending.

Ms. Horner said that I don't think your abutter list is right.

Mr. Riker agreed. The one on the plan is incorrect and the one submitted with the application is correct. I believe between the time of the survey and submittal of this application, some properties changed hands.

Ms. Horner clarified that, on this plan, they are the same abutters you have from the other plan. The 787 Main Street is the right abutter list. 0 Main Street, on the plan, is not the right abutter list.

Mr. Riker explained that these are the right abutters, minus one abutter, and that is Jesse Realty. These two lots used to be one lot and were subdivided, split in half. I know what you're saying, and I will double-check them, but these abutters do apply to this lot. The one abutter we do need to add to this list is Jesse Realty and I can put that on this plan.

Ms. Horner asked if that meant that Note #7 on that plan is correct.

Mr. Riker said no. It should say Lot 154.

Ms. Horner asked how close these two piers are going to be together.

Mr. Sanderson said that that's the reason we had Mr. Riker do the riparian lines with the 25-foot buffer areas, which he has shown, I think, on C-2. That was only brought into play because there are going to be two docking structures on neighboring properties.

Mr. Cielezsko said that I don't see dimensional numbers from the dock to the riparian lines.

Mr. Sanderson said that I was able to use a ruler but if the PB finds it helpful to be shown on the plan, then certainly that could be done.

Mr. Cieleuszko said that it looks like there is plenty of room so I'm not concerned.

Mr. Riker noted that, on the northwest side, it is about 35' and, to the southeast, which is where the neighboring dock will be, it is about 80'. The neighboring structure to that same line is right about at 25' to the float, the nearest point. He said that I will update the abutter list, correct Note #7 to say Lot 154, the plan to say 0 Main Street, and the frontage, with the reference to the other survey.

Ms. Horner, revisiting the abutter list issue, said that I don't understand why both properties would have all the same abutters. 'This' property would have 'these' guys and 'this' property would have 'these' guys.

Mr. Riker said that she was correct, those would be our only abutters. For the purposes of the DEP application, they say anything within 200 feet, so I expanded that. Worst-case scenario is that, with the DEP application, we notified too many abutters. If you want the plan to just have direct abutters, we can parse them out.

Mr. Cieleuszko said that I would rather have the direct abutters, which is what our Town requires.

Mr. Riker agreed.

Mr. Cieleuszko moved, second by Mr. Olsen, that the Planning Board accept this site plan (PB19-17) as complete, with recommendations.

VOTE

5-0

Motion approved

The PB scheduled the Public Hearing for November 19th.

ITEM 9 – CORRESPONDENCE

There was no correspondence.

ITEM 10 – SET AGENDA AND DATE FOR NEXT MEETING

UPDATES:

Mr. Olsen said that, regarding his participation as liaison to the Conservation Committee (CC), he was hoping at the December 3rd meeting to take what we (CC) discussed, which is just about firming up some of the things we all had talked about, where we (CC) add a little bit of clarity and look at some of the things we thought favorably about how other municipalities did a few little things, little tweaks. It was actually great for me

because I actually learned a few things – that I had an erroneous thought process on why they were doing things. More on why you would want to use a Homeowner's Association in certain circumstances, why that is not a bad thing. Not all is going to be conservation land. Some is just going to be open space and you wouldn't want a conservatory-type of situation, nor would it warrant that. I just want to start on some bullet points that we might want to think about.

Mr. Lentz said that there is another opportunity coming up. I've been in contact with Ms. Cepetelli (AIP) and I think there are some things we can do that will help them. I did offer that, as soon as we could see them, we would invite them to a session to talk with them. If one of you would like to liaison for that group, that's an opportunity, too.

Ms. Horner said that she would like to work with them but not until we meet with them.

Ms. Horner asked if we can make a request to MMA that they host an educational workshop closer. I am not driving to Skowhegan.

Mr. Lentz said that we could do that.

Mr. Sanderson asked for a PB workshop.

The PB said anything, a workshop, writing ordinances, etc.

Ms. Lemire suggested the possibility of having it online, video-streamed.

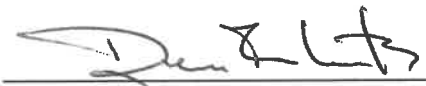
The PB thought that would be great.

Ms. Braun said that I wouldn't mind working with the AIP Committee, either, because that's a subject near-and-dear to my heart.

The next regular Planning Board Meeting is scheduled for November 19, 2019 at 7PM.

ITEM 11 – ADJOURN

There was a motion and a second to adjourn the meeting at 9:21 PM.


Dennis Lentz, Chair
Date approved: 11/19/2019

Respectfully submitted,

Ellen Lemire, Recording Secretary