

ITEM 1 - ROLL CALL

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

Also Present: David Galbraith, Interim Planner.

Absent: Christine Bennett, (excused).

Voting members: Dennis Lentz, Ed Cieleuszko, Melissa Horner, Carmela Braun, and Bill Olsen – Alternate.

NOTE: Mr. Lentz appointed Mr. Olsen as a voting member for tonight's meeting.

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 Carmela Braun, to approve the minutes of February 4, 2020, as amended.

VOTE

5-0

Motion approved

ITEM 6 – PUBLIC HEARING(S)

Mr. Lentz explained the public hearing process.

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: February 18, 2020

2nd Hearing: January 21, 2020

3rd Hearing: February 18, 2020

Site Walk: N/A

Approval: February 18, 2020

Brian Nielsen, EIT (Attar Engineering) was present for this application.

7:05 PM Public Hearing opened.

Mr. Nielsen said, as noted, we are looking to convert two existing greenhouses to medical marijuana cultivation facilities as well as a portion of the existing warehouse to a medical marijuana product processing facility. We recently got some reviews from the PB and the Fire Chief and these new plans incorporate some of those comments. We added additional building dimensions, the 273-foot dimension (reduced setback) noted in the BOA Notice of Decision, and added a note stating that we would add a knox box on the security fence to be located in coordination with the Town of Eliot Fire Department.

There was no one from the public who spoke.

7:07 PM Public Hearing closed.

Mr. Lentz asked if the applicant met with the Fire Chief and saw his list of requirements.

Mr. Nielsen said that that was correct.

Mr. Lentz said that we will use those as conditions of approval, if the applicant is in agreement with that.

Mr. Nielsen said that one clarification is that he had mentioned in his memo some of the structures having the potential to be temporary structures and that is not the intention of this application and I believe that the greenhouses, if that's the structures he is referring to, are permanent structures. They have been on the property and intending to remain.

Mr. Lentz clarified that those will not be temporary. So noted.

Mr. Lentz said that this application was scheduled for a Notice of Decision tonight. We really just wanted to make sure the site plan was reviewed for a change in use. I don't believe anything else has changed.

Mr. Nielsen said no, not since the last meeting. Only some clarifying items. I did bring in some new plans this morning just to reflect what was asked for. The only things that did change was that there was a note added as part of the dimensions, the PB had asked us to note the BOA decision, and building dimensions, as well as the Fire Chief's comments, are on the plans.

Ms. Horner had a personal note referencing §33-127(18)(g): "The location, type and size of all curbs, sidewalks, driveways, fencing, retaining walls, parking space areas, and the layouts together with all dimensions." Saying 'need existing plan' and then I have 'okay' because you requested a waiver because there was no construction.

Mr. Nielsen said that, from memory, we had gone through each waiver, individually, and I believe we all came to consensus that we don't need to provide any additional site plan information in regard to sidewalks because there are no changes from what's out there.

Ms. Horner said that I pushed back because I wanted a snapshot of the existing site.

Mr. Nielsen said that I think we had kind of a short back-and-forth saying that, from my standpoint, I really appreciate those when I have them but they can be cost-prohibitive, especially with the scope of the current project, where it's just a change in use.

Mr. Cieleuszko asked for clarification of where the Fire Chief commented "There is adequate access around the facility for emergency apparatus." Is he saying there is adequate access or is he asking to guarantee adequate access.

Mr. Lentz said that he read it that he's agreeing there is adequate access.

Mr. Cieleuszko said okay. So, the only thing that would need to be accomplished is the knox box piece and the fire detection system.

Mr. Lentz agreed.

Mr. Nielsen said that a knox box noted has been added.

Mr. Cieleuszko asked for Mr. Galbraith's comments on the newly-submitted plans.

Mr. Galbraith said that the applicants do have the plans and I did review them. There were a couple of note changes but nothing major. We've worked with the clients for a number of months, now, and I think we've covered all the bases.

Ms. Horner said that I don't think we discussed the Fire Chief's last comment.

Mr. Nielsen said that that's if a detection system is being installed.

There was nothing else.

Mr. Cieleuszko moved, second by Ms. Braun, that the Planning Board approve the Request to Amend the previously-approved Site Plan, PB19-19, 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. Noting applicable requirements from Chief Muzeroll's Memo, dated February 13, 2020.

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. 423 River Road (Map 33/Lot 1) PB19-25; Applicant proposes to add second floor above existing 28'X26' first floor and convert 14'X10'6" screened porch to new finished sunroom with deck above. Property is a small, two-bedroom home on a narrow lot.

Received: December 23, 2019

1st Heard: January 21, 2020

Public Hearing: February 18, 2020

2nd Hearing: February 18, 2020

Site Walk: N/A

Approval: February 18, 2020

Ms. Michelle Shields, representative, was present for this application.

7:15 PM Public Hearing opened.

Ms. Shields said that the PB requested additional information, which we submitted:

- Existing photographs
- Updated site plan to show well and septic
- Granted a DEP Permit-by-Rule

Ms. Shields add that we've been in contact with Jeff Kalinich, Shoreland Zoning Coordinator, who said that, with the deck portion above the sunroom, the railings are not permitted. The applicant will still have a french door and a tiny, juliette balcony that is

within the 25-foot setback. I have updated elevations that show the plans without the additional railings and also the proposed site plan showing the juliette balcony.

Mr. Olsen asked if the deck portion was already there or is it new.

Ms. Shields said that the deck is new. The existing roof is a sloped roof and she wants a flat roof so she doesn't have an obstruction of her view so she can at least open the doors and stand there and look at the water. The 12'5" height of the proposed new flat roof is below the existing...is 13'3". So, he did in fact say yes to that approval, but not with the railings fully surrounding it.

Mr. Olsen said that he was trying to understand the logic there.

Mr. Galbraith said that it was because they would consider the extra square footage that would be there would be used as living space.

Mr. Lentz said that the well and septic are shown as well as the high-water mark.

The Permit-by-rule and photos were submitted.

Mr. Cieleuszko asked who determined the high-water mark.

Ms. Shields said that she went out on three different high tides and I compared it to the government information that said that Dover Point was the closest one that we would have been measured against for the high tide.

Mr. Cieleuszko said that just as a matter of rules, that is not how you find the high-water mark. There is a 100-year high-water mark that is findable. You've done a good job but you should be just a hair careful because, if it turns out that that high-water mark is wrong, you might be tearing a piece of that off if you want to refinance someday. It gets a little sketchy. That's not the way to find the high-water mark on our shoreline and it's represented here barely adequate. That's the only problem I have with it.

Mr. Galbraith said that we sent an entire packet of the information to the DEP because I wanted to make sure they had all the plans and absolutely everything in there. They were okay with it. The big conversation was about the deck railings.

Mr. (John) Warburg, River Road (abutter), said I'm a 40-year resident across the street from them. My wife and I are both in favor of the project. It looks like a tasteful rendering for a new house. There have been at least a dozen similar projects in the neighborhood over the years with quite the variability in permitting. This is a good project. I just thought I'd come down and say go for it.

Ms. Shields said that I believe we are below the 30% volume.

Mr. Cieleuszko said that according to the figures you are.

7:25 PM Public Hearing closed.

Mr. Cieleuszko said that I am comfortable with this.

Mr. Olsen said that he was still stuck on what the problem is with the railings/small increase.

Mr. Galbraith said I don't understand the logic. It was because they considered that outdoor living space so they were going to count it, even though it's going to be a flat roof no matter what, so why not put a railing on it. We made that argument to the DEP.

Mr. Olsen asked, if they are counting that as square footage, how big is that deck.

Mr. Galbraith said something like 160 square feet.

Mr. Olsen said that that seems punitive, it doesn't seem logical. I just want to understand what their logic is.

Mr. Galbraith agreed. I heard that they said that because it would be actual, new living space, they just said no to railings. I said it is going to be the same structure except it would be safer to have railings around it, regardless, and we got a string of emails back.

It was confirmed that the documents PS and P2, dated February 14, 2020, are reflective of the changes.

Mr. Cieleuszko moved, second by Ms. Braun, that the Planning Board approve PB19-25 for 423 River Road 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. **This approval will be held to the reference drawings P2 and PS of February 14, 2020 presented tonight at this meeting.**

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.

C. Amendment to an existing ordinance: Chapter 44 – Shoreland Zoning, §44-34 Table of Land Uses

7:29 PM Public Hearing opened

This was to replace ‘multiunit residential’ with ‘multifamily dwelling’ in §44-34 of the Shoreland Table of Land Uses.

No one from the public commented.

7:30 PM Public Hearing closed.

Mr. Cieleuszko moved, second by Ms. Braun, that the Planning Board forward to the Select Board the amendment to the Chapter 44 Shoreland Zoning, §44-34 Table of Land Uses.

VOTE

5-0

Motion approved

ITEM 7 – OLD BUSINESS

A. 43 Harold L. Dow Highway (Map 54/Lot 2) PB19-22; Request to amend a previously-approved Site Plan by converting the garage unit into a Restaurant, Take-out.

Received: December 2, 2019

1st Heard: January 21, 2020

Public Hearing: _____

2nd Hearing: February 18, 2020

Site Walk: _____

Approval: _____, 2020

Mr. Jonathan Blakeslee (owner) and Mr. Mark MacElroy (owner) were present for this application.

Mr. Blakeslee said that we made a number of site plan updates, including the setback requirements and building distances from the property line. We updated the parking lot spaces, intending to use wheel-stop curbs and we clarified restaurant/take-out parking and office parking. The site plan also includes a lighted, multi-sign, 6'X12', to be moved within the property boundary. Regarding exterior modifications, the two front garage doors would be removed, per the included drawing, and replacing one garage door with double doors and the other one with windows. We clarified the actual location of the parking lot and submitted an interior design document to show the proposed layout of the interior of the café. We have indicated proposed hours. We met with the Fire Chief and got his recommendations. We are asking to get approval to move towards a public hearing and answer any additional questions.

Mr. Galbraith noted, for the public record, that we did find an old plan which did approve the former owner in expanding that parking lot up to the property lines and this lot is reflected properly.

Mr. Lentz asked if the applicants were in agreement with the Fire Chief's letter.

Mr. Blakeslee said yes and I did respond to that letter via Ms. Goodwin.

Mr. Cieleuszko said, regarding the sign, that it is now going to be on the property and out of the right-of-way. When that occurs, the applicants will need a sign permit from the CEO; that she will hold you to the requirements.

Ms. Braun said that the applicants had indicated in the written material that there would be 6 sit-down places and the plan shows 5, unless I'm missing one.

Mr. Blakeslee said she is correct. I noticed that after I submitted it. It would probably depend on the size of the seat, in that case, but it's a pretty small project. It is going to be a bar-type set-up. I own a bar in Portsmouth and there is a fair amount of space in the café that people take up, where they aren't sitting, just so people can come in and que around. Based on the size of the garage, we are just proposing 6 seats on a little café rail behind the windows just to keep traffic flowing.

Mr. Lentz said that there would be no drive-up or take-out window,

Mr. Blakeslee said no.

Ms. Braun asked if the door in the back, directly across from the front, was a second entrance.

Mr. Blakeslee said that that is existing. There is also an existing side garage door that we are not looking to change at all. The double-door entry in the front of the building would be the entrance and the back door would just be for emergencies.

Mr. Cieleuszko said that, in the plan, there's really no grill.

Mr. Blakeslee said not. There would be a toaster-like piece of equipment for heating food.

Mr. Cieleuszko asked, regarding the wall between the proposed café and the rest of the building, if the Fire Chief rated that wall.

Mr. Blakeslee said that the Fire Chief made a note that we would have to confirm the fire rating. As with any project, if we are fortunate enough to get approval, we still have to go through the health department, Code Enforcement, and Fire Chief. He added that we will verify the fire rating with the Fire Chief. There is no commercial kitchen proposed. I can use my facility in Portsmouth, which has a commissary kitchen.

Ms. Horner said that this is an application I think still needs an approved use change.

Ms. Horner moved, second by Ms. Braun, that the Planning Board approve a change of use for PB19-22 from 'garage' to 'restaurant/take-out'.

VOTE

5-0

Motion approved

Ms. Horner said that three waivers were requested and then we have to make a blanket motion for all those requirements not needed.

WAIVERS:

§33-127(5) Location of temporary markers adequate to enable the Planning Board to locate readily and appraise the basic layout in the field.

Mr. Blakeslee said that there are existing markers there, already.

The PB clarified that those are boundary markers and that these markers are for proposed construction on the site.

Mr. Cieleuszko moved, second by Ms. Horner, that the Planning Board waive §33-127(5).

VOTE

5-0

Motion approved

§33-127(6) Contour lines at intervals of not more than five feet or at such intervals as the Planning Board may require. Based on U.S. Geological Survey topographical map datum of existing grades where change of existing ground elevation will be five feet or more.

The PB agreed that there would be no new construction to cause this to be required.

Mr. Cielezsko moved, second by Ms. Horner, that the Planning Board waive §33-127(6).

VOTE

5-0

Motion approved

§33-127(7) Provisions of Chapter 45 of this Code applicable to the area to be developed and any zoning district boundaries affecting the development.

Mr. Blakeslee said that, in this case, there are no changes to the actual site plan.

Ms. Horner agreed, saying that that is what every other applicant has done.

Mr. Galbraith agreed we have a site plan that shows drainage structures on the site to the west and the north of the building. Nothing is changing out there. The parking lot drains into a swale along the highway.

Ms. Horner said that, instead of requesting a waiver, it should say "See site plan".

Mr. Blakeslee said that he would change that.

All other sections for waiver requests:

Ms. Horner moved, second by Mr. Olsen, that the Planning Board waive §33-127(9), (10), (11), (12), (13) because there are no proposed changes to the site.

VOTE

5-0

Motion approved

This application is scheduled for a public hearing March 3, 2020.

NOTE: Because the PB is getting an increase in applications, they will use a portion of their first meeting of March to hear some applications, keeping the majority of that meeting for ordinance work. The PB will hear three applications at this meeting.

Mr. Lentz said that that meeting is on Super Tuesday (Primary Presidential Vote) and asked if anyone had an objection to meeting on the 3rd.

The PB agreed to hold the meeting on the 3rd.

B. Ordinance Revision recommendations for presentation to the Select Board.

This was to add Note 1 to “animal husbandry” in §45-290 Table of permitted and prohibited uses and other changes.

The Animal Control Officer’s memo was noted as received and read.

Mr. Olsen moved, second by Ms. Horner, that the Planning Board accept the changes to §45-290 Table of permitted and prohibited uses with the changes so marked.

VOTE

5-0

Motion approved

ITEM 8 – NEW BUSINESS

A. 0 Harold L. Dow Highway (Map 29/Lot31) PB19-23: Sketch Plan Application for nine new commercial buildings with allowable commercial uses and four 30,000-gallon propane tanks.

Received: December 3, 2019

1st Heard: February 18, 2020

Public Hearing: _____

2nd Hearing: _____

Site Walk: _____

Approval: _____, 2020

Mr. Brian Nielsen, E.I.T. (Attar Engineering) and Mr. Mike Estes (owner) were present for this application.

Mr. Nielsen summarized the project:

- a retail building,
- a new curb cut
- 8 storage buildings
- 4 larger propane storage tanks off of Passamaquoddy Lane
- Improvements to Passamaquoddy Lane up to the second curb cut/just past the property development
- Full stormwater review from DEP
- Buffers from the property
 - No-disturb buffers between 50 and 80 feet
- Met with Fire Chief and Planner
 - Incorporated all comments
 - Turning radii incorporated around propane storage tanks
 - Knox box and other items to be installed on the security gate

NOTE: The location of this site is between Dollar General and the self-storage business.

Ms. Braun asked if it was raw land right now.

Mr. Nielsen said yes.

Ms. Braun said that the DEP permit the applicants submitted is in the previous owner's name and I don't see an application for transfer of that permit, which I would like to see.

Mr. Nielsen said that we will be submitting to DEP for a brand-new approval soon. Because there have been some adjustments with pervious areas, and things like that, we will need to submit a new stormwater analysis.

Ms. Braun said that I don't understand why the applicants would have propane storage tanks in a retail space.

Mr. Nielsen explained that the retail is quite separate from the propane. If you look at the plan, the retail is right off of Route 236. In order to get to the propane storage, you would have to go all the way down Passamaquoddy Lane and the remaining buildings would be more commercial/industrial use.

Ms. Braun asked if these tanks are strictly for storage or will trucks come in regularly to pick up and make delivery.

Mr. Estes said that a minimum of two trucks a day would come in during the wintertime and maybe one every other day during the summertime.

Ms. Braun asked if they had a permanent employee there for the storage tanks or off-and-on.

Mr. Estes said no to a permanent employee; that there could be but it will be more an on-man site. My truck drivers would just go in and out and load their trucks there.

Ms. Braun said that I still don't understand why you would have propane in a business park; that it just doesn't make any sense to me.

Mr. Lentz asked if that changes the use at all.

Ms. Braun said that that is the other question.

Ms. Horner asked what the use is on this. (There are several proposed.)

Mr. Lentz asked if Passamaquoddy Lane is part of the development.

Mr. Nielsen said yes.

Ms. Horner said that it says on the application that the uses can be noted in the general notes on the site plan, Note 3 – retail sales, professional offices, commercial/industrial uses, and propane maintenance. I don't believe Eliot has a propane maintenance use.

Mr. Olsen asked if we didn't have propane right across the street by the landscape business.

Mr. Estes said that there are two propane facilities in Eliot. One is at the XNG site and the other one is at Ameri-Gas Plant (Perkins) just up the road. This is the same concept.

Ms. Horner asked if we can check to see what the use is called.

Mr. Galbraith said that we were treating it as a storage facility. If they do warehouse storage or propane storage, we kind of treat it as the same, and I think we have another propane company who is looking to come in to Town, also.

Mr. Cieleuszko asked about the layout for three acres per building.

Mr. Estes said that this is going to be a condo site so a building could be owned by an individual person, and they will have a common area to share.

Mr. Galbraith said we would need condo docs for that.

Mr. Estes agreed.

Mr. Galbraith said that the two things I see missing, right now, are the condo docs and the DEP approval on the site.

Mr. Cieleuszko asked if they had a DOT permit already for the curb cut.

Mr. Estes said yes; that Passamaquoddy is approved but there is already a curb cut there for the existing driveway.

Mr. Lentz said that you need a second one out in front of your retail store.

Mr. Nielsen said yes.

Mr. Lentz asked if they met with the Fire Chief or saw his letter.

Mr. Estes said that we met with the Fire Chief. I am bringing Town water from Beech Road up to the site then down Passamaquoddy Lane. So, all these buildings will be sprinklered. The Fire Chief did locate specific hydrants that I have to put in for the propane. That's all been agreed to. He added that, in bringing the water up, he will have to bore under Route 236, up the shoulder of Route 236, then connect to a pipe on Passamaquoddy that has the capacity of 1,000 gallons/minute.

Mr. Cieleuszko asked if the propane tanks were going to be part of the condo.

Mr. Estes said yes. It will be one lot.

Ms. Horner asked if there was a septic on this. If you look on the site plan where you see shrubs in the parking lot, there will be septic in that location.

Mr. Nielsen said that we do have a septic design from Mike Cuomo.

Ms. Horner said that that is not checked off on the application, §33-127(15).

Mr. Cieleuszko asked what the meaning is of the area on this plan that is marked with diagonal, shaded lines around the buildings.

Mr. Estes said that that is grassed-in fire lanes so that, if they have to get fire trucks out behind the buildings, they could.

Mr. Nielsen said that I believe the hash lines are fire lanes and, then, there is one part that isn't hashed, which is specifically grassed fire lanes. The remainder is impervious.

Mr. Lentz said that there is a portion of Building #8 that is in the wetland.

Mr. Nielsen said correct. That will be part of the DEP application where we note the wetland impact.

Ms. Horner said that some of these are retail spaces but she doesn't know if she can ask. Would it be good for us to know which buildings will be which so that we can do the parking.

Mr. Estes said that, as it stands right now, the retail part is going to be the building out on Route 236. The other buildings will be more commercial/industrial buildings. As examples, I've had a produce company reach out to me, a potato chip manufacturer, a landscaping company. It's mostly people who have grown out of places where they already are and need a bigger space. The building closest to the propane tanks will be an Estes oil building that will be attached to the propane tanks.

Mr. Nielsen said, pointing to the site plan, 'this' is all wooded so, retail-wise and propane-wise, it's all going to be very, very visually separated.

Mr. Olsen said that we have retail in the first building, then we have the propane tanks back 'there'. So, what is up front.

Mr. Nielsen said that those are the existing stores.

Ms. Horner said that what is happening on the site is reflected on the site plan so in make mention of that, I think it's odd that the pavement goes right up to the buildings.

Mr. Nielsen said that, internal to this, this is a very industrial space so probably not looking to do sidewalks or anything like that. In Bangor, that's pretty much standard architectural design.

There was discussion regarding clarification of the Lady Slipper site plan and the current site plan.

Mr. Estes said that we had to take Building #5 out, at the recommendation of the Fire Chief, because we couldn't get the tractor-trailer completely around the tanks.

Ms. Horner asked about signage.

Mr. Estes said that there will be a sign. I do have the right to put a sign at the right-of-way at Passamaquoddy Lane. That has not been designed yet. I know you have strict sign ordinances so we will meet all that.

Mr. Cieleuszko asked if this condo association was going to have land associated with it.

Mr. Estes said that the land will stay in common area so everyone will pay fees to maintain the parking lot, the road, the septic system, and to cut grass and that type of thing.

Mr. Nielsen said that we will be putting in a large stormwater pond at the bottom 'here' because the site naturally flows downwards and that will also be part of the condo maintenance.

Mr. Lentz asked if Passamaquoddy Lane will remain a private road.

Mr. Estes said yes, although we are allowing fire hydrants to go down that road. We haven't reached an agreement on whether the condo association or the Kittery Water District will maintain the fire hydrants.

Mr. Olsen said that the propane tanks will be fenced in, asking if there would be two gates.

Mr. Estes said yes.

Mr. Olsen said that it would be completely controlled access just for your trucks.

Mr. Estes said yes. The one towards the parking will have a lock key on it so, in case something happened at the front building and they had to exit traffic, they could get out through there. The only one to open that up would be the Fire Department.

Mr. Lentz asked if they had applied to the DEP.

Mr. Nielsen said that we have held off based on any direction from the PB tonight for anything that might change the application. We are looking for a conditional approval in that regard.

It was confirmed that 50% lot coverage was allowed and, with this site plan, it has 9%.

Ms. Horner reiterated that we have existing propane storage tanks already in Town and she was curious as to what 'use' they were approved for because we can't approve 'propane storage'.

Mr. Galbraith said I don't think it specifically calls out propane but we do call out 'storage facility'. I will find out what the existing ones are called out as.

Mr. Cieleuszko said that we don't have 'storage facility' either. We have 'truck terminals and storage', which is SPR in the C/I Zone.

Mr. Olsen said that I like this one because it's further off the main road.

Mr. Lentz asked the PB members if they saw enough information to say the sketch plan is complete.

Mr. Cieleuszko said no. I would need to see the condo contract because, as it stands, it doesn't meet the 3 acres for primary building. Without an ironclad agreement, this does not meet the code.

Mr. Lentz clarified for the applicant that they are working toward a site plan and the PB is giving them the needed information for that.

Ms. Braun said that she wouldn't go any further until she saw that DEP approval.

Ms. Horner clarified that we have approved applications with that as a condition of approval because, sometimes, the timelines don't work out.

Mr. Lentz added as long as we see the application.

Mr. Nielsen said that we can certainly show that, adding that any time we make changes to the impervious area, we would have to re-apply. I just wanted to make sure tonight that we didn't have any changes; so, we will go ahead and submit that application quickly.

Mr. Olsen asked that the hydrants be placed on the plan where the applicant anticipates they will be.

Mr. Nielsen said that we will coordinate with Chief Muzeroll as to exactly where he needs them (three hydrants).

Mr. Cieleuszko asked if it has been verified that this is all C/I Zone and there is no overlay.

Mr. Nielsen said that there is a bit of Limited Commercial Zone (Shoreland – top left on plan) just along the edge near the propane tanks but with no major development. The development doesn't encroach on the Shoreland area.

Mr. Cieleszko said that he wanted to know the Shoreland setback from those tanks and do they meet it. We are looking at 'truck terminal and storage' right now so use those setbacks.

Mr. Galbraith said that I will make sure we look that up and get the information.

Ms. Braun asked if we had decided that this is a mixed use.

Mr. Galbraith said yes.

Mr. Cieleszko said that we would have to clarify all the uses and the buildings that belong to those uses and that would be up to you guys, too, to make that determination.

Mr. Nielsen said that we have the retail noted and the square-footage of the retail space within the parking calculations and the building coverage. We list out each use though we will make sure that, as Ms. Horner noted, classified with parking, at least with the Town ordinance.

The PB agreed that they would put this on the March 17th agenda for site plan completeness.

Mr. Cieleszko asked how much coverage we get the Town for protecting, or monitoring, the covenants of the condo agreement.

Mr. Galbraith said that, once the PB accepts them, they have to be registered and, if there was a conflict, either from what we've approved from the Town's point of view or there was conflict between some of the buildings that decided they didn't want to be in a condo anymore, then it becomes a legal issue between all the owners. Normally, I'd be reviewing them, the CEO would review the documents, usually get the Fire Chief's input for legal access for a private way and thing like that, and we also have the Town attorney review the documents.

The PB recommended the Town attorney review the documents.

Mr. Olsen asked if the buildings were going to be built in series, as they are filled.

Mr. Estes said that, as I sell the pads, they will be built.

Mr. Galbraith said that they will probably do a phased development plan.

There was discussion regarding concern by the PB members that they stay on task with the first meeting of the month for administrative work with all the applications coming in.

ITEM 9 – CORRESPONDENCE

Letter from the ACO regarding her position that she didn't think we needed a definition for 'animal husbandry'.

Mr. Cieleuszko said that he read the letter and still likes the idea of the 'animal husbandry' definition.

The PB agreed.

Ms. Horner said that, with all due respect, it kind of came in at the last minute.

Mr. Lentz agreed that it was after the Public Hearing.

Mr. Olsen clarified that there is no need because "there is no use of that term anywhere in the ordinance." but we just defined it so maybe she doesn't know that yet. We'll bring her up-to-speed.


ITEM 10 – SET AGENDA AND DATE FOR NEXT MEETING

White Heron – Public Hearing
Shiloh Farms application
ADU Workshop

The next regular Planning Board Meeting is scheduled for March 3, 2020 at 7PM.

ITEM 11 – ADJOURN

There was a motion and a second to adjourn the meeting at 8:33 PM.


Dennis Lentz, Chair
Date approved: 3/3/2020

Respectfully submitted,

Ellen Lemire, Recording Secretary