

**PLANNING BOARD AGENDA  
WEDNESDAY, FEBRUARY 26, 2020  
MUNICIPAL BUILDING COUNCIL CHAMBERS – 7:00 P.M.**

**Present:** Jeremy Chubbuck, John Beckett, Phil Ruck, Christa Schwintzer, Lisa Buck, Joe Sprecher

**Absent:** Jud McIntosh, Michael Costello, Dave Thompson

**Town Staff:** Kyle Drexler, Jessica Chadbourne, Dave Milan, Avi Rude

**Acceptance of the Agenda**

Phil Ruck asked for a motion to pass the agenda.

Motion: Jeremy Chubbuck  
Seconded: John Beckett  
Motion passed unanimously

**Approval of the Minutes of the January 15, 2020 Meeting**

Christa Schwintzer offered some corrections, including the addition of page numbers to the minutes.

Mr. Ruck asked for a motion to pass the minutes.

Motion: Christa Schwintzer  
Seconded: Lisa Buck  
Motion passed unanimously.

Approval of the October Minutes was suspended until the March Planning Board meeting.

**Old Business**

- a. Continuation of a public hearing for a major site plan review application by Regional School Unit No. 26 for proposed expansions to the Orono Middle School/High School and Asa C. Adams Elementary School located at 6 Goodridge Drive (Tax Map 27-0, Lot 12) in the Medium Density Residential District.

Mr. Ruck reintroduced the RSU Project (as described above) and invited the members of the project team to step forward and present the board with their updates.

Robin Tannanbaum, the project architect, approached the stand first to thank everyone involved in the project thus far - the RSU team, the Planning Board, the Tree Board - for their help and cooperation. The project is moving ahead, they are looking forward to starting construction, and their team is happy to answer any questions.

Doug Reynolds, Civil Engineer for Gorrill Palmer, then explained how the project team had worked with the Tree Board to preserve their forest classroom and relocate the retention pond to a

different area of the school grounds, between the public pool and the baseball field. The new redesign also meets with DEP requirements for water quality and water quantity, and was made possible by an easement from the town that is currently being finalized. Upon conversations with town staff we understand that they would like to have, as a condition of approval, a fence around the perimeter of the retention pond, and possibly some added guardrail along the hill side of the road. The team also submitted a previous town response letter, addressing some of the other peer review comments relative to adding a culvert at the Westwood Drive entry, and to Ms. Schwintzer's recommendation that the plantings in the parking lot be changed. They have eliminated the elm trees and added a more compatible variety of trees instead. Aside from addressing these concerns, and the updating of the retention pond, the plan has not undergone any significant changes. One other aspect of the new location of the retention pond is that it will replace a previously planned underdrained soil filter.

Mr. Ruck asked what the timeline was for DEP approval of the stormwater plan.

Mr. Reynolds replied that the state deadline is the middle of March. They have already received and responded to some comments from DEP, and are now just waiting for further feedback.

Town Planner Kyle Drexler added that, with regards to the easement, the Town Council had passed an order giving the Town Manager, Sophie Wilson, the right to authorize the easement. They have a copy of the easement language, now they are working with the town attorney to make sure everything is in order and get the agreement ready to sign. The only additional staff comments on the updated plans pertained to the addition of the fence around the retention pond and the guardrail for the hill.

Mr. Ruck asked for comments from the board.

Joe Sprecher asked about the standing water depth of the proposed retention pond, and expressed concerns about safety. He also pointed out that however, in his experience, the addition of a fence would actually be more of an attraction to curious kids.

Mr. Reynolds stated that the pond would be 10 feet at its deepest point with a 3 to 1 slope below the 8 foot wide dry bench all the way around the pool.

Mr. Sprecher suggested the substitution of some shrubbery or ornamental vegetation as a barrier, vs a fence.

Mr. Reynolds acknowledged that he was fine with accepting the addition of a fence as a condition of approval, but he did not personally recommend placing one around the pond.

Mr. Ruck asked Mr. Drexler for the staff's thoughts with regards to the fence question.

Mr. Drexler responded that Rob Yerxa, Director of Public Works, and Town Engineer Mandy Holway Olver had recommended the fence for safety, given the proximity of the pond to public areas like the community pool, schools, and adjacent baseball field.

Jeremy Chubbuck seconded the need for fencing around the proposed pond, and Mr. Ruck acknowledged that in these matters he tends to defer to the Town Staff. John Beckett agreed. Mr. Sprecher pointed out that his only other concern, that of the mosquito issue in the warm months, was simply a maintenance thing.

Mr. Ruck then asked about the guardrail in question.

Mr. Reynolds said they hadn't looked at it yet, though he would guess it probably doesn't meet the requirements for extension because there is a sidewalk that acts as a buffer, but it is still a consideration that they should make.

Mr. Drexler presented the Town Engineer's comments on the guardrail, specifically that the design engineer should check that the guardrail along the section of Goodridge Drive closest to the pond slope is warranted. So it may be that the portion closest to the slope is sufficient.

Mr. Reynolds confirmed that they could do the evaluation to be sure, but did point out that it's a one way road and people would not be going down Goodridge Dr.

Lisa Buck raised a question about the potential mosquito problem in the new retention pond.

Mr. Reynolds reminded the board that the adjacent wetlands are a much larger, natural mosquito creator than the pond they will be creating.

Cindy Blaise spoke next. Though she came to speak about the Tree Board, she also wanted to offer the board an anecdote regarding the fence around the retention pond. She told a story about when her daughter was young, and visited an unfenced pool with her friend without permission to highlight the attraction that water holds to young children. Then, as Co-chair of the Tree Board she thanked the project team, planning board, and town staff, for working together to relocate the planned retention pond and protect their valuable outdoor classroom.

Mr. Ruck thanked Ms. Blaise and the Tree Board for their hard work in making this compromise possible, then closed the public hearing on the RSU 26 project.

Mr. Ruck then called for and read the Proposed Findings of Fact, which will be included at the back of these minutes for reference. (See pg. 15)

After reading each finding Mr. Ruck asked for concerns, and the board voiced none. Once all the findings had been read Mr. Ruck called for a motion to approve the RSU 26 Site Plan.

Mr. Chubbuck motioned to approve the site plan with the conditions as presented in Mr. Drexler's report to the board:

Should the Planning Board decide to approve this site plan, staff recommends the following conditions:

1. Prior to the issuance of a building permit, a pre-construction meeting be held between the contractor, RSU 26 representatives, the clerk of works, construction contractor, Gorrill Palmer, Town staff and any other relevant parties so that a discussion can be had to make sure all conditions of approval have been communicated and the logistics of the construction process have been made clear so that Town staff can raise any concerns involving any temporary measures taken during the construction process.
2. That the applicant provide its Maine DEP Site Location Permit approval to Town staff before issuance of any building permit, and that if any significant changes are required by

DEP, that the applicant will have to go back to the Planning Board for an amended site plan approval.

3. That any and all access and entrances to athletic fields be a minimum of 14 feet wide to allow for emergency vehicle access.
4. That the applicant follow the requirements of chapter 13, article III, Non-Stormwater Discharge Ordinance and article IV, Post-Construction Stormwater Monitoring Regulations, and complete a signed maintenance agreement for ongoing maintenance and monitoring of stormwater management facilities before issuance of building permit. The Town will require at least three inspections at the beginning, middle, and end of the construction phase for stormwater compliance, and the RSU will then be responsible for annual inspections.
5. That the wet pond located between the pool and baseball field should have a fence around the pond, and a guard rail should be considered along Goodridge Dr at the section closest to the pond slope.
6. That before any construction begins or permits are issued, the applicant will provide the easement language to Town staff so that all agreements can be signed and agreed upon.
7. That the construction of the wet pond should not create any negative impact for any Town amenities, including the pool and baseball field, nor should it impact any of the surrounding nearby properties or cross over any property line.

To which Mr. Ruck added the condition that the project engineer's final decision with regards to extending the guardrail on the hill adjacent to the proposed retention pond, and the reasoning behind their decision, must be provided to town staff.

Mr. Beckett seconded the motion to approve with conditions.

Approval of the RSU Site Plan was unanimous.

### **New Business**

- a. A proposed amendment to Section 18-130, Excavation, removal and filling of lands, of the Land Use Ordinance.**

Mr. Drexler introduced the proposed amendment to Section 18-130 of the Land Use Ordinance as being aimed at dealing with earth moving activity. The existing ordinance language breaks down into three different areas: projects involving fewer than 20 cubic yards of earth moving are exempt from any sort of permitting; any project moving between 20-100 cubic yards of earth are permitted through the Code Office; any project over 100 cubic yards is suppose to come before the planning board for site plan approval. The Planning board then has the ability, under the existing language, to impose suggestions and/or conditions to projects.

But the current ordinance does not recognize that the same project enacted in different zones result in different impacts for that same project. So the intent of the new language is to better capture some of those varying impacts and let the potential impact determine the degree of permitting necessary for a given project. The new language also allows the code enforcement

officer to work more with the town engineer and gives them the option to recommend projects to the planning board as needed.

We have shifted around the wording of the language in the new draft. Section 1 is staying the same, but the following three sections have been reversed. In the current ordinance, Section 2 is projects that require no permitting, Section 3 is projects that require Code Officer permitting, and Section 4 is projects that require review by the Planning Board. In the new ordinance language, Section 4 becomes Section 2 and projects are arranged by descending order of complexity. The intent of this change is to prioritize the most impactful projects, requiring the most oversight.

In Section 2 of the new ordinance language - earth moving projects that would require site plan review by the Planning Board - the defining line will not simply be “projects moving over 100 cubic yards”. The standard will now be that if you are in the 20-100 cubic yard limit that would normally necessitate permitting by Code Enforcement, but you’re also within 10 feet of a property line, there is an increased chance of impacting an abutting property and the project now requires site plan approval by the Planning Board.

If you’re in a lot under 20k sq feet in certain districts, mainly the more dense districts like the Village Commercial, High Density Residential, Medium Density Residential, or C2, you have a bigger chance of impacting abutting lots, so that would also require additional review. And any project where you are creating a steeper slope than what currently exists, leading to potential runoff concerns, will also need board review.

The rest of the section is what already exists in the current ordinance language with regards to the conservation plan by reaching out to the Penobscot County Soil Conservation Service, as well as the Planning Board’s option to impose conditions. There are currently a couple of these larger impact projects in the process of getting their materials together. Mr. Drexler is not sure where the standard came from requiring applicants to file a conservation plan, but upon speaking with the Penobscot County Soil Conservation Service they were not aware that they were included in this process, nor did they know what the town was looking for as part of that process when the applicant reaches out to them. Mr. Drexler raised the possibility that for certain projects, particularly smaller scale projects, that condition may be excessive.

Mr. Ruck suggested the condition may exist in our ordinance because it exists in other ordinances in nearby towns and counties. Though he offered Hancock as an example of a similar disconnect between ordinance requirements and Conservation Service involvement.

Mr. Drexler added that the representative he spoke with at Penobscot County Soil Conservation Service, had heard about it before this current project. He suggested moving the requirement that applicants provide a conservation plan to Section E and making it an optional condition that the board can, but does not have to, ask for on a case to case basis. Sections 2.C-E of the ordinance remain the same as the original language.

Mr. Drexler then moved on to Section 3, which covers projects moving between 20-100 cubic yards of material and which will require approval by the Code Enforcement Office. This allows for the Code Enforcement Office to work with the town engineer, and if any indecision arises they have the option to send it up to the Planning Board for site plan review. It also allows the Code Officer to issue a stop order on a project if an appeal is made, whereas right now if a

concern is raised the contractor or applicant can proceed at their own risk and continue working on the project throughout the appeals process which can cause problems after the fact.

Section 4 projects are those which don't require oversight by the Code Officer or the Planning Board, and that language will remain the same as that of the current ordinance.

Sections 5-7 were added to the new language following conversations with neighbors of recent projects.

- Section 5 is a confirmation from the applicant as to the amount and type of soil that was moved. The current ordinance does not require verification that the final amount and type of soil moved matches what was listed on the application, so Section 5 puts the onus on the applicant to prove that their project proceeded according to plan.
- Section 6 focuses on the idea that permits and reviews should be done on a by project basis, not a by lot basis, even if a project splits itself between two lots.
- Section 7 uses the state definition of "inert fill" to clarify what types of materials will be suitable and safe to be used in these types of projects.

Mr. Ruck offered some editorial comments, and then asked what the basis was for the "within 10 feet of a property line" clause.

Mr. Drexler clarified that the clause was new and was based on recent feedback about the impact of projects on abutting properties, whether it's clearing vegetation, creating a surface that's more likely to create runoff into someone's yard, etc.

Mr. Ruck asked why 10 feet, specifically, was the measurement, and whether that was enough.

Mr. Drexler explained that 10 feet is the typical side yard setback and that there was also a rear setback of 20 feet as well.

Mr. Ruck asked about the definition of "clean" in regards to the language of Section 7: "The types of allowable materials used in earth-moving activities shall be *clean* soil material, including soil from road ditching and sand from winter sand cleanup; rock; bricks; crushed clean glass or porcelain; aged, fully-hardened asphalt; and cured concrete."

Mr. Chubbuck noted that, with regards to "clean soil", they are prohibited at the university from reusing street sweep grit as fill because of possible contamination.

Mr. Ruck pointed out that there is some allowance for the reuse of unclean or contaminated fill. The state changed the guidance a while back, it may be worth double checking the guidelines for the use of unclean fill in certain situations.

Mr. Chubbuck also noted that, per his discussion with Mr. Drexler prior to the start of the meeting, one thing that is missing from the new ordinance is an exemption for maintenance of an existing feature. For an example he referenced his own driveway, which is within 10 feet of his neighbor's property line, and the fact that bringing fill in to repair an existing driveway shouldn't merit Planning Board Review.

Mr. Drexler confirmed that they could review the language to either move something like that to the permit through Code Office section, or include it as an exemption. He said he would look for model ordinance language pertaining to driveways.

Ms. Schwintzer proposed a wording change on page 4 to item 3a:

- a. The Code Enforcement Officer may consult with the Town Engineer for additional review of the proposed project to determine that no negative impact will be created on abutting lots or any natural resources. If through this review process it is determined that more information is required, the project shall be recommended to the Planning Board for site plan review.

She suggested that the word “recommended” should be changed to “referred”.

Mr. Ruck asked for additional comments from the board. There were none. He opened the public hearing and asked for comments from the public. There were none. Mr. Ruck then closed the public hearing and asked for a motion.

Motion: Mr. Chubbuck motioned that they should review the proposed changes to the ordinance at the next board meeting.

This was seconded by Lisa Buck and John Beckett, and passed unanimously by the board.

As a result Mr. Ruck re-opened the Public hearing and left it open.

- b. A proposed ordinance amendment to Chapter 18 Sections 18-31, 18-106, and 18-153 and Chapter 29, Public Health and Safety, Article III to define, zone, provide performance standards, and create a licensing system for marijuana establishments should the Town decide to opt-in to allow such uses.**

Mr. Drexler introduced the amendment to Sections 18-31, 18-106, and 18-153 of the Land Use Ordinance, as well as to Chapter 29, Public Health and Safety, Article III, in preparation for a forthcoming vote on whether the Town of Orono will opt-in to allowing marijuana establishments within town borders. He explained that there are two laws for marijuana, one for medical use and one for adult use of recreational marijuana. Currently the way both laws stand is that each town has the option to opt-in to allow the different types of marijuana establishments. These laws don't pertain to personal use of marijuana, and whether it should be permissible. These laws are concerned with the business side of the marijuana industry.

- Business types on the adult use side:
  - Cultivation Facilities
  - Manufacturing Facilities
  - Testing Facilities
  - Retail Shops
- Business types on the medical side:
  - Manufacturing Facilities
  - Testing Facilities
  - Caregiver Retail Shops
  - Medical Dispensaries

From a land use perspective, a manufacturing facility has the same impact on a community whether it's manufacturing medical marijuana or adult use marijuana. A retail store, the way it is designed and located, is similar whether it was adult or medical. Instead of creating two separate ordinance sections, both uses were combined into a more general version that incorporates guidelines for all four types of facilities for both medical and adult use where applicable.

With the cultivation facilities, cultivation areas on the medical side were lumped into the adult use cultivation facilities area. For instance, a medical marijuana registered caregiver/dispensary can have a cultivation area. But the town has the authority to zone that and put standards on it. We cannot prohibit caregivers from growing, but we can impose restrictions. So for the sake of consistency these caregiver cultivation areas were included into the larger umbrella of cultivation facilities.

The standards ordinance looks at each type of facility, and the various requirements for each:

- Marijuana retail shops: They will be located in the Commercial 1 (C1) district on Stillwater Ave and some on Godfrey Drive as you approach Stillwater, and in the Commercial 2 (C2) on Park St only. They will not be allowed in the Village Commercial, per discussions with the Town Council and the public.
- Marijuana cultivation facilities: They will vary in scale. Smaller scale operations will be permitted in the Forest & Agriculture (F&A) district because despite the agricultural aspect of these facilities, they require a large amount of water and utilities to function and do not meet the intention of the F&A districts. This is why larger facilities will be restricted to the C1 and Economic Development Zone (EDZ) districts, which are already zoned for manufacturing uses.
- Marijuana manufacturing facilities: They will be zoned similarly to the cultivation facilities, restricted to the C1 and EDZ districts and consistent with current general manufacturing zoning.
- Marijuana testing facilities: This is the R&D/lab space side of the marijuana industry and will follow the same guidelines as the manufacturing and cultivation facilities.

We do not have any actual industrial space in town except for Ayer's Island, so the C1, C2, and EDZ are the zones best able to handle larger scale commercial/industrial uses.

Mr. Drexler then moved onto discussing the actual standards for these facilities. Each facility type is broken down into a number of sections - location, security, ventilation, disposal, etc. Most of the standards in the new ordinance are duplicate language of the state language for adult use, but because we are combining adult use and medical use standards, we have duplicated the language so that it applies to both uses.

- Hours of operation for retail shops, for example, is a standard applied to adult use only at the state level, but which has been applied to medical retail shops as well.
- The design standards are aimed at creating structures that visually blend in with the existing areas. In his visits to extant businesses with Dave Milan, Director of Economic Development, they noted that adherence to these standards created less of a negative impact on the surrounding area.
- The location section focuses on putting distance between the marijuana establishment type in question and another use. For example: the state has a 500 foot buffer between marijuana establishments and schools, with leeway for municipalities to increase the buffer to 1000 feet, which was the decision of the Town Council. Extensive conversation

was had with regards to other uses that require a buffer between their locations and marijuana establishments, guided by the best practices of what other towns and cities are already doing. Examples include: childcare/daycare facilities, places of worship.

- And subsection 3.5 was an important issue that came up in discussion with the Council and the Public, which was to mandate the space between marijuana retail stores. This was the alternative to putting a cap on the number of licenses, which communities also have the right to do, without having to decide on an actual number of licenses to allow.

Mr. Ruck asked about the limitations imposed on the Park St C2 zone such that no marijuana shop can exist within 500 feet of the University property line. That will eliminate a lot of available space.

Mr. Drexler confirmed that this had been discussed in earlier meetings and that the University seemed to support the decision to limit marijuana shops immediately adjacent to the campus.

Mr. Sprecher agrees with the 500 ft buffer between establishments. He did have a question as to why there is a required buffer between places of worship and retail shops, but that this same standard does not apply to manufacturing, testing, or cultivation.

Mr. Drexler replied that there is no buffer between places of worship and these establishments between manufacturing, cultivation, and testing tend to be more discreet than retail shops. Also these types of establishments are relegated to the more isolated EDZ and C1 zones, and so are less likely to be located close to places of worship.

Mr. Chubbuck expressed his concern that while there is a prohibition on marijuana retail stores as home occupations of accessory structures, there is no similar prohibition on manufacturing, testing, and cultivation.

Mr. Drexler agreed that the same standard could be applied to the other three uses, but he would need to consult the state law to determine whether that was covered in their standards and restrictions. He deferred to Dave Milan, Director of Economic Development.

Mr. Milan agreed with Mr. Drexler that the reason testing, manufacturing, and cultivation facilities are not prohibited as home occupations or accessory structures in the proposed ordinance is because state standards and restrictions already make it impossible. The strict security and space requirements for approval at the state level are such that an applicant would never be approved to run one of these businesses out of a family home or accessory structure. However, the Town can explicitly state that it is prohibited in our ordinance if the board desires, because municipalities are allowed to impose stricter guidelines than the state at their discretion.

Mr. Chubbuck suggested that it felt inconsistent not to apply the same standard across all four types of marijuana facilities.

Ms. Buck asked whether there are required distances between marijuana facilities and nursing homes and/or medical offices.

Mr. Drexler replied that he had seen no such restrictions.

Mr. Milan replied as well, pointing out that he and Mr. Drexler had been working on the draft of this ordinance since 2017. Every session of the legislature since legalization passed in 2016 has had numerous bills amending the laws. Adult use retail stores can't even happen yet because the state has not finished the rules. Finalizing of the rules and the start of licensing isn't expected to happen until late this year or more likely the spring of '21. When he and Mr. Drexler started writing the prohibitions for the ordinance in discussion with the Town Council, the Council wanted to start with the same prohibitions as are placed on alcohol sales, and for alcohol there is a restriction that requires liquor stores to be 300 ft or greater from a medical office or nursing home. During the conversation with Council and with public, the selection of prohibitions was refined down to what exists in the proposed ordinance language. If there are other opinions those can certainly be taken back to the council, but this proposed language is the product of multiple involved discussions.

Mr. Drexler added that some of the prohibitions are captured through zoning as well. Restrictions on the locations of potential facilities are designed to keep them separate from other uses like schools, churches, and things like nursing homes as well. For example, there was no need to write out a buffer for parks, because zoning requirements prohibit any marijuana facilities in the Village Commercial where the majority of the town parks are. He asked the board to remember, also, that this issue is ultimately going to a town wide vote. The Council will not make the final decision. So the Planning Board is not going to be recommending the language to Council for approval, it will be recommended to Council as the basis for that vote.

Mr. Ruck asked how the hours of operation were determined.

Mr. Drexler answered that those hours were determined by the state standards.

Mr Ruck also asked about the 10,000 sq ft limit for retail spaces, and whether this was also a state standard.

Mr. Drexler replied that no, that restriction was more based on looking at existing spaces, and also as a means of separating retail from cultivation.

Mr Drexler moved on to discuss the security and ventilation standards, which proved to be two of the biggest concerns in discussion with the Council and the Public. Most of the security standards are drawn from the adult use rules at the state level, as well as the ventilation standards.

Mr. Ruck asked about the requirement for all retail facilities to have a locking safe for the functional equivalent, and for all products to be stored in that safe/equivalent container at the end of every day. It seems excessive, but must be typical?

Mr. Milan replied that when he and Mr. Drexler traveled the state visiting some of the medical marijuana facilities that are already legal there were two primary issues on the owner and the municipality level: security and odor control. He referred to Waterville, which has 9 licensed medical marijuana facilities, all of which have been broken into. The security standards are excessive, but necessary. Shop, as a result of the need to secure their products, don't tend to keep as much of it on hand in the front of the shop as might be expected and then it is returned at the end of business.

Mr. Chubbuck pointed out that the ordinance doesn't say they have to store their products in the safe, just that they have to have the safe.

Mr. Milan countered that the state standards require all products to be stored in the safe/equivalent at the end of the day.

Mr. Drexler continued with the ordinance language. Ventilation and odor is mostly an issue with the cultivation facilities. But in order for anyone to even qualify for a state license they have to provide a ventilation plan. In Orono we already have nuisance standards in place to deal with odors that exceed property lines, and there are standards for retail stores and more extensive standards for the cultivation facilities aimed at curbing odor issues. The onus is on the establishment to solve any odor problems that arise. The ordinance language does not go into specifics with regards to the exact filtration equipment required for a facility, but the owner does have to submit a plan upfront showing how they plan to deal with the odor.

Mr. Drexler then touched briefly on the disposal standards, which are very similar to the state rules, and on to the similar standards that govern testing, manufacturing, and cultivation facilities. There are fewer design standards for these facilities because they tend to have a generic manufacturing feel to them, and will be located in less walkable areas where there will not be as high a concentration of people. So focus for these facilities was focused more on ventilation, etc.

He then directed the board's attention to the cultivation section, and to the standards that determine what types of cultivation facilities can be placed where. For example, all cultivation facilities in the C1 and EDZ districts shall be located indoors in completely enclosed structures. The state recognizes that a cultivation facility can be indoors or in a fenced area outside. In the C1 and EDZ zones, being closer to town, we would not want those outdoor cultivation facilities because of the possibility of an odor issue. The state issues different tiers of licenses for cultivation based on plant canopy - how much is being grown. So that limit of 7,000 sq ft in the ordinance (4.a.i) is a Tier 3 license, a Tier 4 license would allow for 20,000 sq ft of plant canopy. The discussion with the council was that, as cultivation facilities seemed like the biggest hurdle, starting smaller was preferable. If some of these facilities came in and were successful then bumping the limit up and allowing for larger facilities could be considered at a later date.

The next clause (4.a.ii) would allow for cultivation facilities in the F&A district, and those can be located partially or entirely outdoors, or entirely in a greenhouse. However, outdoor grow areas need to be completely fenced in, and the maximum canopy size for these facilities was 500 sq ft of mature plant canopy.

Mr. Ruck raised a security concern, asking whether simple fencing for the outdoor growing areas seemed like a sufficient deterrent.

Mr. Drexler clarified that the complete fencing of an outdoor grow area was the state standard.

Ms. Schwintzer pointed out that the proposed outdoor growing area is quite small. Given the lack of productivity because of our short growing season here in Maine, so small an operation wouldn't be profitable.

Mr. Drexler reminded the board that the intention was to start small, address any issues, and grow the limitations in the future as desired.

Ms. Schwintzer referenced the size of the Council Chamber, pointing out that the room itself was bigger than 500 sq feet. To limit a grow to a quarter of the size of what is already not a large room seemed nonsensical.

Mr. Milan offered that the biggest complaint about cultivation facilities was often the smell. The Council had opted to start small, so that issues could be more easily addressed and resolved, and then expand in the future if there proved to be no large, unresolvable issues.

Mr. Drexler added that outdoor grows were also meant to prohibit retail stores from having cultivation areas. Though caregiver growers will still have the opportunity to grow downtown/in town, they can only grow a very limited number of plants. Only six mature plants per patient, and only up to five patients. Originally the cultivation facilities were only going to be the indoor facilities in the C1 and the EDZ, and adding the smaller scale outdoor grows was meant to capture those smaller caregiver operations. But again, any comments can be taken back to Council and the issue revisited.

Mr. Ruck and Ms. Schwintzer raised questions about the limited size of the F&A cultivation facilities.

Mr. Drexler pointed out that though it is technically the Forest & Agriculture zone, it doesn't have the infrastructure to support the larger scale indoor cultivation facilities.

Ms. Schwintzer asked whether something could be built, as there are power lines available in those areas.

Mr. Drexler clarified that the F&A isn't really intended for that kind of large structure, however. It is intended to preserve open space. Originally he did have it in the language to permit these types of facilities in the F&A only, but moved it to the C1 and EDZ because the form of the businesses seemed to fit more with the character of those districts than with traditional agriculture.

Ms. Buck asked about odor control standards for outdoor sites.

Mr. Drexler replied that any Town odor and nuisance standards still apply. An argument to allow for something larger would be that if an issue with odor did arise it would be on the owner to either do something about the smell or cease their operation. But this will not impact personal/home cultivation. Every person of age is allowed to grow 3 mature marijuana plants, twelve immature plants, and a number of seedlings, and these do not come under the zoning or ventilation standards and are permitted in every district. Which leads into Section 5: the municipality cannot prohibit people from growing their own, but they can prohibit them from growing on someone else's property. This prevents a parcel in the F&A from taking in all their neighbors plants and suddenly they have this massive facility.

5.B is an extension of this with regards to medical marijuana. Any dispensary or registered caregiver must operate their cultivation as a cultivation facility, which is only permitted in the

F&A, C1, and EDZ zones. Any patient or unregistered caregiver may cultivate marijuana on an individual basis and are not subject to these ordinances.

Mr. Drexler then moved onto the Marijuana Licensing ordinance, which takes much of its language from the victualler ordinance. One of these establishments will have to go through site plan just like any new restaurant, but they will also have to get their license through the Town Council. The license also requires an inspection process and that the owner provide all state approvals.

Mr. Sprecher suggested that the phrase “proceed to revoke the establishment” (Section 29-46, 2) be reworded, possibly to “proceed to revoke the license of the establishment”.

Mr. Ruck asked if all this ordinance language was a lot to digest and whether the board would like to revisit it in March, or to proceed with the recommendation to the Council.

There was some confusion and discussion amongst the board members about the issue of the retail store home occupation prohibition and whether to extend that prohibition to all other types of facilities for the sake of consistency and to remove any potential loopholes, though as Mr. Drexler pointed out, state and town standards for manufacturing, testing, and cultivation facilities already prevent these uses from being located within a home occupation or accessory structure.

There was also some debate whether to increase the minimum F&A canopy size, or to adhere to the Council’s philosophy of starting small and increasing minimums after impacts have been accessed. The Planning Board elected to go forward with the minimum already specified in the ordinance.

Mr. Ruck opened the public hearing for comments. There were none. Mr. Ruck closed the public hearing and asked for a motion.

Mr. Chubbuck motioned to recommend the ordinance to the Council, with the recommendation that the standard prohibiting marijuana retail stores from function home occupation or accessory use be applied to all types of facilities.

Mr. Beckett seconded the motion.

The motion passed unanimously.

### **Other New Business**

There was no new business.

### **Discussion**

- a. Changing the Planning Board monthly meeting time.

Mr. Ruck presented the argument that the Planning Board should start meeting earlier in the evening, at 6:30 pm. He deferred to Mr. Drexler to determine if that was possible. Mr. Drexler spoke with the Town Manager and consulted the ordinance and it seems that in that regard the

board should be able to switch to another meeting time, at the earliest 6:00 pm. Anytime earlier than 6:00 pm would likely be off the table. The ordinance references Planning Board bylaws, which Mr. Drexler has not seen, so he will need to locate those and verify that there is nothing in the bylaws which specifies meeting times. He should be able to let the board know by the March meeting.

Mr. Drexler then informed the board of possible upcoming projects, including a home business application and amended subdivision that will be presented at the March Planning Board meeting on the 18th.

### **Adjournment**

Mr. Ruck asked for a motion to adjourn the meeting.

Motion: Jeremy Chubbuck

Seconded: John Beckett

The motion passed unanimously.

Date and Time: February 26, 2020 at 9:04 pm.

**PROPOSED FINDINGS OF FACT**  
**RSU 26**  
**SITE PLAN REVIEW**  
**February 26, 2020**

Pursuant to Article VI, Section 18-177, of the Orono Code of Ordinances, the Orono Planning Board has considered the application of Regional School Unit 26 for the addition, improvements and expansion of the school and lot located at Tax Map 27-0 Lot 12 in the Medium Density Residential district, and, based on all evidence presented by the applicant, reviewing agencies, town departments, and the public, found the following:

1. Requirements of the district: That the proposed use is an allowable use in the Medium Density Residential district, and that the proposal complies with the applicable dimensional requirements of the district.
2. Compliance with Town ordinances and codes: That the proposed use, structures, setbacks, buffers, and layout meet the provisions of applicable regulations of the Town, including all pertinent sections of Chapter 18, Land Use Ordinance.
3. Utilization of the site: That this construction is within the natural capabilities of the site, is located in a suitable area of the site, does not disturb environmentally sensitive areas, fits with the existing topography of the site, and can accommodate any drainage associated with the construction.
4. Traffic and pedestrian access: That the use of the site will remain the same and no increase in traffic is anticipated based on the proposed changes to the site; and that the addition in parking will help to relieve the concerns over on-street parking problems in the area during larger events.
5. Storage of materials: That there will be no exposed storage of materials.
6. Stormwater management: That the stormwater management plan adequately mitigates potential impacts in a way so that no adverse impact will be made on the surrounding stormwater systems or the environment.
7. Erosion control: That the applicant has provided for erosion control both during construction and permanently that meet best management practices.
8. Water supply and sewage disposal: That the site can be served by off-site water supply and sewage disposal.
9. Utilities: That adequate provision has been made for all utilities.
10. Natural features: That adequate provision has been made to preserve the natural features of the site.

11. Groundwater and surface water quality protection: That the site has a small area on the eastern portion of the lot that is within the Aquifer Protection Overlay, however, no aspect of the project will take place in this area.
12. Hazardous, special, and radioactive materials: That the use of the site does not involve the handling, storage, or use of hazardous, special, or radioactive materials.
13. Shoreland relationship: That the site is not within a shoreland area.
14. Solid waste management: That no changes to solid waste management are proposed.
15. Historic and archaeological resources: That the site is not known to contain historic or archaeological resources.
16. Financial capacity: That the applicant has the financial capacity to carry out the project.
17. Noise and lighting: That the facility will operate within the noise and lighting standard in Town ordinances.