

**St. George Planning Board  
St. George Town Office  
September 8, 2020 - 7 p.m.**

The Planning Board meeting was called to order at 7:00 p.m. via Zoom. Members present were: Anne Cox, Chair; Jane Brown, Ray Emerson, Mary K. Hewlett, Michael Jordan, and Alan Letourneau. Also present: CEO Terry Brackett, Richard Bates, James Balano, John Murdock, and Kyle Murdock.

**Quorum:** A quorum was present.

**Conflict of Interest:** None.

**Adjustments to Agenda:** The following adjustments were made:

- Wheeler's Bay Oyster Company application was placed on the agenda before the Site Plan Review for Midcoast Marijuana Company.
- Wildcat Quarry, LLC minutes were taken up before the Planning Board Meeting Minutes of August 11, 2020

**Review of the Minutes:**

Planning Board Public Hearing – Wildcat Quarry, LLC – August 11, 2020 – The minutes were corrected as follows:

Page 2, 2<sup>nd</sup> paragraph from bottom, line 2, change to read: ...particular application while he is...

A motion was made by Jordan, seconded by Hewlett, to approve the Wildcat Quarry Public Hearing minutes of August 11, 2020, as corrected. The vote was 5-0. The motion carried.

**Planning Board Meeting** — August 11, 2020 – The minutes were corrected as follows:

Page 2, under Wildcat Quarry, paragraph 5, line 1, change word metal to mineral

Page 5, paragraph 4, line 1, insert the word be: ... material will be used...

A motion was made by Jordan, seconded by Hewlett, to approve the Planning Board minutes of August 11, 2020, as corrected. The vote was 5-0. The motion carried.

**On-Site Inspection** – Wheeler's Bay Oyster Company, 43 McCoy Road, August 31, 2020. The minutes were corrected as follows:

Page 1, paragraph 1, line 2, remove Mary K. Hewlett as being present

Page 1, paragraph 4, line 2, remove comma after: ... so he can back his truck...

A motion was made by Letourneau, seconded by Brown, to approve the Wheeler's Bay Oyster Company On-site Inspection minutes, as corrected. The motion passed with four (4) votes in favor and one (1) abstention.

**Public Comments:** None.

**Wharves:**

**a. Wheeler's Bay Oyster/James Balano and Robin Maude McCoy** – 43 McCoy Road, Map 233, Lot 057

The applicant, James Balano, was present. The application is to install and maintain a 3' x 36' ramp leading to a 12' x 16' float below the MHWL of a branch of Harrington Cove/Wheeler Bay on property located at 43 McCoy Road. Mr. Balano stated that with the installation of a ramp and float, he will be able to work longer hours, depending on the tides. An on-site inspection was held on August 31, 2020.

Voting Status Change: Mary K. Hewlett stepped down as a voting member because she was not present for the Wheeler's Bay Oyster Company on-site inspection. Ray Emerson was elevated to voting status.

Chair Cox asked CEO Brackett if he received the application information from DEP as the Planning Board had not. CEO Brackett said he did receive the DEP information, and the application was signed on March 27, 2020. Chair Cox asked the Planning Board if the application was complete.

A motion was made by Brown, seconded by Emerson to accept the application as complete. The vote was 5-0 and the motion carried.

The Planning Board then reviewed Section 15(C) of the Shoreland Zoning Ordinance.

**Section 15(C)**

**C. Piers, Docks, Wharves, Bridges and Other Structures and Uses Extending Over or Beyond the Normal High-Water Line of a Water Body or Within a Wetland and Shoreline Stabilization.**

1. No more than one pier, dock, wharf, or similar structure extending or located below the normal high-water line of the water body or within a wetland is allowed on a single lot. - On a motion by Jordan, seconded by Brown, the standard has been met, 5-0. No more than one structure is being proposed.
2. Access from shore shall be developed on soils appropriate for such use and constructed to control erosion. - On a motion by Jordan, seconded by Letourneau, the standard has been met, 5-0. A drainage culvert will be installed at the existing road site to divert groundwater and help control any further erosion.
3. The location shall not interfere with existing developed or natural beach areas. - On a motion by Jordan, seconded by Brown, the standard has been met, 5-0. The area consists of heavy mudflats and there are no developed beach areas.
4. The facility shall be located so as to minimize adverse effects on fisheries. - On a motion by Brown, seconded by Jordan, the standard has been met, 5-0. There are no fishery activities at this site, other than oyster harvesting.

5. The facility shall be no longer in dimension than necessary to carry on the activity and be consistent with the surrounding character and uses of the area. A pier, dock, or wharf in non-tidal waters shall not be wider than six feet for non-commercial uses. - On a motion by Brown, seconded by Letourneau, the standard has been met, 5-0. The applicant states that the Department of Environmental Protection minimized the site plan, and he will comply with DEP's conditions and requirements in the construction of the ramp and float.
6. No new structure shall be built on, over, or abutting a pier, wharf, dock, or other structure extending beyond the normal high-water line of a water body or within a wetland unless the structure requires direct access to the water body or wetland as an operational necessity.  
- On a motion by Jordan, seconded by Brown, the standard is not applicable, 5-0. There is no structure being built on the ramp or float.
7. New permanent piers and docks on non-tidal waters shall not be permitted unless it is clearly demonstrated to the Planning Board that a temporary pier or dock is not feasible, and a permit has been obtained from the Department of Environmental Protection, pursuant to the Natural Resources Protection Act. - On a motion by Jordan, seconded by Brown, the standard is not applicable, 5-0. The proposed project is not a pier or dock; the ramp and float will be built on tidal waters.
8. No existing structures built on, over, or abutting a pier, dock, wharf or other structure extending beyond the normal high-water line of a water body or within a wetland shall be converted to residential dwelling units in any district. - On a motion by Jordan, seconded by Brown, the standard is not applicable, 5-0. No structures are being built on the float, the ramp, or dock.
9. Except in the Commercial Fisheries/Marine Activities District, structures built on, over, or abutting a pier, wharf, dock or other structure extending beyond the normal high-water line of a water body or within a wetland shall not exceed twenty (20) feet in height above the pier, wharf, dock or other structure. - On a motion by Jordan, seconded by Brown, the standard is not applicable, 5-0. No structure is proposed to be built on, over, or abutting the ramp or float.
10. Vegetation may be removed in excess of the standards in Section 15(P) of this ordinance in order to conduct shoreline stabilization of an eroding shoreline, provided that a permit is obtained from the Planning Board. Construction equipment must access the shoreline by barge when feasible as determined by the Planning Board. - On a motion by Jordan, seconded by Emerson, the standard has been met, 5-0. No excessive vegetation, including trees, will be removed and any disturbed soil will be reseeded per the DEP permit. The Board determined that it would not be feasible to install the bulkhead, the ramp, and float from offshore.

Letourneau noted that the Planning Board had previously asked if the area was a fish and wildlife habitat and did DEP address that issue? CEO Brackett summarized DEP's decision statement. "The area is scenic, and the DEP utilized a visual impact assessment matrix of the proposed project. The DEP finds the activity will not cause unreasonable erosion of soil. Habitat considerations: The applicant demonstrated that the proposed project will not unreasonably harm significant wildlife." CEO Brackett stated DEP did not appear to have any issues concerning wildlife habitat.

The Planning Board then reviewed questions 1-9 under Section 16 (D) of the Shoreland Zone Ordinance.

#### **Section 16 (D)**

##### **Procedure for Administering Permits:**

1. Will maintain safe and healthful conditions? The Planning Board finds no reason the addition of the ramp and float will have any effect on safety and health considerations on the existing oyster farming business.
2. Will not result in water pollution, erosion, or sedimentation to surface waters? The Planning Board finds that the presence of the ramp and float will not have any effect on pollution, erosion, or sedimentation to surface waters but will improve the eroding shoreline.
3. Will adequately provide for the disposal of all wastewater? The Planning Board finds wastewater will not be generated.
4. Will not have an adverse impact on spawning grounds, fish aquatic life, bird or other wildlife habitat? Based on the DEP findings and the Planning Board finds that the bulkhead, the ramp, and the float will not affect spawning grounds, fish, bird, or other wildlife habitat.
5. Will conserve shore cover and visual, as well as actual, points of access to inland and coastal waters? The Planning Board finds the bulkhead, ramp, and float will not affect the shore cover.
6. Will protect archaeological and historic resources as designated in the comprehensive plan? The Planning Board finds there is no indication there are archaeological or historic resources at this site.
7. Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities District? The Planning Board finds this project will not interfere with commercial fishing or maritime activities as the area is not navigable to those industries.
8. Will avoid problems associated with flood plain development and use? The Planning Board finds the bulkhead, the ramp and the float will not affect flood plain development.
9. Is in conformance with the provisions of Section 15, Land Use Standards. The Planning Board finds this project meets the provisions of Section 15.

A motion was made by Jordan, seconded by Emerson, to find the Standards in Section D, questions 1-9, of the Shoreland Zone Ordinance have been met. The vote was 5-0. The motion carried.

A motion was made by Letourneau, seconded by Emerson to approve the Wheeler Bay Oyster Company application based on the findings of Section 15(C) and Section 16(D) of the Shoreland Zone Ordinance. The vote was 5-0. The motion carried.

**Site Plan Review:**

**a. Midcoast Marijuana Company, 56 Mussel Farm Road / Map 222, Lot 026**

Kyle Murdock, the applicant, and property owner, John Murdock were present. The application is to utilize an unused portion of the existing structure to operate an agricultural business cultivating medical marijuana, located at 56 Mussel Farm Road. Existing Use: Commercial Fishing and Processing. Proposed Use: Agricultural. Shoreland Zone District is CFMA. Floodplain Designation is AE-12.

The Planning Board received a copy of Mr. Murdock's written "MMC Response to Questions and Concerns of the Planning Board" earlier in the day. Chair Cox thought most of the members had not had a chance to thoroughly review this information by meeting time, and asked Murdock to review the high points of his proposed project.

Murdock stated he tried to make his written response as comprehensive as possible, but he summarized it, as follows:

The written response gives a history of the Maine Medical Marijuana Program and how it differs from the recently authorized Adult Use Marijuana Program. The town of St. George has an ordinance forbidding adult-use marijuana businesses but explicitly allows medical marijuana businesses. The response includes terminology and definitions of different uses in the Shoreland Zone, specifically the CFMA and tried to draw on multiple state, federal, and local sources to describe the way he interprets the ordinance and what it allows.

He included a lengthy description of the various cultivation methods used for marijuana grown inside. There are particular growing methods that he is currently leaning towards but has not selected a specific one as plans might change as the process evolves. He feels that any of the possible methods available to them will still constitute an agricultural use. If they were to, at some point down the road, decide to change the growing method, he did not feel that will change the use enough to, for instance, come back to the Planning Board and get a new permit.

Murdock reviewed the Site Plan Review Ordinance and said he did his best to answer the questions in the Performance Standards and he touched on what was brought up before with the Board of Appeals' decision against Onacraft.

Chair Cox noted Murdock explained several different growing methods for a commercial/agricultural production, and it appears he is leaning towards the soilless media

method. She stated the Planning Board will review the ordinances for issues such as runoff, soil erosion, and water usage, and they will need specific information about the capacity of his septic system. Chair Cox, "Will you be generating too much water? What kind of fertilizer will you be using and what will the impact of that be on the system? Paying attention to environmental issues will be key as the Planning Board moves forward on this application."

Murdock said he is looking at two things. The plan is to start small and expand. "So, as for starting now, in all likelihood, we think that any small amount of waste fertilizer we use, we will spread that on the upland part of the property that is outside of the Shoreland Zone. It will not come anywhere close to the allowable limits in the Shoreland Zone. That is a way to dispose of small amounts of fertilizer. If we start getting into a realm where the business is doing well and we expand, there are a number of subsurface holding tanks on the property that was used by the mussel farm which we would divert the wastewater into and have it removed by a company such as Interstate Septic."

Chair Cox explained to Murdock that aside from specific questions the Planning Board may have, the application issue is that the property is a change of use as he would like it to go from the current commercial fishing and processing use to a commercial agricultural use.

Hewlett stated one of Murdock's requests is that he wants to have the ability to allow patients to pick up their medical marijuana at the facility. She told Murdock the Planning Board will want to know where he expects patients to park. How will they access the building? Will this be a curbside pick-up? Hewlett said the Board needs to hear the logistics for that request.

Murdock stated he is only talking about changing the use of part of the building as the rest of the building will still be used in commercial fishing operations.

Chair Cox suggested the Planning Board hold an on-site inspection and Board members agreed.

An on-site inspection visit was scheduled for Monday, September 28, 2020, at 5 p.m. CEO Brackett said he would get the necessary information out to the public. The application was not accepted as complete, pending an on-site visit, and information presented at the October 13, 2020, meeting.

Letourneau told Murdock he wants him to be aware of what the Shoreland Zone Ordinance states so he (Murdock) can be prepared. Letourneau then read Section 12(C)(5), Change of Use of a Non-Conforming Structure.

Murdock stated he could re-write his response and make it more succinct. Chair Cox suggested he take each of the issues and do a bullet point with a few sentences about how he feels he is meeting that issue.

Hewlett suggested Murdock elaborate on the pumping out of septic tanks. She said, "We will need to know more about the wastewater. What is the volume? What is the capacity of the septic system? How is it rated? Those types of issues."

Murdock said having to have someone pump out one of their holding tanks is many years of growth down the road, and they do have a "down the road" plan as things expand.

Hewlett asked, "You say you are using 85% of the facility. So, where would the expansion be?" Murdock said he means that 85% of the space is going to be used for plant cultivation. The other 15% will be used for the preparation of cannabis for sale to customers, possibly meeting patients and dispensing to them, or as storage areas.

Chair Cox stated they will be able to see if he has room for expansion when they do the on-site inspection. Hewlett said they will also need to see where he will occupy the building versus the fishery business that is also in that building.

Ray Emerson stepped down as a voting member and Mary K. Hewlett was elevated to regular voting status.

There was no further business to come before the Board. On a motion by Letourneau, seconded by Hewlett, it was voted 5-0 to adjourn the meeting at 7:50 p.m. The Planning Board immediately went into a workshop on Ordinance Review.

Respectfully submitted,

Marguerite R. Wilson  
Planning Board Recording Secretary