

**St. George Planning Board  
St. George Town Office  
October 27, 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, Sandra Roak, Vanessa Maples O'Donnell, Rebecca Lord, Kyle Murdock, John Murdock, Kate Bourne, Mark Munger, Randy Elwell, Michael Felton, and Matt Tibbetts.

**Voting Status Change:** Jane Brown stepped down and Ray Emerson was elevated to voting status for the review of the October 5, October 12, and October 13, 2020, minutes pertaining to the Midcoast Marijuana Company and 87 Haupt Road. He was elevated to voting status for the Midcoast Marijuana application. Jane Brown assumed her voting status during the other agenda items.

**Quorum:** A quorum was present.

**Conflict of Interest:** None.

**Adjustments to Agenda:** The following adjustment was made:

Review of the Planning Board minutes in chronological order. (Though the documentation below does not reflect this, review of the minutes were taken up in chronological order by the Planning Board.)

**Review of the Minutes:**

**Planning Board Meeting - September 22, 2020** – The minutes were corrected as follows:

Page 1, under Review of Minutes, line 2, correct name to **Brown**

Page 4, paragraph 3, line 2, correct the word to **under side**

Page 5, paragraph 8, line 5 change to read: attempt to be **in compliance with** the...

Page 8, paragraph 2, line 6, change word pier to **ramp**

Page 9, 1<sup>st</sup> paragraph, line 1, change to read: ... the ad hoc **committee** on the...

A motion was made by Letourneau, seconded by Brown, to approve the Planning Board minutes of September 22, 2020, as corrected. The vote was 5-0. The motion carried.

**Planning Board Meeting – October 13, 2020** – The minutes were corrected as follows:

Page 1, Amend Heading Site Plan Review to **Change of Use Application**

Page 1, delete the letter **a**

Page 2, 1<sup>st</sup> paragraph, line 4, change the word as to **is**

Page 4, 3rd full paragraph, line 2, change to: **Agriculture is** permitted ...

Page 4, lines 3 & 4, change to: ... I see that as an **“and”** and not an **“o”** in this case.”

Page 4, 4<sup>th</sup> full paragraph, line 1, change to read: ... **“I do think that Note 5 is an important note.”**

Page 4, paragraph 9, line 2, change to read ...I was **engaging in** a commercial activity....

Page 6, paragraph 6, line 1, change to read: ...The Murdock application was **continued to** the October 27, 2020, Planning Board meeting.

A motion was made by Letourneau, seconded by Hewlett, to approve the October 13, 2020, Planning Board minutes, as corrected. The vote was 5-0. The motion carried.

**On-Site Inspection** – October 5, 2020 – 56 Mussel Farm Road/ Midcoast Marijuana Company  
The minutes were corrected as follows:

Page 1, under members present, correct name to Kate Bourne

A motion was made by Letourneau, seconded by Hewlett to approve the October 5, 2020, On-Site Inspection minutes for Midcoast Marijuana Company, as corrected. The vote was 5-0. The motion carried.

**On-Site Inspection** – October 12, 2020 – 87 Haupt Road

A motion was made by Letourneau, seconded by Hewlett, to approve the October 12, 2020, On-site Inspection minutes for 87 Haupt Road, as written. The vote was 5-0. The motion carried.

**Public Hearing Minutes** – October 13, 2020 - 87 Haupt Road/Janie and Don Ed Holmes

A motion was made by Letourneau, seconded by Hewlett, to approve the 87 Haupt Road Public Hearing minutes of October 13, 2020, as written. The vote was 5-0. The motion carried.

**Public Hearing Minutes** – October 13, 2020 – 56 Mussel Farm Road/Midcoast Marijuana Co.  
The minutes were corrected as follows:

Page 2, 1<sup>st</sup> paragraph, line 7, correct word to effluent

Page 3, 4<sup>th</sup> full paragraph, line 4, correct word one to once

A motion was made by Letourneau, seconded by Jordan, to approve the Midcoast Marijuana Company Public Hearing minutes of October 13, 2020, as corrected. The vote was 5-0. The motion carried.

**Public Comments:**

J. Murdock: I am the owner at 56 Mussel Farm Road. At the last meeting (when) we talked, you were discussing water-dependent uses. I just want to put my opinion out there. On the property and reading the rules for the Shoreland Zoning, at the beginning, it tells you to go to the Definitions of the Shoreland Zoning. You get down to Agriculture. It says allowed without a permit. In my opinion, you don't go any further. It's allowed without a permit. I could understand the Change of Use for a building, but I don't understand why you would go any further after it says, "allowed without a permit." I would like to hear people's different opinions on that, if possible.

Chair Cox: I believe when we take up that application, we will be airing that. Thank you for your input. I know we will be dealing with that topic when we get to the application.

M. Munger: This is Mark Munger and Kate Bourne is next to me. We can't pretend to speak for our neighbors, but we have talked considerably with neighbors since the site visit and since the meeting two weeks ago. I think I have an ability to say three things:

1. They believe that this is not a real working waterfront project given the Town's Comprehensive Plan.
2. They believe that saltwater is not required for this project. Freshwater will have bad stuff in it, and it will get in the cove and cause harm.
3. History with the applicant suggests caution, and this waterfront has potential for many useful platforms and endeavors in ways that we may not be able to anticipate. So, we would ask you to keep it as a resource.

There were no other Public Comments.

**Building Permits:**

**a. Tenants Harbor Boatyard** – 3 Boatyard Road / Map 105, Lot 024

**Tenants Harbor Wharf, LLC** (formerly Art's Lobster) – 6 Boatyard Road / Map 105, Lot 023

Vanessa O'Donnell, M.S. of Permit Consultants in Lincolnville represented the applicants. The application is to repair an existing seawall and prevent shoreline erosion. The project is located between the Tenants Harbor Boatyard and the Tenants Harbor Wharf. The Shoreland Zone District is Commercial Fisheries/Maritime Activities (CFMA), and the Floodplain Designation is AE-12.

O'Donnell stated there are two applications for the same project. The project involves repairing a seawall; half of it is on Tenants Harbor Boatyard and the other half is on Tenants Harbor Wharf (Art's Lobster). The seawall is caving in and the area above the seawall is a parking lot which is starting to crumble into the natural resource. The applicants are aiming to repair that and to get the use back of the parking lot.

O'Donnell stated that the project has two parts and has been approved by the Maine Department of Environmental Protection and the U.S. Army Corps of Engineers (USACE). One of the two parts is a seawall repair and the other part is the wharf expansion.

She stated the applicants are choosing, at this point, not to move forward with the wharf expansion. So, the application in front of the Planning Board at this meeting is strictly for the seawall repair.

The Planning Board discussed whether an on-site inspection was needed for the Tenants Harbor Boatyard application.

A motion was made by Letourneau, seconded by Hewlett to waive an on-site inspection of the Tenants Harbor Boatyard. Jordan asked for clarification about the application being presented and, Chair Cox noted that the application had not been accepted as complete. Letourneau and Hewlett withdrew their motion.

Chair Cox, "Which part of the project are we being asked to look at? Is it the application to only repair the seawall and not do the pier?" O'Donnell stated correct.

Hewlett, "I think it is 29 feet of riprap in length." She recommended the wording 'an existing 29-foot seawall' be added to the project description. O'Donnell stated they measured, and the drawings were re-done to 29 feet.

Chair Cox, "So, it is just for the Tenants Harbor Boatyard. Both the applications do say repairing the existing seawall even though we have documentation for the Tenants Harbor Wharf (pier). Both applications say the application proposes to repair an existing seawall and prevent shoreline erosion. They say nothing about the pier, so when you submitted these, you removed the pier for that, even though the supporting documentation includes the pier?"

O'Donnell, "So the clients, although they have permitting to move forward with both, they are not interested in doing the town permitting. The Army Corps of Engineers' permits will be good for two years. With the Maine DEP, they have four years to start it and seven years to finish it. If they go ahead and get a permit from the town and they do not do it within a year, then they will have to reapply. They are just interested in repairing the seawall and that at a later date, they might go back to the town with their same permitting and then move on with the wharf expansion." Chair Cox said okay, that makes sense.

Jordan, "I was a little confused about the dates of the Army Corps of Engineers. It talks about two dates. One is October 13, 2020, and we have it as October 13, 2021." O'Donnell said October 13, 2020, is the date USACE will allow you to start the project and the project must be finished before 2021. Jordan noted the date at the bottom of the page, as November 2019. Chair Cox said that was when a discussion was held on this, and a joint processing meeting was held on October 31, 2020.

Chair Cox asked if the application was complete.

A motion was made by Hewlett, seconded by Brown, to accept the Tenants Harbor Boatyard application as complete, with the addition of the length of the seawall. The vote was 5-0. The motion carried.

The Planning Board discussed whether they needed to hold an on-site inspection. It was noted that two members of the Planning Board had visited this site in the past on a previous application; and, board members felt the photographs included in the application packet gave a relatively clear representation of the problem.

A motion was made by Letourneau, seconded by Brown to waive an on-site inspection visit because the photographs gave a relatively clear representation of the problem, and two members of the Planning Board had visited this site in the past. The vote was 5-0. The motion carried.

The Planning Board discussed which section in the Shoreland Zoning Ordinance this stabilization project would apply. Jordan stated that all of the requirements on Page 20, Paragraph 5 apply only if the retaining wall is something that is not necessary for erosion control, and if the Board concludes that this is necessary for erosion control then they can stop there.

Chair Cox said, "It is necessary for erosion control. That is pretty clear and obvious."  
The Planning Board then reviewed Section 16(D) Procedure for Administering Permits, 1-9 in the Shoreland Zoning Ordinance.

Section 16(D) Procedure for Administering Permits:

1. Will maintain safe and healthful conditions. The Planning Board finds there will be no impact on health.
2. Will not result in water pollution, erosion, or sedimentation to surface waters. The Planning Board finds that the new configuration will not result in pollution, erosion, or sedimentation so long as it is carried in accordance with the approvals from the DEP.
3. Will adequately provide for the disposal of all wastewater. The Planning Board finds this is not applicable because the project will not generate wastewater.
4. Will not have an adverse impact on spawning grounds, fish aquatic life, bird or other wildlife habitat. Based on the reliance of the findings of the DEP and the U. S. Army Corps of Engineers, the Planning Board finds there will be no adverse impact on aquatic life, 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 this project will not make any change to shore cover and visual points of access. The repair will look about the same. It will be riprap instead of rotting wood.
6. Will protect archaeological and historic resources as designated in the comprehensive plan. The Planning Board finds there is no archeological and historic resources present.
7. Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities District. Based on the reliance of the findings of the DEP, the Planning Board finds there will be no adverse effect and may actually make getting in and out of the water safer.
8. Will avoid problems associated with flood plain development and use. The Planning Board finds this will not make any change with flood plain development and use.
9. Is in conformance with the provisions of Section 15, Land Use Standards. The Planning Board finds that this project replaces one form of shoreline stabilization for another.

A motion was made by Jordan, seconded by Letourneau, to approve the Tenants Harbor Boatyard application based on a complete application that includes the Maine Department of Environmental Protection's Findings of Fact; and, the Planning Board's positive findings under Section 16(D), 1-9 of the Shoreland Zoning Ordinance. The vote was 5-0. The motion carried.

**b. St. George Municipal School Unit (MSU), 65 Main St. / Map 104, Lot 074**

Michael Felton, Superintendent of MSU, and Randy Elwell represented the school. The application is to build a 20-foot by 30-foot storage shed. This is a commercial project and is not located in the Shoreland Zone or in a Floodplain Designation area.

Elwell explained the project. There are currently two sheds on the site which are in poor condition. Because of COVID-19, the school is holding a number of outdoor classes and the administration is proposing to build a shed for storage of outdoor equipment and the school's snowblowers.

Chair Cox asked about the proposed location. Elwell said it will be located by the two existing sheds. Chair Cox asked about the 15-foot setback noted on the plan. "Is that 15 feet from the side lot line?" Elwell stated yes, the back line coming down by Arthur Kinney's old house. Chair Cox stated that on the first page of the application, it states 15 feet under side setbacks, not 848 feet. Elwell stated that the 848 feet comes from Juniper Street where the corner pivots.

Chair Cox asked about the type of shed to be built. Elwell said the shed will be built out of wood with a wooden floor. They will not grade the area. The shed will not have a concrete slab underneath it. They will use cement blocks as its foundation base. Elwell said there will be no exterior lighting on this shed.

A motion was made by Letourneau, seconded by Jordan to accept the St. George MSU application, as complete. The vote was 5-0. The motion carried.

Chair Cox asked CEO Brackett, "Is it not supposed to be a 20-foot setback for auxiliary structures?"

Brackett, "It is a 20-foot setback, here. I think if we find the property line, we are probably right on that 20-foot line."

Cox, "Even though it says 15 feet?" Brackett stated that is what Elwell put in, but he (Brackett) will verify that. Cox said they will have to do a Site Plan Review, but it will need to be 20 feet. Brackett stated right and if need be, he thinks Elwell can pull the proposed structure ahead 5 feet.

Hewlett, "On the first page (of the application), it states it is not commercial." Chair Cox stated that is not residential. Hewlett, "Then it should probably be commercial use if we are going by the Site Plan Review." Chair Cox stated they have to do a Site Plan Review, so it is a commercial project.

Hewlett asked Elwell if he would be able to move the shed ahead, so it is 20 feet off the back line. Elwell said it will be in the fire lane if they move it ahead, and asked even if it is replacing two of the buildings that have been for 30 years? "It still cannot go in that same footprint?"

Chair Cox said if you are going to tear something down and have the opportunity to move it, you need to move it. Felton stated they will find a way to make it work and make sure it is 20 feet from the line, and they will make sure that the shed will not impede the fire lane.

The Planning Board discussed whether an on-site visit was needed. Jordan said he was not familiar with the property on that side of the school building but since it was just a shed, he did not feel strongly about it. Letourneau stated they are replacing two sheds that were there. It is not significantly changing the environment in any way. Jordan said he is okay with waiving an on-site inspection.

Superintendent Felton stated that the school received a federal grant and some of that money would be used to build the shed.

A motion was made by Jordan, seconded by Hewlett to waive an on-site inspection of the property because the MSU is replacing two dilapidated sheds with one new structure and the new shed will not significantly change the environment.

There were no further comments. The Planning Board began the Site Plan Review.

1. Preserve and Enhance the Landscape – On a motion by Hewlett, seconded by Brown, standard has been met, 5-0. The proposed project will improve the landscape because the new structure will look much better than the two existing, dilapidated sheds.
2. Relationship of the Proposed Buildings/Structure to the Environment – On a motion by Letourneau, seconded by Jordan, standard has been met, 5-0. Two sheds will be replaced by one new structure and will not significantly change the relationship to the environment and will improve the area.
3. Vehicular Access – On a motion by Brown, seconded by Jordan, standard has been met, 5-0. There is no change.
4. Parking and Pedestrian Circulation - On a motion by Brown, seconded by Letourneau, standard has been met, 5-0. There is no change.
5. Surface Water Drainage - On a motion by Hewlett, seconded by Brown, standard has been met, 5-0. There will be sufficient water drainage to support the addition of this structure.
6. Existing Utilities - On a motion by Jordan, seconded by Brown, standard has been met, 5-0. There is no change.
7. Advertising Features - On a motion by Hewlett, seconded by Jordan, standard has been met, 5-0. No signage or advertising features are proposed.
8. Special Features - On a motion by Letourneau, seconded by Brown, standard has been met, 5-0. The proposed project is a shed for school items and snowblowers. The applicant has provided assurance that they will meet the 20-foot setback standard.
9. Exterior Lighting - On a motion by Hewlett, seconded by Brown, standard has been met, 5-0. There is no exterior lighting being proposed for this shed.

10. Emergency Vehicle Access - On a motion by Hewlett, seconded by Brown, standard has been met, 5-0. Based on the applicant's statement to the Planning Board, the applicant assures that emergency vehicles will have access to this area.
11. Municipal Services - On a motion by Hewlett, seconded by Brown, standard has been met, 5-0. There will be no change to municipal services.
12. Water/Air Protection - On a motion by Letourneau, seconded by Hewlett, standard has been met, 5-0. The structure will not result in water or air pollution.
13. Water Supply - On a motion by Letourneau, seconded by Hewlett, standard has been met, 5-0. There is no independent water supply.
14. Soil Erosion - On a motion by Letourneau, seconded by Hewlett, standard has been met, 5-0. The proposed project should not have an impact on soil erosion as the shed will be sitting on cement blocks.
15. Sewage Waste Disposal - On a motion by Letourneau, seconded by Hewlett, standard has been met, 5-0. There is no sewage waste generated by this project.
16. Hazardous, Special and Radioactive Materials - On a motion by Brown, seconded by Jordan, standard has been met, 5-0. There will be no storage in bulk of hazardous, special, or radioactive materials.
17. Financial/Technical Capacity - On a motion by Hewlett, seconded by Brown, standard has been met, 5-0. The applicant states they have the financial and technical capacity to carry out the project.
18. Shoreland Zone - On a motion by Hewlett, seconded by Jordan, standard is not applicable, 5-0. This project is not in the Shoreland Zone.
19. Flood Plain - On a motion by Hewlett, seconded by Jordan, standard is not applicable, 5-0. This project is not in a floodplain area.
20. Lot Standards - On a motion by Letourneau, seconded by Hewlett, standard has been met, 5-0. The applicant has assured the Planning Board that the new structure will be 20 feet from the closest property line.

On a motion by Hewlett, seconded by Letourneau, it was voted to approve the St. George MSU application pursuant to the Performance Standards Review, Section V, A1-20 in the Site Plan Review ordinance.

**Piers:**

a. **Janie & Don Ed Holmes**, 87 Haupt Road / Map 217, Lot 011

This application was not taken up as there was no representative present to discuss the application.



**b. James Kohl, Glenmere Road / Map 204, Lot 010**

Matt Tibbetts from Art Tibbetts Marine represented the applicant. The application is to build a new 6-foot by 24-foot-long wood piling supported pier with a seasonal 3-foot by 50-foot aluminum ramp and a seasonal 12-foot by 24-foot wood float. The Shoreland Zone District is Marine Residential. The floodplain Designation is VE-11.

Tibbetts explained the applicant's plans are to install a short pier which will extend entirely over ledge and will end above the low tide line. He stated they have the U.S. Army Corps of Engineers and the Maine Department of Environmental Protection on file.

Tibbetts stated the Town of St. George does not have a listing for this street or road address but it is located in the area of Deep Cove. Brackett said there was no street number because it was raw land until recently when a house and barn was started.

Hewlett asked if there had to be a structure on a parcel of land before a pier could be installed. CEO Brackett stated they are currently building the structure. The barn is there, and they started digging the foundation for the house today.

The Planning Board discussed holding an on-site visitation inspection. Hewlett asked if Tibbetts had photographs of the construction of the pier and a site plan; she did not receive those in her packet, nor did any of the other members. Tibbetts thought he sent them in, but Brackett indicated that he had not received those. Tibbetts said he would email those to Brackett.

An on-site inspection was scheduled for Saturday, November 14 at 9 a.m. CEO Brackett said he would send Planning Board members a GIS photograph labeling the location of the project.

**Change of Use:**

**Midcoast Marijuana Company/Kyle Murdock, 56 Mussel Farm Road / Map 222, Lot 026**

The application is to utilize an unused portion of the existing structure to operate an agricultural business cultivating medical marijuana. The Shoreland Zone District is Commercial Fisheries/Marine Activities (CFMA) and the Floodplain Designation is AE-12. An on-site visit was held on October 5, 2020, and a Public Hearing was held on October 13, 2020, via Zoom.

Chair Cox explained that the Planning Board received an email from Murdock sometime after 5 p.m. today with replies to some of the questions the Board had about the proposed project. Members of the Board stated they had not had time to read Murdock's responses. Chair Cox felt the best way to proceed with the application was to have Murdock briefly explain his written responses that were in today's email.

Murdock, "I apologize for not getting this to you sooner. My work schedule has been crazy this past week. I sent over two documents. One, going through the list of nine points from the Shoreland Zone Ordinance that we need to meet and the other being a draft of an operational plan to give you a better idea of how we will be utilizing that space and trying to touch on the questions that I recall people raising over the past several meetings."

CEO Brackett interjected that he only saw the one item. Chair Cox then noted that the Planning Board did not have the second item that Murdock was talking about, the more detailed plan. Murdock said that he sent it in two separate emails so Brackett might not have gotten the second one or it may have come in later.

Murdock reviewed his written responses to Section 16(D) 1-9 of the Shoreland Zoning Ordinance.

1. Will maintain safe and healthful conditions. The Company will operate a business in compliance with OSHA standards for a safe and healthful workplace, as well as DEP and DOA standards for storage and application of fertilizers and pesticides and will maintain the location in accordance with this goal. The Company will utilize best practices to deter theft and does not anticipate being a greater impact on public safety resources than previous uses of the property.

Murdock added that they don't anticipate this facility being any cause for concern about the increased burden on public safety. Research has shown that the legalization of marijuana and the availability of medical marijuana reduces violent and property crime in an area.

2. Will not result in water pollution, erosion, or sedimentation to surface waters. The Company will not store liquid nutrients, amendments, or pesticides in quantities other than associated with a single farm and for use exclusively within the business and will store any chemicals in a safe manner that will prevent and/or contain accidental spills.

Murdock added that there is specifically a section in the Shoreland Zone Ordinance about the storage of chemicals that can be used in agriculture and this is just an assurance that they will not store liquid nutrients, etc.

The Company proposes no changes to the property which would cause erosion or sedimentation.

3. Will adequately provide for the disposal of all wastewater. The Company will utilize the existing subsurface wastewater disposal system for septic wastes. Wastewater generated by the facility will either be stored on-site for removal and disposal by a third party or shall be disposed of through spreading on the upland portion of the property in accordance with a Nutrient Management Plan developed by a state-certified specialist.

Murdock added that the septic system has been permitted through the town and the capacity of the facility is much less than the original system was designed for now.

4. Will not have an adverse impact on spawning grounds, fish aquatic life, bird or other wildlife habitat. The proposed activities are limited to existing structures and useful areas and therefore will have no impact on wildlife or its habitat.

Murdock added that useful areas included parking and so forth, so they do not anticipate having an impact in this area.

5. Will conserve shore cover and visual, as well as actual, points of access to inland and

coastal waters. No changes to shore cover or points of access have been proposed.

6. Will protect archaeological and historic resources as designated in the comprehensive Plan. No historic or archaeological resources will be impacted.

7. Will not adversely affect existing commercial fishing or maritime activities in a Commercial Fisheries/Maritime Activities District. The proposed facilities have been vacant and available for lease for 5 years except for the brief time they were occupied by another medical marijuana cultivator. All currently existing commercial fishing and maritime activities will be unimpeded by the proposed operation.

Murdock added that they will not adversely affect the existing commercial fishing or maritime activities in the CMFA.

8. Will avoid problems associated with flood plain development and use. No development is being proposed.

9. Is in conformance with the provisions of Section 15, Land Use Standards. The Company proposes to use the location to cultivate plants and to prepare these plant products for sale to its customers. As defined in Section 17 of the SZO an agricultural use is "the production, keeping, or maintenance of plants or animals for sale or lease."

The company will not operate a marijuana processing facility, i.e. an industrial use involved in the transformation of marijuana into oils through chemical means, or a storefront, i.e. a location where the primary business is the buying and selling of goods or services. Section 15 of the SZO allows agriculture without a permit and without the necessity of it being water-dependent, within the CFMA of the Shoreland Zone.

The Company is drafting and will supply a summary operational plan to demonstrate that it falls within this definition.

Murdock added that the second document he sent was the draft of the operational plan that demonstrates a little bit of how they fit into the agricultural definition and answers some of the other questions that were raised in the Public Hearing.

Murdock reiterated that Section 12.C.5 of the SZO, Change of Use of a Non-Conforming Structure, requires a permit which may only be issued after the applicant demonstrates that the proposed use will have no greater impact than the fish processing plant that used to be there. He stated that the Company believes it has demonstrated through the previous responses that this is the case but will happily provide more documentation as required by the Planning Board.

Chair Cox, "I have been thinking about this and I know others have so we can have a discussion on that. My question for the Planning Board members is do we have enough information to accept this as a complete application?"

Emerson, "I don't think we do. I think we are missing an engineering study or someone who knows about dumping the waste onto the ground. We should know what could happen or what would happen. We need that report."

Hewlett, "And the nutrient management plan that he mentioned."

Chair Cox, "I think there are specificities that we do not have."

Jordan, "I have been thinking about this for a while. At the last meeting, I said that I thought that the application should be judged under 15(D) of the Land Use Chart in Section 14 of the Ordinance because it was commercial. Kyle pointed out as did his father during the Public Comment section today that the Agricultural Use on Item 11 of the Table - the definition actually is about commercial agriculture. I am wondering what we have here is an issue that does or does not need further analysis of the water runoff, pesticide runoff, and fertilizer runoff, or whether we just have a question that we have to decide without knowing those things.

"Here is what I mean. There are two provisions in the Land Use Table that could apply here. One says agriculture is okay. Agriculture is defined to include or maybe, be nothing but commercial agriculture, growing stuff for sale. Then there is another line, and it says a commercial activity requires a permit and should only be given if the use is functionally water-dependent. That seems to me to be an ambiguity. There is one provision that says one thing and one that says another, so the question is how do we resolve that ambiguity? My thinking is that we have to apply both standards and not just one over the other. It has to be both. Then in order to decide and to make that decision, we have to look to the purpose of the Ordinance and the intent of the Ordinance.

"If you look at the purpose of the Ordinance at the very beginning, one of the important purposes in Section 1 is to protect commercial fishing and maritime industries. The intent of that purpose is expressed in several ways throughout the Permitted Use Chart and also in the text that follows it. There is a really strong preference here to saying that only functionally water-dependent uses should be allowed for commercial purposes within the Commercial Fisheries/Maritime Activities District. You can see that in the section on commercial uses. You can see that on the section in industrial uses. You can see that in the setback rules that follow later. You can just see that the whole purpose of having a CFMA District is to preserve working waterfront activities. I think we all agree this is not one and it is not functionally water-dependent. I just have the feeling that the overall design of this Ordinance is to leave the CFMA District to working waterfront uses. Now, I don't know why the part that says Agriculture is there. Maybe it is because in freshwater areas, you could have a commercial farm that is dependent on the great pond or on a river.

"Maybe that is why it is there. I just think they have to look at this in its totality. That is really where I come out which is that we should not be having agriculture. I don't think the Ordinance says we should be having agriculture in the CFMA District, at least close to the saltwater. The question asked is do we think the application is complete? I think that if the Planning Board were disposed to adopt my view of this, then I think we do know everything we need to know; and I think the application is complete. If the Planning Board differs on that question, then I think we need a lot more (information)."

Chair Cox, "I agree, and I have come out in the same place you have in that I already looked at the Chart. What is allowed without permission and it does say agriculture is allowed and uses like hunting, fishing, traffic on existing roads, forest management, conservation, surveying, and emergency operations. In other words, a whole category of generally low impact, safety, and conservation type activities. Then there are some uses that are not allowed like residential uses, mobile home parks, etc., but most of that chart seems to be commercial activities, industrial, governmental, interpretation areas, road construction. It all must be functionally water-dependent."

Jordan, "You can't even have a single-family house in that district."

Chair Cox, "So it seems like that is the preponderances and the direction that our ordinance wants us to pay attention to. I go back to where I was last time. It is 'both' 'and' in this case; that's what it seems to me. If we are in that direction, we do not need further detail, we can accept this as complete, but I agree with Michael."

Hewlett, "The other thing that I looked at because we have so few districts in town and so few of the CFMA Districts, I ended up looking back on Page 12 of the Shoreland Zoning Ordinance to find out specifically what does it say about this District because what is the purpose of putting this property in this district? If you look at page 12, it goes back to, it is literally one line and it says, 'It is suitable for functionally water-dependent uses.' That is really the purpose of this District. If you look at the Comprehensive Plan, we are a Planning Board, and the Comp Plan says that we are supposed to be protecting these areas for use for commercial fisheries and maritime activities. The District alone tells us what type of businesses should be in this district."

Chair Cox, "I get the argument and the desire to use this vacant space. I get it but I just feel like, for all these reasons, it could not be permitted. It probably could be permitted if all the environmental factors were fine, someplace else in St. George but not in a Commercial Fisheries District. It just feels very clear to me. Anyone else want to weigh in?"

Chair Cox, "The question we will have before us is whether we feel like we have enough information, or if we are not ready to accept the application as complete." There was no further comments or discussion.

A motion was made by Jordan, seconded by Hewlett to accept the Midcoast Marijuana Company application as complete for the reasons Michael Jordan stated before in his part of the discussion. The vote was 5-0. The motion carried.

Chair Cox, "Does anyone have anything they want to say? Do we want to make a motion about this? Any other thoughts we need to look at?"

A motion was made by Jordan, seconded by Letourneau, to disapprove the Midcoast Marijuana Company application on the grounds that the Shoreland Zoning Ordinance provides for special protection of the Commercial Fisheries/Marine Activities business in the CFMA District, that the requirement of functional water-dependent use in the Commercial Activities line of the Land Use Table is more consistent with the purpose and intent of the ordinance than

the apparently unlimited zone of agriculture within the CFMA District in Line 13 of the Table, and it is more consistent of the ordinance and is more consistent with the Town of St. George Comprehensive Plan. The vote was 5-0. The application is denied.

Chair Cox thanked Kyle Murdock for the time he put into making his case. Murdock thanked the Planning Board for hearing his application and putting all the time into this, also.

**Other Business:** CEO Brackett asked whether the Planning Board will hold a meeting on Tuesday, November 24, 2020. Jane Brown stated she may have a conflict. Ray Emerson, Jordan, and Letourneau stated they could attend. A meeting will be scheduled for that date.

There was no further business to come before the Planning Board. On a motion by Letourneau, seconded by Brown, it was voted 5-0 to adjourn the meeting at 8:41 p.m. and Board members went directly into a workshop to review and discuss ordinances.

Respectfully submitted,

Marguerite R. Wilson  
Planning Board Recording Secretary