Call to Order; Determination of Quorum; Appointment of Alternates

Chairman Al Cotton called this application meeting to order at 7:00. A quorum was determined with five people voting: Al Cotton, Pete Smith, Wayne Boardman, Kathleen Kluger, and alternate Ken Churchill, who was appointed as a voting member. Lew Stowe was absent. His term expires June 30, 2019. Land Use Technician Heather Ross represented staff. Planning Director Dylan Smith was not present. Patience Horton was the recording secretary. Her comments are in [brackets]. The meeting lasted 2.75 hours.

Public Forum

No one came forward to speak.

Field Changes

Classic Compounding Pharmacy, 1171 U.S. Rte. 1, Map/Lot: 0022-0005.

Owner Cynthia Theriault said that to make the building more pleasing from Rte. 1, the single window has been replaced by one on each side of the main door. A rear wooden staircase has been removed, and an oversized door has been installed back there.

- Motion: Pete Smith moved to approved the field change for Classic Compounding Pharmacy, Map/Lot: 0022-0005, as presented. Kathleen Kluger seconded. The motion passed 5-0.

Application Reviews

Community Harvest, 647 U.S. Rte. 1, Unit 10
Map/Lot: 0091-0008-W. Owned by York Meadowbrook Plaza.
This is a sketch plan review for a highly regulated medical marijuana registered dispensary.

The applicants are:

1. Spokesperson Cyrus Clark of 8 Cottle Lane, Kittery Maine.
2. Anthony Eugenio with Green Harvest Hydroponics of Plaistow NH and Peabody, Mass. He is the compliance officer and creates guidelines for safety and quality.

3. Attorney Hannah King, is a top expert on medical marijuana regulatory licensing in Maine. She is with the law firm Drummond Woodsum, Portland.

- Motion: Peter Smith moved to accept the submission for sketch review for Community Harvest, 647 U.S. Rte. 1, Unit 10, Map/Lot: 0091-0008-W. Wayne Boardman seconded. The motion passed 5-0.

The hydroponic cultivation facility is in Wells. Clients of the medical dispensary will come from surrounding communities. A person purchasing medical marijuana must have a certification card issued by the State. A doctor must write that certification. It is not a “prescription.”

They are expecting up to 100 patients a day.

Chairman Al Cotton opened and closed the public hearing. No one came forward to speak.

Community Harvest faces two prerequisites.

1. The location has to be in place before the application can be submitted to the State. [The location is in place.]

2. They must have written, expressed permission from the York Planning Board before they can submit an application to the State.

The PB can express such permission during preliminary approval, said Heather.

York Hospital, 38 Woodbridge Rd
Map/Lot: 0050-0063-B owned by York Hospital
Expansion of parking lot and demolition of structure

The application was presented by Eric Weinberg of Altus Engineering, Portsmouth, and Roger Cross, Director of Facilities for York Hospital. The preliminary and final process was not necessary for this approval.

York Hospital proposes to tear down the former Fazio’s restaurant at the hospital’s Woodbridge Road off-site parking facility. Per Article 17.1.6, the nonconforming parking lot can be expanded because it is grandfathered. It existed prior to November 7, 2006.
This project is outside the shoreland area. No snow will be stored in the shoreland area. The solar-array the Hospital proposed two years ago was aborted because it encroached the shoreland.

- Motion: Peter Smith moved to approve the application for expansion of a nonconforming use for York Hospital, 38 Woodbridge Rd Map/Lot: 0050-0063-B as presented. Wayne Boardman seconded.

In discussion, Heather said that all previous approvals on this property have expired.

The motion passed 5-0.

**Kittery Indian, LLC—Mic Mac Hotel, 317 U.S. Rte. 1**
**Map/Lot 0059-0004 owned by Kittery Indian LLC**

**Preliminary site plan review for new hotel**

Rick Lundborn of Fuss & O’Neill Engineers, Kennebunk, introduced owner/applicant Rico Dellapasqua. He also introduced the applicant’s attorney, Jeffrey Clark of York. They had come before the Planning Board and presented a sketch plan on December 13, 2018. Since then, they made the changes the PB requested, and those changes have been incorporated in the plan that is offered tonight, said Rick Lundborn.

When Heather Ross and Planning Director Dylan Smith reviewed tonight’s plan, they saw that it did not meet § 6.3.2.1, of the Rte. 1 zoning ordinance. That article says that when you have a new (after November 5, 1996) structure on Rte. 1, the plan must strictly reflect the parking requirements of the ordinance.

To complicate things more, the site is losing its nonconformities. The Mic Mac was demolished sometime around late summer or early fall of 2017. The 24-month cutoff is approaching. After 24 months, if substantial construction has not begun, all grandfathered nonconformities disappear.

Amber Harrison, the Code Enforcement Officer, has reviewed the application in its current form. When the Code Office interprets a code, the PB cannot change that interpretation. When Amber says that the plan does not strictly comply with the parking requirements of the Rte. 1 Zone as per 6.3.2.1 and cannot be permitted, that ends the discussion. The PB can’t change her interpretation. The Mic Mac cannot be rebuilt as proposed.

Attorney Jeffrey Clark said they are willing to go to the Board of Appeals on that. Heather Ross stated yes, the applicant can go to the BoA before getting a ruling from the PB, which is the case.

Al Cotton opened the public hearing.
• **Richard Weare** said that the developer and legal counsel had held a neighborhood meeting last fall during which traffic flow, drainage, and the different parking configurations were presented. The neighborhood never approved of anything in the presentation, he said.

• **Barb Leavy**, of 5 Greenacre, did not see how water can make its way down to the culvert without flooding the surrounding properties. She agreed with the sentiment that 10-pounds-of-stuff-can’t-fit-into-a-5-pound-bag. That ratio of the building size to lot size had already been expressed twice during the evening.

The Chair closed the public hearing. There was no further discussion. The application was not accepted.

• Motion: Peter Smith moved to table the application review for Kittery Indian, LLC—Mic Mac Hotel, 317 U.S. Rte. 1, Map/Lot 0059-0004. Kathleen Kluger seconded. The motion passed 5-0.

**York Harbor Motel, 780 York Street**

*Map/Lot 0038-0059 owned by York Harbor Motel LLC  
Preliminary and final plan review to demolish 4 buildings, including 8 motel units and 1 office, and to construct one building with 8 motel units.*

Tim DeCoteau presented the application. Owner James Poulin and Brian Nielson [drainage designer] of Attar Engineering in Portsmouth also spoke. The sketch plan took place on February 28, 2019.

Flood management will be reviewed by Sue Baker, the State FEMA management director and by Code Enforcement to assure that it meets State regulations. In York, the top of the first finished floor has to be 2-feet above the flood zone. That is 1-foot stricter than the State requirement. This building has met the York standard.

The applicant is looking for waivers for the traffic study and the High Intensity Soil Survey. They have applied to the State for a Fire Marshal permit. Letters are pending from the Water District and the Fire Department. The Water District has to replace the water line in the easement.

The project has to be reviewed by the HDC for demolition approval. A letter received from the Maine Historic Preservation Commission says that the site is not archeologically or historically significant. Specific landscaping might be required by the York Harbor Site Design Review Board.

• Motion: Peter Smith moved to accept the application as a preliminary application. Kathleen Kluger seconded. The motion passed 5-0.
The Chair opened the public hearing.

- **Tom Clark** of 28 Bayview Avenue said that water from the York Harbor Motel ends up on his front-, back-, and side-yards. [Tim DeCoteau and Brian Nielson assured him that water will not enter his property.]

- **Robert Normandeau** of 31 Bayview Ave said that water comes [wailing] across his property, onto hotel property, and thru a culvert before hitting the Little River. So much water flows into the river that it slows down, builds up, and runs backward.

The Chair closed the public hearing.

- Motion: Wayne Boardman moved to approve the waiver for the initial assessment of traffic impacts. Peter Smith seconded. The motion passed 5-0.

- Motion: Wayne Boardman moved to approve the waiver for the High Intensity Soil Survey. Kathleen Kluger seconded. The motion passed 5-0.

- Motion: Wayne Boardman moved to grant preliminary approval for the York Harbor Motel, 780 York Street, Map/Lot 0038-0059 with the two waivers. Ken Churchill seconded. The motion passed 5-0.

**Minutes**

- Motion: Peter Smith moved to approve the Minutes of June 13, 2019, as written. Ken Churchill seconded. The motion passed 3-0-2, with Kathleen Kluger and Peter Smith absent from that meeting.

**Other Business**

- There are findings in the queue, but none to sign tonight.

- Per Chairman Al Cotton, the York Harbor Motel final hearing is to share the agenda with the Davis property on August 22, 2019.

- Wayne Boardman, Kathleen Kluger, Peter Smith, and Al Cotton will explain the November, 2019, ordinance amendments to the Board of Selectmen at the next joint meeting.
Adjourn

The meeting adjourned at 9:45.

Respectfully submitted,
Patience G. Horton
PB Recording Secretary