

**TRURO PLANNING BOARD
MEETING MINUTES
August 28, 2018 – 12:10pm
Truro Town Hall**

PLANNING BOARD MEMBERS PRESENT: Chair-Steve Sollog, Peter Herridge, Jack Riemer, Karen Tosh, Bruce Boleyn, Paul Kiernan

PLANNING BOARD MEMBERS NOT PRESENT: Mike Roderick

OTHER PARTICIPANTS: Interim Town Planner-Jessica Bardi, Chris Clark, Town Counsel Katherine Laughman, Chuck Steinman

Chair Sollog called the meeting to order at 12:10pm.

Public Comment Period
No public comment.

Continued Public Hearing and Deliberation by Planning Board – Draft Marijuana Bylaw

Chair Sollog stated that at the last public hearing, people had asked to be able to submit comments in writing. He has received some comments and will read them off. Comments were received by (and summarized in these minutes);

- Letter by Joanne Barkan - Suggesting that the Board pass a very limited bylaw (for example: only allow 1 license, a small canopy, etc.). She would also like to see the Planning Board handle the site plan review and the issuance of the special permits. Ms. Barkan is also requesting clearer wording for the number of retail outlets.

Question by Chris Clark – He has a written comment. He thought he was supposed to attend the meeting and read it. He can submit it to the Board electronically. Chair Sollog accepted his printed copy and will add it to the comments being read.

- Letter by Anne Greenbaum – She writes that it is in the best interests of Truro to establish regulations which strike a balance in supporting a potential new industry and protecting the community. Ms. Greenbaum also listed some recommendations for the bylaw.
- Letter by Maureen Burgess – She has a concern that a member of the High Dunes Craft Cooperative might choose to lease a small parcel from another unlicensed property owner in the residential district. Ms. Burgess would like to know if there are any checks on that possibility. Would there be a site plan review for the unlicensed property?

Interim Town Planner Bardi read some of the letters.

- Letter by Dierdre Kravec – She is in support of cannabis business in Truro.
- Letter by Patty Bennett-Walsh – She'd like to know why 6A is included as the only area for cultivation, retail sales (excluding beach point). She's wondering why the area around Jam's Market is not included in the proposed bylaw as an area to do retail sales and cultivation.
- Letter by Maureen Burgess – She attended the first meeting held by the High Dunes Craft Cooperative. At the most recent (August 22nd) Planning Board public hearing and it appears that

the canopy limit proposed by HDCC has increased to 100,000 square feet along with an increase in the number of microbusinesses. She is urging the Planning Board to reject the alternative proposals.

- Letter by Charles Steinman – Mr. Steinman has submitted a draft of recommended additions and changes to the proposed bylaw.
- Letter by Joan Holt – She is urging the Planning Board to address the following concerns; crops should be marketed as “organic”, pesticide use should be restricted to organic products, there should be setbacks from the property line for fencing and lighting, and lighting should be shielded.
- Letter by Janice Hersch – She is in support of the cannabis bylaw for Truro.
- Letter by Amy Smith – She supports the co-ops in the residential zone with reasonable bylaw restrictions.
- Letter by Elyssa LaMadrid - She supports the co-ops in the residential zone with reasonable bylaw restrictions.
- Letter by William Costa – He supports the co-ops in the residential zone with reasonable bylaw restrictions.
- Letter by Victoria Attanasio – She supports the co-ops in the residential zone with reasonable bylaw restrictions.

Chair Sollog continued reading letters.

- Letter by Amy Helling – She is concerned that the proposed bylaw should prohibit more of the potential negative externalities such businesses could impose on neighbors. At present, only odors are prohibited. She hopes standards will be adopted to prevent noise, and time of day restrictions. Ms. Helling is also worried about video surveillance. Neighbors may unwittingly be recorded in ways that invade their privacy.
- Letter by Katerina Govidorova – She supports co-ops in the residential zone with reasonable bylaw restrictions.
- Letter by Gail Morrison – She supports co-ops in the residential zone with reasonable bylaw restrictions.
- Letter by Helen Grimm – She is writing in support of Truro’s small farmers who are trying to make ends meet. She supports co-ops in the residential zone with reasonable bylaw restrictions.
- Letter by Frances Sullivan – She supports the effort of local people and businesses to establish marijuana as a commercial crop, and retail opportunities within the framework of agriculture and business in the Town of Truro. She feels the bylaw, as written, is overly restrictive.
- Letter by Angela Gaimari – She supports co-ops in the residential zone with reasonable bylaw restrictions.

Interim Town Planner Bardi continued reading letters.

- Letter by Longnook Meadows Farm/Peter Staaterman - He believes the interests of larger land owners and legacy farms have not been adequately addressed. He endorses the development of cannabis business and hopes they can find a balance which satisfies all citizens needs and desires.

- Letter by Christopher Clark – He discusses some concern about confusion regarding the bylaw. He does not want marijuana cultivation in the residential district. He posed two questions to Town Counsel.
 1. Is it true that the Town cannot deny the existing High Dunes Craft Cooperative the opportunity to grow as farmers in residential areas?
 2. Is it true that the Town can stipulate that a second co-op could not operate in the residential area?

He goes on to state that no town in Massachusetts has allowed marijuana cultivation in a residential zone. He suggests that it would be helpful if the documents under discussion, such as town maps, could be viewed to see the different town zones and where the known proposed cultivation sites would be.

 3. He feels there is much difficulty in participating in the process. There is a lack of clarity and info.
 4. At one of the meetings he heard that the special permit and site plan review can both exert a lot of control. He's asking for someone to explain how the bylaw would apply to special permits and the site plan review processes would exert control over the High Dune Craft Co-Op and possible second co-op.
 5. Will the definitions of these terms be adopted by the Planning Board and the draft bylaw be identical to those stated by the Cannabis Control Commission? If not, will the Planning Board please tell us what the definitions will be, and provide text of its modified definitions.
 6. To what areas does the term "Route 6 General Business" refer to and what parcels are available for marijuana businesses?
 7. What is the most recent eligible uses figure which we should all be discussing and is it different from the one passed out on August 22nd, 2018.
 8. Please explain the terms and differences of "parcel site" and "lot".
 9. What is the definition of a craft marijuana cultivator co-op member?
 10. Can someone who is not a Truro resident engage in a marijuana business in Truro?
- Letter by Tim McCarthy – His letter reviews how the "craft" category evolved, and his approach of farmers in Truro, his desire to preserve the rural character of the town and to support local farmers.

Chair Sollog asked Town Counsel to introduce some of the concepts which have already been considered. Mr. Herridge asked if the Board would be working off the original bylaw. Chair Sollog confirmed that they would be working off the original draft bylaw, considering comments heard at the Public Hearing.

Mr. Chuck Steinman presented photographs of buildings which cannabis is grown in.

Mr. Herridge made a motion to close the Public Hearing.

Ms. Tosh seconded the motion.

So voted; 6-0-0, motion carries.

Town Counsel Laughman has taken the language which was submitted by the craft cooperative, the talking points from the last meeting (which the Board took public comment on from the craft cooperative) and has prepared a redline draft based on the May 24th draft and includes a number of provisions which are now open for the Board for discussion on how this bylaw might be revised to include some of these terms. She would like to suggest that the Board take a step back at the outset

and think about what the substance of the public comment has been. The issue is that the craft cooperative is proposing growing on several sites, under a particular state license category. The Board needs to think "long-term" about what growing in the residential district looks like. They also need to consider if the co-op does not stay together down the road, are they comfortable allowing cultivation to happen as a stand-alone farmer. Ms. Laughman gave the Board some pointers to consider while drafting this bylaw.

Mr. Kiernan fielded several phone calls within the last week and people have asked him where they can view the draft marijuana bylaw. He has been unable to locate the bylaw on the town website. He was able to locate it by scrolling to the agenda for the Planning Board for July 25th. He feels the Planning Board has failed the people of Truro. Interim Planner Bardi interjected that the draft bylaw was also available in the Town Clerk's office.

Chair Sollog started the discussion by reading the draft bylaw "Purpose" and asked the Board if they had any comments or changes they wished to make. Mr. Riemer wished to review a citizen planner document, produced by the Commonwealth of Massachusetts. He read that document's description of "purpose" to the Board.

Mr. Kiernan asked that a member of the Ad-Hoc committee flesh out the "purpose". Ms. Tosh said that the purpose speaks for itself and no one should be "fleshing" it out. If it cannot be understood by the Board, perhaps it needs to be redrafted.

Chair Sollog continued going through the draft bylaw with the "Definitions". Ms. Laughman explained why some additional definitions were added to the redlined draft. The language originally proposed by the ad-hoc committee relied on the definitions that are in the State regulations (referencing the State law). That way, if those definitions are subsequently amended, by referencing the definition from the State, they will not have to continually update the bylaw.

Mr. Herridge continued reading through the definitions. A discussion was held regarding how the craft co-op is also allowed to transport their marijuana, under the CCC license. Chair Sollog asked who the enforcing entity will be regarding making sure all the strict guidelines are followed for transporting marijuana. Ms. Laughman answered that the CCC has an enforcement division.

Ms. Laughman wished to comment on the next two definitions. Under the current medical regulatory scheme which came into place in 2012 there was a different permitting process than what is currently in place for adult use recreational marijuana. It's known as a vertically integrated license at the State level. When you apply for a medical license with the State you are being approved to process, manufacture and sell your own product. Now recreational comes into the picture and the different license categories are split off. That poses conflict with the medical side. What's been proposed is a redefining from the State law; medical marijuana treatment centers (to include a dispensary retail) and cultivating/processing.

Ms. Laughman then went on to discuss the Table of Use Regulations. It's based on the draft from May. There has been an addition of a special permit for marijuana cultivator in a residential district. No one, now, has proposed that "marijuana cultivator", as a separate license category use, should be allowed in the residential district. What has come to the Board, by way of public comment, is that craft marijuana cooperatives (and perhaps microbusinesses) should be allowed to cultivate on farmland that exists in the residential zoning district. What concerns Ms. Laughman from a legal aspect is that if marijuana cultivators are not allowed in the residential district but craft marijuana cooperatives and microbusinesses are allowed the Town runs into a uniformity problem with respect to whether the Town is zoning based on business ownership versus impact. Zoning needs to be ownership neutral. She is including marijuana cultivators for the Board's consideration, because it insulates the Board from a potential challenge that the bylaw is not being uniformly applied. If the craft marijuana cooperative ceases to operate as a cooperative, and individual farmers choose to maintain whatever operations they

have set up (under a State license that allows them to do that) the impacts are arguably the same whether they are a member of the cooperative or growing under the same canopy under a State license. Mr. Herridge stated that the overwhelming concern from residents is the fear of what cultivating marijuana might look like, for example: structures at the grow sites, in Truro's residential areas. He does not think the Board should allow any cultivating in the residential districts.

Mr. Boleyn asked Ms. Laughman about enforcement. She answered that the CCC has an enforcement arm which regulates the seed-to-sale tracking program and the calculation of canopy, and the authorization under a license from the State to grow a certain amount of marijuana. The zoning bylaw can only impose limitations on the amount of area and canopy that can be grown.

Mr. Riemer had a question for Ms. Laughman as well. In looking at the use table and take the example of marijuana craft cooperative, it shows that it is allowed by special permit. Does that indicate that it's a by-right use with a special permit? Ms. Laughman states that if it's by special permit then it's not by-right. Mr. Riemer also asked if the Planning Board is the special permit issuer would they also have the discretion to deny a special permit. Ms. Laughman stated that the special permits are discretionary, however, denial of a special permit cannot be arbitrary and capricious. Mr. Riemer asked if the Board can put into place reasonable standards, can they avoid some of the problematic areas people are concerned with. Ms. Laughman mentioned that Ms. Tosh has been working with the craft cooperative on items they would agree to as part of the zoning process. It is also on the Board to consider whether there are other areas that they may want to impose regulations.

Mr. Kiernan posed the question; since the Town voted for marijuana legalization what the Town's responsibilities are as to that legislation. Per Ms. Laughman, unless you go through a specific opt-out process, that's outlined in the State law, the Town is obligated to allow recreational uses either pursuant to its existing, underlying zoning, or to impose their own reasonable time/place/manner regulations with respect to the siting of these uses as separate use categories. Mr. Kiernan stated, for the Board's knowledge, February 15, 1960, Truro incorporated zoning. At that time, the Town had pyramidal zoning. It wasn't until a 2004 rewrite there were limited and a general business district (with everything else being the residential district). There are residences in every district. He has concerns directly related to the use table, so instead of the Board approving the use table at this time, he's asking if they can move on and he can point out items on the table of concern.

Ms. Tosh supports marijuana cultivation in the residential district with the restrictions and guidelines and controls that follow the use table.

Chair Sollog wishes to discuss the rest of the bylaw and see whether the use table is going to be sufficient.

Mr. Riemer is fairly confident that as the special permit authority, they can develop reasonable conditions and findings of fact, to come up with a fair decision.

The Board continued going thru the bylaw.

Chair Sollog is in favor of keeping the Planning Board as the special permit grantor. The other Board members present agree. A discussion was held regarding the site plan review and issuance of special permit as a joint process under the Planning Board.

Mr. Herridge proposed issuing a blanket prohibition on marijuana processing and cultivation in the Seashore. Ms. Laughman pointed out that the Seashore is federally regulated land. Until marijuana becomes legal at the Federal level, there will be a Federal prohibition against growing in the seashore. Chair Sollog noted that it's already not permitted in the use table. Interim Town Planner Bardi suggested placing a footnote under the use table.

A discussion, and decision, was held regarding limiting the number of recreational marijuana retailer licenses to two. The Planning Board agreed to limit the license number to two (for recreational marijuana retailer).

The next discussion was regarding the number of licenses to be allowed in town for marijuana cultivators, microbusinesses, and marijuana craft cooperatives. Mr. Herridge would prefer one license for all categories vs one license for each category (essentially three licenses). Chair Sollog believes the special permit will address this issue. Ms. Laughman is suggesting the following for clarification; insert a chart stating that "the following license categories the number of licenses shall be limited as follows". If, down the road, the Board wishes to increase the number allowed, they can make the change in the chart.

Other items discussed/reviewed:

- It was decided that marijuana retailers shall be located in stand-alone structures.
- Discussion was held on signage and hours of operation.
- Review of movable containers. The current draft states zero movable structures and the craft cooperative is proposing a change to include up to three movable structures for tier two cultivators. The co-op is willing to screen the containers and Ms. Tosh believes the Board should consider this on a case by case basis. The Board agreed to up to two movable structures with the ability to increase the number by special permit on a case by case basis.

Chair Sollog announced that the deliberation would have to be continued due to a time constraint. Interim Town Planner Bardi stated that the next regularly scheduled Planning Board meeting was set for September 5, 2018. Ms. Laughman is not available on the 5th. A tentative date of September 6th at 10:00am was agreed upon for continuing deliberation.

Mr. Kiernan made a motion to continue the deliberation to a date certain; September 6th at 10:00am.

Mr. Herridge seconded the motion.

So voted; 6-0-0, motion carries.

Mr. Herridge made a motion to adjourn at 4:35pm.

Mr. Boleyn seconded the motion.

So voted; 6-0-0, motion carries.

Respectfully submitted, Noelle L. Scoullar

