

Minutes of Planning Board Meeting  
Town of Whately, MA  
Town Offices Building, 4 Sandy Lane  
May 28, 2019

Members Present: Don Sluter, Nicholas Jones, Sara Cooper  
Members Absent:: Judy Markland, Helena Farrell

Attending (no attendance sheet):  
Chris Chamberland, Berkshire Design Group  
Attorney Richard Evans  
Charles Smith, Mustang Whately Investors, LLC  
Dewitt Thompson

- I. Call to Order, 6:40 p.m.  
The meeting was not recorded.
- II. Approval of the April 23, 2019 Meeting Minutes  
Don moved to approve the minutes, Nicholas seconded, and the board voted unanimously to approve.
- III. Continuation of Public Hearing from April 23, 2019 – Site Plan Review,  
Mustang Whately Investors LLC - Marijuana Cultivation Establishment, Christian Lane

Chris Chamberland, of The Berkshire Design Group, informed the board that a tenant had been chosen to handle the operation of marijuana cultivation at the Christian Lane greenhouse. Attorney Richard Evans gave the board an information packet on Dr. Robb Farms. Charles Smith, of Mustang Whately Investors, explained that Mr. Chamberland and Mr. Evans had met with the company's owner, Dr. Robert Flannery, who has a PhD in Plant Biology with an emphasis in Environmental Horticulture, specializing in crop optimization for cut flower production. Mr. Smith explained that the company has six years of full time experience in the cannabis business.

Nicholas asked how the operation will work, and who the individuals involved are. He was told that the tenant operator will be a subsidiary of Dr. Robb Farms, since the law requires marijuana growers to be Massachusetts companies. Two levels of individuals are to be sent from California, the board was told.

Nicholas explained that the board will need the name of the Massachusetts corporation once it is formed, as well as contact information for everyone involved. Sara said she wants to talk to those who will be the local representatives, to discuss how operations will be handled.

Judy Markland, who could not attend the hearing, had sent the board a list of detailed comments regarding Mustang Whately Investors' current lack of a contract with an operator. At Don's request, the secretary distributed copies of Judy's comments to those in attendance. Don explained that the board doesn't understand Mustang's rush to get everything finished before it has an operator in place.

Richard Evans stated that the application covered everything, and Nicholas commented that the application was excellent. However, said Don, he was uncomfortable with what seemed to be another layer between the town and the people running the growing, adding that operators come and go, and that the CCC permit must go to the operator. Dewitt Thompson interjected that Mustang will still be the owner.

Don suggested that, since the operator representatives will be here for the Zoning Board of Appeals special permit hearing, it would be a good idea to hold an additional Planning Board meeting in order to become more comfortable with them. Mr. Evans suggested holding such a meeting immediately following the ZBA meeting on June 6, but Sara cannot meet then, and it would be difficult for Nicholas. Mr. Evans said he doesn't want to bring the people from California out to Whately twice.

Nicholas asked whether it might be two months before a legal entity has been formed. No, said Charles Smith, before adding that Whately Mustang really needs the flexibility to change operators in the future as well. He said he sympathizes with the board's discomfort, but that Mustang has met the requirements. He suggested that if the board wanted to attach a condition regarding this to its approval of the site plan, he would be agreeable to that.

Nicholas asked Don whether there had been any approvals from other town participants in the site plan approval process. Don answered that there has not yet been anything in writing, but that the Chief of Police and the Fire Chief are both satisfied. Nicholas asked about the water department, and Chris Chamberland stated that he had talked with Wayne today and that Mustang Whately will go to the next water department meeting.

Sara asked where the property owner will be located, for matters of enforcement. Charles Smith replied that he is in Boston and that, as a Mustang Whately owner, he will be on top of things since he wants it to succeed.

Nicholas noted that the board could approve the site plan with a list of conditions, and insist that all conditions must be fulfilled before the approval takes effect. Don stated that he feels more comfortable now, and moved to approve the site plan with the following conditions:

1. Letter of approval from the Fire Chief
2. Letter of approval from the Police Chief
3. Letter of approval for intended water use, from the Water Department
4. Name of Operator (official notice of a legal entity)
5. Names of local contacts
6. Internal lighting to be fully screened from abutters

Nicholas seconded the motion, and the board voted unanimously to approve the site plan with the conditions. Don closed the public hearing at 7:18 pm.

IV. New Business

Site Plan Conditions Form Discussion

The discussion involved Judy Markland's draft of a grid chart for tracking site plan review items that need followup attention. The board agreed to use the form.

V. Other

It was noted that the screening plants at the Kocot property are dying, and that the Building Inspector is the one to police this once he is informed of the situation. Don said he has already communicated with the project engineer about the requirement to plant another tree, plus other undone items. At this point, he said, he will talk to the project engineer again.

The board discussed prime agricultural land and solar arrays, and Nicholas noted that the solar panel fields actually preserve the land because it remains re-usable for agriculture in the future. The board also discussed looking for a new Planning Board member.

VI. Planning Board Mail

The board reviewed the mail.

VII. Adjournment: At 7:50 pm, the board voted to adjourn.

Documents Reviewed (kept in the Planning Board files)

1. A stapled information packet about Dr. Robb Farms, titled, "Good Science Clean Cannabis"
2. A 2-page document dated May 23, 2019, headed "to: Planning Board re: Mustang Whately LLC, containing Judy Markland's comments about Mustang Whately's lack of a contract with a tenant operator"
3. An email dated May 5, 2019 from Judy Markland to the board, and its attachment, a grid chart headed, "Whately Planning Board Site Plan Review Approval Conditions Status"

Mary McCarthy  
Secretary  
Planning Board  
Town of Whately, MA