

City Council Workshop

Agenda Item #2

April 24, 2017

Recreation Marijuana Moratorium and Ordinance Process

This past November Maine voters approved a citizen-initiated referendum to legalize marijuana for recreational use. In addition to possession and use of marijuana, the new law also legalizes cultivation, sale, and distribution as lawful business enterprises with certain rules and stipulations. On December 19, 2016, the South Portland City Council adopted moratoria on the licensing of retail marijuana establishments and social clubs as well as land use permitting for development of those types of businesses. The purpose of the moratoria was to provide time for Staff, Corporation Counsel, Planning Board, and the City Council to craft thoughtful regulations related to licensing and zoning for retail marijuana businesses.

On January 27, 2017 the Maine Legislature approved a moratorium on parts of the recreational marijuana law related to retail sales and taxation until February 2018 in order to resolve several issues with the law and promulgate new rules. A 17-member special legislative committee has been formed to address the complex issues surrounding full implementation of the law. At this time, municipalities continue to face uncertainty about the law's future outcome and State rules specific to licensing.

On March 8, Council held a workshop on this matter and provided guidance to staff to begin crafting both zoning ordinance (Ch. 27) and licensing (Ch. 14) amendment changes to present to Planning Board and then Council for consideration. After staff created a draft zoning amendment and scheduled the item for Planning Board review, Councilor Rose raised concern about the draft language not appearing to reflect the will of the Council's direction from March 8th. He also objected to Planning Board review prior to Council being able to comment on the draft. As such, the City Manager, in consultation with the Mayor, opted to postpone Planning Board review of this matter and seek guidance from Council on two issues:

1. Does Council want to schedule a workshop on the draft amendments prior to the Planning Board holding an initial hearing, and
2. Is the Council willing to consider extending the moratoria, which is set to expire on May 19, 2017?

In recognition of the State's moratorium, the self-imposed local deadline has essentially become moot, though staff is requesting the Council extend the local moratoria to give

the Council, Planning Board, and staff more time to develop and deliberate the ordinance language. It is important to note that the moratoria should not be allowed to expire. It effectively prevents the possibility that a development application is received that includes a land use for which local policy has not yet been adopted. Extending the moratoria will protect the City from the possibility of a lawsuit.

We are also recommending that Council schedule this matter for a workshop to ensure the draft language contains the intent of the City's elected officials prior to a Planning Board review.



City Manager

April 11, 2017

16192.02

Mr. Tex Haeuser, Planning and Development Director
City of South Portland, Maine
496 Ocean Street
South Portland, Maine 04106

Subject: INR Zoning Change - Cultivation Facilities
Duck Pond Road
South Portland, Maine

Dear Mr. Haueser:

110 Dartmouth Street, LLC. is in process with the South Portland Planning Board for Site Plan Approval for the development of a Cultivation Facility (Facility) off Duck Pond Road in South Portland. The property is in the Non-Residential Industrial (INR) district. It is our understanding that the INR district is under review for amendments to allowed uses. Based on our meeting with City staff on March 31st, it appears that the amendments will allow the growth of marijuana in Cultivation Facilities, but not other plants or produce. As part of these amendments, we request that Cultivation Facilities for medicinal cannabis and other plants be added to the list of allowed uses. This will provide flexibility to the facility owners and crop growers to tailor the use of the facility to crops that are economically viable.

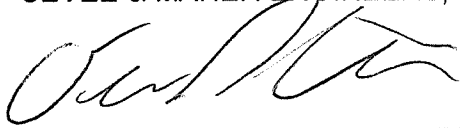
The modern-day cultivation facilities are very different than conventional agriculture. The facility proposed by 110 Dartmouth Street will incorporate state-of-the-art technology to monitor and optimize the growing conditions for up to four partitioned areas. With the variety of crops, the facility will provide secure partitions between the four grow areas. The partitions will be fully sealed and securable to provide growers with individual, controlled areas. The lighting, climate control, irrigation and other controls will be fully mechanized and set up for automatic adjustments to address changes in the indoor climate.

The INR district is the right area in the City for these modern-day cultivation facilities. The road and utility infrastructure available provide the right opportunity for demands of the facility. The location will avoid significant impacts to public infrastructure, residential neighborhoods and schools. In fact, the project proposed will redevelop an underutilized gravel parking/storage area with an opportunity for local business owners and growers to prosper and additional tax revenues realized by the City.

Thank you for consideration of our request. If you need additional information, please do not hesitate to contact me at 207.829.5016 or dpd@smemaine.com.

Very truly yours,

SEVEE & MAHER ENGINEERS, INC.

A handwritten signature in black ink, appearing to read 'Dan Diffin', written in a cursive style.

Daniel P. Diffin, P.E., LEED AP BD+C