

**PLANNING BOARD MEETING  
MINUTES**

Held Thursday, September 8, 2022 in person

**Present:**

Charles Millard, Chairman; Anthony Murgio, Vice Chairman; Armand Bilotti, Secretary; Member Steve Katz; Member Brian Clark; Alternate Member Richard Ruggiero

**Also Present:**

Edward Tanner, Zoning Enforcement and Principal Planner; Assistant Town Solicitor Amy Goins, Esq.,

Chairman Millard called the meeting to order at 7:00pm and led the assembly in the Pledge of Allegiance.

The Board noted a typo on the second page of the July minutes. The header half way down the page should read "Nominations for Vice Chairman" instead of "Nominations for Chairman". The minutes will be updated accordingly.

A motion was made (Murgio/Katz) to accept the July meeting minutes as amended.

In favor: Bilotti, Clark, Katz, Millard, Murgio

Opposed: None

**Town Council Business**

**Recommendation to the Town Council on proposed Zoning Ordinance revisions relative to  
\*cannabis related uses including\* the retail sale of recreational marijuana.**

Assistant Town Solicitor Goins opened by telling the Board she provided a memo indicating that these zoning ordinance amendments are our office's recommendation in the event the voters give a thumbs up to cannabis in Bristol. If the voters say no, that's the end of it, even if something passes to the contrary. In the event that they vote yes, this protects the town. At some point the state is going to begin accepting licenses for these various cannabis facilities once they have the infrastructure in place. This will give people and prospective licensees an idea of where we do and don't want these facilities in town.

Assistant Town Solicitor Goins added that we had some more authority and leeway with regard to medical marijuana facilities, like the compassion centers, and we have a little less authority for zoning in terms of recreational cannabis. The Cannabis Act was drafted to constrain municipal authority for zoning, which is why a referendum is required to ban these facilities. The council can't simply say no, by enacting the zoning amendment; the legislature said it had to be the voters who could say no. The recommendation would be to specify a zone, or zones, in which some of these cannabis facilities would be allowed by special use permit. Then, if any of the licensees want to open up in Bristol, they have to go through that process. If we don't adopt amendments like this, then it could be construed as permitted use anywhere, and local approval, or at least a public hearing by the zoning board might not be required.

Chairman Millard asked about compassion centers, and whether or not the Board can revisit the decision to allow them in two zones.

Assistant Town Solicitor Goins responded that some towns banned compassion centers entirely. The Board could do that or eliminate one of those zones, and only leave them with one zone in which they're permitted by special use permit.

Member Clark asked if someone has a medical marijuana card whether or not they can go into a regular retail place.

Assistant Town Solicitor Goins responded that yes, anyone can go to the recreational dispensaries as long as they are over 21. To go to the compassion centers, you have to be a qualifying patient with a card.

Member Clark clarified that if someone has the card, they can still go to the retail, so there may not be a need for a compassion center.

Assistant Town Solicitor Goins responded that there is a huge difference related to the financing and taxes. There are three existing compassion centers in Rhode Island now, and there are six that have been awarded licenses, but are at different stages of opening. For those nine total compassion centers, they're going to be allowed to transition to hybrid medical and recreational once they pay a \$100,000 or \$150,000 licensing fee. Those will be the first recreational dispensaries, so they will have the right to pay that fee and then become a hybrid medical recreational retailer.

Chairman Millard asked if there will be more hybrids after this.

Assistant Town Solicitor Goins responded that there could very well be, it just depends on if the General Assembly authorizes more compassion centers. They didn't when passing the Cannabis Act, but they might at some point in the future.

Vice Chairman Murgo asked Assistant Town Solicitor Goins to clarify the last sentence of the paragraph on page 4, item (b).

Assistant Town Solicitor Goins explained under the law, each city and town and Rhode Island could put the question to the voters of whether we want cannabis facilities, except for the municipalities that already had a compassion center either established or in the pipeline. The law gives those facilities the right to pay the fee and then they can become a hybrid retailer.

Alternate Member Ruggiero asked Assistant Town Solicitor Goins to explain the difference between medical and recreational marijuana, and whether or not the town has the right to deny these recreational cannabis facilities.

Assistant Town Solicitor Goins responded that the only way the town can deny it is via the election on November 8th. The General Assembly said only the voters can say no. It's already on the ballot for the election, and most towns did put that question to the voters.

Alternate Member Ruggiero asked Assistant Town Solicitor Goins to confirm that the Board could recommend no facilities, but if the voters pass it, then that recommendation goes away.

Assistant Town Solicitor Goins responded that yes, and suggested that the Town Council designates one zone where retail is allowed by special use permit. If the voters happen to say yes, then it's not prohibited, and it's not permitted anywhere by zoning, even by special use permit. Someone will just appeal that. And the law specifically says the towns can enact reasonable restrictions for cannabis dispensaries, as long as they don't have the effect of prohibiting them.

Member Katz added that Assistant Town Solicitor Goins' memo is asking us to figure out where we want to put these places, assuming the town says, yes, they want it. This is our opportunity to guide the Town Council.

Chairman Millard asked if the compassion centers are like a doctor's office or a storefront.

Assistant Town Solicitor Goins responded that some actually might have some kind of doctor on site. She added that there are businesses available that do exactly that, then once you have your card, you take it to the compassion center.

Chairman Millard stated that we do not need two compassion centers in Bristol.

Assistant Town Solicitor Goins mentioned that under the Cannabis Act, the state has said there are going to be 24 recreational cannabis dispensaries. Nine of those will be hybrid; the three existing compassion centers in Warwick, Providence and Portsmouth and then the other ones in the pipeline. The state has been split into six zones. There are four licenses to be issued for a cannabis dispensary in each zone. Assistant Town Solicitor Goins added that she is not sure yet whether they'll do a lottery like they did for the new compassion centers at the end of last year.

Chairman Millard asked if we need to have them in two different zones, or if we can just put them in general business.

Assistant Town Solicitor Goins responded that the Board can recommend removing one of the zones where compassion centers are permitted.

Chairman Millard asked which zone should be removed.

Zoning Enforcement and Principal Planner Tanner responded that his recommendation would be to keep it in general business. He added that this is kind of related to the next item on your agenda. Most of the MMU is Metacam Avenue at key intersections which are mostly general business today; Gooding Avenue intersection, Tupelo Street intersection, Bayview Avenue intersection. There's only a couple places zoned MMU right now. Most of the properties that could go to MMU someday are general business already, some of it's manufacturing. The thinking there was that it's going to be a commercial node, but it might be mixed use. MMU does allow residential up on the upper floors, but maybe you don't want compassion centers on the first floor with apartments upstairs.

Chairman Millard asked whether there is residential in the general business zone.

Zoning Enforcement and Principal Planner Tanner responded no, there is not. And agreed that if the Board was going to remove one zone, that MMU would make sense.

Member Clark voiced his concern that the traffic generated by these is quite heavy.

Zoning Enforcement and Principal Planner Tanner mentioned that the more places that open, the less pressure there'll be on the few that are there now. The general business zones are almost entirely on Metacom, except for Gooding Plaza. There's a couple random sort of outlier general business zones, but most of the general business zones, especially the ones that would be large enough for a facility like this, are on Metacam or on Gooding, and all have parking.

Member Clark asked if parking requirements fall under the Zoning Board.

Zoning Enforcement and Principal Planner Tanner responded that the special use permits would have to go to the Zoning Board. If the Planning Board says yes, Assistant Town Solicitor Goins and Director Williamson are recommending that it's special use with an asterisk. This means you need to meet the

standards to get a special use permit, and the asterisk means there's some specific language about that use. There would be a public hearing and the neighbors would all get a notice and it would be advertised. The public would know it's coming or it's proposed and have a chance to comment.

Secretary Bilotti asked if we would be adding MMU. Member Katz responded that no, we would be removing it.

Zoning Enforcement and Principal Planner Tanner explained that what's currently before the Board are a couple of new uses for the use table relating to retail, recreational cannabis. In addition to that, the Board is going back and potentially amending compassion centers, which is an existing use.

Chairman Millard mentioned that it makes sense to him to limit it as much as possible. General business is a pretty big zone, while MMU is small.

Zoning Enforcement and Principal Planner Tanner clarified the difference between MMU and the Metacom Avenue Overlay zone, which regulates development along Metacom Avenue.

Vice Chairman Murgo asked if MMU allows for residential. Zoning Enforcement and Principal Planner Tanner responded that yes, it doesn't say you have to, but it allows it.

Member Clark asked if we care if someone lives above a pot store. Chairman Millard stated that he doesn't think it belongs in residential.

Vice Chairman Murgo asked what the medical marijuana emporium is.

Assistant Town Solicitor Goins responded that it was basically intended to capture something that wasn't then and isn't permitted now to exist under state law. For example, a club where people go and smoke marijuana. When our office drafted a number of these zoning ordinances and amendments about five years ago, when the compassion centers were expanding, we kind of coined the term and now it's in the Cannabis Act. Essentially it's defined as something that's not allowed by state law.

Vice Chairman Murgo mentioned that the compassion center has to be 1000 feet from the nearest residential zoning, but the cannabis facility is only 500.

Assistant Town Solicitor Goins explained that the Medical Marijuana Act didn't restrict what zoning restrictions we could adopt for compassion centers, but the Cannabis Act is very specific. That's the only proximity restriction we can have: 500 feet of a preexisting public or private school. We don't have the authority to add additional restrictions, but we can certainly add an appropriate buffer.

Chairman Millard mentioned that it would be very hard to find a place on Metacom Avenue without a house within 1000 feet behind it.

Assistant Town Solicitor Goins stated that when the ordinance for compassion centers was drafted, the goal was to limit how many places they could potentially pop up. We couldn't do it in the same way for the recreational dispensaries, because the law specifically says here's what you can do and here's what you can't.

Zoning Enforcement and Principal Planner Tanner added that one could possibly fit into Benny's. Even though there's apartments right next door, those apartments are zoned limited business. That's not a residential zoning district. There's probably only a few places in Bristol that the compassion center would fit, either on Metacom or Gooding.

Vice Chairman Murgo mentioned that there probably won't be demand for compassion centers now that you can legally get it.

Member Katz added that the medical pot is probably better grade.

Assistant Town Solicitor Goins summarized the conversation, and said it sounded like there was a consensus to strike the "S" and replace it with "N" for MMU. The other categories are: cultivator - where you grow it, product manufacturer - you're not growing the plant but you're manufacturing gummies or something similar, and testing lab - is some kind of testing lab where they test THC level. Those other categories wouldn't be retail facilities, and Assistant Town Solicitor Goins has suggested "No" for these.

Member Clark mentioned that eating gummies with THC seems to be more popular than smoking now, and asked if we will be able to control that.

Assistant Town Solicitor Goins responded that the dispensary can sell cannabis in any form. The cultivator just grows it, so there won't be consumer traffic. The retail outlets are what everyone is most focused on, because those will bring the most traffic. Assistant Town Solicitor Goins asked if the Board wants to specify "S" for special use permit for any of those other facilities in either the general business zone or a different zoning district.

Chairman Millard responded that he isn't interested in expanding.

Assistant Town Solicitor Goins added that the state may not let us only allow one category. The law forces us to put the question to the voters as an all or nothing proposition. It might be better, just to protect the town, to put an "S" in one of those columns for the other uses. If the voters don't approve the referendum, there's not going to be any cannabis in Bristol. The Act may not allow the town to adopt an ordinance that says yes to retail in this zone by special use permit but no to the other. Assistant Town Solicitor Goins recommended designating one zoning district where each of these use categories is allowed by special use permit.

Vice Chairman Murgo suggested using the manufacturing zone for the cultivator.

Chairman Millard responded that the manufacturer next to it may not be too happy about it. If we go in strong like this, it's up to the state to come and fight us on it.

Member Clark stated that if the people in town pass the referendum, it's for everything. It's not just for retail sales.

Assistant Town Solicitor Goins added that anytime you have an applicant for a development that wants something other than what the ordinance allows, the hope is that they come to the town collaboratively, but not everyone does that. The suggestion to allow the other use category is by special use permit somewhere, is just to communicate to any prospective cannabis licensees: if you're going to put in an application with the state, this is the zone you should look to do it in.

Chairman Millard asked if someone submits an application with the state, and the town has said yes but we have these two categories, can the state come in and say we have to put it in a manufacturing zone?

Assistant Town Solicitor Goins responded that if we designate allowed by special use permit, they still have to go get the special use permit from the zoning board.

Chairman Millard asked what happens if we don't allow it.

Assistant Town Solicitor Goins responded that they could challenge that ordinance because the town can't ban a use category of cannabis entirely, because the voters have given the thumbs up.

Member Clark asked what the smallest zoning district is.

Assistant Town Solicitor Goins suggested that if the Board doesn't want to do a cultivator in every manufacturing zone, they could allow cultivators in manufacturing zones with a minimum lot size of X. She added that she thinks there is time, if the Planning Board meets in early October to review it one more time, then it's advertised for a public hearing in November. She does not think that the license applications are going to be hitting the desks immediately after the referendum, but recommended adopting this sooner rather than later.

Secretary Bilotti stepped out, and Alternate Member Ruggiero filled in.

Assistant Town Solicitor Goins mentioned that she had read the Providence Journal article that discussed when Massachusetts legalized cannabis, the compassion centers in Rhode Island saw their business drop. Instead of paying the inflated prices of the compassion centers, they just went to the dispensaries and Massachusetts.

Alternate Member Ruggiero asked if the "S" designation will give the town more control and more protection.

Assistant Town Solicitor Goins responded that "N" means it's not allowed, and to establish the use, they would need a use variance, meaning they would have to show that the property lacks any beneficial use other than what they're applying for. Saying that a use is not permitted forces someone to apply for a use variance. A "Y" means it is permitted by right and they don't need any special permission from the Zoning Board. An "S", or special use permit, means the Town Council has said this use is conditionally permitted in that zone. This means that the special use permit will be granted if boxes X, Y and Z are checked.

Alternate Member Ruggiero responded that the special use permit allows the Board to put caveats on it, and is a way for the town to have more control.

Chairman Millard asked if this is passed by a majority, and we leave all the "N"s in the table, if the average cultivator or manufacturer would look at Bristol, then reconsider another nearby town where there's not a lot of "N"s to start with?

Assistant Town Solicitor Goins agreed that is a fair statement.

Chairman Millard added that if we hold the line and have the greatest resistance, that the average person is not going to hit Bristol if they don't have to.

Assistant Town Solicitor Goins mentioned that there are 459 retail dispensaries in Massachusetts.

Vice Chairman Murgo asked how big of a building will be needed?

Assistant Town Solicitor Goins responded that she believes that will be included in the regs that haven't been written yet.

Zoning Enforcement and Principal Planner Tanner suggested leaving the “N”s in for now, and we can change if needed.

Assistant Town Solicitor Goins stated that the bill was a long read, and the regulations, when they're written, will be even longer than the bill itself. Those will spell out in detail everything they need to get the license.

Vice Chairman Murgo asked if the only tax revenue will come from the retail, or if any taxes will be coming to the town if they allow cultivators. Assistant Town Solicitor Goins responded that there will be property taxes.

Member Clark mentioned that he does not have a problem with cultivation since it won't generate traffic.

Vice Chairman Murgo wondered if it would take away jobs. Member Katz agreed and wondered if it would take jobs away from someone who wants to build boats or composites.

Member Katz mentioned that if we do not allow cultivators, the only loss is the property tax. At least we would get the benefit of the taxes on the retail, we just have to restrict where it's going to be.

Chairman Millard stated that his suggestion is to just allow in general business.

Member Katz agreed, and asked which of the categories should be included.

Chairman Millard responded with retail and compassion.

Member Katz asked for confirmation that by town ordinance, compassion centers have to be 1000 feet away, and asked if hybrids are 500.

Assistant Town Solicitor Goins responded that there will not be any hybrid facilities in Bristol, because we don't have a compassion center established at this point. If we allow a compassion center, that you're allowing retail as well. Compassion centers now have the right to be hybrid facilities. The League of Cities and Towns lobbied to have the referendum opt-out provision eliminated, so that each city or town council could just pass a vote. The industry advocates fought to have that because they know if you put the question to the voters, a lot of them will give a thumbs up.

Chairman Millard stated that he would entertain a motion if there's no more discussion.

Alternate Member Ruggiero asked for confirmation that the Board is going to make a motion for the general business zone, and if that's wise.

Assistant Town Solicitor Goins responded that her recommendation is to allow this in at least one zone, and that general business seems to be the most appropriate.

Alternate Member Ruggiero added that this would be a wider area to be able to locate in Bristol.

Zoning Enforcement and Principal Planner Tanner responded that you wouldn't want a retail establishment in a manufacturing zone. If you forget what they're selling, the fact that it's retail and people are coming and going and parking is needed, no other zone would make sense. Limited business is a small business owner. It's a lot of mom and pops around downtown and you don't want it downtown or in the waterfront zone along the water. So only general business or MMU would make sense.

A motion was made (Millard/Murgo) to adjust the presented Permitted Use Table by changing the Compassion Center from “S” to “N” in MMU, and to accept the remainder of the Permitted Use Table and Special Use Permit Standards as presented.

In favor: Bilotti, Clark, Katz, Millard, Murgo

Opposed: None

Member Clark asked if anything was missing, knowing the spirit of the Board.

Assistant Town Solicitor Goins responded that she has provided the bare minimum. The more conditions that are added on to the cannabis facilities, they could be duplicative because the regs will presumably have a number of conditions they have to meet. Also, with each additional condition, there's a risk that a licensee would label it unreasonable. We are requiring development plan review by the planning board, comply with the licensing requirement of the town, and whatever the state sets forth as regs. They do also have to meet the general standards for a special use permit that every special use permit has to meet with regard to character of the neighborhood, traffic, etc.

Zoning Enforcement and Principal Planner Tanner added that standard number three for the special use permit is development plan review by the Planning Board.

Assistant Town Solicitor Goins stated that the Board will not see this again, her office will revise and send directly to the Council. Director Williamson will draft findings of conformance with the comprehensive plan. The Council will get our memo as well, and they'll understand that these amendments are intended to protect the town.

Zoning Enforcement and Principal Planner Tanner mentioned that there may not be anything specific in the Comprehensive Plan about marijuana, but it is retail use. The Comprehensive Plan try to keep high traffic things in certain zones, so it's consistent in that respect.

Chairman Millard added that he feels the Board's purpose is to defend the Comprehensive Plan, not to look for exceptions.

#### **Recommendation to the Town Council on the uses in the Metacom Mixed Use Zone.**

Zoning Enforcement and Principal Planner Tanner explained that Director Williamson has attached the entire Use table for the zoning ordinance. When Sunshine Oil requested the zone change, they were manufacturing, and they asked to go to MMU. A philosophical debate started with the Council about converting/losing manufacturing land. However, that location was in our Comprehensive Plan as going to MMU. The Council discussed whether there should be more industrial-like uses allowed in the MMU zone, and has asked for the Planning Board's review and recommendation. Quite a few are marked as “Yes” in the MMU already. Director Williamson didn't recommend any changes, except for microbrewery which is industrial, but it's more of a service business.

Member Clark asked which the Town Council wanted to change over.

Zoning Enforcement and Principal Planner Tanner responded that the Town Council has just asked the Planning Board to review and to identify any that they would recommend being allowed in MMU.

Member Katz mentioned that this will need to be adjusted based on what the Board just talked about related to compassion centers.



Zoning Enforcement and Principal Planner Tanner agreed, and added that the Council is asking the Board to look at the MMU zone and the allowed uses, and to let the Council know if there's anything that should be added. Director Williamson's recommendation was that these uses are appropriate for the MMU zone, and it also offers flexibility for manufacturing such as marine trades and industry.

Chairman Millard recalled that Steve from Sunshine was looking at a daycare center and asked if that is approved in MMU.

Zoning Enforcement and Principal Planner Tanner replied that yes, but it's not approved in a manufacturing zone. Back in 2008, there was this vision to make Metacam avenue nicer, to kind of push away the uses that are not quite as pleasant, but maybe allow a variety of uses at these important intersections. There's a lot more flexibility in the MMU and any kind of development would have to come before you for development plan review.

Vice Chairman Murgo noticed that bed and breakfast is a "Yes", but a country inn with 5-10 rooms is a "No".

Zoning Enforcement and Principal Planner Tanner responded that "country inn" is a defined term, and is similar to Mount Hope Farm.

Vice Chairman Murgo asked if the microbrewery is listed.

Zoning Enforcement and Principal Planner Tanner responded that yes, it's industrial. A large brewery is more of a canning operation so it's manufacturing. Whereas a microbrewery, they're canning but it's smaller.

Vice Chairman Murgo noted that he would be in favor of adding microbrewery. Member Katz agreed.

Vice Chairman Murgo noted that a tattoo parlor is an "No". Zoning Enforcement and Principal Planner Tanner responded that it's allowed in GB, as it has to be allowed somewhere, similar to adult entertainment.

Member Clark asked where gun sales are allowed in the town.

Zoning Enforcement and Principal Planner Tanner responded that both gunsmithing/repair and gun sales are both included in the table.

Chairman Millard asked for confirmation that boat manufacturing is not allowed in MMU, and asked how boat manufacturing is differentiated.

Zoning Enforcement and Principal Planner Tanner responded that building wooden boats is different from building boats with fiberglass and steel, but simply boat building is not allowed in the MMU. He noted that with the world of composites, people might be building a hull for a boat and building a frame for a car with composites right next to it, so Bristol might need to adjust.

Vice Chairman noted that lumber and wood products, furniture and fixtures manufacturing is not allowed, but is a clean business. Zoning Enforcement and Principal Planner Tanner responded that maybe that should be a recommended change.

Zoning Enforcement and Principal Planner Tanner noted that the Town Council did not give a deadline, so it could be moved to the next meeting.

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A motion was made (Clark/Bilotti) to continue this review of the MMU zone to the next meeting.

In favor: Bilotti, Clark, Katz, Millard, Murgio

Opposed: None

A motion was made (Bilotti/Katz) to adjourn the meeting.

In favor: Bilotti, Clark, Katz, Millard, Murgio

Opposed: None

Meeting adjourned at 8:10pm

Respectfully submitted by Doran Smith, Recording Secretary

Date Approved: 10/13/2022 Planning Board: AG Bilotti