Town of Lisbon

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MEMO

To: Town Council
From: Glenn Michalowski, Town Manager
Subject: **(2025-030)** Approve a Medical Marijuana Manufacturing License and a Victualer's License for 207 Edibles
Date: February 18, 2025

Summary
At its February 4, 2025, meeting, the Council held a public hearing on a license application from 207 Edibles to operate a medical marijuana business. After the public hearing, the Council deliberated. The Council tabled the item to receive more information, including the following:

1. To receive the Code Enforcement Officer's and the Fire Chief's report regarding:

    a. The status of the outstanding violations;
    b. How they made measurements in the premises that resulted in a finding that interior spaces are located too far from the exit;
    c. A response to the applicant's assertion that the Council should issue a license this year because it issued licenses in past years; and
    d. The different methods that a violator may use to achieve code compliance, and how those are chosen.

2. To receive an update on efforts to remedy the violations.
3. Clarification on the ownership of the applicant and the premises, and whether that affects the Council's action on the license.

At the Council meeting, the Code Enforcement Officer and the Fire Chief will address information requests #1 and #2 above. This memorandum first summarizes the evidence from the record and public hearing, then repeats the standard for the Council's action, then summarizes staff's recommendation on the license, and finally addresses whether the ownership of the applicant and the premises affect the Council's action on the license.

Evidence from the Record and Public Hearing

According to the license application, Lorelei Hilliker owns 207 Edibles, which is located on the second floor of the building at 5 Canal Street. 5 Canal Street is owned by Riverbend Investment Properties, LLC (the Owner), which is equally owned and managed by Ms. Hilliker and Jason Smith. Mr. Smith

owns and operates a different business, Lisbon Cannabis, located on the first floor. The Town understands that Mr. Smith has no interest in 207 Edibles and that Ms. Hilliker has no interest in Lisbon Cannabis.

The Code Enforcement Officer / Building Inspector, the Fire Chief/ Health Officer, and Police Chief inspected the premises. The Fire Chief found that the premises do not comply with the applicable life safety code, and the Code Enforcement Officer / Building Inspector found that the premises do not comply with the applicable electrical, plumbing, building, and zoning codes. Both building officials provided a list of violations, which include that 1) the length of the travel distance from portions of the interior second-floor space to the exit exceeds 75'; 2) no permit was secured for the installation of the electrical system(note, 3 permits were issued for smaller electric jobs); 3) no permit was secured for the installation of the plumbing system The Code Enforcement Officer / Building Inspector and Fire Chief have reported to the Council that permits are required to operate a medical marijuana establishment in the premises including, at a minimum, another electrical permit (this one for the installation of the entire system); 4) no building permit was secured for the construction associated with the finishing of the interior space and change of uses; and 5) no permit was secured for the installation of the signs on the exterior of the building. The Code Enforcement Officer has issued a notice of violation to Riverbend Investment Properties, LLC.

Lorelei Hilliker testified that permits did exist, that 207 Edibles kept the permits for 1 year after the construction was over, that she gave the plumbing or construction permits to another person, and that 207 Edibles does not have copies of any permit.

An attorney for 207 Edibles acknowledged that the Owner has received a notice of violation, but that the notice did not prevent the Council from approving the license to 207 Edibles. 207 Edibles argued that the applicant meets the standard to receive a license.

<u>Standard for the Issuance of a Medical Marijuana License</u>

Section 10-610, of the medical marijuana establishments ordinance, provides that:

A license application for a medical marijuana establishment shall be denied by the town council. . . if the applicant, or any owner of the applicant or licensee:

(1) Fails to meet the requirements of this ordinance. . .
(5) Has not acquired all necessary state and local approvals prior to issuance of the license. . .

<u>Staff Recommend that the Council Should Deny the Application for a License</u>

Town staff recommend that the Council deny the 207 Edibles license application because the application did not include the required approvals, the application fails to comply with the ordinance, and a fire safety issue has not been satisfied.

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First, the Council should deny the application because it did not include the required approvals. The Council shall deny the license application if it "fails to meet the requirements of this ordinance." An application shall include "evidence of all land use approvals or conditional land use approvals required to operate the medical marijuana establishment, or applications that have been filed and are pending for the required approvals, including but not limited to building permit, conditional or special use approval, change of use permit and/or certificate of occupancy," according to section 10-605(9).

The Code Enforcement Officer / Building Inspector and Fire Chief have reported to the Council that permits are required to operate a medical marijuana establishment in the premises including, at a minimum, an electrical permit, a plumbing permit, a building permit, a change of use permit, and a sign permit. The application included neither these permits nor evidence that applications for permits have been filed and are pending approval. Therefore, the Council should find that the application fails to meet the requirements of the ordinance and should deny the application.

A **second** ordinance provision requires the Council deny the application for a similar reason; section 10-610(5) requires that the Council shall deny the license application if the applicant "has not acquired all necessary state and local approvals prior to issuance of the license." The analysis above shows that 207 Edibles did not meet this requirement.

Third, the Council should deny the application because the premises at which the establishment will be located fail to comply with the electrical code, the plumbing code, the building code, and the zoning code. After receipt of an application, section 10-606(9) requires the following inspections:

> (1) The building inspector shall verify that the premises at which the establishment will be located complies with all applicable town ordinances including, but not limited to, the building code, electrical code, plumbing code, and section 10-611, and shall report findings in writing to the town clerk.
> (2) The code officer shall inspect the location or the proposed location to determine whether the applicable ordinances relating to land use issues and building and safety codes issues have been satisfied and shall report findings in writing to the town clerk. . .
> (4) The fire chief. . . shall inspect the location or proposed location to determine if all town ordinances and any other applicable regulations concerning fire and safety have been satisfied and shall report findings in writing to the town clerk. . .

The Building Inspector / Code Enforcement Officer and the Fire Chief have reported that the premises at which the establishment will be located does not comply with the electrical code, the plumbing code, the building code, or the zoning code.

In addition, and **fourth**, the Building Inspector / Code Enforcement Officer and the Fire Chief reported

that a fire safety issue remains unsatisfied, specifically that the length of the travel distance from portions of the interior second-floor space the exit exceeds 75'.

Violations of any one of these ordinances is sufficient to show that the 207 Edibles license application fails to meet the requirements of this ordinance, and the Council should deny the application.

An Assertion that the Applicant Is a Tenant, Rather than Deedholder of the Premises Does Not Affect the Outcome

207 Edibles argues that the approvals required by subsection 10-610(5) apply to the applicant only and that a notice of violation issued to the building owner does not meet that language. As a preliminary matter, 207 Edibles has not provided a lease or other proof of its possessory interest, which is required by section 10-605(8), even though it asserts that it is a tenant. Even assuming 207 Edibles is a tenant, the argument fails.

First, the marijuana license ordinance is concerned about whether the premises have received the required approvals and whether any known issues are satisfied, not the ownership status of that premises. The Building Inspector / Code Enforcement Officer and the Fire Chief has reported to the council that the premises does not meet these requirements. These facts are separate from an enforcement proceeding that the Town has commenced to secure compliance with the codes.

Further, the codes regulate spaces, regardless of the interest that an occupant has in the space. For example, the provisions of the International Building Code (2015) "shall apply to the construction, alteration, relocation, enlargement, replacement, repair, equipment, use and occupancy, location, maintenance, removal and demolition of every building or structure or any appurtenances connected or attached to such buildings or structures." Section 101.2 (underline added). The International Building Code applies to spaces, regardless of the ownership structure of spaces. This fact is underscored by the International Building Code's definition of the term "Owner," which also means an entity with a possessory interest in property. The term "Owner" means "any person, agent, operator, entity, firm or corporation having any legal or equitable interest in the property; . . . or otherwise having possession or control of the property." Even tenant meets this definition because it has in interest in the premises and has possession or control of the premises.

Recommendation

Attachments

1. 02-04-2025 Meeting Item - 207 Edibles - 2025 Applications_Redacted
2. 02-04-2025 Meeting Item - Code Enforcement report
3. 02-04-2025 Meeting Item - Fire Chief report
4. 02-04-2025 Meeting Item - Health Inspector and Life Safety report
5. 02-04-2025 Meeting Item - Police Chief report

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6. 207 Edibles - 2024 Medical Manufacturing Renewal - Property Ownership Documents