

Town of Barnstable Planning Board Minutes November 25, 2013

Matthew Teague – Chairman	Present
Paul Curley - Vice Chairman	Not Present
Stephen Helman - Clerk	Present
Felicia Penn	Present
Raymond Lang	Present
David Munsell	Present
Patrick Princi	Present

Also in attendance were Art Traczyk, Regulatory Review Planner, JoAnne Miller Buntich, Director, Growth Management Dept., Ruth Weil, Town Attorney, and Frederick Chirigotis, Planning Board Liason.

Workshop: Medical Marijuana Treatment Center Workshop

JoAnne Buntich refers to the proposed overlay district map (Exhibit A). She explains/points out the areas that have been suggested; the boundary of Iyannough Rd. (East) and Industrial area, between Independence Park and the Airport. The idea for the Iyannough Road area was looked at because it is accessible by transit and it is not in a downtown area. The industrial area was looked at for cultivation facility and dispensary use.

Ray Lang asks/comments that stakeholders will have a minimum square footage, 2000 sq. ft. for the dispensary? He wants to know who and what stakeholders are/have.

Patrick Princi asks about location. Was there any interest from any of the other Villages besides Hyannis? It seems that stakeholders are lining up?

Felicia Penn asks about the overlay district, how many parcels would be available/are available for cultivation? Do we have any idea how many might be available for this amount of square footage?

JoAnne Buntich answers that most of the buildings in the industrial area, warehouse type, but in both areas, i.e., the Guaranteed Fresh Bldg., which is a large warehouse type bldg.

Ruth Weil replies that the applications to date on the Cape have been under 10,000 sq. ft. There is a range. The 26,000 sq. ft. is a projection over time, not the initial facility.

JoAnne Buntich comments that this may be a good way to start? These do not have to be the only areas of town where this overlay district could take place.

Felicia Penn states/suggests that we be as flexible as possible. This will have a huge, positive, economic impact, this is why so many entities are chasing it. She thinks the bigger the better so that the Board doesn't have to keep coming back to address. The industrial area is a good idea, but there is a lot of empty land elsewhere. Suggests any place that satisfies the setbacks from the residential areas should be considered.

Matt Teague agrees. Has there been any reaction from the Town of Yarmouth?

JoAnne Buntich answers that they are aware of it.

Reference is made to different parcels on the map by JoAnne Buntich and some of the Board Members.

Felicia Penn asks if it is possible to divide the zoning, i.e., dispensary only in one area and cultivation in another area?

Ruth Weil answers that she has not seen any Attorney General opinions referring to this. There is one group going to Mashpee that was just going to do dispensary and not cultivation. Not everyone wants the trifecta, but some people will. She will follow up on this.

Ray Lang refers to the map (Exhibit A) and asks if the Iyannough Rd. area could be brought out?

JoAnne Buntich answers that these are wetlands and the Hyannis Water Company here, there are public supply wells in this area. These areas are not available for development.

Ray Lang asks who were the stakeholders that were interviewed?

JoAnne Buntich answers that information about the stakeholders is in the report/study (Exhibit B).

Patrick Princi asks about other villages and if Barnstable is missing out on any potential economic opportunities?

JoAnne Buntich answers that she doesn't think so, they did not get that impression, it could happen. No other villages have come forward and state that they wanted to put there. Stakeholders were people from the social service community, healthcare community, potential business owners, attorneys. Everyone that they spoke to thought that this use did belong in a more developed portion of the town.

Ray Lang asks that the list of the stakeholders that were interviewed be provided to the Planning Board and for these people to be notified of the public hearing.

Matt Teague asks why? Are you looking for the validity of the statements that are in the study/report?

Ray Lang answers that he wants to make sure the Planning Board can hear from these people (stakeholders) to make sure that these people understand the public hearing process.

JoAnne Buntich answers that all the stakeholders had and knew about the legislative process.

Stephen Helman asks if it is the practice to send out specific invitation to certain people for a public hearing?

Patrick Princi clarifies that all we have to do is talk about the zoning, the State is permitting these applicants, we just have to figure out where they will be.

JoAnne Buntich explains the ordinance (Exhibit C). The Dept. of Public Health, in the registration process, is going to scrutinize any business plan or financing issues.

Felicia Penn refers to Exhibit C, pg. 2, E. Requirements/Standards, (4) and the 1000 ft. distance, she thinks this is excessive, maybe make it 500 ft., this is the base absolute limit anyway, not less than 500 ft. though.

Ray Lang asks if other towns have setback limits?

JoAnne Buntich answers yes, and they vary.

Matt Teague comments that the challenge will be, even in the industrial park, that very few of the properties, by

parcel boundary, will be 1000 ft. or even 500 ft. from another without going down several lots. This may be an issue, may preclude other uses in this large radius.

Ruth Weil answers that once the facility is established, other uses can establish themselves, there is not a prohibition.

Matt Teague states less than 500 ft. would be acceptable. He doesn't have a problem with less given the security requirements.

JoAnne Buntich confirms the changes to the draft ordinance, pg. 2, E. Requirements/Standards, (4) Separation Requirements (Exhibit C) as follows:

(1) **Separation Requirements.** The site is located at least one thousand feet (1000²) five hundred feet (500') distant from a religious institution/place of religious assembly, school, daycare center, preschool or afterschool facility or any facility in which children commonly congregate, or if not located at such a distance, it is determined by the Zoning Board of Appeals to be sufficiently buffered from such facilities such that its users will not be adversely impacted by the operation of the Registered Marijuana Dispensary but in no case shall the distance be less than 500° 250' measured from parcel boundary to parcel boundary. In no case shall and RMD directly abut another RMD or any Medical Marijuana use.

Stephen Helman comments that he thinks the school administration and parents would be upset about this. He is concerned, this will not go over well.

Matt Teague replies that once the product is transferred/dispensed it is out of their control.

JoAnne Buntich asks for confirmation of making the Separation Requirement changes?

Matt Teague answers to leave as is for now, maybe discuss this at the public hearing. Need to give town what it wants. What is the guideline/cap of the number of facilities to be made. Is it distinguished between a growing facility and a dispensary? Refers to larger parcels, where we may not get a growing facility in the town of Barnstable if there are enough elsewhere. Restriction may be eased over time.

JoAnne Buntich answers 35 statewide, no more than 5 in each county for 2013. May change in 2014. They are not anticipating dispensary and growing facilities to be separate.

Ray Lang comments that the State can change the regulations at any time.

Felicia Penn asks/refers to draft ordinance, pg. 3, (6) Parking (Exhibit C). What is the definition of "accessory patient services" and (7) Loading. What is the definition of "secure loading bays"?

JoAnne Buntich answers, they are not really sure what the accessory patient services would be defined as, and secure (loading bays) would be defined by whatever the definition is that the Dept. of Public Health has stipulated. Some of the structures don't have loading bays today, so this was to make sure that they had them if they needed. We can remove the word secure.

(7) Loading. The Board of Appeals may require secure loading bays based on the recommendation of Site Plan Review and/or based on the needs of the proposed use.

Felicia Penn asks/refers to draft ordinance, pg. 3 to 4, F. Special Permit Requirements, Application Requirements, (Exhibit C) if we require these kinds of descriptions for other medical use in an application?

Joanne Buntich answers we do not. This is a brand new use and may be better to be more explicit in the beginning.

Felicia Penn asks will people have to apply to change hours, etc. and come before the Board to change?

JoAnne Buntich answers that it is not uncommon for special permit applicants to come before the ZBA to change

hours.

Felicia Penn refers/asks ordinance pg. 3, F. Special permit Requirements, (1) Application Requirements. (c) if we are expecting a report/annual information from people for this?

JoAnne Buntich answers that the anticipated number of patients is needed for Site Plan issues. This is new and we have never dealt with this before, everyone will be a little different.

JoAnne Buntich continues to review the draft ordinance (Exhibit C).

They will adjust the map as indicated today.

Matt Teague asks about the ability to oversee or provide review of hardship requests? Is the Building Commissioner the only person who reviews this under the State guidelines? He has a serious issue with this.

JoAnne Buntich answers that her understanding is that the Dept. of Public Health is preferencing applicants who will provide delivery, they do not like the hardship, she didn't find any information/place where the town would be able to regulate through zoning.

Matt Teague states this needs to be explained, it may be challenged.

Ruth Weil replies that a cultivation facility has to be attached to a dispensary, it is one entity permitted through Dept. of Public Health.

Ray Lang asks/refers to the study (Exhibit B) if the Town of Barnstable's Board of Health was consulted and the Chair stated that they had no indication that they were going to be creating any regulations locally, is that still the case?

JoAnne Buntich answers yes. There are existing regulations for commercial kitchens and this will be subject to all the same rules, regulations and inspections as such.

JoAnne Buntich recommends a Joint Public Hearing with Town Council. To have both bodies here together. Would like to have before the Council in January 2014. Will make changes to map and ordinance and put in as an agenda item for Planning Board to refine and then get to the public hearing process.

Matt Teague asks if this study is available on town website?

JoAnne Buntich answers not yet, but soon.

The Workshop is ended at 7:54 p.m.

Approval Not Required Plans: Lynch - A plan entitled: "Plan of Land at Little River Road" prepared for Christopher M. Lynch", dated April 30, 2013, revised November 12, 2013, as drawn by BSS Design Engineering and Surveying has been submitted for endorsement as an Approval Not Required Plan. The subject property is addressed as 218 and 234 Little River Road, Cotuit, MA as shown on Assessor's Map 054 as Parcels 006/004 and 006/005. The Plan proposes an equal exchange of lot area between two developed lots and is subject to Variance No. 2013-036 granted by the Zoning Board of Appeals. The property is in the Residence F Zoning District and the Resource Protection Overlay District.

Attorney Michael Ford in attendance, in representation of the Petitioners. He explains the ANR, which is a swap of land. It is in 2 acre zoning area. ZBA has granted a variance. Both lots have frontage.

Felicia Penn makes a motion to endorse this ANR, moved and seconded by Ray Lang, so voted unanimously.

<u>Subdivision Completion:</u> Subdivision No. 305, Rue Michelle – Update on Completion and Surety

Felicia Penn comments that it is nice to see this finally completed, it has been 40 years since this first came before the Planning Board.

Matt Teague entertains a motion that the Subdivision No. 305, Rue Michelle has fully and satisfactorily completed the construction of the Way and installment of the utilities, so moved by Ray Lang, seconded by Felicia Penn, so voted unanimously.

Special Permit:

7:00 PM Continued

Modification PIAHD Special Permit Schooner Village Subdivision No. 813 - Jacques N. Morin, Trustee

This Public Hearing is to consider the application of Jacques N. Morin, Trustee of Schooner Village Realty Trust for a Modification for the Private Initiated Affordable Housing Development (PIAHD) Special Permit issued for Schooner Village - Subdivision No. 813. The Petitioner is seeking to allow a new house plan "The Belmont", a one-story, three-bedroom single-family dwelling of 1,709 sq.ft., with an attached two-car garage to be built at 49 Schooner Lane, Hyannis, MA.

The PIAHD locus is 8.58 acres in area, consisting of 29 lots identified as; Assessor's Map 273, Parcel 204 and Parcels 204-001 through 204-017, and Map 272 Parcel 056-006 and Parcels 203 through 211. The property is addressed 5 through 150 Schooner Lane Hyannis, MA. The property is in a Residential C-1 Zoning District.

Jacques Morin, the owner/applicant in attendance. He gives a brief history. Copy of Schooner Village Specifications –Affordable Homes document handed to Board Members (Exhibit D) and copy of signature support document (Exhibit E). He addresses issues presented by four opposing homeowners at the previous hearing/meeting (September 23, 2013), Jean Tabor, Natalie Pittenger, Jeremy Cadrin, and Dr. Bonanno (Exhibit F).

Matt Teague interjects that we are not here to listen to civil matters, we are only here to address the new home design, the Belmont. Makes reference to the signed petition, dated September 14, 2013, and reads off signatures (Exhibit E), and confirms how many total homes are in this subdivision, 29.

Matt Teague asks for public comment.

Steve Musselman of 79 Schooner Lane in attendance. He refers to letter from Thomas A. Stark of 99 Schooner Lane, dated November 25, 2013, (Exhibit G). This letter is in support.

Matt Teague reads this letter into record in summary and states that it is in support.

Jeremy Cadrin of 150 Schooner Lane in attendance. He refers to the letter from Jacques Morin dated November 18, 2013, (Exhibit H). He is in opposition to this request. He feels the Association is non existent. There is lack of communication.

David Munsell interjects that this is not applicable, we are only here to address a change in the house design, not to discriminate against a builder.

Matt Teague agrees with David Munsell and states that there is a proper venue/civil process that would deal with a matter of contract/contract disputes.

Jean Tabor of 29 Schooner Lane in attendance. She is in opposition to this request. Disputes the number of signatures listed in support (Exhibit E). The lot next door to her is a danger to the neighborhood. Thinks the Homeowners Association is a lame duck, they do not really have any control.

Matt Teague interjects/asks how does the adoption of this plan affect any of your issues? This appears, once again to be a civil matter.

Dr. Salvatore Bonanno of 140 Schooner Lane in attendance. He makes reference to the voting majority rules of the Planning Board. He does not think there is a majority for this.

David Munsell states that the issue here is strictly if we are going to approve this change in plan. This new home design will only increase the value of the homes in this area. Everything else is for another venue.

Felicia Penn comments that it is not exactly true that we were not involved with the Association issue when the PIAHD first came before us. It was the vehicle that would solve these kinds of issues. It is extremely disappointing that this Association is relatively defunct. She doesn't have an issue with the request for the new plan, however, there is an issue with the HOA not representing them and to voice their concerns. If there was a way to tie the two issues together she would be happy to vote for this. Could we ask Staff to address the situation according to the original intent of the PIAHD?

Jacques Morin comments that the HOA is in no way defunct. All of the homes are kept well in this subdivision. HOA was put into place about two years ago. It has 3 Board of Directors, a President, and it is fully operational. There are 18 homeowners in support of this request. Many people would like this finished.

Matt Teague directs/asks Staff to find out what the HOA rules and regulations, and requirements for running this Association are and what was originally made.

Matt Teague entertains a motion to adopt the Belmont Plan as presented, 1,709 sq. ft., so moved by Stephen Helman, seconded by David Munsell, Felicia Penn is opposed, five in favor, one against.

7:30 PM Continued

Modification of PIAHD Special Permit Settler's Landing II Subdivision No. 812 - Martha M. Morin, Trustee of Settlers Landing Realty Trust II

This Public Hearing is to consider the second part of an application of Martha M. Morin, Trustee of Settlers Landing Realty Trust II, seeking a Modification for the Private Initiated Affordable Housing Development (PIAHD) Special Permit issued for Settlers Landing II - Subdivision No. 812. This part of the petitioner is seeking:

To allow for up to five of the 29 dwellings to be built as four-bedroom homes provided the fourth bedroom is created within an approved house design plan.

The locus is the southern 7.75 acres of the subdivision commonly known as Settler's Landing located off Castlewood Circle in Hyannis, MA. The 29 parcels are shown on Assessor's Map 273 as Parcel 122, Lots 013 through 027 and Assessor's Map 272 as Parcels 212 to 225. The lots are addressed from 75 to 174 Settler's Landing, Hyannis, MA. The locus is Zoned Residential C-1.

- This hearing was opened May 13, 2013, at which time the Board decided to bifurcate the application into Part 1 and Part 2. Part 1- allowing the introduction of a twelfth and thirteenth house plan was granted.
- Part 2 was continued; June 24, 2013, August 12, 2013 and to September 9, 2013 to allow for Review and Opinion of the Town Attorney Office. Opinion was issued August 8, 2013.

- At the June 24th meeting, the Board voted a continuance with the requirement that all back taxes owed on the subdivision lots would be paid in full and verification from the Tax Collector's Office that all taxes on the Applicant's lots are current.
- A November 5, 2013, email from the Applicant, Jacques Morin, requesting a continuance to January of 2014 (copy enclosed)

Matt Teague entertains a motion to continue this Public Hearing to January 13, 2014, at 7:00 p.m., moved by Ray Lang, seconded by Stephen Helman, so voted unanimously.

Regulatory Agreement:

7:45 PM Continued Hearing

Regulatory Agreement No. 2013- 03 Hyannis Harbor Suites Hotel, LLC or Nominee & Harborview Hotel Investors, LLC

Regulatory Agreement No. 2013-03 is the application of Hyannis Harbor Suites Hotel, LLC or Nominee & Harborview Hotel Investors, LLC, seeking to enter into an agreement with the Town of Barnstable to construct and operate at 213 Ocean Street, Hyannis, MA a new four (4) story year-round hotel with up to sixty-eight (68) rooms, each room containing its own kitchen facility. This proposed hotel building is in addition to the existing 136 room Hyannis Harbor Hotel situated on the 3.4 acre lot. The subject property is located in the HD-Harbor District of the Hyannis Village Zoning Districts and is shown on Assessor's Map 326, Parcel 035.

The Regulatory Agreement seeks waivers from the Barnstable Zoning Ordinances, specifically:

Section 240-24.1.7.A – Harbor District, Permitted uses to allow hotel rooms with kitchens.

Section 240-24.1.7.C – Harbor District, Dimensional, bulk and other requirements, including maximum building height, to allow 4-stories where only a 2.5 story buildings are permitted, waivers of the 10-foot minimum side and rear setbacks, waiver of the 70% maximum lot coverage and waiver of the 10-foot front yard landscape setback.

Section 240-24.1.10 - Site Development Standards and Section 240-53 — Landscape Requirements for Parking Lots, including waivers from the following; the 6-foot minimum setback for parking lots, 10% interior parking lot landscaping, required minimum number of trees, dumpster setback from lot line and any other necessary relief.

Section 240-56 - Schedule of Off-Street Parking Requirements to allow a reduction in the required on-site parking.

In addition, the Regulatory Agreement seeks relief from the general ordinances of the Town, Chapter 112, Article III, Hyannis Main Street Waterfront Historic District seeking the Planning Board to act on behalf of the Hyannis Main Street Waterfront Historic District Commission.

Copy of proposed plan for additional parking enclosed

Attorney Micheal Ford, Doug Cohen and Matt Eddy in attendance. Attorney Ford gives a brief history of the last meeting. Parking issues and update. Reference is made to Master Plan, sheet C3.0 (Exhibit I). Total number of rooms would be 204 with the new bldg., Proposed parking 160 parking spaces.

Now proposing 24 Nantucket St, which is under purchase agreement now, it is a little under 8,000 sq. ft., and immediately abutting. There is a building on this site, this building would be removed and that would provide an additional 17 spaces, for a total of 177 spaces or just under .87 percent ratio. If valet plan added there would be 204 spaces, a space for every room proposed on the site. This site is subject to Regulatory Agreement going forward. There is a 3 ft. additional height on the structure, this is because it has been raised up to comply with the new flood plane maps. The average grade comes to about 3 ft. to comply with these regulations that will be inevitable by this spring.

Landscaping changes shown around the proposed parking lot (see Exhibit H).

Matt Teague commends the Applicant on this project and the adjustments, this does satisfy the requirements.

Ray Lang asks about the valet parking, does this create any problems with access/egress of emergency vehicles?

Attorney Ford answers that he does not think so. The Fire Dept. has reviewed. This is a conservative valet plan. They have not been back to Site Plan with the new lot information for 24 Nantucket Street yet.

Ray Lang asks if there is unauthorized parking on Bay Street?

Felicia Penn answers that there is boat owner permit parking only on Bay Street. It is very limited, one side of street only unless permitted. She doesn't agree with the valet plan, there is no way to get 4 spaces in front of the hotel, you'd be blocking the curb cuts. In general this is probably the best that can be done with what you have to work with.

Matt Teague would like to see comment from the Fire Dept. In terms of the building height, what are the requirements for that? Are you raising the main floor elevation up?

Attorney Ford answers that they had a meeting with the Historic District. The reports were positive from them, they liked the design.

Matt Eddy answers yes, they are raising the elevation of the main floor area, they have raised it 1.9 ft. The existing grade of elevation is 9, this will vary 9 to 11.5, the entrances to the bldg. will be at elevation 12, the patio area will be at elevation 11, architectural elevations.

Ray Lang asks about revisions of these height changes being made to the original plans?

Attorney Ford answers if the Planning Board recommends to Town Council this will be done on the most recent plan.

Felicia Penn would like to see a more enhanced landscaping plan (Exhibit I) new plan. Parking lot nub is exposed. Something year round, rather see green than vehicles.

Matt Eddy responds, there are evergreen shrubs of 4 to 5 ft. shown (Exhibit I).

Attorney Ford directs to Felicia Penn, confirms that the landscape plan needs to be enhanced a bit.

Matt Teague asks for any public comment. None.

Matt Teague would like comments from Site Plan and draft agreement.

Attorney Ford is hopeful to have something before Dec. 9th.

Matt Teague asks for document to review one week from today, next Monday, finalized document(s), landscaping.

Felicia Penn asks about the dumpster issue, does it empty on Bay Street. Is there enough room for garbage truck to come in and exit?

Matt Eddy answers that its been relocated to the north. Moved and access to it is from the lot on the site, not from the road. They can pick up from the side.

Doug Cohen in attendance. He answers that the dumpsters are on their parking lot, they are not on Bay St. with the dumpster. This is the end wall, it doesn't face the guest rooms. It is currently floating at the edge of the pavement.

Attorney Ford states that this was listed in the list of waivers.

Felicia Penn makes comment about mitigation and the waivers being sought as being included in the regulatory agreement.

Attorney Ford responds that they plan to have mitigation addressed in the regulatory agreement.

Matt Teague entertains a motion to continue this Public Hearing to December 9, 2013, at 7:00 p.m., moved by Ray Lang, seconded by Stephen Helman, so voted unanimously.

<u>Discussion:</u> Subdivision No. 454 – Whistleberry – Update

JoAnne Buntich explains that Attorney McLaughlin from the Legal Dept. is working with the Homeowner Association's Attorney, Brian Wall to get a more specific document to present to the Planning Board, they could not finish it by this meeting. They are preparing something very organized to reflect what the exact argument is.

<u>Correspondence:</u> Cape Cod Commission notice dated November 7, 2013, Minor Modification Type 1 for

Cape Cod Hospital Emergency Center Expansion for DRI Project of Community Benefit

Hardship Exemption Decision regarding off site parking

Cape Cod Commission notice dated November 8, 2013, Minor Modification Type 1 to the

DRI for the Whole Foods, Southwind Plaza occupancy project

Approval of Minutes: Approval of Board Meeting Minutes for; September 9, 2013, September 23, 2013,

September 19, 2013, (Joint Public Hearing with Town Council and Planning Board) and

October 28, 2013

Matt Teague entertains a motion to accept the minutes from September 9, September 23, September 19, and October 28, 2013, as presented, so moved by Stephen Helman, seconded by Ray Lang, so voted unanimously except Felicia Penn abstains from the October 28, 2013, minutes as she was not present for these.

Future Meetings: Regularly Scheduled Meetings: December 09, 2013 and January 13, 2014 @ 7:00 PM.

Matt Teague entertains a motion to adjourn, moved by Patrick Princi, seconded by Felicia Penn, so voted unanimously.

Meeting adjourned at 9:04 p.m.

Respectfully Submitted

by Karen A. Herrand, Principal Assistant, Planning Board

Approved by vote of the Board on_

Further detail may be obtained by viewing the video via Channel 18 on demand at

http://www.town.barnstable.ma.us

List of Exhibit Documents

- Exhibit A Draft map of Proposed Medical Marijuana Treatment Center Overlay District, dated November 25, 2013 File Med. Marijuana Zoning Amendment No. 2013-055
- Exhibit B Medical Marijuana Moratorium Study, dated November 2013, File Med. Marijuana Zoning Amendment No. 2013-065
- Exhibit C Draft Ordinance for Town Council, Chptr. 240, Article III of the Zoning Ordinance §240-30 proposed amendment, Medical Marijuana Overlay District
- Exhibit D Outline of Schooner Village Specifications (Affordable Homes) File Modification to Special Permit Sub. No. 813
- **Exhibit E** Schooner Village petition with signatures in support File Modification to Special Permit Sub. No. 813
- Exhibit F Correspondence in opposition dated Sept. 22, and 23, 2013, from homeowners (4) File Modification to Special Permit Sub. No. 813
- Exhibit G Correspondence from Thomas A. Stark, dated November 25, 2013, in support File Modification to Special Permit Sub. No. 813
- Exhibit H Correspondence to Jeremy Cadrin, dated November 18, 2013, from Jacques Morin File Modification to Special Permit Sub. No. 813
- Exhibit I Hyannis Harbor Hotel Addition, 213 Ocean St., Hyannis, Ma Master Plan Sheets C3.0-C4.3 and C7.0 (6 sheets) File Regulatory Agreement No. 2013-03