



Town of Barnstable Planning Board

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Board Members

Stephen Helman – Chair Raymond Lang – Vice Chair David Munsell – Clerk Paul R. Curley Mark R. Ferro Holly Brockman-Johnson
John Norman – Town Council Liaison

Staff Support

Regulatory Review Planner

Karen Herrand – Principal Assistant - karen.herrand@town.barnstable.ma.us

BARNSTABLE TOWN CLERK

Town of Barnstable Planning Board Minutes January 25, 2016

2016 APR 15 AM 11:33

Stephen Helman – Chairman	Present
Raymond Lang – Vice Chairman	Present
David Munsell – Clerk	Present
Paul R. Curley	Present
Mark Ferro	Present
Holly Brockman-Johnson	Present

Also in attendance were JoAnne Miller Buntich, Director, and Karen Herrand, Principal Assistant, Growth Management Dept.

Call to Order: Introduction of Board Members and Staff Members

Notice of Recording: This meeting is being recorded and broadcast on Channel 18 and in accordance with MGL Chapter 30A §20. The Chair must inquire whether anyone else is taping this meeting and to please make their presence known.

Chair Stephen Helman reads the *re advertisement* of the legal publication into record, Exhibit A:

Town of Barnstable

Planning Board

Notice of Public Hearing

Proposed Zoning Amendment – TC Item No. 2016-054

To Create the “Hyannis Parking Overlay District”

January 25, 2016 at 7:00 P.M.

The Planning Board of the Town of Barnstable, acting under Chapter 40A, Section 5 of the General Laws of the Commonwealth of Massachusetts, will hold a public hearing on Monday, January 25, 2016, at 7:00 p.m. in the Hearing Room of the Barnstable Town Hall, 367 Main Street, Hyannis, MA. The purpose of this hearing is to take comment on a proposal to amend Article III District Regulations of the Zoning Ordinance by adding a new Section 240-24.1.10 creating a “Hyannis Parking Overlay District” that allows as-of-right permitting for land located south of Main Street in Hyannis, which land has some legal preexisting nonconforming status or was licensed as of May 1, 2014 as an open air parking lot involving the temporary storage of vehicles. This amendment will clarify this land use and create as-of-right permitting for land now used as open air parking lots and add site development standards to ensure the

safety of users, the general public, and emergency responders; enhance the visual quality of Hyannis; and reduce congestion and contribute to traffic safety by ensuring orderly access and egress from such lots.

This amendment also proposes to amend Section 240-5 Establishment of Districts to add under the heading "Overlay Districts" the "Hyannis Parking Overlay District"; and to amend Section 240-6 the Zoning Map to create the new "Hyannis Parking Overlay District" to include the area shown on the reference map entitled "Hyannis Parking Overlay District", dated November 30, 2015, prepared by the Town of Barnstable GIS Department.

This amendment was referred to the Planning Board for a public hearing by Town Council Item No. 2016-054. Copies of the proposed amendment are available for review at the Barnstable Town Clerk's Office, 367 Main Street, Hyannis, MA, and at the Planning Board, Growth Management Department, 200 Main Street, Hyannis MA, during regular business hours, Monday through Friday 8:30 a.m. through 4:30 p.m.

JoAnne Buntich gives an update/history of this proposed amendment: Town Council created a sub committee to create this ordinance for an as of right use with some performance standards.

Chair Stephen Helman entertains a motion to open the Public Hearing, moved by David Munsell, seconded by Paul Curley, so voted unanimously.

Felicia Penn, Hyannis resident in attendance. She asks if this relates only to paid parking lots?

JoAnne Buntich answers it is only for the lots depicted/definition for commercial service parking lots. She makes reference to the ordinance proposed, Exhibit B; *Commercial Surface Parking Lot – The commercial parking of vehicles where parking is a principal use on the property. Non-commercial trucks, vans and other vehicles not exceeding 7.5 feet may use a Commercial Surface Parking Lot.* It doesn't differentiate paid or not. This overlay district is meant to create as of right a by right principal land use.

Felicia Penn reads her comments into record, Exhibit C;

Concepts – What we are discussing here is the implementation of a new zoning layer, over and above the existing zoning, apparently to address existing permitting issues. So that, you are asked to approve this zoning in order to "organize the permitting process in better co-ordination with Licensing." (directly taken from the Summary)

Since the 60's, permits for parking lots were issued directly from the Town Manager's office (and before that, the Board of Selectmen). The message I receive from reading this zoning ordinance is that the current system is not able to manage these permits, not able to manage the enforcement and regulatory aspects of these permits – that the system is broken; and that there is no clear co-ordination with Licensing.

Why is the introduction of zoning required to fix an internal licensing issue?

There is a sentence in the summary that indicates that this zoning change "more clearly adds this as permitted use for these specific lots." I ask staff to please clarify which lots, as of this moment, are not clearly permitted for parking. Or, asked another way, are there lots designated in this zone that currently do not hold a permit or variance for parking? If so, please identify them.

JoAnne Buntich explains that all the lots in the overlay district have some form of permission, specil permit or pre existing vested rights or a license.

Exhibit C – continued reading;

What this zoning appears to do is identify public safety standards, parking lot space sizes, and adds some *visual enhancement requirements*.

Does the town really need zoning to do this? What is it about the present structure of Town Hall that prevents the town from soliciting the same behavior with the parking permits that are already in place?

If enforcement is the issue, how will this zoning change the ability of the town to enforce the permitting regulations? There is no "enforcement" section in this zoning act that details what the process is, or what the penalties are for non-conformance.

Zoning typically characterizes the highest and best use for properties contained within its zone. I do not believe that parking lots represent the highest and best use for every parcel of land included in this zone.

This zoning allows parking by right. Will there be no more licenses or permits required? Currently the Town receives some annual fees for the licenses issued to these lots. I believe it is a per car basis. Do those fees disappear?

I have a concern that: This zoning does not indicate that no buildings may be demolished in order to create more parking. In fact it deletes such language in section 240-51. It also does not address expanded parking facilities or lots for Steamship and/or the Hospital; so in a way, it doesn't go far enough. It also doesn't address drainage or walkways.

Felicia Penn comments that it is stated that this overlay district supersedes any other zoning underneath, even if the language of this zoning is less restrictive.

Does the Town know how many total spaces are available now in the "Ocean Street" lots?

JoAnne Buntich states that there is an inventory. Section 240-51 is not deleted by this. Licensing will continue. Zoning and Licensing are separate. Zoning controls but this will need dual permissions.

Felicia Penn asks if by right why do they need a license?

JoAnne Buntich answers that these are two different processes.

Felicia Penn refers to Exhibit B, Section 5; *Amend Section 240-51 Location of Parking Spaces by deleting the words, "except that in the MA-1 Business District, parking spaces may be located on another lot within 500 feet of the use, provided that no parking lot shall be created by the demolition of buildings within the MA-2 Business District, OR Office Residential District, or buildings with frontage on Main Street in the MA-1 Gusiness District from existing Section 240-51:....."*

JoAnne Buntich confirms that this is just in the MA District, this is not in the Harbor District. States we do not have an exact number regarding the total number of parking spaces, but we can get this information.

Felicia Penn comments that some parking lot operators will lose the amount of spaces if this goes through. It's unrealistic to expect that the zoning change will solve anything since people will find other places to park. In comparison, if all accommodate with the safety requirements, which are all good and positive, than this proposal will mean that there will be less spaces to park.

Felicia Penn hands out an analysis for Ferry Parking, Hy-Line Only on a year round basis, Exhibit D. This does not include any other recreational activities, or business, or employee parking, or restaurant parking.

The source of this information is License Agreement between Hy-Line and the Steamship Authority between 2015-2017, see bottom of Exhibit D. This is the largest draw for parking. They regulate by season. She refers to the breakdown of the report and explains the analysis. 1462 minimal people per one trip that park. Thinks these numbers are important before passing this as of right overlay parking district proposal. Zoning doesn't say how many spaces are required for ferry boat parking.

This is lucrative cash business, fees range from \$5 for the day to \$20 in season, depending on who is licensed for what. What is the problem that the neighborhood really needs solved? Which are overcrowding and traffic problems. Doesn't think this zoning does anything to address this, it makes it more organized, addresses the safety issue, doesn't think it does what is really needed.

She refers to Exhibit B, proposed ordinance, end of pg. Purposes and Intent; *The scope of such uses would otherwise have to be clarified through a quasi-judicial or regulatory process.* She's not sure what this means? Does this mean that the pre licensed properties would have to go before Zoning or Planning to receive a new license with these new regulations?

JoAnne Buntich answers that this would apply/relate if there were to be some regulatory process involved. The thought was to make the rules the same for all of these land users.

Felicia Penn confirms, so this would be a one size fits all? She makes reference to a 1984 public hearing, whereby she fought to not have dumpsters in the parking lots close to the residential neighborhoods. This is in a certain license in writing from 1984. She objects on that merit.

She makes reference to her comments, Exhibit C, *Relationship to Underlying Zoning: The provisions of this overlay district shall govern over that of underlying zoning, even if these regulations are less restrictive. Is that what you want?*

Definitions:

Remote Parking Sites: Such remote parking lots shall be permitted and licensed only in conjunction with the HPOD parking lot. Does this mean that someone could go purchase land elsewhere and by right, make a parking lot out of it, and run it on the license of their existing parking lot?

JoAnne Buntich replies that the remote lots are not included on the Hyannis Parking Overlay District (HPOD) map, as of right does not extend to those, however there are several already existing in the B District which allow this as of right. The permissions of this HPOD are limited to the lots shown on the overlay map. She cannot speak for the licensing, but if not allowed would have to go through some type of zoning process, i.e., special permit etc.

Stacked parking: Is there a ratio of a maximum of stacked parking allowed per lot? i.e. no more than 5% of allowable cars may be stacked? What's to prevent an operator from stacking all the cars as long as they have an attendant on duty?

Felicia Penn would like to see a maximum on what percentage of cars, how many cars could be stacked in a parking lot. She doesn't understand this allowance.

Landscaping and Fencing: why only landscape street frontages? Why not all boundaries of lots that face public or private spaces? One of the stated purposes is to enhance the visual quality of the area..why only frontage plantings? Why only split rail fencing? There are many decorative and creative fencing alternatives available today. Why not indicate no chain link or stockade fencing of a certain height?

Lighting: Is there a height restriction on light poles? Are there preferred materials or designs? Shall the Design and Infrastructure Plan (DIP) specification be applied here?

JoAnne Buntich replies that this is an overlay district, this is not addressed because it is just adding a land use.

Signs: For the protection of the car owner, don't we wish to include that legible parking rate signs must be prominently posted at the entrance to each lot?

Accessory Structures: What does "business needs" mean? i.e. if a parking lot owner also has a real estate sales license, does this mean that he/she could also post photos of current listed properties? In their opinion, that would be a business need of theirs. Kiosk's shall not be in excess of 100 sq. ft. Why the need for sanitary facilities within the kiosk? Why not use the public facilities as they do now? What is a temporary sanitary facility that might be located inside a kiosk?

Define what a business need is. Opposed to sanitary facilities in a kiosk/accessory structure.

Trash: Are these dumpsters or household trash containers? Since 1984, there is language prohibiting dumpsters from some specific lots. The implementation of this zoning would make it a one-size-fits-all regulation. That doesn't work unless you change the wording to not allow dumpsters.

Opposed to this and a one size fits all.

Section 6 shuttle service: Add: shuttle buses may not stop in middle of a travel lane and may only load/unload passengers within the boundaries of a parking area or passenger drop off area.

Would like to be designated as to which lanes. Enforcement has been the one issue/problem that exists. Maybe adding a section on enforcement and detailing what the ramifications are/would be?

What about Bus parking? The HPOD does nothing to address bus parking. Currently the buses park on Old Colony Rd. They overstay the legal limit for parking; so they receive parking tickets. It's probably cheaper than actually paying the parking rates- Just a cost of doing business. But is this our parking policy for tour busses?

Overall question: Is this parking overlay district part of a larger parking plan for the village? Do we have a plan for locating long-term parking somewhere? Do we have a long-term solution? Is there a plan to reduce traffic on Ocean Street?

I believe you all know that regulating parking off Ocean Street is near and dear to my heart.

While I am in favor of the current lots being "enforceable" and safe and legal, I do not believe that implementation of this zoning overlay district is required to do that. Why not just create the new safety and visual impact parameters and make them a part of the licenses/permits already issued?

This part of town is not sufficient to handle the amount of cars necessary to support the numbers of people going to the Islands.

Fact is it will only become more popular to go to Nantucket, not less. The Town needs a long-term adequate solution!

You have heard me mention this before:

Perhaps someone should look into leasing the parking area at St. John Paul High School from the school for the summer, and actually re-establish the road connector between the school and Old Colony Rd. (an added benefit would be that it would also take this property away from the homeless). Shuttle busses could run between the parking area at the school to the harbor..I'm sure the school would jump at the chance to have income in the off-season..it would also circulate some traffic off Ocean Street.

I mentioned this in a letter to the editor, but it seems to me that there is vacant parking area (proposed Chik-filet area) at the Mall. It's certainly a prime area to actually build a multi-level parking facility with housing on the top, and services on the ground floor. It's a prime place for long-term parking.

Currently, if there are licenses that allow parking and permits that define how many cars may be parked for each operator licensed why is this zoning needed? What's needed is an enforcement plan and public safety access.

She is in favor of the lots being safe and legal. Not sure if this zoning is the answer or other alternatives. She thinks we need to look outside the box and look for alternative routes. Maybe put this road back in for shuttle use only. She thinks it needs more work and have a discussion regarding what the alternatives are. Grandfathering rights? No enforcement..how will this improve the area? Other than having public safety access.

Attorney Matthew Spillane in attendance representing 177 Pleasant Street Realty Trust. His client is Baxters Fish and Chips. They would like to have their lot included as part of the properties/parcels in this HPOD. They would like to have the open air parking. The by laws proposed allow principal use business to operate open air lots if they have sufficient parking to cover for the public and their employees. This property would have 24 extra spaces beyond their obligations of running a restaurant. There is an enforcement issue currently. People park and leave their cars here. The owners don't want to deal with this. They are afraid of social media and negative affects on their business if they tow cars away.

Across the street is Town owned property that most likely in the near future will become developed/improved. The Town has focused on connectivity between Ocean Street and Pleasant Street. The request would be to add 177 Pleasant Street to this proposal.

Mark Ferro asks how many total spots are there? What is the occupancy?

Attorney Matthew Spillane replies between 84 and 90. He doesn't have this information but he can get this. He does not have the occupancy information either.

Ray Lang asks about Pleasant Street and available properties here. Is this the land being referred to?

Attorney Spillane clarifies which property.

JoAnne Buntich asks for clarification about which property, is it just 177 Pleasant Street or this and a connecting lot, 167?

Attorney Spillane replies that 167 is a different parcel. Reference is made to the map, Exhibit E, and an L shaped area. They would like to put up a meter and have people pay to park instead of being in the crosshairs of the vehicles being towed. Roughly 24 spaces.

JoAnne Buntich clarifies that the specific request be made for 167, not 177.

Reference to Exhibit E and where the red brick walkway was put in by the Town.
Dave Munsell asks for an explanation of how this would improve and help them?

Attorney Spillane replies that it is from a business owners perspective, considered rude, and can't tow with reckless abandonment due to social media negativity. If it is a legal agreement it will not negatively impact the owner. The amendment would give the by right use.

Chair Stephen Helman clarifies that it is 167, asks if they have these 24 spaces and what would stop people from parking within the restaurant area anyway? He doesn't see how it would stop people either way.

Attorney Spillane replies that it would also be additional revenue and it would be good for the Town and further development surroundings.

Paul Curley directs to Staff about including this and how would the proposal before us be affected?

JoAnne Buntich answers that there would have to be additional language/wording/changes and public notification. Town Attorney would need to review as well.

Felicia Penn refers to Exhibit E, the map, questions whether a specific lot currently has a parking permit/license. This lot is in between two other large lots on Ocean Street heading towards Kalmus Beach, to the right of the RB District.

Paul Curley suggests that this be continued to another Planning Board meeting.

Ray Lang asks if anything has been discussed about the cost for parking? Will all lots charge same price?

JoAnne Buntich interjects that the land use is subject both to zoning and to licensing. This is not a component of zoning. It's the purview of Licensing regulations.

Ray Lang wants to know how many spaces under this overlay now?

JoAnne Buntich explains that a consultant has been hired to review this. And conduct parking management analysis. She is the project manager along with the Assistant Town Manager. There has been a lot of discussion about numbers. All agreed that safety and access of emergency vehicles was most important. Number of spaces is according to shape of the lot size. These are free standing uses. The open air parking in and of itself doesn't have to have a specific number of spaces. It's a unique land use. The allowed use is by size/factors of the lot. As a land use, commercial parking doesn't have to have an assigned number of spaces because it is not supporting anything other than itself as a business.

Ray Lang asks about enforcement. Will the Bldg. Commissioner be in charge of this?

JoAnne Buntich answers that the Bldg Commissioner will enforce zoning violations. The Bldg. Commissioner is not responsible for licensing infractions.

Chair Stephen Helman asks if this is continued to the next meeting and the availability of the Planning Board. If there are concerns/whatever they are, let's air them now so that at our next meeting Staff can be prepared with answers.

Ray Lang asks about the Growth Incentive Zone (GIZ). Any change of use in this area usually has to come before the Planning Board. Total parking for Barnstable needs to be looked at and dealt with. Suggests multiple level garages. Look at this rather than what's already here and having to rezone. Need to help this area.

David Munsell comments that Town Council has established a committee and he is concerned that the Planning Board is not involved with these discussions or be a member of this Committee. Not invited to this. This is not fair that it comes to us after the fact. Is there any reason why a Planning Board member is not asked to be on a Committee such as this one?

Paul Curley is concerned basically with the safety issues in this area with open air parking. This amendment does address these issues. He would like to see some strong commitment on the part of the Town Manager to complete the parking study.

JoAnne Buntich replies that it is under contract now. She can get an update/schedule to the Planning Board.

Paul Curley states that Felicia Penn is spot on with the numbers and the result of adjusting the parking, we will lose spaces. Dumpsters, this issue is important, we should find a way to include in this amendment and David Munsell's point needs to be addressed as well, even if in executive session. Would like to see lot 167 included in this overlay HPOD map.

Felicia Penn comments about Licensing and states that the Licensing Board has absolutely nothing to do with parking lots or the enforcement or licensing of parking lots. This is really the Regulatory Services in Town, so that if there are issues, who gets contacted? This should be stated/designated in the license that it is regulatory issue. Why don't we just issue new regulations and attach to the renewal of their licensing renewals/current and then have regulatory services enforce them? Why would this amendment make any difference?

Paul Curley states that he would like to see a redraft of the amendment that reflects what was discussed tonight.

JoAnne Buntich clarifies that the Planning Board can send a letter to Town Council with their recommendations.

David Munsell thinks this is too quick to go back to Town Council.

JoAnne Buntich clarifies that she will get the written comments from Felicia Penn and will send out to the Planning Board, also the addition of 167 be included into the HPOD area per Paul Curley.

Ray L asks if the GIZ would be affected/incorporated? Future uses?

JoAnne Buntich explains that this is an overlay, it doesn't change or take away anything, the regulatory agreement will still apply here. This addition, by adding another permission doesn't change the underlying zoning, GIZ at all, it just adds something. This would add the open air parking just to these lots, in an effort to respond to requests about confusion of the use.

Ray Lang asks about Fire and Police?

JoAnne Buntich answers that they have spent a lot of time with safety officials, whom have helped shape the regulation as well and will be involved when presented for approval.

Ray Lang asks where off harbor sites are?

JoAnne Buntich confirms not sure, this is a case by case basis. Hy-Line has purchased property at Pufferbellies for parking use.

Chair Stephen Helman states that he doesn't see how this proposal, with or without changes, excludes the Planning Board from continuing with this process.

Chair Stephen Helman entertains a motion to continue to February 8, 2016, at 7:00 p.m. moved by Paul Curley, seconded by Mark Ferro, so voted unanimously.

Correspondence: *(Any Member wishing a copy please contact the office)*
Chapter 91 Application – 351 Hollidge Hill Ln, Middle Pond, Marstons Mills,
Barnstable, W. Bierwirth – dock and Hamblin Pond – dock.

Cape Cod Commission Public Hearing Notice, December 3, 2015, Downtown
Hyannis Growth Incentive Zone #GIZ05034 – Extension of the 10 year term of
the GIZ *(Notice previously emailed to Board Members)*

Cape Cod Commission Approval, December 23, 2015, for Minor Modification to
the DRI for Barnstable Municipal Airport Improvements Project

Approval of Minutes: June 22, 2015, July 13, 2015, July 27, 2015, and August 10, 2015

Motion made by Ray Lang to approve the minutes of June 22, 2015, second by Paul Curley, so voted unanimously.

Motion made by Paul Curley to approve the minutes of July 13, 2015, seconded by Mark Ferro, so voted unanimously. To be approved as amended (letterhead name -removal of Holly Brockman-Johnson, clerical error).

Motion made by Paul Curley to approve the minutes of July 27, 2015, seconded by Ray Lang, so voted unanimously.

Motion made by Ray Lang to approve the minutes of August 10, 2015, seconded by Mark Ferro, so voted unanimously.

Holly Brockman-Johnson states the July 13, 2015, (the header) draft minutes need to be amended. She was not a member of this Board at that time. The July 13th, 2015, header/draft minutes are to be approved per this amendment.

Matters Not Reasonably Anticipated by the Chair:

Future Meetings: Regularly Scheduled Meetings: February 8th, and February 22, @ 7:00 PM.

Motion entertained by Chair Stephen Helman to adjourn, moved by David Munsell, seconded by Ray Lang, so voted unanimously.

The meeting adjourned at 8:39 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 – Notice of Public Hearing dated January 25, 2016– TC Item No. 2016-054 – File HPOD

Exhibit B – Town Council Summary/Amending the Code Part I General Ordinances, Chapter 240 Zoning of the Town of Barnstable to Include a Hyannis Parking Overlay District – File TC Item No. 2016-054

Exhibit C – Felicia Penn’s Concepts/Comments – File TC Item No. 2016-054

Exhibit D – Felicia Penn’s “Required Ferry Parking 2016/2017 Hy-Line Only – File TC Item No. 2016-054

Exhibit E – Proposed Amendment to the Town of Barnstable Zoning Map Creating the Parking Overlay District – TC Item No. 2016-054

APPROVED