

**PLANNING BOARD MEETING of March 10, 2015:  
Town Hall Banquet Room**

**A. ADMINISTRATIVE BUSINESS:**

Chairperson, Wayne Hayward opened the meeting at 6:30 p.m. Mr. Hayward indicated to the Board and Public that the meeting was being recorded live.

Quorum/Attendance:

Members present – Chairperson, Wayne Hayward, Jeffrey Lucas, Peter Nopper, Rene Fleurent, Jr., Gary Staffon, John Farrell, Jr. and Ann Richard. Kaisa Holloway-Cripps arrived at 6:40 p.m.

Absent: None.

Planning Director William Roth was also in attendance.

Acceptance of Minutes

Jeffrey Lucas made a motion to accept the minutes of February 10, 2015, and was seconded by Gary Staffon. The motion passed unanimously.

Rene Fleurent, Jr. abstained.

Planning Board Bills:

1. Eng. Services – GCG Associates, Inc. – Brahmin Leather #4 - \$590.00.

Jeffrey Lucas made a motion to pay bill for \$590.00 and seconded by Gary Staffon. The motion passed unanimously.

2. ADS – Fairhaven Neighborhood News - \$120.00 (Mill Bridge Holdings, LLC - \$60.00 & Brahmin Leather Works #4 - \$60.00)

Jeffrey Lucas made a motion to pay Neighborhood News \$120 and was seconded by Gary Staffon. The motion passed unanimously.

Rene Fleurent, Jr. abstained.

3. CTPC Conference – Rene Fleurent, Jr. - \$65.00

Jeffrey Lucas made a motion to pay CTPC Conferences \$65 and was seconded by Gary Staffon. The motion passed unanimously.

Rene Fleurent, Jr. abstained.

4. Mileage SRPEDD – Rene Fleurent, Jr. - \$108.40.

William Roth indicated it consisted of four different meetings, July, October, December and February.

Gary Staffon made a motion to pay \$108.40 for SRPEDD travel and was seconded by Jeffrey Lucas. The motion passed unanimously.

Rene Fleurent, Jr. abstained.

**B. CURRENT PLANNING:**

Receipt of Plans:

None.

Approval of Plans:

None.

Kaisa Cripps arrived at 6:40 p.m.

**C. PUBLIC HEARING:**

1. Special Permit – **Mill Bridge Holdings, LLC** – 200 Mill Road (Cont'd from 2/10/15)

William Roth said he has received revised plans and has not had sufficient time to review them. Therefore, he is recommending continuation to March 24, 2015.

Wayne Hayward read Mr. Fleurent, Jr.'s, MGL Chapter 39, Section 23D – Certification (Mullen Rule) for Mill Bridge Holdings, LLC into the record and verified the actions have been taken and believes he should be able to go forward with the public hearing.

Kaisa Cripps made a motion to continue the public hearing to March 24, 2015, at the Applicant's request and was seconded by Jeffrey Lucas. The motion passed unanimously.

William Roth noted they have provided a landscape plan and revised the engineering and addressed engineering comments.

2. Special Permit – **Brahmin Leather Works #4** – 77 Alden Road (Cont'd from 2/10/15)

Wayne Hayward noted this permit application has been around since September of 2014.

William Roth said that the Planning Board at their last meeting was ready to approve it, but wanted to wait until the Conservation Commission made a final ruling. They are in protracted negotiations on replication. They have another meeting on March 23<sup>rd</sup> and Mr. Roth is recommending continuing to March 24, 2015, the day after the Conservation Commission meeting. Mr. Roth doesn't believe it will be resolved but should have a better idea of where things stand and probably have to continue again.

Wayne Hayward read Mr. Fleurent, Jr.'s, MGL Chapter 39, Section 23D – Certification (Mullen Rule) for Brahmin Leather into the record and verified the actions have been taken and believes he should be able to go forward with the public hearing.

Kaisa Cripps made a motion to continue the public hearing to March 24, 2015, at the Applicant's request and was seconded by Gary Staffon. The motion passed unanimously.

Rene Fleurent, Jr. abstained.

3. Special Permit – **Coastal Compassion, Inc.** – 2 Pequod Road

William Roth read the Neighborhood News advertisement Hearing Notice into the record.

Wayne Hayward asked the Applicant and any representatives to come forward and noted that one member would like to make a brief presentation.

Peter Nopper advised he will abstain as he is an abutter within 300-feet.

Kaisa Cripps disclosed she is personal friends with Kevin Pelletier. They did their MBA together and had previous business dealing. Ms. Cripps stated she does not have any financial interest in any business dealings.

William Roth noted to the Chairman that in their packet was an email from Chief Meyers. In addition, the Applicant has submitted a Special Permit Transfer Assign of Agreement from the previous Special Permit applicant on this site for the same type of use.

Wayne Hayward notified again this was being televised live and introduced the Board Members and secretary.

Jeffrey Sanders, Attorney at Winslow Associates in Mattapoisett, Chris Reams, National Expert in the industry, Tim Keogh, Executive Director and President, Coastal Compassion, Kevin Pelletier, General Manager and Project Manager and Kevin Caldwell is the architect for the plans submitted.

Attorney Sanders said he reviewed minutes from previous Special Permit and it is the same property and same use and they would like to answer questions and show differences in the site plans that they believe will benefit the area.

William Roth referred to the March 3, 2015, memo, staff report to Planning Board. Comments were solicited from all departments and none were adverse. The Fire Department has approved for site access only. The Police Department has done their final review of the security and are very comfortable with the Applicant and security consultant. The Board of Health had one comment regarding the dumpster and having it locked so that condition has been added to the report to make sure it is locked.

Mr. Roth said as of March 3, 2015, he has not received anything from the Board of Works. They have since submitted a memo regarding the water and it will be dealt with at time of the building permit. The Building Commissioner, Conservation Agent, Mr. Fostin had no issues, building permits would be required. The Assessors, Finance and Treasurer and Collectors office all indicated they had no comments and all taxes have been paid.

The Applicant has addressed all the criteria contained in the Special Permit Chapter 198-29 B and Special Section 198-29.7. Mr. Roth finds they meet the criteria other than several conditions that are being recommended: Condition #3, hours of operation and days and Condition #5 regarding the locking of the dumpster enclosure and the other conditions are fairly standard. (Reviewing Plans.)

Ken Ferreira, Engineer for the Applicant, was not present.

John Farrell, Jr. asked if the marijuana byproduct was going to be disposed of and was informed by Attorney Sanders that the plan would be to contract for off-site incineration of any material that would fall under the requirements or mix with material to render it impossible to use, but would depend on the volume of material. There would be no byproduct in the dumpster.

Wayne Hayward asked regarding the Transfer agreement and Attorney Sanders said Brighton Health held the Special Permit and explained they have a sublease leasing the entire space. To make sure there were no issues, they have agreed to assign to them their Special Permit giving all their rights, title and interest up. Mr. Hayward asked if they were still in court and Attorney Sanders said he believes they are still in litigation but no longer have the Special Permit and the DPH is aware of the transfer.

William Roth recommended it would be helpful if they could get the transfer and they did that and noted that any change in ownership would require them to come back. Attorney Sanders also indicated they have a global agreement for cooperation.

Rene Fleurent asked if Town Counsel has reviewed the Transfer Agreement and Mr. Roth indicated no and if the Board wanted it reviewed, they would need to ask the Selectmen for use of counsel. (Discussion ensued.)

Rene Fleurent, Jr. asked how do they know it's valid and what happens to the prior Special Permit.

William Roth indicated there can be multiple Special Permits on the property but the one that initiates construction is the one that is vested. Mr. Roth said he recommended the Applicant, if possible, get a transfer of the Special Permit so there is no question of two different permits. The previous Special Permit holder can't initiate the Special Permit because The Commonwealth has revoked their permit to operate a RMD and has given it to this company.

Attorney Sanders said the agreement is actually to protect the Town. Their Special Permit terminated when they lost their license with the DPH and when they subleased all their rights to the property, they no longer they meet the bylaw. They have a signed agreement and contractually they can't come back in. Mr. Hayward said that that had been a concern of his and asked if there was a time frame on the transfer and Attorney Sanders said there is no termination period.

Jeffrey Lucas asked regarding deliveries and if they planned to bring product in and cultivate product to be shipped out. Mr. Keogh advised that there will be deliveries of raw material, equipment into the dispensary and also delivery for patients that would be originating at the dispensary. The State regulations require delivery for patients that don't have access or transportation. There is a provision within the regulations that allows 30% of the product to be sold or brought in between dispensaries and only allowed if there is a crop failure or medicine shortage.

Mr. Reams said it is required in the statute to produce as much of own inventory as possible. If there is one license they are allowed one grow location and said it is cost effective to grow their own product.

Jeffrey Lucas asked if there is a limit for deliveries and Mr. Keogh said there is no restriction. Their focus is Southcoast patients

Wayne Hayward asked if they were limited as to amount of patients, if you are caregiver. Tim Keogh said they are a registered marijuana dispensary. Caregivers are a component, a patient can designate up to 2 caregivers, and one can cultivate, pick up medication and assist the patient in the dispensary. It usually is a family member. No one is allowed in the dispensary other than caregivers or patients that are registered through the State.

William Roth asked if it's approved in Fairhaven is there a radius of a certain distance no one can home grow and Mr. Reams said it is not a defined distance, but essentially yes. The patient would have to prove hardship. The idea was to place dispensaries evenly to prevent people from growing on their own. They would have to seek a hardship exemption from the State.

John Farrell, Jr. and Kaisa Cripps asked regarding growing and cultivation on the property and Mr. Keogh said under the current plan, cultivation, processing and dispensing activities are all happening within the footprint of the building.

Wayne Hayward asked how does it compare to the prior permit and Mr. Roth indicated they are using the existing building, only, and not proposing the use the shipping type containers.

John Farrell, Jr. asked if that would affect the crop size and Mr. Keogh said the forecast based on experience in cultivation and processing, that they will be able to maximize yields.

Wayne Hayward asked if they transfer all information from previous hearing to this file and Mr. Roth indicated if a Special Permit is issued, it would be on this plan before them. The prior Special Permit is not in effect. Mr. Roth gave an explanation of the process that occurred and recommended that they get the assigning of the Special Permit so there are not two permit holders. The only group that can now legally apply to this Board is Coastal Compassion as they have the provisional license with the DPH. Coastal Compassion has come to seek a Special Permit on the specific site plan and specific floor layout. (Discussion ensued.)

Tim Keogh said in August, they receive a unanimous letter of support from the Board of Selectmen, Board of Health and a letter of non-opposition from the Police Chief. They worked with Mr. Roth on the

process of Special Permit putting together a complete and full application and the transfer would be a legal mechanism.

Jeffrey Lucas feels comfortable that the sublease agreement, it takes Compassionate Care out of the loop. Attorney Sanders indicated they have assigned their rights which carries through the term. They have no control or access and have given up the site (Discussion ensued.)

Kaisa Cripps asked who Massachusetts Recovery Services, Inc. is and was informed its Compassionate Care Clinics is dba for Brighton Health Assoc. and Massachusetts Recovery Service is the entity that is leasing the building. Ms. Cripps asked about the lease terms and Mr. Keogh said they will continue to sublease as long as their lease is valid. There is a separate addendum signed by the owner, and the State has read the entire application. (Discussion ensued.)

Kaisa Cripps referring to cultivation, wondered how many people they think they could service and Mr. Keogh advised they could serve between 1,500 to 2,000 per month, depending on patient need. Cultivation would be adjusted to meet demand. (Discussion ensued.)

Rene Fleurent, Jr. said he has a hard time granting a Special Permit when one was granted to a different group in the same location Mr. Fleurent recommend seeking Town Counsel to ask the validity of the transfer and issuance of a Special Permit to another group of individuals on the same property.

Attorney Sanders said that is the reason for the contract to show they are working together and not competing. It is a valid Massachusetts contract. (Discussion ensued.)

Kaisa Cripps made a motion to ask Selectmen for Town Counsel to review Transfer Agreement and what is the legal terminology or judgment on two Special Permits on the same property and was seconded by Rene Fleurent, Jr. The motion failed, 2 members for and 5 opposed.

Wayne Hayward said he felt comfortable with the information and believes it is a valid signature of David Aubrey, CEO. Kaisa Cripps stated she is not comfortable granting a Special Permit with a brand new use, applicant and facility.

William Roth read into the record the code regarding transfers and noted it is very specific and they are following the code, doing exactly what the Board asked. (Discussion ensued.)

Wayne Hayward asked if there was anyone from the public there to speak on this and there was none.

Gary Staffon asked regarding the DPH license, if they did this all in one location or one location to grow and one to distribute.

Tim Keogh said Coastal Compassion is provisionally approved with a registered marijuana dispensary license. That license allows the license holder to cultivate process and distribute and it can be done in one or two locations. Coastal Compassion can locate everything in one location: cultivate, process and dispense or they could identify a separate location to cultivate and process, and dispense at the existing facility. Mr. Keogh said the dispensary cannot move out of Fairhaven and Coastal Compassion has been awarded Southern Bristol County License.

Tim Keogh said retail component is what is tied to particular town; cultivation can happen anywhere in the State. (Discussion ensued.)

Jeffrey Lucas asked what some of the changes from the previous applicants were.

Kevin Pelletier noted the largest change was the removal of the shipping containers. They felt they weren't necessary and an unnecessary security risk. They have moved the entrance and have a separate dedicated exit and a dedicated employee entrance. They improved security all doors are two-staged for all entrances and exits in building.

Wayne Hayward asked regarding taxes and Mr. Roth indicated the current applicant is in negotiations with the Selectmen for a Community Host Agreement, which Mr. Keogh indicated it was signed, executed and approved by Board of Selectmen. The property remains on tax rolls. In addition to the property taxes, jobs and facility and construction, Coastal Compassion has submitted 3% of gross sales to the Town from cultivation, processing and dispensing. The funds not specifically earmarked, for public health, education and security.

Wayne Hayward asked what the anticipated annual income would be and Mr. Keogh said anywhere \$100,000 to \$150,000 a year to the Town. (Discussion ensued.)

John Farrell, Jr. asked if there was any concern of Federal enforcement and Mr. Reams responded no. Under Obama policy, they will not investigate or prosecute a businesses operating under State law. (Discussion ensued.)

There was a discussion authorizing use, any future expansion of use might require an additional permit.

Jeffrey Lucas asked how the dosage gets determined and there it was indicated by Mr. Keogh that the State restricts a 60-day supply within the Regulations. In order to gain access, a patient must show a valid Patient Identification card that is swiped, which is tied into the State's database and it tracks consumption and number of transactions. If a patient exceeds the limit, they cannot gain access to enter. (Discussion ensued.)

There was discussion on cost as there is no subsidy or insurance. There is a sliding scale but has to meet certain financial requirements, it is all out-of-pocket expense; home cultivation and what the impact is on the business. The DPH will be strict on home cultivation. It will be a matter for law enforcement. Once the dispensary opens, most of that goes away because there will be 100% legal access to medications. (Discussion ensued.)

Jeffrey Lucas asked if there was a possibility of putting walkway for a wheelchair from parking near the exit to the entrance. There was discussion about removing a small amount of landscaping to create a walkway and Mr. Keogh said he will explore it. It was discussed that could be an added condition.

Mr. Lucas asked regarding the lighting and it was noted by Mr. Pelletier that it is the same as previously proposed.

Gary Staffon asked regarding hours of operation, which are 10-6 Monday through Sunday, which is more restrictive than the bylaw. Attorney Sanders believes Sunday operation is necessary, like any pharmacy, people work.

John Farrell, Jr. raised the concern of stacking of people entering the building and how to prevent and it was advised there were provisions made in the building design and speaking with the Police Department to be able to address it in the best way if it becomes an issue. There are cameras in the parking area for security monitoring and security personnel within the facility. Loitering is not expected. There is also an online portal for a registered patient to log in and do a pick-up order. (Discussion ensued.)

William Roth noted the condition is that Applicant revise the site plan to eliminate the plant strip and replace with a wheelchair accessible sidewalk entrance to exit, south and east.

Wayne Hayward also noted reviewing with Town Counsel and would leave it to the Board.

Gary Staffon brought up hours, which is currently permitted for Monday-Sunday 10-6 and Mr. Lucas said he was good with Sunday and said it may help alleviate stacking. Mr. Lucas said a change of hours in the future would have to be reviewed and Attorney Sanders said they could at the annual review stage.

Rene Fleurent, Jr. made a motion to close on Sundays and was seconded by Kaisa Cripps. The motion failed 4-3.

Gary Staffon made a motion to approve Special Permit for Coastal Compassion as amended subject to 16 conditions and was seconded by John Farrell, Jr. The motion passed with 6 in favor and 1 opposed.

#### **IV. LONG RANGE PLANNING**

##### **1. Master Plan Discussion**

William Roth indicated he has not done anything due to time constraints.

There was discussion regarding hiring a consultant and Mr. Fleurent, Jr. felt they should build a sub-committee and felt the money could be better spent on the Town, fire, police and schools. Mr. Farrell disagreed because the Master Plan is antiquated, from 1997 doesn't feel that the Town Planner or Planning Board has the time or capability to do one correctly, but footwork could be done to lower the cost.

Jeffrey Lucas said he was concerned with unused retail space and Mr. Roth said a portion of the Master Plan should address that. Mr. Roth also noted that the future Town Administrator will likely be hired towards the end of the year and having him support a Master Plan would be helpful in gaining the necessary funding. Gary Staffon felt they need a consultant and believes committees should be formed. (Discussion ensued regarding Master Plan.)

##### **2. Auto Dealer Use - Potential Zoning Amendment**

William Roth indicated he has not been working on it. There are many changes and it will not make the Special Town meeting. Mr. Roth would try to refine it down. Mr. Hayward suggested sub-committees and Mr. Fleurent, Jr. was in agreement.

#### **V. CORRESPONDENCE**

Wayne Hayward asked if there was anything from the Building Commissioner on zoning violations on EJs and Mr. Roth said he hasn't received anything. He has 14 days to respond. Mr. Roth said he would draft an email with a copy of the letter, send to the Building Commissioner with copy to Selectmen and Executive Secretary.

#### **VI. OTHER BUSINESS**

SRPEDD Commission update – Rene Fleurent, Jr.

Rene Fleurent, Jr. updated the Board as to the last meeting on February 25, 2015 in Taunton. Jonathan Henry, Chairman and Steve Smith, Executive Director made commentaries regarding the operations of the T and it failing in the Boston area over the winter and expressed his concerns why the T failed. He also indicated that Paul Mission, Transportation Director, and his staff were working on the annual Transportation Plan update. Mr. Roth indicated they were before the Selectmen to review the plan. Mr. Fleurent also noted the projected date for Commuter Rail to New Bedford/Fall River is July of 2024.

Rene Fleurent, Jr. said every year SRPEDD fee to the Towns is based on a formula. Fairhaven present assessment \$2,628.90 and going up to \$2,693.81. Advisory letters are being sent out now

Gary Staffon made a motion to adjourn and was seconded by Jeffrey Lucas. The motion passed unanimously. The meeting adjourned at 9:20 p.m.

Respectfully submitted,

Tracy White,  
Recording Secretary