



FAIRHAVEN PLANNING BOARD

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Planning Board Minutes
Tuesday, September 13, 2022

FAIRHAVEN TOWN CLERK
RCUD 2022 NOV 7 PM 3:02

1. General Business

- a) Chair's Welcome and Media Notification: Mr. Hayward opened the meeting at 6:32 pm. He read Governor Baker's post-COVID information for Zoom Meetings until March 2023. He advised the meeting was being recorded by Fairhaven TV.
- b) Quorum/Attendance: Present: Chair Wayne Hayward, Vice-Chair Cathy Melanson, Jessica Fidalgo, Rene Fleurent, Kevin Grant, and Jeff Lucas. Sharon Simmons and David Braga attended via Zoom.

Absent: Jeff Lucas

- c) Minutes: August 23, 2022, draft to be reviewed – Rene Fleurent made a Motion to approve the August 23, 2022, minutes and was seconded by Kevin Grant. The Motion passed unanimously via roll call vote. (7-0-0)
- d) Planning Board Bills: None.
- e) Correspondence: Mr. Foley reported he received an email regarding drainage on Harbor Mist from Alves Way. He said he went out and checked it out and will speak to the applicants about the no-cut buffer and invasive species. The issue is back in front of the Conservation Commission.

2. PUBLIC HEARINGS:

a) Public Hearings:

- I. **SP 2022-03 – Elevation Retail Marijuana:** Continued Public Hearing review for a proposal to locate a new retail marijuana dispensary in Unit 1 at 240 Bridge Street.

Clerk, Jessica Fidalgo read the advertisement for the record.

Mr. Hayward opened the continued public hearing for 240 Bridge Street, Unit 1.

Mr. Hayward noted there were a few new correspondence emails.

Mr. Foley received an email with two letters from nearby properties including the Laborer's union on Alden Road with the proposal that Elevation employees could park in their parking lots. The two letters (117 & 115 Alden Road) were in support of parking at their establishments.

Mr. Fleurent asked about the letter that was submitted. He said the signatures were on a completely separate article of paper and to him that was unacceptable. He said it was very disconcerting.

Mr. Foley stated this was the third Public Hearing. There are still a few key concerns. One is the left turns in and left turns out on the Bridge Street egress where that are turning lanes at a major intersection. This intersection is higher than the region and state for crashes. The nail salon at this location is quite busy and there is a concern about parking and circulation because if Elevation has more trips than anticipated there will be no place to expand.

Mr. Foley reviewed the original plan and then the second plan that was revised. He said a third plan has been submitted to give diagonal parking in the back to improve access to the secured loading area. The dumpster in back has been relocated.

Mr. Foley stated he has been working with the applicants regarding the other details. He had suggested the seasonal delineators on yellow line on Bridge Street to block the left turns, however, the owner of the property wasn't interested in them. Mr. Foley said there is some money to perhaps widen this road and add a physical divider.

Mr. Hayward stated that it is tougher when they aren't working with the owner directly. This is just the renter of the unit.

Mr. Hayward asked what the nature of the waste was. The applicant stated it was mostly boxes and that all marijuana waste has a process and special location for dumping separate from the dumpster.

Mr. Foley reviewed the documents in front of the board members. Mr. Hayward stated he didn't want to eliminate the 2004 special permit. He said that perhaps a condition that the original Special Permit would still be present.

Mr. Foley stated the physical property was approved with the drive-thru on the property; he said the condition was for the drive-thru. The drive-thru was put in but never used. He thinks that it is not certain that a drive-through could come in by right now since the use was never implemented nor was the condition that SRPEDD would review after a year to test the drive-thru and proposed modifications.

Mr. Hayward reiterated the 2004 Special permit should be subordinate to this permit. Ms. Melanson stated she read through the package and said she agreed with everything presented.

Mr. Fleurent asked if they had significant parking spaces available.

Mr. Foley stated they do by zoning per the square footage but we don't know what the actual use will be. He said it's not perfect as the nail salon is always very busy. He said based on zoning, yes. Based on usage, maybe not. Mr. Hayward noted that this is a new use for everyone and the ITE estimates are based on just 4 samples.

Mr. Foley asked if they wanted to review the conditions one by one or had any others to add.

Mr. Hayward stated this is a four-phase opening plan. Mr. Foley stated it was based on the Bask conditions. Applicants stated they would monitor the parking lot.

Mr. Hayward asked if it was a two-year traffic review. They discussed the traffic patterns and how frequently they would be doing a study in that area. He stated his big concern was the left-hand turn out of the parking lot.

Mr. Grant stated it is a problem now and this use is not even in there. Especially with double the crash numbers at that site already. He said if the property owner doesn't like the solution, he would like to hear his solution.

Andre Arzumanyan, the applicant, said they spoke to the landowner and he agrees to perform the transportation review in a couple of years. The landowner is not in agreement with adding the barriers and that would be a deal breaker for Elevation Retail.

Ms. Melanson stated she understood it is a bad intersection but it's not the applicant's fault and that corner is a good place to put a business because it's very visible.

Mr. Hayward asked if there were any additional questions from the board members.

Ms. Simmons said she felt the same as previously. She said there are about five parking spaces that are open at any one given time. She said that it's a hard site.

Mr. Braga thinks the applicant has done everything in their control to move this forward; however, the landowner has been very resistant to any changes and that's a shame. He said the left turn on Bridge Street is still a concern.

Ms. Fidalgo wanted to make sure she understood the traffic study that would take place in a year or two and if the landowner doesn't want to do anything about it, what happens?

Mr. Hayward stated the board could make a nuisance finding but specific data would need to be forthcoming. He said they could add direction to the Special Permit at that time.

Mr. Foley stated the Town has some State funds and will be reviewing that stretch from Rt. 6 to Route 240 along Bridge Street.

Andre Arzumanyan explained and reviewed his opinion of the advantages to the Town of having this business there. He said he understood the concerns of the board members regarding traffic. The dividers would perhaps resolve issues in the short term but that would not be permanent. He said that tonight is his deadline. He is willing to do what he can within his power to stop the left turns, the business will bring a lot of taxes to the town, and someone else that does not have to be reviewed could be worse.

Ms. Melanson said she thinks this applicant is willing to work with the Planning Board and they need to take advantage of that. She said if it wasn't them, it is going to be someone else.

Mr. Hayward said that he is hearing some hesitation and the Special Permit requires six votes for approval.

Mr. Grant said he was thinking about a hypothetical traffic review in a year and that the landowner might want to do something at that time. He said they are assuming what may happen or the reaction may be from the owner. He said he is a bit uncomfortable assuming what the landowner would say and he was surprised that they got permission to park at other locations in the area.

The applicant's engineer reviewed the traffic study that they had done by a professional engineer.

Mr. Hayward stated that if the traffic engineer was in the room, he would ask him why he picked the date he did in March.

Mr. Arzumanyan reviewed where they've been on this long journey. He did share a few slides from his presentation. He shared his projections for how many people would be visiting his establishment; approximately 20 people per hour. He said that the Town will most likely receive \$500,000 in Direct Tax Revenue to the Town. He said they will have a 24-hour "no left turn" sign on Bridge Street. He said in closing that they are experienced, locally owned, community-focused operators.

Resident, Patrick Carr asked if the dilemma is the traffic that will be impacted by that business.

Mr. Carr said he is a business owner and drives back and forth on that road daily. He said that the other establishment has a lot of traffic and asked if they have the data to represent the traffic in that area.

Karen Isherwood was online via zoom and asked if the no-left turn has to be approved by the landowner. She also asked how many parking spaces or shared parking spaces were available to this establishment.

Mr. Hayward reported that it's a "first come, first serve" basis at the location. He said the "no left turn" sign is agreeable to the landowner. Mr. Hayward, about Mr. Carr's comments, stated that during the peak hours for traffic to this area, they said it would be approximately 20 vehicles per hour.

Mr. Foley offered the proposed conditions for the Special Permit, however, he doesn't think it is fair for the two board members on Zoom that are not able to review the paperwork in person. He said he thinks we are almost there but the language needs more work and it's unfair that they are being held under the gun this evening to make a vote.

Mr. Braga, on Zoom, stated he would be able to review the document. Mr. Fleurent made a motion for a ten-minute recess to allow everyone to read the document and Ms. Fidalgo seconded. The motion passed unanimously.

Mr. Hayward re-opened the meeting at 8:34 p.m. Both Mr. Braga and Ms. Simmons on Zoom stated they read through the conditions and had no questions.

Mr. Grant asked how many cars total are in that intersection per the traffic report.

Mr. Foley said that he the section of Bridge Street from Alden to Route 6 is over 6,000 cars a day so in front of this location would be even higher. He will check.

Mr. Hayward asked if any other board members had future questions.

Ms. Fidalgo asked about adding the 2004 Special Permit to this existing permit.

Mr. Hayward stated that he would like to add a 27th condition that reflects that there is a 2004 Special Permit for this property.

Mr. Foley stated there are 27 conditions, plus the 2004 Special Permit which would be a total of 28 conditions.

Ms. Melanson made a motion to approve SP 2022-23 Elevation Marijuana with twenty-eight conditions and was seconded by Mr. Grant. Per Roll call vote, Ms. Fidalgo, Ms. Melanson, Kevin Grant, Ms. Simmons (via zoom) and Mr. Braga (via zoom) and Chair Wayne Hayward voted yes. Mr. Fleurent voted no. The Motion carried (6-1-0).

Mr. Hayward closed the public hearing.

3. CURRENT PLANNING:

a) Town Planner Update: 40R Working Groups; Benoit Square; Tree Bylaw; Upcoming Schedule

Mr. Foley noted the sub-division for Starboard Drive came in today for an 8-lot definitive subdivision. He said there may be an upcoming reviews of storage units at Rt. 240 and Bridge Street although he doesn't think storage units are allowed in the Use Regulation Schedule. The Hiller & Timothy remand revised plan should be forthcoming fairly.

The first meeting for the 40R Working group is next Wednesday, Sept. 21 at 4:30 pm in the auditorium. Thirty-five people are signed up that either volunteered or were asked to join.

Mr. Foley reported that the tree bylaw was submitted for the special town meeting. He said the tree panel language has not been submitted yet and will be reviewed on September 27, 2022 by the Planning Board. By and large, despite the efforts of the Tree Warden, the members of the panel made some reasonable suggestions and still had some questions. Mr. Foley did receive an email from Mr. Furtado regarding road work/tree work that may need some revision.

Mr. Foley stated he has been in contact with A&A regarding the fence they've put in the rear of the property. They put in a chain-link fence and not a 6 foot tall stockade fence as clearly shown on the plan. They agreed to change that to a vinyl fence or stockade fence. He is working with them and hopeful they will come into compliance soon.

Mr. Foley reviewed different scenarios for Benoit Square that have been discussed and it was sent to Mass Dot; they will be meeting with Mass DOT and SRTA at Benoit Square on September 27, 2022. Mr. Fleurent asked if they could ban trucks to that area.

Mr. Hayward stated they need to move forward to correct the zoning map as there are many errors on the one that exists.

4. **LONG-RANGE PLANNING:**

a) **Town Planner Update: Bridge Street, MVP; HMP; MHP**

Mr. Foley stated he needs to work with MASS DOT to get some funding. Mr. Foley reviewed the MVP and stated they got money to work with the consultant and have scheduled a kick-off meeting with the MVP Regional Director. He said there is a tentative public meeting scheduled for January.

Mr. Foley stated he inherited the Hazard Mitigation Plan as well. He spoke briefly about the MHP (Municipal Harbor Plan) with New Bedford. He will meet with the Town Administrator and Mr. Cox, Harbormaster to move forward on this.

5. **OTHER BUSINESS:** None.

6. **Next Meeting:** Tuesday, September 27, 2022.

Mr. Hayward asked if there was any public comment to speak about anything.

Mr. Lavalette asked if they could stop people to take a left-hand turn on Bridge Street would help that situation. Mr. Hayward stated they do have a 24-hour no left-hand turn as of right now. He said it's not a ticket-able offense as it is private property. It would have been helpful if he was able to attend earlier as that hearing was closed.

Ms. Melanson made a motion to adjourn and was seconded by Mr. Grant. The motion passed unanimously.