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From: [Sharon Simmons](#)

Date: 6/10/24 3:27 PM (GMT-05:00)

To: Cathy Melanson

Subject: Cathy Please forward to Selectman's office

To the Select Board Members,

In the absence of my presence, due to a vacation, I wish this to be read into the minutes of the meeting.

I believe a 40R overlay will be very beneficial for future progress in our charming town. This was spearheaded by one of our previous Planning directors, Paul Foley. He worked diligently keeping the planning board updated with his progress along with the input from the 40R group he created composed of town residence. Paul DiGuseppi continued to do the same.

These are just some of the future benefits this would bring.

1- Help the town with future budget deficits. Kudos to the individuals who were able to turn a 2.1 million dollar deficit into a balanced budget this year. Rumors have projected next year being 3.2M. The only way to come up with more cash in a business is to one, cut expenses which include supplies, labor, projects, jobs etc., or to bring in more cash via whichever way the business is capable of. 40R overlay opens the opportunity for the town to gain substantial monetary benefits from each potential project. This equals Cash to help balance a budget.

2- The option it would allow is to basically create a mixed use concept. It would also supply much needed housing and more housing means more tax revenue, (cash), to the town.

3- The overlay option would allow for the towns plazas to have a much needed facelift. If passed, the town will have a few specific approved plans and designs for any potential future modifications. One cannot just come in and build what they wish. If this great opportunity for housing is dismissed, the option for developers is the now available 40B. We have no control over the look and design of such.

I'm going to stop there as I feel it's the top three.

You may have noticed that I repeatedly stated potential. That is because the overlay is just an option sitting there for the current owner and any future owners. It opens growth, opportunity and monetary benefits to this town.

There has been much noise via rumors and social media and people voicing their opinions. That will never change as we have the right to our opinion. I ask the townspeople one thing. Please take a minute to hear beyond the noise by asking questions directly to the appropriate parties in any matter and get the facts. You may also attend meeting by zoom, in person, or watch Fairhaven TV. The recorded meetings are also on the Facebook page of Fairhaven TV.

Thank you for listening.

Sharon Simmons
Planning Board

Jessica Wilder

Fri, Jun
7, 2024

to spowers@fairhaven-ma.gov

Dear Selectboard Members,

I hope this message finds you well. I am writing to provide public comment on the 40R overlay district, as I am unable to attend the meeting due to my daughter's graduation from Wood School on Monday evening. I would like this read into public record.

I have dedicated many hours this week to thoroughly reviewing CMR 760 56, Chapter 40R, and Chapter 40A Section 5. My commitment to being well-informed and representing our community by fostering open discussions is top priority to me. Everyone deserves to feel heard, and no one should feel ignored. Last week, I sought clarity from the Planning Board Chair about our current step in the process, fearing a lack of public update or review by the Planning Board before submission to the state. Unfortunately, I received no answer, which has only reinforced my belief in the necessity of involving a professional planner in this process, rather than relying solely on untrained (or minimally trained) volunteers working with hired consultants behind closed doors.

While it may not be mandatory to involve the Planning Board at this stage, I question the benefit to our Town if we bypass this step.

During the 40R Working Group meeting on December 13, 2023, the waterfront district was removed as a proposed area. The reasons for its removal were clear at the time. Now, it has been added back without any public explanation. This decision, made behind closed doors, invites scrutiny and raises questions about the motives and timing. Without public discussion, it can appear to be a conflict of interest for anyone owning property in these areas and our training advises such situations be disclosed or recused from, even the by the appearance of a conflict. I trust this has been addressed so the public can move forward without doubt. As a member of the 40R working group who attended every meeting, I find this lack of transparency disrespectful to those who invested significant time to ensure their voices were heard. If we seek public support and involvement, we must engage with them at every step. At a minimum, the Working Group deserves to follow through on the process they have been part of for over a year and receive an explanation for any changes.

It seems counterintuitive for the Planning Board not to have a presentation and opportunity to weigh in before this is sent to the state. We will be presenting at the town meeting, holding public hearings, and recommending bylaw language that is not included in this application but certainly reflects what is being proposed and has not been presented to date. To gain full support from the board, it is crucial that the entire board be included in the overlay district process, as we were before Paul Foley's departure and during the last overlay district process for Cannabis, where the Planning

Board's input was integral.

I urge the Selectboard to consider the public comments tonight, update the 40R working group, and seek the Planning Board's support after a thorough review of this document. If there are considerations to address, let's do so before moving forward.

We missed the mark at the May town meeting by not fully addressing questions and comments from the public and board members. Continuing the 40R process in the same manner risks repeating those mistakes.

After reviewing the documents mentioned above, I believe it is essential to prioritize having a planner to ensure a successful process leading up to the town meeting. Many of us on the board are new and lack experience with writing bylaws and changing zoning districts. This includes myself, as the second-longest serving member of the board at around 4 1/2 years. The town meeting members made it clear that we need staff support in order to gain their trust moving forward, as other boards who present at town meetings have.

Rather than rushing to pass 40R, let's ensure it is approved by creating a transparent, reliable, and defensible bylaw that the public and board members have had ample time to review, provide input on, and understand. If the November town meeting is the goal, and the state only accepts applications at the end of the month, and it takes a couple of months to review, then we would have about six weeks or three meetings to write, review, hold public hearings, and respect the timeline for bylaw language for that town meeting. It will end up being rushed IF the preliminary application is even accepted fully without amendments, conditions, or additional materials required. The proposed timeline on the website will also support this.

<https://www.fairhaven-ma.gov/planning-economic-development/pages/40r-mixed-use-overlay-planning-district>

We have not even seen the bylaw, it's not in this packet for the Selectboard this evening, but it is expected to be ready in near 0 time this fall. There is no zoning attached to this application, yet the timeline has zoning added into it NOT until Oct.

The website page also speaks of the 2 plaza areas as if this was what was presented Dec 13, 2023. The Waterfront was not there and I believe even the plaza area was smaller.

The district overlay sizes were reduced for sound reasoning from public input, it was too large and resulted in a large number of units that were possible and it was not supported as that. The waterfront had no agreement about should we or shouldn't we develop here given climate, sea level rise, infrastructure and the already dense area outside of the park motors property. It appears larger than before. This is all public record, on the website, in recording meetings.

I support the 40R overlay district, it is a tool to start addressing housing, financial solvency and community. However, I need to know more about the added district area and its effect on climate change and sea level rise. I need time to have input and full discussion at our Board meetings and not just 1 rushed public hearing.

As an elected official representing the residents of this town, I cannot support it without ensuring it is crafted to benefit the Town, appeal to developers, and promote neighborhood health, wellness, and prosperity.

I envision our town boards and departments working collaboratively to achieve goals that benefit our residents, future residents, and the town's future vitality. This requires transparency, advocacy, and leadership willing to say, "We need more information, input, and time," even with my preliminary support. As a Planning Board member who has not been updated on any bylaw language since April 2023, I need the opportunity to review, ask questions, and provide input in public meetings before it is forwarded to the town meeting to do the job I promised to do.

If we do not have a planner, having Attorney Adam Costa, who is writing the bylaw, present at our meetings and then presenting at the town meeting for discussions would be acceptable and reassuring to the town meeting members who attended in May and to myself. In the Planning Board's 5/14/24 meeting I heard members wanting to have more public engagement, education, listening to what we heard in Town Meeting, let's take the steps to put that into action, and part of that is time to ensure we have heard the public and move this forward with the best process and transparency possible.

Thank you for your time and consideration to wait on forwarding this to the state at this time, ensuring a better process to ensure its passage in the future.

Sincerely,
Jess Fidalgo
She/her

Kevin Grant

Jun 8, 2024

to spowers@fairhaven-ma.gov, ahart@fairhaven-ma.gov, alosesellison@fairhaven-ma.gov,
Stephanie, Cathy, Cathy

Dear Select Board,

I am writing as I am unable to attend the meeting tonight but would still like to have this letter entered into public record.

It has come to my attention through the latest plans posted online that the current 40R overlay has reintroduced a waterfront 40R district. When, where, how and by whom this was added back to the plan is unknown by me. The last presentation made to the Working Group on 12/12/23 does not include it. I understand it was at one time considered by the Working Group as an option but they made the decision to remove it.

This is concerning on several levels. Typically, the Planning Board members would discuss potential changes as a group within our scheduled public meetings, and then invite comments and input from the public and the Working Group. Instead, this new version of the Plan is being brought before the Select Board swiftly and somewhat mysteriously.

After our last Town Meeting it seemed to me that the expectations of the Town Meeting Members and their overall disappointment with the Planning Board were incredibly clear: they do not feel it is appropriate to rush through any decisions without intensive public input, without expert and educated guidance (meaning an active Town Planner) and without allegations of a possible conflict of interest (regarding the shipping container bylaw changes which were proposed, in that instance).

I had hoped, as a Planning Board member, that this would be a learning moment for the Board and a time for course correction, but unfortunately that is not what we are seeing here. Instead, we have the following:

1. Decisions which will permanently alter the character of this town being made hastily and without transparency.
2. Decisions being made in the absence of a Town Planner.
3. A waterfront district being added to the 40R which would include 2 businesses owned by Planning Board members. Were they to recuse themselves from all discussion and votes going forward on the 40R as is required by law we would run the risk of not having a quorum without maintaining near perfect attendance from the remaining members. I say this not to imply any impropriety intended by those business owners, but only to remind all present that the "appearance" of a conflict of interest is considered the same as an actual conflict of interest.

I worry that these actions will further damage the credibility and trust of the Planning Board in the minds of the people we have been elected to represent, and that we may become-- if we have not already-- a lame duck Planning Board, unable to pass anything at Town Meeting with our current membership.

I am and have always been a steadfast advocate of the 40R proposal. It will be good for us for the standpoints of housing, culture, visual appeal, tax revenue and even environmentally. It is my fear that this project is now at risk from moving forward due to the way it is being managed.

Respectfully,

Kevin Grant

Fairhaven Select Board
40 Center St.
Fairhaven, MA 02719

Monday, June 10, 2024

I am offering these comments for the June 10, 2024, 40R-District public hearing and wish them included in the public record with any town filings to DHCD. In addition, I will be providing further comment to this hearing, once the zoning bylaw is in hand and I can fully review.

I have been requesting for weeks, since the legally advertised zoning hearing notice, to obtain the draft zoning bylaw document that should also be a part of this evening's discussion. Nothing has been provided. You are merely providing the zoning overlay maps and a 65-page Design Regulations document. The real teeth of the matter will be found in the zoning bylaw. The documents provided are meaningless without the legal standards to be used in any future districts. Any preliminary filing to DHCD should contain zoning bylaw references. The application could be delayed by up to 30 days and is unnecessary if properly applied.

The town currently does not employ a professional town planner, trained in zoning and more importantly, Fairhaven Zoning Bylaw Chapter 198. There is no current expertise in zoning matters, as revealed by the failed May 2024 Town Meeting Planning Board warrant articles. The hearing documents have not all been prepared specifically to Fairhaven, but offer draft concepts and state model bylaws.

The consultants of DODSON & FLINKER have to date, worked solely with stakeholders in the proposed district. Many stakeholders live outside the town of Fairhaven. There has not been a single, general public debate on the 40R proposal. This is not the fault of the consultants, but local failing of basic, required, community planning. The June 10, 2024 public hearing will be the very first hearing. The Planning Board has also never met with the public to bring these ideas forward. The general public has little concept of what is being proposed and only general understandings. The materials provided are incomplete, missing all legal language that will be required. I do not believe the general public is supportive of the concepts to date and this will result in failed future warrant articles if not handled in normal planning fashion. Is some zoning bylaw being attached that has not been discussed in public before?

As a thirty-two year veteran Fairhaven Planning Board member, I feel that the application to DHCD is currently incomplete. This could cause the preliminary application to be held up for at least 30 days.

The plaza overlay district of 79.27 acres is possibly the largest proposed district in the Commonwealth with full buildout projected at 1407 units. Only the highest density numbers can be assumed without the guidance of a proper zoning bylaw. This would be one percent of the total town acreage with possibly 1969 new residents, which is 12.3% of current Fairhaven population.

The overlay water district map was discouraged and removed by the two prior town planners. A 9.086 acre district, with 306 units and 428 people was not entertained at this time because the underlying zoning is an AE Floodplain with BFE of six feet. To place affordable units with new residents that usually do not purchase flood insurance in the lowest land subject to flooding is to be studied further. I follow the FEMA applications closely in Fort Myers Beach after Hurricane Ian. We should understand that this

population of 400 plus residents could become homeless with a catastrophic hurricane event. The Design Regulation document was not prepared for uses other than existing, upland plazas. It will effectively be useless when dealing with elevated structures in the floodplain. These projects could actually conflict and undermine the strict floodplain language of the mandated FEMA code in Fairhaven Zoning Bylaw. This could result in jeopardizing all residents who have flood insurance and the Town of Fairhaven could become ineligible to continue to qualify for flood insurance.

Wayne Hayward
48 Gелlette Road
Fairhaven, MA 02719