

PLANNING BOARD MEETING of December 16, 2014

Town Hall Banquet Room

1. ADMINISTRATIVE BUSINESS:

Quorum/Attendance: All members present and new member Ann Richard

Present: Wayne Hayward, Chairman, Peter Nopper, Rene Fleurent, Jr., Jeffrey Lucas, John Farrell, Jr., Gary Staffon, Kaisa Holloway-Cripps and Ann Richard.

Absent: None.

Wayne Hayward welcomed Ann Richard, the newest Board member, and noted the meeting was being recorded.

Acceptance of Minutes:

Kaisa Cripps made a motion to accept the minutes of November 18, 2014, and was seconded by Gary Staffon. The motion passed unanimously.

Correction: Mr. Lucas was present for the meeting of November 18, 2014.

Ann Richard abstained.

Kaisa Cripps made a motion to accept the minutes of December 1, 2014, and was seconded by Gary Staffon. The motion passed unanimously.

Planning Board Bills:

None.

**II CURRENT PLANNING:**

Receipt of Plans:

1. *Special Permit* – Brahmin Leather #4 – 77 Alden Road – (ph-1/27/15).

William Roth recommended Public Hearing of January 27, 2015.

Wayne Hayward made a motion to set Public Hearing date to January 27, 2015, and was seconded by Gary Staffon. The motion passed unanimously.

Approval of Plans:

1. *Form A* – Michael Ristuccia – Bass Creek Road

Mike Ristuccia is present and said he would defer to Mr. Roth.

William Roth explained this property was the subject of two street discontinuances on West Island. The plan is a culmination of street discontinuances, all taxes had to be paid and an easement in the upper corner had to be provided. The plan provides for the easement and provides for 5 lots, zoning is Rural Residence. Bass Creek is an accepted public way, built and paved. All 5 lots meet ANR requirement.

Mike Ristuccia explained the plan was straight forward; all 5 lots have 140' of frontage. (Reviewing plan.) The plan shows easement that was requested.

William Roth said the two street discontinuances decisions will be noted on the plan and recorded.

John Farrell asked if there were any structures and Mr. Ristuccia noted that presently there was one structure, a house on lot #2, and it meets the setback requirements for zoning. (Discussion ensued.)

Mike Ristuccia said the wetland lines have been flagged and accepted by Conservation Commission.

Wayne Hayward made a motion that the plan did not show subdivision and approves Form A Applicant and was seconded by Gary Staffon. The motion passed unanimously.

### **III. PUBLIC HEARING AND MEETINGS:**

#### 1. Special Permit – Mill Bridge Holdings, LLC – 200 Mill Road (cont'd from 10/28/14)

William Roth referenced email from Bob Field (copied to Board members) and they just finished with the Board of Appeals and they are looking to address all of the Planning Board's recommendations so he is requesting a continuation to January 27, 2015. Mr. Roth advised he would send out abutter notices since there had been multiple continuances.

Gary Staffon made a motion to continue the hearing to January 27, 2015 and was seconded by John Farrell, Jr. The motion passed unanimously.

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

#### 1. Master Plan Discussion.

William Roth referred to the SRPEDD draft, Conceptual Scope and a general Master Plan Scope of Services from VHB, a private company. VHB included a PAS from APA about master plans. Mr. Roth said it was info to help sell why they should plan and per the Board's request, he obtained general scopes from SRPEDD and VHB.

Wayne Hayward asked if VHB came up with a number and Mr. Roth yes, there was a range between \$90,000 and \$125,000, which depended upon public participation elements. SREPDD was a little less and they spoke about potential grants and also electing to do or not do the housing production plan.

Wayne Hayward stated he just started to review some of the documents.

John Farrell, Jr. asked if the housing aspect was the most expensive part of the study, it's around \$20,000.

William Roth said not doing the Housing Production Plan and doing just the housing element would be reduced by \$4,000. All different elements were included and it gave them a good foundation to think of the different elements and the costs tied to them.

Wayne Hayward felt they needed more public participation in regard to Open Space.

William Roth said the reason it wasn't included is because they have a separate \$20,000 CPC award for an Open Space Plan update that is currently going on. Mr. Roth stated if they did the

Master Plan within a year or two, it would be very minimal need in updating the Open Space section; they would be good for five years.

Wayne Hayward asked if they just did a housing study.

William Roth said they did an Affordable Housing study, but it was strictly for the Housing Authority and what was needed. A Housing Production Plan was completely different. Mr. Roth noted it has already been five years and that was through CPC.

Jeffrey Lucas said that was how funding for Open Space was being done.

William Roth agreed that the Open Space and Rec plan was being funded through CPC. Mr. Roth noted there was a contract for \$15,000 and \$5,000 for surveys, mailings, postage, etc. (Discussion ensued.)

Jeffrey Lucas asked if VHB were doing any local and Mr. Roth said SRPEDD and VHB were doing one or two in the region right now. New Bedford was done by VHB.

Wayne Hayward asked if they have done traffic studies in the past and Mr. Roth said they had a large traffic section and felt it was good to look at the regional agency and VHB. Mr. Hayward said they generally got over \$20,000

William Roth stated that this was well over \$20,000 and it would be advertised, goes in the Central Register or could contract directly with SRPEDD. But a contract of this size, would probably want to send a bid out to see what was available.

Jeffrey Lucas asked if the Selectmen did the contract, who would do the interviewing and Mr. Roth stated whoever initiated the Article and it's approved, would do the scope, advertisement, bidding, interviews, hire and pay the bills.

Kaisa Cripps asked if this was something they were putting in an article for the May Town meeting. Mr. Roth recommended not putting it in the Special within the Annual. Mr. Roth recommended re-convening on January 13, 2015, after reviewing to see if the Board wanted to move forward.

Wayne Hayward asked if it had to go in front of Capital Planning Committee and Mr. Roth said it did not have to go before them.

Wayne Hayward asked how they put forward an Article and Mr. Roth said he had a draft Article. (Discussion ensued.)

Kaisa Cripps asked if they have ever used U-Mass and their public policy program to do any of the scope of work and Mr. Hayward noted on a portion of the Master Plan, they ran some of the things they did.

Wayne Hayward thought it was an aggressive time line and Mr. Roth indicated that the deadline for Town Meeting Articles was the January 22<sup>nd</sup>.

William Roth recommended not putting it on Special and indicated this would be for new appropriation and strictly for the Annual Town meeting.

Wayne Hayward indicated he thought the Board was in agreement that they needed a Master Plan update and would like to move forward.

John Farrell, Jr. asked if they would we qualify for any grants and Mr. Roth stated there were DLTA and Housing Path Grants – strictly for Housing Production Plan and Mr. Farrell, Jr. asked

if he could get that information to them by Thursday and Mr. Roth said he would. (Discussion ensued.)

Wayne Hayward said Mass Municipal Association should have a list of recently done Master Plans and what the costs were and Mr. Roth said he would ask.

Wayne Hayward said they would meet on January 13<sup>th</sup>, and if people wanted to research, it would be helpful.

## 2. Auto Dealer Use – Draft Zoning Amendment

William Roth said he had copies of the Use Table and the Section 125 it references. Mr. Roth's recommendation is auto dealers, new or used, need to require special permit and they need to go through site plan review. The Selectmen would still have licensing authority, per MGL, but prior to the Board getting it, they would do the Special permit and site plan review. Mr. Roth said the question would be to keep auto/boat sales, rental, service all in one category or did they want to split them into two categories, auto sales, rental and service and boat sales rental service or both be special permits? This was just a starting point.

Wayne Hayward said the trigger would be the parking.

William Roth said his recommendation would be the actual use would be a Special Permit and not the 5 parking space trigger. This is because the Town Attorney's opinion letter was that the 5 parking spaces are not the display spaces. A lot of things would not trigger it; that was one issue.

Wayne Hayward said they need to look at the language. It is conflicting where it says "Building Commissioner makes the determination", the Board needed to look at that language and see if it has been modified. It is in zoning. Mr. Hayward said it was in all the emails from the Building Commissioner and Mr. Roth said it was.

Jeffrey Lucas said he thought auto/ boat should be separate and he has comments regarding the wording and asked how many of these would create non-conforming businesses. Mr. Roth advised this was the existing code and the only thing being changed was in red.

Wayne Hayward said if they divide the uses out, they would need additional language. Mr. Roth said if they divide the uses out, auto and boat, if it was boat use, then 198-25 applied and asked if the Board wanted to make boat sales and service a Special Permit also. Mr. Hayward said if there was potential to impact any neighborhoods. Mr. Roth said boat display spaces would not trigger it. It would just go through the normal Special Permitting process and didn't think additional requirements would be needed. Mr. Roth recommended having two separate use categories, auto sales, rental and service and boat sales, rental and service. (Discussion ensued.)

Rene Fleurent, Jr. said he agreed. They were both unique and should be addressed separately. Jeffrey Lucas agreed to separate them out and in reading what they have for location of automobile services; he thought it needed an update.

Wayne Hayward said there was no proposed language for boats and Mr. Roth said there didn't have to be, general special permit site plan review authority. Mr. Roth indicated what they would do under parking, use was not specifically listed and Mr. Roth didn't see needing to have that type of language that was in auto. (Discussion ensued.)

John Farrell asked if it would fall under 198-25 and Mr. Roth said it couldn't be applied. Mr. Hayward said selling boats or autos, they were very similar in nature and Mr. Roth said he would look.

Wayne Hayward asked if they could look at removing boat yard from recreational and Mr. Roth noted they should look at recreational versus commercial. Mr. Hayward felt if they were going to break it down, it would need more language.

Jeffrey Lucas questioned the language they had and Mr. Hayward said a lot of it was old State language and Mr. Roth said he would add a MGL section and also said it was extending into boatyard and Mr. Hayward said because it was being adjusted, they needed something that included boatyard. Mr. Roth said it was specifically listed elsewhere in the code that they could either be separate or left together and Mr. Roth could add some items in 198-25 to include boat services.

Wayne Hayward said if it were switched to an "A", they would have more oversight because it would be a Special Permit and not site plan. (Discussion ensued.)

William Roth explained he felt Special Permit was a use that required discretionary action and that discretionary action was the eight members of the Board based on site plan, specific use and what was adjacent to it. Mr. Hayward said there were no guidelines, nothing to refer to any kind of specifications.

Gary Staffon felt they should keep it together as people were trading in boats, RV's, etc., at the used car lots.

Wayne Hayward said the principal use is boat sales, we need to have something other than an "A" with nothing to rely on. There is no code under boat sales.

William Roth said he was going to leave it in tact and add where applicable for boats. Mr. Roth felt some were applicable and would modify 198-25 to include boat use. (Discussion ensued.)

William Roth said he has some direction and he will email in Word so it can be reviewed and edited and if the Board wants to put it in the Annual and, if not, they can look for a Special.

V. CORRESPONDENCE:

None.

VI. OTHER BUSINESS:

Draft Budget FY16 - Review

Wayne Hayward suggested putting in a 2% budget increase overall, everything was going up and Mr. Roth asked what line items he wanted increased. Mr. Hayward said across the board and noted he was a little worried about salary and Mr. Roth said that would be very difficult.

William Roth said he would look at the salary count and see if the percent increase that was approved at Town meeting, if he could just increase that line item.

Wayne Hayward also thought postage has gone up. Mr. Roth said he would look at the account and adjust it and he has looked at the projection and thought they would be fine.

Gary Staffon asked about professional services and wondered if that would change if they do anything with Master Plan and Mr. Roth said that was separate.

William Roth said one thing they don't have in here under dues, they could propose adding training and propose 3 people to go to CPTC and when they had gone over, it was covered out of the Planning and Economic Development budget. Mr. Roth stated he could look at adding a separate line item, training, for travel, dues and professional gatherings. Wayne Hayward said Conservation Commission was doing that. Mr. Roth said he would look at adding a training line item in the narrative. (Discussion ensued.)

#### 1. EJs Special Permit Issues – Draft Enforcement Letter

William Roth said the Board asked him to draft a request for enforcement. Mr. Roth has emailed the Applicant, told her it would be on the agenda and explained what the Board has asked for a letter with definitive times and answers to when item will be done. Mr. Roth said she has replied and felt she answered those question and any further inquiries be directed to her Attorney, Mr. John Markey. Mr. Roth forwarded that email to the Chairman and spoke with the Attorney, caught him up and forwarded numerous emails with the remaining issues: parking striping, driveway and landscaping. Mr. Roth indicated this was the draft letter; copy was sent to her attorney and knows we are discussing it tonight.

Wayne Hayward said the letter was to Mr. Fostin.

John Farrell asked if they had received anything in writing with any timelines. Mr. Roth noted he had some of the emails. She said her husband was seeking bids once he gets them, they would let them know. The landscaper recommended the tress be planted in the spring and there was no timeline on when the painter could get in.

Jeffrey Lucas asked Mr. Roth if he spoke with Atty. Markey.

William Roth stated he has sent him everything and said he would speak with the Attorney between now and January 13<sup>th</sup>.

Wayne Hayward said the only issue he had with the draft letter is negotiations and code. The code is based on intensity of use, and intensity of use is factored by parking. The Applicant understood that. That is what the entire discussion was with the Applicant. It wasn't about anything else, it was about parking. The plan was specific. The Board made a finding and they are missing 5 parking spaces.

William Roth asked if the Applicant plants the entrance trees, would the additional landscape on the site be sufficient.

Wayne Hayward said the employee parking lot striping, the four spaces, spaces were missing, not striping. Mr. Hayward said he felt they should not have to wait for anything with the equipment they have today. Mr. Hayward said it wasn't a condition of the plan, it was on the plan. It is a legal finding the Board made. (Discussion ensued.)

Rene Fleurent, Jr. said the number of spaces is less than what was recommended.

Wayne Hayward said he was hearing the word "striping" and it was a lot more than stripes and Mr. Roth said it's the parking lot striping that creates spaces. (Discussion ensued.)

William Roth said it is the parking lot striping that creates the four spaces in the driveway and it is very clear where they are missing the spaces based on the approved site plan. It required that 4 spaces be in the drive area and that has not been delineated.

Wayne Hayward said those spaces have not been provided and Mr. Roth stated a driveway for two cars was required to be installed and has not been installed.

William Roth said he will revise the letter.

Wayne Hayward said they should put a timeline what they would like to see. Kaisa Cripps recommend by the January 13, 2015, meeting.

Rene Fleurent, Jr. said he felt comfortable what Mr. Roth will draft.

Jeffrey Lucas and Gary Staffon agreed with a response by the January 27<sup>th</sup>, and Mr. Roth said that would be just about 30 days. (Discussion ensued.)

Wayne Hayward said State law says he has to do something within 14 days.

William Roth said they can request a follow-up letter and will have 14 days to comply. (Discussion ensued.)

Wayne Hayward said he wanted him to know they were actually filing zoning complaint.

Rene Fleurent, Jr. said they needed an answer by the January 13<sup>th</sup>, meeting and they respectfully request an update.

William Roth said he will make a couple corrections, as discussed, to include the actual number of parking spots and will copy the applicant's attorney Atty. Markey and Board of Selectmen.

Rene Fleurent, Jr. made a motion that Mr. Roth make a couple small corrections to the letter as discussed. This to include the actual number of parking spaces and the amount of spaces missing then forwarded the letter for the Chairman to sign. The letter should be copies to the Selectmen and Atty. Markey. The motion was seconded by Kaisa Cripps. The motion passed unanimously.

Ann Richard abstained.

### Review 2014 Annual Report

William Roth said he revised last year's report with 2014 update information. The third paragraph talks about the development that they have received and the different bylaws they have worked on, what they expect in 2015 and long range planning items. Mr. Roth also provided a list of the grants they have done and that last year's grants were almost \$3 million.

Wayne Hayward asked about grants for 2015.

William Roth said the maximum block grant they could apply for was \$624,000

Rene Fleurent, Jr. made a motion made to accept and submit the Annual Report and Kaisa Cripps seconded. The motion passed unanimously.

Wayne Hayward asked Mr. Fleurent, as SRPEDD Commissioner, for a brief.

Rene Fleurent, Jr., said as Commissioner for the Planning Board, he attended the December 15, 2014, meeting. On the commuter rail there are a few studies done and permits looked at to keep it going. (Discussion ensued.)

John Farrell, Jr. asked if the building department was accepting credit cards and was that something they could talk about happening for the Planning Board.

William Roth said they would have to be set up with an online permitting system and there were a lot of fundamental issues. The Planning Board requires physical plans and state law requires

application to be physically stamped in at the Town Clerk. There are a lot of issues to figure that out.

Kaisa Cripps said the Department of Public Health (DPH) has approved another medical marijuana provider for the area who might be using the lease from the former applicant and wondered if Mr. Roth has heard anything.

William Roth stated he has met with Tim Kehoe from Coastal Compassion. Mr. Tim Kehoe, brought entourage of people, attorney, architect, grower and project manager. They were looking at 2 Pequot building. They have a sublease with Brighton Health and they discussed different issues with it. They need a new special permit. Mr. Roth felt they were going to want to submit soon. They discussed issues regarding their security plan, met with the police chief and went over issues that were in contention with the last application.

John Farrell, Jr. asked if the secondary grow operation would be in Fairhaven and Mr. Roth stated he did not think it would be.

Kaisa Cripps said she had to disclose that she finished her MBA with their Director of Retail, Kevin, and his company did marketing for the Coastal Wine Trail, which their business is part of. Kaisa Cripps stated she does know the individual and looked at the ethics and spoke to people and there was nothing. The DPH asked her prior to their application.

William Roth said he would know more Thursday.

Wayne Hayward asked regarding the State and Mr. Roth said that the State was telling them to get their local permits now.

John Farrell, Jr. asked if there were any open and Mr. Roth believed there was and Mr. Hayward said there was in Boston

Kaisa Cripps made a motion to adjourn the meeting and was seconded by Rene Fleurent, Jr. The motion passed unanimously. The meeting adjourned at 8:17 p.m.

Respectfully submitted,

Tracy White,  
Recording Secretary