



Town of Barnstable Planning Board

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Board Members
Mary Barry – Chair Stephen Helman – Vice Chair Steven Costello – Clerk Paul R. Curley Fred LaSelva Jeffrey Swartz Patrick Foran
John Norman – Town Council Liaison

Planning & Development Dept. Staff Support

Elizabeth Jenkins, AICP, Director
Paul Wackrow, Principal Planner
Karen Herrand – Principal Assistant - karen.herrand@town.barnstable.ma.us

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BARNSTABLE
TOWN CLERK

Town of Barnstable PLANNING BOARD Minutes July 9, 2018

Mary Barry – Chairman	Present
Stephen Helman – Vice Chairman	Present
Steven Costello - Clerk	Present
Paul Curley	Present
Fred LaSelva	Absent
Jeffrey Swartz	Present
Patrick Foran	Present

Also in attendance were Elizabeth Jenkins, Director, Paul Wackrow, Principal Planner and Karen Herrand, Principal Assistant, Planning & Development Dept.

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.

Regulatory Agreements:

Big Pink, LP seeks to enter into a Regulatory Agreement with the Town of Barnstable – to create a 3-unit apartment building and request zoning relief for density and parking. The subject property is addressed 49 Elm Avenue, Hyannis, MA and is shown on Assessor's Map 327 Parcel 075. The Property is located in the HVB District - Hyannis Village Business District. *Continued from April 30, 2018, May 14, 2018, June 11, 2018, and June 25, 2018.*

Attorney Anthony Mazzeo in attendance, representing the Applicant.

Chair Mary Barry confirms/clarifies that they just received a red lined version/draft of this agreement and will need time to review.

Attorney Mazzeo confirms that this application was filed in December of 2017, he gives a review/history of the meetings/hearings.

Chair Mary Barry asks for a motion to continue this to July 23rd, moved by Stephen Helman (hold).

Paul Curley interjects and asks for the highlights of the red lined draft and what the differences are.

Attorney Mazzeo clarifies that these changes have come from the Town Attorney. Major changes to the document come in on pg. 4 and pg. 5. Additions on pg. 5, starting at number 8. The Town would like a landscape plan for the property. There is a question about what does the Town want to do with this land. The Developer responsible for snow plow/removal, number 9. Number 10, Developer responsible for trash removal. Number 11, the basement will not be used for living space, Number 12, new plumbing/reduce water consumption. No. 13, to have a minimum lease term of 12 months, they would like to discuss this one.

Paul Curley is concerned because the Applicant hadn't seen this draft yet and asks if Applicant willing to accept the changes?

Attorney Mazzeo replies that he would like no. 13 removed and no. 8 and leave it at that. These are a little overbearing on the Applicant.

Elizabeth Jenkins interjects and states that the Town is proposing these changes. The landscape plan, requirement for a landscape plan was from site plan and number 13 added almost as a standard condition in last 3 reg. agreements, idea that the public benefit is housing that meets the needs of our workforce and restriction on the lease term will ensure that these will go to year round residents. This is pretty consistent with the preparatory clause that states looking to create units consistent with the housing production plan.

Steven Costello would like a sub lease provision added.

Jeff Schwartz comments that no. 8 is what was approved for Sea Captains Row. If this is stricken or modified that would make his vote no. This opens up possibility for air B and B's and other things. What is there to landscape here? Parking is the concern.

Elizabeth Jenkins interjects that they have never received an updated plan re the split rail fence, the Site Plan approval had it listed.

Chair Mary Barry asks if the Planning Board is ready to vote on this?

Jeff Schwartz makes comment about parking. He can't go forward with this seeing the parking issue, he can't vote for this.

Applicant, Jeff Lyons, Big Pink Limited Partnership in attendance. He states that there have been a lot of delays, if we can't get approved we will sell it, Homeless not Helpless is a possibility. They want to put two units here.

Stephen Helman states that some of the delays were do to the Applicant's initial submission. He's uncomfortable with having this document given to him this afternoon. He does not have an objection, he is going to abstain. He would like an opportunity to review/understand this document.

Motion made by Paul Curley to recommend approval of the red lined regulatory agreement as presented, seconded by Steven Costello, 4 in favor. Jeff Schwartz is opposed. Stephen Helman abstains. The motion carries/approved.

Zoning Amendments:

2018-163 – Amending the Code of the Town of Barnstable, Part I General Ordinances, Chapter 240 Zoning to Create a Cannabis Overlay District-A and Cannabis Overlay District-B and District Regulations

for Establishing and Operating Registered Recreational Marijuana Dispensaries. *Continued from June 25, 2018.*

2018-159 – Amending the Zoning Ordinance to Prohibit Non-Medical Marijuana in All Zoning Districts within the Town of Barnstable. *Memorandum, proposed amendments and summaries enclosed for both zoning amendments. Continued from June 25, 2018.*

Richard Sawyer in attendance. He is in opposition. He did some research, refers to his handouts, Exhibit A, marijuana use and reads from these handouts. He refers to pg. 1, 2, 3, and the THC information. He refers to the Drugged Driving study, Exhibit B.

Frances Hoothay, Precinct 1, in attendance. She is in opposition. Asks why is Town Council going against the wishes of voters? 52% voted against this. Please explain. She was looking at outcomes in Colorado, there has been an increase in black market sales and increased Emergency Room visits as well.

Jen Cullum, Town Councilor, Precinct 13, in attendance. She answers that she is in support of this because 6 of the 13 precincts did vote positively for it. Thinks we need to have a proactive approach, prudent to have a conversation, times have changed and we need to be smart about our growth as a town.

Frances Hoothay responds that it is still going against the wishes of the voters. What is the point of the vote if it can be rescinded by Town Council.

Kevin Rosario in attendance, Regional Outreach Councilor for Gosnold, recovery/intervention coach. In opposition. He is not here in the capacity of Gosnold, he is here more as a recovery advocate and his personal experience. He is involved with the Barnstable Youth Commission/Youth Summit. Personally and professionally he has spoken to thousands of youth. This is a perceived risk. If you talk to a young person, the perceived risk is lower than alcohol, youth do not feel they are at risk, more likely to try, so his fear is that we are increasing access, there are medicinal properties from marijuana, but this for him is about youth advocacy we are normalizing it, by opening up stores etc. will make it more open and available because it's legal now, this scares him. You can make restrictions, but this will definitely increase access. This is genetically modified product, next level high potency. He had a person overdose from the oils, and dabbing and smoking. The young brain (under the age of 25), prefrontal lobes are not fully developed. We lost 64,000 people in 2016, from opioid related overdose deaths and 73% started with use of marijuana and/or alcohol. He is solely here for the young people, there are a lot of responsible adults, but his is in consideration of the young people. He submits brochures – see Exhibit C.

Beth Waterfall in attendance. She is in favor. She explains that the effects of marijuana are similar to alcohol, but people do not die from using marijuana. We have a lot more information, a plethora of information on cannabis. This isn't just about retail, it's about industry licensing, cultivation, jobs and scientific research. This isn't something for children, there are specific regulations. Marijuana can't be put out to the public like alcohol. The marijuana today has gone through rigorous testing. She asks for a realistic approach. There are regulations regarding children.

Stephen Helman comments that children watch what we do. What do you think they would hear?

Beth Waterfall replies that we need to take responsibility, as adults. This is not for children.

Chris Gagne, Cannabis Community Research Network in attendance. He is in favor.

Peter Cross, resident of Hyannis, in attendance. He is in opposition. As a middle school teacher he states that youth will experiment. The overlay district concerns him because he thinks this will be a Hyannis issue. We have other land that can be used for this. Draw the lines outside of Hyannis. We don't need more liquor and/or cannabis in Hyannis.

Maureen Holland, teacher, in attendance. She is in opposition. She states that if in this is in the home and community it will be in the hands of the children, no doubt, absolutely.

Eliza Lewis, Barnstable Village, in attendance. She is in opposition. She asks to respect the voters and their choice that the voters made, vote down all uses.

Ben Haskell, headmaster of Trinity Christian Academy, in attendance, Mary Dunn Rd., Hyannis. His concern is that Barnstable as a community did not vote for it. He is not against medical marijuana. The industrial park here is also for residents, churches and industry. He is concerned for the youth and the students in the location/issues.

Rob Wilson of Marstons Mills in attendance. He is in support for this. The state did say overall we will have medical marijuana. It's legal now. Enact a tax on it. He doesn't think it will trickle down to children, liquor is worse than marijuana.

Jen Cullum. In support. Has correspondence from Felicia Penn, dated July 8, 2018, read into record, see Exhibit D.

Dear Ms. Barry and Planning Board Members,

I am unavailable to attend your meeting on July 9, and am writing in support of Item #2018-163. Item 2018-163 provides the town with the regulations that control what is sold, where it is sold, who can buy it, how many units may sell it, and when adult cannabis is sold in the town of Barnstable. Item 2018-163 assures that the cannabis product sold for adult consumption in the Town of Barnstable is safe and tested.

*Truth is, adults who live in Barnstable use cannabis now. They represent a market that desires a product. It makes sense that the Town devises the rules and regulations that address the sale of a **safe product within a regulated system.***

While I don't condone underage consumption of cannabis, some have concerns that just like with alcohol, young people will use a forged ID to attempt to buy this product. The bad news is, young people will break the law as they do now. The upside would be that if they are successful in purchasing the product in an authorized location, at least the public has guaranteed that it is not cut with fentanyl or other dangerous drugs, and that it is safe and tested.

Allowing legal sales for adult consumption of a safe and tested product makes sense.

Denying this business sector entry into Barnstable is a mistake, as it empowers thugs and pushers.

Make this marketplace legal and safe in the town of Barnstable. Vote to recommend #2018-163 to the Town Council.

Laura Cronin in attendance. In opposition. States that we need time to have tested in other communities, it hasn't been legal for very long. Children will be exposed, there are already concerns with food products and kids eating unknowingly, candies etc. things that can easily get to youth.

Matt Levesque, Town Councilor, Precinct 10 in attendance. He is in opposition. He refers to the one of the pamphlets, Exhibit C, submitted by Kevin Rosario/Gosnold tonight. "The Blunt Facts". He also reads into the record:

"They say it's natural. They say it's no worse than a glass of wine. They say it's harmless. It's just not true. MARIJUANA. The Blunt Facts. Marijuana is addictive. Research shows that repeated marijuana

use can lead to addiction. Not everyone who uses marijuana becomes addicted – it depends on factors such as family history, genetics, the age you start, other drug use, and peer relationships.

1 in 11 people who use marijuana will become addicted. This rate increases to 1 in 6 if marijuana use begins in their teens. The rate goes up to 25-50% among daily users. Marijuana alters the way the brain works. Marijuana contains more than 400 chemicals – the main active chemical is THC. The amount of THC determines the potency and effects. Since 1972, the average THC content has soared from less than 1% to nearly 13%.

Marijuana affects mental health. Marijuana can cause anxiety and paranoid thought. Regular use has been associated with depression, mood swings, aggressive behavior, and a loss of interest in previously rewarding activities. Marijuana affects driving. Marijuana affects alertness, coordination, reaction time and concentration so it is unsafe to drive or ride with someone who has been smoking marijuana. Combining marijuana with alcohol greatly increases the danger of driving. Marijuana affects behavior. Marijuana negatively affects attention, memory and learning. Compared to peers who do not smoke marijuana, those who do tend to get lower grades and are more likely to drop out of high school. Research shows that smoking marijuana regularly as a teenager can permanently lower IQ. Marijuana affects timing, movement and coordination which can harm athletic performance. Marijuana use can lead to other drug use. Most young people who use other illegal drugs try marijuana first. Exposure to marijuana affects the reward pathways of the brain, making other drugs more appealing. Science shows that regular marijuana users – especially those who start at a young age – are more likely to try more dangerous drugs. Adults who use marijuana are five times more likely to develop an alcohol use disorder.” Marijuana is a hallucinogenic, different from alcohol. Bringing in marijuana adds to the problem.

Adam Higgins, 18 Huckleberry Lane, he is in support. He apologizes for his last public comment where he used some profanities. Six precincts voted yes and six no and others evenly. Makes comment re Nevada traffic deaths reduced by 10% . Comparable to use for overlay districts. Big jump in the stats for this area. Need to make age restricted use.

Chris Gagne, Cannabis Community and Care Research Network. He is in support. Refers to Gosnold speaker and the use of Methodone and Suboxone. Youth – the regulations are very strict to get license/transport it. There is a Brewery in the area. We can work together, this can be done safely and responsibly. There is a lot of good that can come out of this.

Peg Haskell in attendance, Christian Trinity Academy. She is in opposition. The voters have wished not to have this in Barnstable. There is a lot of traffic in the Industrial Park area now. If cannabis facilities put there this will increase.

Tim MacNamara in attendance. He is in support. Attorney whom owns part of medical facility in Middleboro. Other municipalities have implemented. It is high technology research/medicinal uses. District has farmland on Route 6A that could make useful land cultivation. Possibly zone smarter/places. Reviews new industry and how it was hard to change. Don't be blinded by unfamiliarity.

Chair Mary Barry clarifies to the Public that the Planning Board makes recommendation to Town Council.

Steven Costello clarifies. He would frame 2018-159 outright ban not correct way to go. There is a Cannabis organization. Maybe consider that 163 was brought forward from councilors to enhance opportunity in the Town, but warrants a much broader discussion. The overlay district doesn't provide us with the best opportunity. The bigger picture, maybe not just squeeze into Hyannis, why all in one district? Doesn't think they need to create the overlay district now, have continued discussion, there is room for more education/like to discuss further, other areas in the town of Barnstable possibly.

What happens with Medical Marijuana approved already if we don't do anything can people move forward for retail/recreational sales?

Paul Wackrow replies that in Barnstable there is an overlay zone, but no dispensaries.

Elizabeth Jenkins interjects that the medical marijuana could be kept intact, if some version passed, would have to repeal for the allowances for recreational marijuana.

Jeff Swartz comments that there are other places that have this already, Mashpee, Brewster. He drove around Industrial Park yesterday, the overlay district, it could have been written better/done better, probably only able to put one on Plant Rd. He's having a hard time voting for this because the numbers/will of the people/precincts voted. Town Council really makes the decision. Maybe look at a smarter area. He has faith that the Town Councilors will make the right decision. Thanks all who came out for this.

Paul Curley states that it is important to remember that this is the state law. We have legalized marijuana for entertainment purposes. It needs to be controlled. The smart move is to move forward, defined, controlled as soon as possible.

Stephen Helman comments that children learn from what we do. If we permit recreational use and allow overlay district this message would be it's bad but it's really not. It is now up to the local communities, our community has voted no. He will not vote to recommend 163.

Patrick Foran comments that he still has a lot of questions. Thanks all that came. There are questions re taxes, a lot to be answered before he would feel comfortable. The overlay district is in one of the precincts that voted it down. Police asking do we want in our community, let's learn from another community, then we can move forward with the best practices. Maybe Town Council can do more.

Chair Mary Barry thanks all who came to both meetings. She isn't comfortable with the ordinance to abolish completely/prohibition of non medical marijuana. She has concerns about the amendment to the code. Maybe a way to address 163, and ask for more time/input from Planning to help re define or is there another way to address..people have concerns re the OD, maybe number of shops, locations, maybe a workshop program. Some ideas to move forward.

Patrick Foran asks if the moratorium can be extended, more time to work something out.

EJ states that the moratorium adopted through zoning amendment to put in place, adopted to Dec. of this year. State did allow extensions, there are still some questions re municipalities, the AG's office do not have a clear answer if this would be allowed by the Town of Barnstable.

Town Councilor James Crocker in attendance, asks for clarification of the motion on the floor.

Motion made by Steven Costello to extend the moratorium to Town Council, seconded by Paul Curley, Clarified to not vote on 159, and send 163 back to the Council

Discussion regarding coming back to Planning Board.

Town Attorney Ruth Weil in attendance. There are certain time frames that have to enact. Chapter 40A section 5, you can't indefinitely postpone, you have to take action, have to vote one way or the other. The Planning Board has to act, making a recommendation one way or the other. Two recommendations needed.

Recast motion.
Discussion on how to vote.

Chair Mary Barry entertains a motion to close the Public Hearing, moved by Stephen Helman to close both re Zoning Amendments, 2018-159 and 2018-163, so voted unanimously.

Chair Mary Barry entertains a Motion for 2018-163 as it stands, moved by Stephen Helman, seconded by Jeff Swartz, none in favor, all opposed, except Paul Curley who abstains.

Additional recommendation: Chair Mary Barry entertains a Motion to request recommendation to Town Council to review the Town of Barnstable's town wide approach for districts, moved by Stephen Helman, all in favor except Paul Curley abstains.

Chair Mary Barry entertains a Motion in favor of 2018-159 as it stands, all opposed, except Paul Curley who abstains.

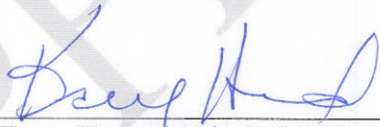
Additional recommendation: to ask Town Council to apply for a six month extension for the moratorium to June 30, 2019, moved by Stephen Helman, all in favor, except Paul Curley abstains.

Matters Not Reasonably Anticipated by the Chair:


Future Meetings: Regularly Scheduled Meetings: July 23 and August 13, 2018, @ 7:00 PM.

The meeting adjourned at 9:26 p.m.

Respectfully Submitted


By Karen 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 –National Institute on Drug Abuse, dated 6/9/18
- Exhibit B –National Institute on Drug Abuse Driving dated 6/9/18
- Exhibit C – Brochures – National Institute of Health and Gosnold
- Exhibit D – Letter from Felicia Penn dated 7/8/18