

Town of Yarmouth

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**MINUTES OF THE PLANNING BOARD MEETING OF
December 20, 2017**

The Yarmouth Planning Board held a Business Meeting at **5:30** p.m. on Wednesday **December 20, 2017** in the Hearing Room at the Yarmouth Town Offices located at 1146 Route 28, South Yarmouth, MA.

Planning Board Present: Brad Goodwin, Tom Roche, Norman Weare, Lee Rowley, and Joanne Crowley.

Planning Board Absent: Chris Vincent and Tom Baron

Staff Present: Kathy Williams, Town Planner

Guests: Dan Ojala, Down Cape Engineering; Stu Bornstein; and Aaron Bornstein.

Chairman Brad Goodwin opened the meeting at 5:30 PM.

1. **Village Center Overlay District (VCOD) Site Plan Review (SPR):** Stuart Bornstein, 1121 Route 28, South Yarmouth, Assessor's Map 50, lot 108, Zoning Districts B2, HMOD1 and VCOD VC4. Applicant is proposing to retain the existing building on the property, re-configure the parking and add 9 residential units in three buildings with associated utilities and site work on 1.78 acres. The project is proposing to be developed under the Village Center Overlay District (VCOD), VC4. Formal Site Plan Review for VCOD projects is done through the Planning Board.
 - a. **Presentation:** Dan Ojala of Down Cape Engineering presented the project, noting that the project will have two phases and be condominiumized. Phase 1 is related to the existing building which will be office space for 3D printing of teeth. The existing drive through for this building will be enclosed for additional office space and the driveway pavement eliminated. Phase 2 will consist of the construction of the 9 units of housing and associated parking and utilities. He gave an overview of the site layout, landscaping, stormwater management system, septic system, signage, lighting, dumpster screening, and building design, as outlined in the attached Site Plans, Architectural Plans and application narrative. He also noted that one affordable unit is required for this project per section 412 of the Zoning Bylaw.
 - b. **Planning Board Comments:**
 - 1) **Joanne Crowley:** Ms. Crowley asked about any encumbrances on the property that the Board should be aware of. Dan Ojala noted that there were old Special Permits for the property but this would be a new project and those permits are no longer applicable. He also noted a drainage structure in the layout of Route 28 in proximity to the property line, but it doesn't impact the site. Ms. Crowley inquired about cut-through traffic and the potential need for speed bumps. Dan Ojala noted that he would prefer not to install speed bumps. He indicated that Wood Road is not heavily used, use of the driveway would not eliminate any difficult left hand turns, and the Wood Road intersection is in close proximity to the driveway entrance, all decreasing the convenience of cutting through the site. He did note that speed bumps could be installed later should it become an issue. Ms. Crowley inquired about the timing of the phases. Mr. Ojala noted that Phase 1 would happen as soon as possible with Phase 2 starting construction

within the next year to give time to complete construction documents and obtain building permits.

- 2) **Lee Rowley:** Mr. Rowley inquired as to whether the project has been reviewed by MassDOT. Mr. Ojala indicated that it had not, but may not be necessary as the driveway entrance along Route 28 is not changing. Mr. Ojala noted that an easement to the Town will be provided for the sidewalk along Route 28 for liability reasons. Mr. Rowley also inquired about cut-through concerns, to which Mr. Ojala indicated he did not anticipate it being a problem. Mr. Rowley inquired about the square footage and number of bedrooms. Kathy Williams noted that the 9 units of housing have a total of 15 bedrooms. All the end units have two bedrooms and the center units have one for a total of 6 two-bedroom units and 3 one-bedroom units. The two bedroom units are 1,853 square feet and the single bedroom units are 1,624 square feet.
 - 3) **Norm Weare:** Norm Weare inquired as to whether having the VCOD bylaw in place was helpful. Mr. Ojala noted that it was as it allows for mixed use with higher residential density. Mr. Weare inquired about the affordable unit. Stu Bornstein indicated he had not decided on the best route yet to meet the affordable requirements (payment in lieu or including an affordable unit in the development).
 - 4) **Tom Roche:** Mr. Roche noted that payment in lieu for an affordable unit would be \$112,750 based on the current formula and median household income. He noted that the plan was creative based on the size of the units and size/shape of the lot. He inquired as to the anticipated cost of the units. Stu Bornstein noted he would ideally like to get \$369,000-\$389,000 for the two bedroom units, but will depend on the cost of construction which is impacted by the use of high quality materials and recent natural disasters which have increased the cost of construction materials. Mr. Roche noted that the DRC and SPR Team did a good job and asked for practical improvements. He inquired as to whether Mr. Bornstein would construct the units himself. Mr. Bornstein noted that he would and would construct them all at one time to keep the same sub-contractors going from one building to the next.
 - 5) **Brad Goodwin:** Mr. Goodwin noted that he liked the project, but that Mr. Bornstein had a tendency to agree to conditions and requirements and then not following through, such as on Aarons Way. Mr. Bornstein noted that that issue had been resolved. Mr. Goodwin noted that it may be easiest to make a payment in lieu of creating an affordable unit.
- c. **Planner Comments:** Kathy Williams briefly reviewed the attached Staff Memo dated December 15, 2017, which included suggested conditions. She noted that condition #7 regarding the requirement for a fire hydrant within the development may be out of the purview of the Planning Board VCOD Site Plan Review and recommended eliminating it. This issue will be addressed when the project goes for water and building permits.
- d. **Public Comments:** None
- e. **VOTE:** The Planning Board discussed the suggested conditions outlined in the Town Planner Memo, specifically about including a reference to payment in lieu of creating an affordable unit.

On a motion by Norm Weare, and seconded by Tom Roche, the Planning Board voted (5-0) that the project at 1121 Route 28 as presented at the Planning Board meeting of December 20, 2017, and in accordance with the plans and materials submitted, is in compliance with the VCOD Design Standards and is subject to the following conditions, with Brad Goodwin, Tom Roche, Norm Weare, Lee Rowley and Joanne Crowley voting in favor:

1. **All materials and finishes as depicted in the enclosed plans, and presented and approved by the Design Review Committee (DRC) and Site plan Review (SPR) Team shall be included in the project, including, but not limited to:**
 - a. **All sidewalks to be concrete.**
 - b. **Retaining wall to be stone faced.**
 - c. **Columns on the front entrance shall have an overall 8" square dimension when trimmed out with azek.**
 - d. **Window trim shall be 1"x4".**
 - e. **1"x8" frieze boards shall be provided.**
 - f. **All trim to be azek.**
 - g. **Window grills shall be 5/8" contoured grill (rather than flat).**
 - h. **Siding to be red cedar clapboards stained gray.**
 - i. **Door landings to the two units facing the parking areas shall have a roof or covering to protect from the elements.**
2. **Landscaped areas to be irrigated.**
3. **Septic Reserve Area to be located outside the 20' buffer area required adjacent to residential zoning districts.**
4. **The project is required to have one affordable unit in accordance with Section 412, or a payment in lieu of construction made before Phase 2 is started.**
5. **The site design shall ensure turning movements for fire and emergency vehicles.**
6. **Phase I erosion control measures shall be provided to protect natural infiltration area (DA6).**

2. **Discussion on Potential Zoning Amendments:**

- a. **Recreational Marijuana:** Kathy Williams reviewed the attached December 13, 2017 e-mail from Kate Feodoroff, Town Counsel. The memo from Town Counsel noted that home delivery can be prohibited in the zoning bylaw; the hours of operation can be set by the Board of Selectmen or SPGA but don't want them to conflict; on-site consumption can only be allowed by ballot vote and is presumed prohibited otherwise, but can be included in the zoning bylaw; limiting the number of facilities can be done through a general bylaw; the Planning Board can limit the size of the facility; and the 3% local tax is on gross sales for retail establishments only. The Planning Board reviewed the attached Draft #3 dated December 13, 2017 of Section 417 – Marijuana Establishments, which includes input from Town Counsel. Kathy Williams noted that the only item still in question was related to the signage. Town Counsel noted that signs for recreational marijuana establishments cannot be regulated more strictly than signs for liquor licenses. Kathy Williams will review these regulations and compare to the proposed sign verbiage for review by the Board. Lastly, the attached Draft #1 revisions to the existing Registered Marijuana Dispensaries, dated December 7, 2017 was briefly reviewed. Town Counsel had no comments on these edits to the RMD bylaw.
- b. **Section 404 – Motel Bylaw:** The Planning Board reviewed the attached Draft #3, dated December 15, 2017, which included comments from the Building Commissioner to help simplify and clarify language.

3. **Meeting Minutes:**

- a. **November 15, 2017:** On a motion by Tom Roche, and seconded by Norm Weare, the Planning Board voted (5-0) to approve the Planning Board Meeting Minutes of November 15, 2017, with Brad Goodwin, Tom Roche, Norm Weare, Lee Rowley, and Joanne Crowley voting in favor.

4. **Board of Appeals Agenda & Decisions:** The following were distributed via e-mail:
 - a. ZBA Agenda for December 14, 2017.

5. **Committee Updates from Board Members:**
 - a. **Community and Economic Development (CEDC):** Norm Weare noted that the CEDC granted \$104,500 in Tourism Revenue Preservation Funds for a variety of special events.
 - b. **Affordable Housing Trust (AHT):** Mr. Roche noted that Dakota Partners, developers of the former Cavalier property into 69 units of affordable housing, received their Low Income Tax Credits and the project should be moving forward soon.

6. **Board Member Items:**
 - a. Norm Weare noted that he will be unavailable for January 3rd Planning Board meeting. Members also noted how nice the seasonal decorations look at the new Packet Landing Pavilion.

7. **Correspondence:** The following correspondence was distributed via e-mail:
 - a. Public Meeting Notice from FHA and FTA on transportation planning – January 4, 2018.

8. **Staff Updates:** None.

9. **Upcoming Meetings:** January 3, 2018 and January 17, 2018

10. **Adjournment: VOTE:** On a motion by Tom Roche, seconded by Norm Weare, the Planning Board voted unanimously (5-0) to adjourn at 6:32 PM.

ATTACHMENTS:

- **December 20, 2017 Agenda**
- **VCOD Petition 2017-2 – 1121 Route 28: December 15, 2017 Staff Report with attachments:**
 - VCOD Site Plan Review Application including Narratives, Aerial and Locus Maps
 - DRC (11/1/17) and SPR (11/14/17) Comment Sheets
 - Material Cut Sheets
 - Site Plans
 - Architectural Plans – for the existing and proposed buildings
- **Zoning Amendments:**
 - **Marijuana:**
 - **December 13, 2017 Memo from Kate Feodoroff, MTC;**
 - **Recreational Marijuana:** Draft #3 dated December 13, 2017 of Section 417 – Marijuana Establishments bylaw amendments, which includes input from Town Counsel.
 - **Registered Marijuana Dispensaries:** Draft #1, dated December 7, 2017.
 - **Section 404 – Motel Bylaw:** Draft #3, dated December 15, 2017 which includes edits from Mark Grylls, Building Commissioner
- **Draft Meeting Minutes:** November 15, 2017
- **Miscellaneous Correspondence:**
 - ZBA Agenda for December 14, 2017
 - Public Meeting Notice from FHA and FTA on transportation planning – 1/4/18.

Approved on January 17, 2018:

On a motion by Norm Weare, and seconded by Lee Rowley, the Planning Board voted (4-0-1) to approve the Planning Board Meeting Minutes of December 20, 2017, with Brad Goodwin, Norm Weare, Lee Rowley, and Joanne Crowley voting in favor, and Tom Baron abstaining.