

The regular meeting of the Bridgewater planning board convened at 6:30 pm.

MEMBERS PRESENT: Mr. Driscoll, Mr. Ajemian, Ms. Guarino, Ms. Sullivan, Mr. MacDonald

ALSO PRESENT: Mr. Geller, Associate member, Ms. Burke and Mr. Romulus

Although no one was present, Mr. Driscoll announced that the meeting was being audio and visually recorded.

PUBLIC HEARING FOR QUAIL HOLLOW CONTINUATION

The public hearing continuation convened at 6:30 pm.

A letter dated 4/17/19 from Frank Gallagher read into the record:

We expect to submit revised plans and calculations on Friday, April 19, 2019. These revisions will address the concerns of the review engineer, town officials, and the Planning Board. By submitting these items this Friday it is our hope that this will leave sufficient time for proper review before the next scheduled meeting so that we might be able to close the public hearing for this proposed development.

There were no abutters present.

On a motion by Mr. Ajemian, seconded by Ms. Guarino, it was unanimously voted to continue the hearing to May 15th at 6:30 pm.

MINUTES APPROVED

Ms. Sullivan had a question on the 1/16/19 minutes-On page 5 there was a "the" with nothing else and on page 3 might be some misinterpretation; will be reviewed by the Director.

On a motion by Ms. Sullivan, seconded by Mr. Ajemian, the minutes of Feb. 20 and March 20 were approved.

The Board congratulated Elijah on his upcoming wedding.

Mr. Driscoll recused himself and Mr. Ajemian took the chair.

BOND RELEASE-THE MEADOWS

A request had been received for bond release at "The meadows"-Colonial Drive- from Paul Cincotta. The street lights have been installed and the recommendation by Mr. Romulus was to hold \$5,000 for stormwater maintenance and release \$2500.00.

On a motion by Ms. Sullivan, seconded by Mr. MacDonald, it was unanimously voted by members present to keep \$5,000 for Stormwater Maintenance and release the remaining \$2500.00.

At 6:39 pm, on a motion by Mr. MacDonald, seconded by Ms. Guarino, and unanimously voted, the meeting went into recess until 7:30 pm.

At 7:32 pm, the meeting reconvened for a joint hearing with the CEDC. Members of that committee are Mr. Chase, Ms. Losche and Mr. Colombotos

Ordinance D-FY19-003 – Zoning Ordinance: Amend Table of Uses, Cultivation, Manufacturing and Testing of Recreational Marijuana

Jennifer Burke was the hearing officer. She explained that anyone wishing to speak must sign in at the door and when speaking, please come to the podium and talk into the microphone, giving your name and address. She gave a brief update on why we were here. This ordinance was before the Town Council on March 12th and amended at that time.

Res. A/B	Res. C	Res. D	CBD	SBD	BUS B	Gate -way	E.Gate -way	IND A	IND B	IND E	PD DIST	MHEC DIST
N	N	N	N	SP	SP	N	N	Y	Y	Y	SP	N

Mr. Ajemian asked if this proposal is what we sent to the council the last time? Ms. Burke said no. She said what was before the board before, was not recommended by the Planning Board. What was before you was basically yes' across the board, except for Residential Districts. The CEDC recommended amendments to that to allow for special permits in the Business districts and Industrial districts. When the Planning Board said no, they said they would prefer to see special permits in those districts as well. When it went back to the full council, they amended it to allow by right in the Industrial Districts. So, the basic change that is new to the Board tonight is by right in the Industrial Districts. No other comments at this time.

The meeting was then opened to the public

Pat Neary-225 Lakeside Drive- said that she and Bridgewater Cares would like to see Special Permits in all zones, except Residential zones that are N. She stated that she had sent letters to all the board members and she hoped that they had a chance to read it. It explains why they feel a special permit is necessary, especially in an Industrial area. She stated that she doesn't understand why you wouldn't want to require a special permit for any business that handles a federally illegal schedule 1 drug. She commented that she thought there should be two different special permit requirements because testing is one type of business, and cultivation and manufacturing is totally different and, in each case, they should have special permits. She cited the types of businesses that needed special permits in the Industrial zone now and commented that it makes no sense to allow this without any controls.

Janet Hanson-665 Pleasant Street-asked for the Industrial areas to be clarified. The Zoning Map was shown. She commented that she would like to see NO across the Board; but if we can't have N in all districts, then she would like to see at least SP in the other districts. She was glad to see that they added N to the Gateway.

Taylor Sullivan-215 Norlen Park-agreed that where it says Y it should be SP because we need to have control and be able to set criteria. Some areas of control would be how they dispose of waste products and making sure any dumpsters have locks. She spoke about concerns of the environment and amount of electricity is needed for these large facilities.

Mr. Ajemian agreed that it should be SP in all zones and would not agree to any Y's. He commented that we don't know the effects at this point and this is a new industry and he would rather have tighter regulations now and reduce later, if warranted.

Fred Chase-noted that at the council level he had brought up the point that the table includes cultivation, manufacturing and testing and there was discussion, in the council, on many occasions that conceivably a testing facility would be less (inaudible word) to the community and would likely produce some significant tax revenues and generally thought to be favorable and something they should give consideration to. He raised to the council because of the structure of the table and the manner of the progression of this Ordinance, we are giving in the three Industrial Districts, as of right, to a developer to engage in any of these activities. He commented that they had already concluded that we needed to restrain, the best we could, cultivation and manufacturing. In his personal preference, the yes' in the Industrial District should be changed to SP.

Peter Colombotos said that he advocated the "as of right" in Industrial zones. He sees these uses as benign than other uses that are currently allowed. The uses allowed by SP seem to be ones that use hazardous chemicals or uses that are not really Industrial. He spoke about the tax revenue these uses bring into the Town, which are needed.

Mr. Driscoll asked Ms. Burke if she felt a developer would look negatively upon a town that requires a special permit as opposed to a Yes? Ms. Burke commented that "negatively" might not be the word, but, she thought it might be more challenging than a by-right use, so if somebody is looking to come into a town and they have a couple of different options, they would go with the one with less stringent regulations. Mr. Driscoll commented that the special permit criteria, that would tie into this, doesn't seem to be a heavy lift for them to meet the requirements as it is pretty basic stuff. He felt that having something to fall back on such as the criteria being considered in the next Ordinance wouldn't be a bad thing.

Mr. Ajemian spoke about he and Mr. Driscoll doing a site walk on Elm Street for a different matter, and they could smell the marijuana; he said he had no idea that there was going to be an odor from those facilities.

Mr. MacDonald stated that week after week, residents have come with valid concerns and well researched documents and there is obviously a lot of concern in Town about this; he agrees that it should be SP in the Industrial area; he is not comfortable with allowing by right; he stands by the vote made last time.

Ms. Sullivan commented that it was by special permit when we allowed the marijuana facilities and that worked out fine and she said she didn't understand why we would hold the adult use of marijuana to a less vigorous standard. She felt that zoning was to protect the health, safety, welfare and property values of abutters and that a special permit is the way to go; it is not onerous but striking a balance and protects the public. She said that the residents have been coming to these meetings and she doesn't know what is going on at the council meetings, but the only people she has heard who don't have a financial interest, are the residents who are not for this. So, she said she doesn't understand where the legislative body is coming from as they keep trying to make it more liberal, not less; so that confuses her as a board member.

Mr. Driscoll asked Ms. Burke if we did have this area as of right, then there would be no development standards, correct? She said correct. She said if they are building a new commercial building, they would need a site plan. Mr. Driscoll asked her if we had a site plan hearing and we asked for screening, odor controls and other things that may be in the special

permit criteria, can we do that? Ms. Burke said you can ask for whatever you want. She commented that for the most part, a developer who comes before you for site plan approval is going to agree to reasonable conditions; if you asked for crazy things, that might be an issue. Mr. Driscoll suggested that everything in the special permit criteria seems to be what they would want in a site plan. Ms. Burke stated “that is why it is in there”; It is typical of what is across the state.

Ms. Losche asked for clarification from Ms. Burke.. The Planning Board must vote on this Ordinance as presented, not how it might be amended, correct? Ms. Burke said yes. If we get a non-recommendation from the Planning Board, it goes to the council.... The amendments previously passed the council by 5-4 vote, if it does not pass, then we will have no zoning for two years? Ms. Burke said “correct. Ms. Losche commented that there would be nothing else we could suggest that would be significantly different from the previous ordinance.

Ms. Losche made a motion to close this portion of the public hearing at 8:01. Seconded by Mr. Colombotos and unanimously voted.

Mr. Ajemian made a motion to close this portion of the public hearing. It was seconded by Ms. Sullivan and unanimously voted

Mr. Ajemian expressed confusion over this process. He said that the Planning Board has the right to give their opinion and what the council has done is to put us in a bind sort of speak. If we vote it down, it could be put anywhere in Town and that bothers him. Ms. Losche explained the process as she understands it; if the Planning board does not recommend the zoning and the council does not pass it, we can not talk about it for two years. So, from the discussions she heard tonight, if the Planning Board does not recommend this and it goes back to the council and they vote no, we cannot revisit the use table for another two years. Ms. Burke further clarified that if the Planning Board were to recommend this and the council voted it down, the Planning Board could bring it up again within that two-year period. If you don’t vote for it, that option is off the table. Mr. Driscoll questioned if the next ordinance passes would they also be in our general definitions that would apply to the As of Right? Ms. Burke said yes, they would be incorporated into our general definitions.

Mr. Driscoll suggested talking about the special permit criteria before voting on the use table.

ORDINANCE FY-19 005-SPECIAL PERMIT CRITERIA

The hearing convened at 8:09.

Ms. Burke reviewed the special permit criteria.

ZONING ORDINANCE – ESTABLISH SPECIAL PERMIT CRITERIA – CULTIVATION, MANUFACTURING AND TESTING – ADULT USE MARIJUANA

ORDERED, In accordance with MGL, Chapter 40A, Section 5, the Town Council of the Town of Bridgewater, vote to amend the Bridgewater Zoning Bylaw by establishing the following Special Permit criteria for allowable adult use marijuana.

Definitions

MARIJUANA: all parts of any plant of the genus Cannabis, not excepted below and whether growing or not; the seeds thereof; and resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin including tetrahydrocannabinol as defined in section 1 of chapter 94C; provided, however, that “marijuana” shall not include: (i) the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake made from the seeds of the plant or the sterilized seed of the plant that is incapable of germination; (ii) hemp; or (iii) the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other products.

MARIJUANA ESTABLISHMENT: a marijuana cultivator, marijuana testing facility, marijuana product manufacturer.

MARIJUANA CULTIVATOR: an entity licensed to cultivate, process and package marijuana, to deliver marijuana to Marijuana Establishments and to transfer marijuana to other Marijuana Establishments, but not to consumers.

MARIJUANA TESTING FACILITY: a laboratory that is licensed by the Cannabis Control Commission and is: (i) accredited to the most current International Organization for Standardization 17025 by a third-party accrediting body that is a signatory to the International Laboratory Accreditation Accrediting Cooperation mutual recognition arrangement or that is otherwise approved by the Cannabis Control Commission; (ii) independent financially from any medical marijuana treatment center or any licensee or marijuana establishment for which it conducts a test: and (iii) qualified to test marijuana in compliance with 935 CMR 500.160 and M.G.L. c. 94C, § 34.

MARIJUANA PRODUCT MANUFACTURER: an entity licensed to obtain, manufacture, process and package marijuana and marijuana products, to deliver marijuana and marijuana products to Marijuana Establishments and to transfer marijuana and marijuana products to other Marijuana Establishments, but not to consumers.

MARIJUANA PRODUCTS: products that have been manufactured and contain marijuana or an extract from marijuana, including concentrated forms of marijuana and products composed of marijuana and other ingredients that are intended for use or consumption, including edible products, beverages, topical products, ointments, oils and tinctures.

Administration

Special Permit Granting Authority (SPGA) shall be the Planning Board.

Use Regulations

1. No special permit shall be granted for any Marijuana Establishment sited within a radius of five hundred feet of a public or private, primary or secondary school, licensed daycare center, public library, public park or playground. The 500 foot distance under this section shall be measured in a straight line from the nearest point of the facility in question to the nearest point of the proposed Marijuana Establishment. Each applicant for a special permit under this section shall submit a plan

signed by a licensed surveyor, depicting compliance with the linear distance requirements set forth herein.

2. All aspects of a Marijuana Establishment relative to the cultivation, possession, processing, distribution, dispensing or administration of marijuana, marijuana products, or related supplies must take place at a fixed location within a fully enclosed building and shall not be visible from the exterior of the building. A Marijuana Establishment shall not be located in a trailer, storage freight container, motor vehicle or other similar movable enclosure.
3. No outside storage of marijuana, marijuana products, or related supplies is permitted.
4. The Marijuana Establishment shall provide an odor control plan that provides for proper and adequate ventilation at such facilities in such a manner so as to prevent pesticides, insecticides or other chemicals used in the cultivation or processing of marijuana or marijuana related products from being dispersed or released outside the facilities. All resulting odors, smoke, vapor, fumes, gases and particulate matter from marijuana or its processing or cultivation shall be effectively confined to the premises or so disposed of so as to avoid any air pollution.
5. The Marijuana Establishment shall provide for adequate and proper security at the premises so as to avoid, deter and prevent illegal activities from taking place upon or about the applicant's premises.
6. No marijuana or marijuana product shall be smoked, eaten or otherwise consumed or ingested on the premises. All Marijuana Establishments permitted under this section shall comply with all state and local laws, rules and regulations governing the smoking of tobacco.

Dimensional Requirements

1. A Marijuana Establishment shall comply with the dimensional controls set forth in the Town of Bridgewater Zoning By-laws.

Abandonment or Discontinuance of Use

1. A special permit grant under this section shall lapse if not exercised within one year of issuance.
2. A Marijuana Establishment shall be required to remove all materials, plants, equipment and other paraphernalia within ninety days of ceasing operations or immediately following revocation of its license issued by the Cannabis Control Commission.
3. The SPGA may require the Marijuana Establishment to post a bond or other resources held in an escrow account in an amount sufficient to adequately support the dismantling and winding down of the Marijuana Establishment.

Special Permit Approval Criteria

1. After notice and public hearing, and after due consideration of the evidence submitted, including the reports and recommendations of other Town departments, the SPGA, may grant such a special permit provided that it finds that:

- a) The Marijuana Establishment does not derogate from the purposes and intent of this Section and the Zoning Ordinance.
- b) The application information submitted is adequate for the SPGA to consider approving the special permit request.
- c) The proposed establishment is designed to minimize any adverse impacts on abutting properties.
- d) The security plan provides sufficient assurance that adequate security controls have been implemented to ensure the protection of the public health and safety during hours of operation and that any marijuana or marijuana related products are adequately secured on-site or via delivery.
- e) The odor control plan proposed adequately provides for the ongoing safe operation of the establishment and minimizes any adverse impacts to abutting properties from odor-emitting activities to be conducted on-site.
- f) The proposed design and operation of the Marijuana Establishment will meet the requirements of this Section.

Application Requirements

All applicants are encouraged to contact the Community and Economic Development Director to schedule a pre- application meeting.

In addition to all the application requirements related to special permits the applicant shall include the following at the time of application:

- 1) Copies of all licenses, permits and documentation demonstrating application status, registration or licensure by the Commonwealth of Massachusetts Cannabis Control Commission.
- 2) A security plan showing the arrangement of pedestrian circulation and access to the public points of entry to the premises from the nearest public or private street or off-street parking area. The security plan shall detail how the property will be monitored so as to avoid, deter and prevent illegal activities from taking place upon or about the applicant's premises and shall show the location of any walkway structures, lighting, gates, fencing and landscaping.
- 3) A list of all managers, officers, directors, persons or entities having direct or indirect authority over the management, policies, security operations or cultivation operations of the Marijuana Establishment.
- 4) A list of all persons or entities contributing 10% or more of the initial capital to operate the Marijuana Establishment, including capital in the form of land or buildings.
- 5) Proof that the Marijuana Establishment is registered to do business in the Commonwealth of Massachusetts as a domestic business corporation or another domestic business entity in compliance with 935 CMR 500 and is in good standing with the Secretary of the Commonwealth and Department of Revenue.

6) Documentation of a bond or other resources held in an escrow account in an amount sufficient to adequately support the dismantling or winding down of the Marijuana Establishment, if required.

7) An odor control plan detailing the specific odor-emitting activities or processes to be conducted onsite, the source of those odors, the locations from which they are emitted from the facility, the frequency of such odor-emitting activities, the duration of such odor-emitting activities, and the administrative and engineering controls that will be implemented to control such odors, including maintenance of such controls.

8) An applicant who is not the property owner shall submit evidence in the form of a deed, an executed lease or valid purchase and sale agreement documenting the applicant's contingent property interest and legal right to operate a Marijuana Establishment at the property.

Mr. Ajemian questioned if this was pretty much standard language in other towns? Ms. Burke said yes. Mr. Ajemian spoke specifically to odor control and how would that be defined? Ms. Burke said the applicant would have to come up with a plan for odor control and the board would then have to determine whether or not that was acceptable; You could hire an outside consultant to review it or have the Town Engineer review it. Mr. Ajemian expressed concern about how you determine what is and isn't allowed. Expressed concern about someone moving next door to one of these establishments and having to smell it. Ms. Burke didn't know if there were any standards for odor. Mr. Romulus suggested annual review of odor plan after one year.

Mr. Chase commented that when we think of special permits specifically, there are developers who won't hesitate to litigate within the context of a special permit, whereas when they are presented as of right ability, he thinks that they will push back as far as they feel the need to minimize the cost associated with their development.

Ms. Burke opened the session to the public.

Pat Neary-commented again, that she didn't think that any business that we are talking about, especially a federal illegal drug, should be able to come in to town as of right, so you should insist on special permit for guidelines.

Janet Hanson-agreed with Mr. Driscoll that we have to consider other businesses that may come to that area. Strong special permits would be advisable to help protect everybody involved.

Taylor Sullivan- stated that you can actually measure smell of marijuana and expressed frustration that more research isn't done and that no one takes into consideration their comments. She also expressed frustration on pressure to vote in a particular way because of the consequences; she asked that the Board take a stand and even if it is riskier for you to do so, take a precedent and take what they say into consideration.

On a motion by Ms. Losche, seconded by Mr. Colombotos, the hearing was closed.

On a motion by Mr. Ajemian, seconded by Ms. Sullivan, the hearing was closed.

On a motion by Ms. Losche, seconded by Mr. Colombotos, it was unanimously voted to recommend the special permit criteria Ordinance. All in favor.

Motion by Ms. Sullivan to recommend Ordinance FY19-005 special permit criteria to the council.

Seconded by Mr. MacDonald

Discussion: Mr. Ajemian questioned if that included odor control amendment suggested by Mr. Romulus? He was told no.

Vote: 4 in favor Mr. Ajemian abstained.

VOTE ON ORDINANCE FY-003

Ms. Losche made a motion not to recommend this ordinance to the Council.

Mr. Chase seconded.

Mr. Chase and Ms. Losche voted yes; Mr. Colombotos voted no.

Mr. Ajemian made a motion not to recommend due to the fact that the Planning Board would like to see SP rather than Y in IA, IB, and IE. It was seconded by Ms. Sullivan and unanimously voted.

The meeting was adjourned at 8:41 on a motion by Mr. MacDonald, seconded by Ms. Sullivan, all in favor.

MINUTES APPROVED: _____

