

**TOWN COUNCIL MINUTES  
Ordinance Committee  
Town Hall Council Chambers  
January 5, 2015, Monday**

Present: Kenneth DiFazio, Chairman  
Michael Smart, Vice Chairman  
Jane Hackett, Councilor  
Arthur Mathews, Councilor

Not Present: Patrick O'Connor, Councilor

Also Present: James Clarke, Planning Director  
Abigail McCabe, Principal Planner

Recording Secretary: Mary Barker

Chairman Kenneth DiFazio called the meeting to order at 6:30 PM.

**14 107 –Zoning Ordinance Amendment to Allow Restaurants with Drive-through Windows in the HT (Highway Transition) Zoning District (Zoning Ordinance Article VIB, Section 120-22- application submitted by Michael and Mark Mignosa, Trustees and Joseph Murray-1255 Main Street**

The measure was presented by Mark Bobrowski, legal counsel for Blatman, Bobrowski & Mead LLC. He introduced the others: Joe Murray, represented Dunkin Donuts, Jeff Dirks, VanNess & Associates and Bill Donovan. He provided a copy of the tract to the members. Mr. Murray provided a brief review. The Dunkin Donuts franchise has been at the location for 20 years. There was a recent ownership change and the building is potentially up for sale. They would like to remain in the location, purchase the building and relocate the Dunkin Donuts to the other side of the building. It will streamline and reconfigure the traffic stream on the property and allow for an upgrade in tenants. There have been tenant vacancies that need to be addressed. There are a lot of challenges with the location on Rt. 18. With the current HT zoning, they can't make the changes they want and maintain the seating. They can do it without seats but prefer seating.

Mark Bobrowski noted that with the current zoning, it allows for retail with drive through, both by special permi, but as a restaurant it's prohibited from drive through as defined in the ordinance. They would like to keep as a restaurant with seats and have a drive through, by adding the proposed language to the current ordinance- no drive through unless the restaurant has twenty or fewer seats. The change would serve to keep out larger restaurant type chains but allow for the Dunkin Donuts to keep the 14 seats and open a drive up window. It will promote the viability of the redevelopment project and at this particular site would not cause traffic concerns. They would also be willing to accept an amendment to the language regarding minimum parcel size that should eliminate larger chain restaurants from coming in. This lot is roughly 45,000 square feet.

Jeffery Dirk, VanNess & Associates - provided a map to the committee and reviewed how the site, with some enhancements, could function with the addition of a drive through facility in a safe and efficient manner. Dunkin Donuts is located on a small section of one side of the building; they propose relocating to the other side of the building (south), with the speaker board for the drive through facing the railroad. As you enter the site, the traffic flow will be converted to a one-way pattern counterclockwise around the back of the building. He reviewed pickup location and distances for queuing. The proposal would allow for storage of 13 to 16 vehicles for queuing. A typical Dunkin Donuts has 8 to 10 vehicles in the maximum queue. This site has additional storage before reaching the traffic. Sufficient vehicles can be stored so that the site functions. It also allows for a bypass lane so circulation can be maintained. It was indicated on the map that there is a 20' lane by converting some of the parking to angled parking slots.

Mr. Bobrowski reported that the map is a vision of what the property could be and they will provide more detail when it gets to special permit review. Mr. Murray noted that with the widening of Rt. 18, they need to do something to protect their business.

Chairman DiFazio opened the discussion up for the committee on the design.

Vice Chairman Smart noted the temporary bridge will be in place over Rt. 18 for 18-24 months and as a result, traffic will be rerouted. What contingency has been made for losing parking spaces with the widening of Rt. 18? Engineering plans were reviewed. They will lose the planting space at the front of the building to allow sufficient spaces. Mr. Clarke addressed the traffic shift.

Chairman DiFazio noted the East Weymouth Dunkin Donuts at the corner of Washington and Broad Street an example, how will the traffic be controlled in an out? Mr. Murray responded that the design they propose is conceptual and they will work with Planning to get a plan that controls traffic in and out of the site.

Councilor Mathews asked about proposed location of the dumpster keeping the 20' wide bypass lane. They intend to maintain the dumpster and loading dock in the present location. Councilor Mathews also noted each business would have its own dumpster and further inquired about snow removal. He noted these items will come up in discussion at Zoning Board of Appeals hearing if this application goes forward.

Councilor Hackett asked about the loss of planting area with the conceptual plan. She noted that time is spent creating design guidelines along the Highway Transition corridor and she will be looking for plant-scaping in the plan going forward. Mr. Murray suggested one side of the property is tree lined and they could plant along the other open side as well; the pylon sign also sits in a planter.

Chairman DiFazio noted that other HT zoned sites are precluded from doing this due to the parcel size. He asked if there is a restriction or is this their opinion? There are 185

parcels in the HT zones and about half would be eliminated by logistics. A parcel restriction could be placed in the language. It will still be up to the BZA and will have to go before the Planning Board. There is no lot size requirement currently.

Vice Chairman Smart asked if there are any right or left turn restrictions as on similar properties? They aren't proposing it; there is plenty of sight distance. Left turns will queuing up (heading North).

Chairman DiFazio asked if they could limit a left or right turn even after this is approved? Mr. Bobrowski responded in the affirmative. Vice Chairman Smart asked if the Council approves this, would the applicant still be required to go before BZA for a special permit? Mr. Clarke responded in the affirmative.

Abby McCabe, Principal Planner, reviewed the summary with Mr. Clarke. A memo was provided to the committee last week with the background on the HT zoning district. Before the zone change, those areas along Main and Washington Streets were zoned B-1 and pockets of B-2 (general business and multifamily development by special permit). When the HT zone was created in 1990, the purpose was to provide a mix of commercial and residential while still maintaining the character of these corridors. The Planning Director provides site plan review. When the language of the ordinance was passed, restaurants were defined as establishments with seating. The language effectively eliminates the larger scale restaurants.

Councilor Mathews commented that he likes the proposal but is concerned with the language that covers the entire HT zone. The area in question has 185 parcels, but several have multi-businesses and housing units; counting total units, it is significantly higher. He likes the idea of having minimum square footage requirement for the zoning. It has the potential to open up the Washington Street area. The HT district has worked in general, and redevelopment as a result has worked well. He asked for comment. Mr. Clarke noted one approach is to set a lot size minimum since it would eliminate many of the lots. There was a brief discussion of some of the lots in the Washington Street corridor. Mr. Murray responded that the seating would also eliminate it and any application would still be required by special permit, so there would be checks and balances. He noted that for the drive through to function well in the lot in question, queuing is required.

Chairman DiFazio asked why drive through is controlled by the special permit application process; and why did the town leave it solely up to the BZA to determine where the location could be. He questions if this was done in an effort to keep subjective review of each spot? Mr. Clarke agreed.

They reviewed the pros and cons by adding additional requirements. Chairman DiFazio asked if the Planning Director will make recommendations to the Planning Board? Mr. Clarke responded that this is a chance to get feedback from the committee. The Planning Board meets on 1/6 and the BZA will hear the proposal on 1/20 and they will both take

into consideration the comments here. Permitted uses can be evaluated – generally with no offsite impacts more detrimental than what is present, and special permits require individual review and where appropriate conditions can be set.

Chairman DiFazio asked for the record: Presently, no one can have a drive through as of right in any zone, but may by special permit in the B-1 or B-2 zone? This is potentially being expanded for restaurants in the HT zone. Mr. Clarke responded this is for restaurants only; a bank could build a bank in the HT zone and could have a drive through by special permit (new retail use in the HT zone).

Vice Chairman Smart asked for a list of parcels that might qualify by scope for the potential of a drive through. Mr. Clarke responded that a list will be provided using the GIS software.

Councilor Hackett asked about what may be allowed in the HT zone; in looking to spur economic redevelopment and fully capture the benefit of the Naval Air Station. She appreciated the memo the Planning Department provided. In reviewing the district, she asked for examples of where this ordinance change would be allowed. Two examples that Mr. Clarke cited were:

Nevin Building- yes, by special permit  
Office space- Libbey Industrial-yes, with no size limitation

The Chairman thanked the Planning Department for providing a very thorough memo to the committee.

#### **ADJOURNMENT**

At 7:19 PM, there being no further business, a motion was made by Vice Chairman Smart to adjourn and was seconded by Councilor. UNANIMOUSLY VOTED.

Respectfully submitted by Mary Barker as Recording Secretary

Approved by Kenneth DiFazio as Ordinance Committee Chairman

Voted unanimously on 20 January 2015