

**Worcester County Planning Commission  
Meeting Minutes**

**Meeting Date:** June 4, 2020

**Time:** 1:00 P.M.

**Location:** Worcester County Government Office Building, Room 1102

**Attendance:**

**Planning Commission**

Mike Diffendal, Chair

Jay Knerr, Vice Chair

Marlene Ott

Rick Wells

Betty Smith

Jerry Barbierri

**Staff**

Roscoe Leslie, County Attorney

Ed Tudor, Director

Phyllis Wimbrow, Deputy Director

Jennifer Keener, Zoning Administrator

Jessica Edwards, Customer Service Representative

Robert Mitchell, Director of Environmental Programs

Weston Young, Asst. CAO

**I. Call to Order**

**II. Administrative Matters**

- A. Review and approval of minutes – May 7, 2020** — As the next item of business, the Planning Commission reviewed the minutes of the May 7, 2020 meeting. Following the discussion, it was moved by Ms. Ott, seconded by Mr. Knerr, and carried unanimously to approve the minutes as submitted.
- B. Board of Zoning Appeals agenda, June 11, 2020**— As the next item of business, the Planning Commission reviewed the agenda for the Board of Zoning Appeals hearing scheduled for June 11, 2020. Mrs. Keener was present for the review to answer questions and address concerns of the Planning Commission. No comments were forwarded to the Board.

**III. §ZS 1-325 Site Plan Review – Mad Fish Restaurant Waiver request**

As the next item of business, the Planning Commission reviewed a loading space waiver request associated with the proposed redevelopment of the Mad Fish restaurant. The overall project consists of the construction of a 13,775 square foot restaurant with outdoor dining and an off-premise parking area, located on the north and south sides of Harbor Road, east of First Street, Tax Map 27, Parcel 376, 374 & 388, Lots 44, 2 & 3, Tax District 10, CM Commercial Marine and C-2 General Commercial Districts. Cole Taustin, owner, Eddie Johnson, manager, Hugh Cropper, IV, Esquire, Keith Iott, architect, and Mike Gershenfeld, Sysco Eastern Maryland, LLC, were present for the review. Mr. Cropper stated that in order to meet the 10% on-site parking requirements, they have to request a waiver to the 10' by 65' loading space requirement as required by the Zoning Code. If the Planning Commission were to do so, as a condition the applicant would replace it with an 11' by 46' 1.5" loading space/ dock, available during the morning hours.

Mr. Cropper provided the history of the previous restaurant prior to the fire and proposed redevelopment. He noted that the former Captains Galley restaurant had 495 seats, Mad Fish

restaurant upon renovations had 450 seats, and the new proposal when built out will provide 400 seats. In comparing the square footage of the original versus the proposed building, the former building contained 2,225 square feet more than what is currently proposed. Overall, Mr. Cropper requested that the Planning Commission waive the formal loading space and accept the modified plan.

Mr. Taustin stated that the parking spaces will have "No Parking" signage in front of them with the hours stipulated from close of business to 11:30 A.M. the next day. The manager would coordinate all deliveries. Mr. Cropper asked how long Mr. Taustin's family had been in the restaurant business, and he stated 75 years. In addition, Mr. Taustin stated that the layout will be much better than what it was before, when deliveries were occurring in the parking lot or in the County road with hand carts. With respect to the design, Mr. Iott stated that the delivery vehicle will approach from the east and back into the loading space; once they do they will have the extra width to allow for maneuverability into the dock. A drop gate will be used to off-load the product, with a 6' 9" wide dock for circulation. According to the testimony, this design will allow deliveries to take much less time.

Mr. Cropper reiterated that they are asking a waiver for the loading space, with the condition that they provide a modified loading space and signage at the two parking spaces. Mr. Gershenfeld stated that he is employed with Sysco as the President and COO. Has been with them for nearly 30 years, and provides product to the majority of the restaurants in the area (including the former Mad Fish). Relative to the hours of delivery, he noted that they can definitely provide service prior to 11:30 A.M. Mr. Gershenfeld stated that the plan will bring a significant level of safety for his personnel and vehicles by being able to load onto a dock. He said that it will reduce delivery time by 50%, increase the safety of the product by delivering it to the kitchen faster, and provide much more safety to his team. He agreed that even if the restaurant were to be sold in the future, that same level of service can be provided to any future owners. Mr. Gershenfeld stated that the dock itself increases productivity, so it will take precedence for deliveries.

Mr. Diffendal stated that Mr. Barbierri had recused himself from this review as he is currently employed by Sysco.

Mr. Knerr inquired about the building elevations and the fact that the architectural plans showed a gate in front of the loading dock, where the site plan did not. Mr. Iott stated that they will be removing the gate from the elevation sheet as a gate makes it difficult operationally.

Following the discussion, a motion was made by Mr. Knerr, seconded by Ms. Ott and carried unanimously to grant the waiver with the following condition:

1. The 11' by 46' 1.5" loading space/ dock as proffered by the applicant shall be provided; and
2. Signage shall be provided in front of the two parking spaces prohibiting parking between the hours of 3 A.M. to 11:30 A.M.

#### **IV. Text Amendment**

As the next item of business, the Planning Commission reviewed a proposed text amendment request to include the E-1 Estate District as one of the zoning districts in which a home occupation may be in an accessory building of up to 3,000 square feet in gross floor area. Currently, this is limited to the A-1 and A-2 Agricultural Districts on parcels of greater than 80,000 square feet in area.

Mr. Mark Cropper, Esquire was present for the review. He noted that he is seeking to amend the section of the code to allow the E-1 Estate District to have the same development ability as those currently allowed on an A-1 or A-2 zoned property. He agreed fully with staff that the E-1 Estate District was supposed to be eliminated, and that this amendment will mirror the existing language. Mr. Cropper stated that while a text amendment is not site specific, obviously his client has property in the E-1 District that happens to be surrounded by A-1 and A-2 zoned properties. He said that his client should not be treated any different because the property is zoned E-1 Estate District.

Mr. Diffendal allowed the public to comment. Kathy Phillips with Assateague Coastal Trust was present and stated that she wanted to note that while she is aware that the Comprehensive Plan suggested the elimination of the E-1 zoning district, there has never been another comprehensive discussion on the way that the E-1 district should be rezoned since 2009. She stated that text amendments while seemingly general in nature, have been proposed as a result of a particular situation. She said that there has been no discussion with respect to sea level rise, storm inundation, and climate change in text amendments. She noted that when the Comprehensive Plan was written, those items were identified as significant issues, and the E-1 zoned properties are typically found in those low-lying areas. Overall, she wanted more than a piecemeal discussion on the E-1 Estate District uses, and suggested that other zoning districts (even ones not currently in the code) may be better suited.

Mr. Cropper responded that he would welcome another comprehensive review of the zoning maps and the code with respect to the items of her concern, but feels that in this matter, they are not directly specific to the request at hand.

Following the discussion, a motion was made by Mr. Barbierrri, seconded by Ms. Ott, and carried unanimously to forward a favorable recommendation to the Worcester County Commissioners.

#### **V. Water and Sewer Plan Amendment, No. SW 2020-02**

As the next item of business, the Planning Commission reviewed an application associated with the addition of certain informational items in the Master Water and Sewerage Plan (The Plan) for the Mystic Harbour Sanitary Service (SW 2020-02). Robert Mitchell, Director of Environmental Programs, appeared on behalf of the applicant, the Worcester County Commissioners, and presented the staff report to the Planning Commission.

Mr. Mitchell explained that the applicant is requesting a revision of the EDU sewer allocation table for new capacity in the Mystic Harbour Sewer Planning Area in The Plan. This revision is

to provide sewer sanitary capacity to serve a proposed 112 campsite expansion of the Frontiertown Campground. He explained that the Sewer EDU Allocation Table was included in the state's modified approval of a prior amendment to The Plan. Since the EDUs are coming from the North Area to the South Area, the EDU chart must be revised. Mr. Mitchell stated that the County Commissioners have tentatively allocated the EDUs for this expansion, pending the submittal of this amendment and the upcoming public hearing on the project. The amendment would modify the Allocation of Sewer EDUs (table) in the Mystic Harbour Sewer Planning Area to reassign twenty-nine (29) sewer EDU's from the "Infill and Intensification" category for properties in Area 1 (North of Airport) and nine (9) EDU's from the "vacant or Multi-lot properties" category properties in Area 1 (North of Airport) to the Frontier Town Campground category in Area 2 (South of Airport). The sanitary capacity for the Frontiertown property would be similarly increased by a total of thirty-eight (38) sewer EDUs.

Mr. Mitchell reviewed the staff report noting the consistencies found for such a development within the Comprehensive Plan and land use designations, and that the proposed improvements would be permitted in accordance with existing zoning within the property boundaries of the current campground.

Following the discussion, a motion was made by Mr. Knerr, seconded by Ms. Smith, and carried unanimously to find this application consistent with the Comprehensive Plan and recommended that they forward a favorable recommendation to the County Commissioners.

#### **VI. Water and Sewer Plan Amendment, No. SW 2020-03**

As the next item of business, the Planning Commission reviewed an application associated with an expansion of the Sewer Planning Area in the Master Water and Sewerage Plan (The Plan) for the Mystic Harbour Sanitary Service (SW 2020-03). Robert Mitchell, Director of Environmental Programs, presented the staff report to the Planning Commission. Hugh Cropper, attorney, was present on behalf of Mark Odachowski, who is the applicant for this amendment. Dane Bauer, from HB Solutions, also was present on behalf of the Applicant.

Mr. Cropper concurred with staff's findings on this report and offered that the owner already has part of the property within the Mystic Harbour sewer planning area and simply wants all of the property designated within the Mystic Area to acquire the capacity needed to complete his proposed development. The property already has a stem along its western edge to MD Route 707 designated as S-1 within the Mystic Harbour Sewer Planning Area. The remainder of the property is designated as S-1 within the West Ocean City Sewer Planning Area.

He also introduced Dane Bauer, a consultant, from H&B Solutions who testified on the project. Mr. Bauer testified that in his opinion the overlapping service areas sometimes cause problems. He also testified that the West Ocean City Sanitary Area had limited capacity as it was established to bring public sewer to an existing developed area to alleviate a public health matter

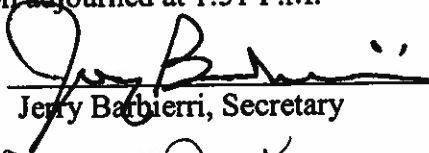
Mr. Mitchell explained the applicant requested the change in sewer service classification in order to serve a proposed residential development. The owner will need to seek an allocation of Mystic Harbour sewer EDUs from the County Commissioners to serve the proposed

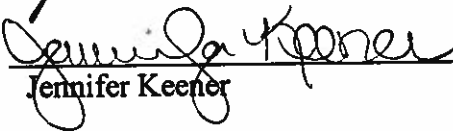
development from available capacity in Area 1 (North of the Airport). He went on further to say that there was not enough capacity in the West Ocean City Sanitary area to serve this proposed project and this property was on the border of the Mystic-West OC overlay where the two areas co-exist.

Mr. Mitchell reviewed the staff report noting the consistencies found for such a development within the Comprehensive Plan and land use designations, and that the proposed improvements would be permitted in accordance with existing zoning classification for the properties.

Following the discussion, a motion was made by Ms. Smith, seconded by Ms. Ott and carried unanimously to find this application consistent with the Comprehensive Plan and recommended that they forward a favorable recommendation to the County Commissioners.

**VII. Adjourn – The Planning Commission adjourned at 1:51 P.M.**

  
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Jerry Barbierri, Secretary

  
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Jennifer Keener