

**PLANNING BOARD**  
**Regular Meeting Minutes of March 22, 2023**

Members present: Mark M. Schafron/*Chairman*, Robert J. Swartz/*Vice Chairman*, Robert J. Bettez, Sr., Paul A. Cormier, Stephen Cormier.--*Members*, and Trevor Beauregard/*Director-City Planner*.

Members absent: None.

Also present: Mayor Michael Nicholson, Rob Oliva-City-Engineer, Christine Fucile-Adm. Assistant, David Miller-Seven Point of MA, Todd Sullivan-Cannapreneur Partners, Alan Rousseau, Judy Tysinger, Bob LeBlanc, Bob Chicoine, David Page-Gardner Residents, Laural Adams-Harbor Classic Homes, Ronald Koivu-Harbor Classic Homes, Wes Flis-Haley & Ward, Peter Campobasso-Attorney for Harbor Classic Homes, Dana Heath-City Councilor, Duncan Burns-Conservation Commission.

ANNOUNCEMENT - Any person may make a video or audio recording of an open session of a meeting, or may transmit the meeting through any medium, subject to reasonable requirements of the Chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. Any person intending to make such recording shall notify the Chair forthwith. All Documents referenced or used during the meeting must be submitted in duplicate to the Director of Community Development & Planning pursuant to the Open Meeting and Public Records Law. All documents shall become part of the official record of the meeting.

***Mr. Schafron called the meeting to order at 6:30 p.m.***

**1. APPROVAL OF MINUTES:**

***January 11, 2023 (no meeting held in February)***

***Motion to approve minutes as presented.***

***S. Cormier/R. Swartz.***

***Vote: 5 – 0***

**2. NEW BUSINESS:**

**2.1 City Council Zoning Amendments referred to Planning Board for Recommendation:**

**10891 – An Ordinance to Amend the Code of the City of Gardner, Chapter 675 Thereof, entitled “Zoning,” to Change the Classification of Certain Parcels of Land Along Route 140.**

**Mayor Nicholson** stated the proposed amendments come from different recommendations, department heads, different conversations, and professional studies the City has.

Mayor Nicholson displayed a map covering the proposed zoning amendment of the parcels of land along Route 140 that comes from following the MRPC study which is included in the meeting packet and highlighted the main portions of it on page 4.

**Mayor Nicholson** continued to say this comes from several different things and explained he has seen a lot of new interest coming to Gardner from different people coming through. In the past year there was \$422 million dollars’ worth of real estate sales that took place within the City. Also, in 2022 calendar year 33 businesses opened their doors. Mayor Nicholson continued to say there have been 13 Developers that have reached out regarding several different sites located within the proposed parcels of land, however, it is currently zoned Rural Residential 2. The issue with this, aside from the fact that people are interested in the City, is if we have people interested in portions of the City not zoned there. The City can work with them to see if there are other places for them or see if there are other ways the City can work with them to go about their goal, possibly through a hearing with the ZBA (*Zoning Board of Appeals*) for a variance or something of that nature.

Mayor Nicholson added what is unique about this location is the amount of complaints the police department receives in terms of safety and have had a high number of car accidents in that area. Further, the police department is running a fully compiled report which the Police Chief plans to submit at the Public Hearing as to the number of fatal accidents that have happened. The Mayor spoke of a build out study which was completed in 2010 that talks about the impact this would be if the City were to move forward and sell some of the portions of land the City owns because the City is one of the largest owners as shown on the red area of the map displayed. The Mayor noted there are restrictions on what the City can and cannot sell. By City Ordinance, the City cannot sell watershed land. The Mayor pointed to the map displaying the City Forest Land, which is protected by Article 97 of the constitution, and if the City wants to do something with it, would need legislative approval by the House Senate and Governor. Also, there is a brook that runs through this piece of land which means the City cannot sell if they wanted to. In addition, the Mayor noted the land has to be contiguous per State zoning laws otherwise it would be considered spot zoning. Any parcel that is not currently vacant gets grandfathered into their use, such as a residential house on that plot or something else, therefore it gets grandfathered until their use changes. Further, looking at what was done a decade ago compared to what is seen now, the minimum lot size has stayed the same, so any house that is built in RR2 needs a minimum 60,000 square foot lot with 150 feet of frontage. This could result in up to 792 homes being constructed there if the land is made usable and beneficial to the City. There are currently no water or sewer facilities in the area and estimate the costs to be between \$300 and \$500 per foot to run utilities into the road up to a new place. The utilities end just around the golf course area so anticipate getting utilities from the golf course area out to an area in the City that is currently on well and septic (*pointed out on map*) which will be about \$5 million dollars just to run water and sewer out to that area. The build out report says public utilities would not be needed for certain commercial or industrial spaces, but for residential out there, it would have to be done. In addition, with that number of homes to be constructed, 792 homes and 150 feet of frontage, looking at about 25 additional miles of road that would have to be added if housing were to be put out in this area.

Mayor Nicholson noted as he understood with the Public Hearing on Monday, the question was asked about housing, as well as at the previous City Council meeting if the City is looking at developing some land and finding new ways to utilize the demand we are seeing in a smart growth way and why not provide housing. Housing is something the City absolutely does need and understands the Governor and the Lieutenant Governor have been pushing for house, however, the City has also been in talks with the administration at state level to make sure the City is doing their part. Right now, there are currently 508 housing units either in design, in permitting, or in process throughout the City with 251 of those will be in the downtown alone which are all new market rate units that either have been vacant since they were purchased several decades ago before he was born that are now being refurbished and put back out to market or a new construction. In addition, there are about 257 housing units either planned, permitted, or designed throughout other locations in the City. The School Street School winning bidder for that location is looking at constructing 30 condominium units within that building. The five proposals received for the Prospect Street School building are all housing units. Leamy Street only had one person submit two multi-housing units over there and the old factory at the corner of Nadeau and Stuart Street only had one person submit for that and was awarded to a developer who will be demolishing the factory and installing seven (7) new condominium units there. When you add all of this up, the City has a ton of housing that is being constructed. At the bottom of the report provided, it says the 792 new homes could generate 1800 new residents and 319 new students, based off the 2000 census tracking. Back in 2,000 students made up 17.5% of our City's population, and today make up 17.7% so it is pretty stagnant on that level. In terms of number of residents, we are seeing a lot more younger singles, couples and professionals coming to the City, which is the biggest demand right now, and that is why a lot of

these new units are one-bedroom or studio apartments. Right now, the current projections show the City with the current 508 homes that is already known could potentially be coming, or under construction in the City at about 2,300 new residents without touching this area. To put this in perspective, 2,800 people came out to vote in the last City election, so almost doubling the size of the electorate in the City, let alone the full City as a population, which is a good problem to have, but want to make sure the City's has smart growth and have the amenities to serve the population coming in.

**Mayor Nicholson** stated any sale of this property would have to go through a legally regulated process through the Inspector General's office through a public and RFP (*Requests for Proposals*) Program so there is no one developer who has any claim to an immediate portion of it. Only people who bid on it with the best proposal. The reason why State Law Chapter 30B requires this process means the City has the opportunity to see how much the person is not only bidding on the property price wise but what use they intend for the property, how they plan to utilize it as well as certain site ideas they are planning on doing there. The City can either reject all proposals, start with them, or stay the same, but can at least say the City tried, or can move on with someone or work with someone to amend their proposal after it is awarded.

**Mayor Nicholson** added five (5) individuals have expressed interest, but only two of these five are residential. Again, yes the City needs housing and there is a ton of housing being built but need to make sure Gardner is not becoming too much of a bedroom community as well as having the offerings there for people. Those who expressed interest were retail locations that came out, three hotels and a certain entertainment facility for several different portions located in the red area of the map (*pointed out*).

### **Questions:**

**Mr. Schafron** asked why not leave it as Open Space. Mayor Nicholson replied this was looked at and there is about one third of the City right now that is in protected open space. A lot of the area abutting the location is in protected open space and believes the City is lucky and blessed to have the amount of land for protected open space. Mayor Nicholson pointed out on the map the red area and said it does not have a deed restriction, it does not have a conservation restriction, and none of it is in Article 97. Further, what the City is seeing as a need right now is something that needs to be looked at for future, potential development, and again, there is nothing that says this is what is coming here and there is no stamp on it, but what the City's has right now is pretty much built out. There are some exceptions to the rule such as the Garbose lot, and the old S. Bent factory which are very good for industrial purposes but there really is no room for commercial growth right now in Gardner. The needs the City is hearing from the community is more business, more job opportunities, and more ways to grow the City's economic base in a smart way that compliments what the residents are looking for in a place to call their home.

**Mayor Nicholson** added he understands the need for open space however the City has enough. If the City was struggling to find places to protect this would be a different story.

**Mr. Schafron** confirmed with the Mayor there is commercial interest in that area. The Mayor answered yes, but again would have to go through the RFP process.

**Mr. Schafron** commented one of the complaints was the worry regarding traffic and speed, as one of the reasons houses should not be built out there, which make it that much worse, so how would a commercial entity out there be different. Mayor Nicholson said there are certain protections that can be used in commercial properties which cannot be used in residential properties because a lot of those fall under Site Plan Approval process in terms of traffic flow, traffic lights, and improvements that need to be made. Mayor Nicholson noted the Community Health Center on Route 68 where certain lanes had to be added and turning signals. In a commercial location you can control a parking lot to fit a commercial location than you can in almost 800 new driveways even if they are in a subdivision that comes out where you are adding several different curb cuts through the area that is there. There are a lot more protections and

controls that are available. The Mayor displayed a version of another map that shows all of Route 140 and pointed out the area of Route 140 up to Pearl Street where Route 140 is split by a jersey barrier which is a lot stronger median in between the two there, so the majority of the accidents seen on Route 140 are from Green Street to the Winchendon line. The Commonwealth has total control over any safety measures that get done on Route 140 so if it was up to the City, the police department and the DPW have put in a request several times to extend the jersey barriers past Pearl Street down all of Route 140 to improve safety that is there. However, the Commonwealth says there is not enough fatal accidents to meet their metrics that are statewide metrics which is why there are yellow “wiffle ball” type barriers in the median. Mayor Nicholson stated there is a lot more control through a commercial entity coming in some place like this by having certain controls within a parking lot rather than 800 driveways that come out there, because when you have a four-lane highway that is divided, one cannot turn around, but would have to go into Winchendon and turn around to get into their driveway, so there is a lot more margin of error coming in from 800 areas instead of just two or three main entrances and exits.

**Mayor Nicholson** added, the study recommends either a Commercial or Industrial Zone for the area, but he went with Commercial II for the proposal because it is a little easier going than Commercial I. The main reason he did not go with Industrial proposal for this land is he did not feel it was right for that area of the City that abuts the protected conservation land because it is safer, particularly when one of the grants announced last year received from the Executive Office of Housing and Community Development at the state level was to determine whether or not to add some industrial zones in that area of the City (*pointed out on map*). The Mayor also pointed out on the map a potential housing development that private developers are looking at proposing later on, but again, stressed the main difference is the barrier that is in between the road and the safety measures that have been put north or the side of Pearl Street versus the Winchendon side of Pearl Street which is night and day compared to safety issues from the data received by the Police Department.

**P. Cormier** asked if a developer just wanted the section off Green Street (Map M47), could the developer ask for rezoning on that section. The Mayor replied there are certain spot zoning issues that could come into at that point per the legal department. The other issue is this parcel actually extends about 30 acres into the Town of Winchendon. P. Cormier added if a developer wants to put a hotel there and wanted one section, all they have to do is come for rezoning and it would be up to the Planning Board or Zoning Board to change whatever they want to do. The Mayor said the City is just exploring something like that and there are a couple of different spots that could fit, but when you do a little bit here and a little bit there (*pointed out on map*) that is when it becomes spot zoning. The other issue is if the City goes out for an RFP and go to sell it. The City has to go with the highest offer and the best use for the land based on current conditions, so at the current conditions, the only thing that can be done there is housing. Further, if the City did not have it zoned yet, and say come back after it is zoned, the City may be seeing something that may not be in the best interest for the City at the time.

**R. Swartz** said to reiterate what has been said, the land is currently RR2, and it creates a lot of driveways and can understand that, and the Mayor is asking for the land to go to Commercial II. In addition, understands the controls that could be placed in any development, however, asked why the City just make up its mind they are not going to sell it to anybody or for anything. Mayor Nicholson replied he believes there is a certain merit the City has built out as a City but does not have everything the City needs for the residents. The land is what is here unless houses are torn down at this point, there really is no land to develop on and believes there is still work that needs to be done to build the workforce and help boost economic growth. Further, if no good proposals are received, still think it is something the City needs to take a strong look at to

plan for the City's best interest in the long run. Mr. Swartz commented he believes what the Mayor is saying is just in case some developer comes along with a project that is beneficial to the City overall besides taxes, then the City could consider it. The Mayor said yes, they will have some place to go, but the City is always outgoing in marketing the City to different businesses that come through too and a lot of the issues are the City has people that respond to the marketing inquiries and say they need so much of this and so much of that and the City does not have it.

**T. Beauregard** commented the Mayor mentioned the old poor farm part of the City forest was eliminated because it is in the watershed however the majority of the area is in the watershed. The Mayor said he pulled the State map, and it is not. Zone C goes out (*pointed on map*). The Mayor also provided copies of this to the Planning Board members. The Mayor also pointed out where Zone C ends and noted he talked to the City Engineer about this today. If it was in the watershed the City would not be able to sell it. T. Beauregard thought maybe they have different definitions of watershed and noted the City watershed plan that shows that whole area in the City watershed main basin and subbasin. Mayor Nicholson noted the map he has is the State's official DEP JS Map. Mr. Schafroth directed to Mayor Nicholson he is saying there is no watershed as noted in the red areas on the map. Mayor Nicholson replied correct and noted there is a small surface water protection zone that is listed on the City's map (*pointed out on map*) which is not listed in the State's official coding of it which is where the official map came from. T. Beauregard questioned it is not north of Route 140, it is only south of Route 140 for the City watershed for the whole area being proposed. The Mayor replied correct for the state map and will make that available for the next public hearing. Further, there is a little portion of the watershed where the GAAMHA horse farm is, but they are exempt from zoning under the Dover Amendment.

T. Beauregard said the only other clarification he has is the plan that is referenced in the application which recommends rezoning a portion of that area, but the only area they recommend rezoning is between Green Street and Route 101 and not the area in question in this application. Therefore, the area east of Green Street up to Route 101, south of Route 140 is recommended for rezoning in the report. T. Beauregard noted the 120-acre portion at the Winchendon line and asked if this is a kind of stand-alone parcel and would it be considered spot zoning in any way and has this been clarified. The Mayor replied this has been clarified with legal counsel where it touches across Route 140 where that stops the spot zoning, so it is contiguous over the road.

***10892 – An Ordinance to Amend the Code of the City of Gardner, Chapter 675 thereof, entitled “Zoning,” to add “Sports Betting” to the Zoning Table of Uses.***

**Mayor Nicholson** explained this is something that is new to the Commonwealth that Cities and Towns across the Commonwealth are now having to add to their “Tables of Uses”. This is a result of Supreme Court decision that took place in May of 2018. The Supreme Court struck down the professional and amateur sports protection act. What this act did is forbid sports betting nationwide except for certain specific approved States. The Supreme Court threw this out as a violation of the Tenth Amendment because it said only those specific states can have sports betting, but what this eventually did was legalize sports betting nationwide. Last year the legislature adopted a statute that was signed by Governor Baker in August into law that legalized sports betting in Massachusetts and regulate it through certain different manners which is one of those things where it is allowed federally and statewide. It is considered a violation of the first amendment if it is barred from happening in the City. The City cannot forbid it from entering but the City can control where it goes in the City. It is one of those things seen in

several different court cases allowing certain things to be controlled where they are located but cannot be completely forbidden. In fact, when the Cannabis law in Massachusetts was originally adopted where there was a provision in there that said cities and towns could take votes to ban cannabis facilities from coming into those cities and towns and have since been overturned by the courts as a violation of the First Amendment as well. So, this is really just trying to make sure the City is protected so the City does not run into any of those situations such as putting it in with the indoor and outdoor amusement sections of the table of uses. Sports Betting law that was adopted by the legislature last year and signed by the Governor is very thorough in terms of the legalese that is used to describe these situations. Broken down there are three (3) approved, what is called retail sites for Sports Betting in Massachusetts which are the main casinos (Plainville, MGM, and Encore), ten (10) approved mobile applications that anyone can have anywhere for example the Draft King App because now it can be downloaded direct on a person's phone and bet. However, where the City has come into play, just looking to see if the City can be protected on these matters and control where they go with the Kiosks that allowed under the statute. These Kiosks are similar to the Keno machines seen in different restaurants or the scratch ticket vending machines, however, they are severely regulated by the Massachusetts gaming commission. An entity cannot put one of these in a facility they do not own themselves, and the license for one of these is 5 million dollars which is an annual license from the Commonwealth, and if wanting an online betting license, it is an additional 7 million dollars on top of that five million dollars. Therefore, if a person wanting to open a restaurant that also has a sports betting license they can put those sports betting Kiosks into their restaurant just like the Keno machines, or scratch ticket vending machine, but the City can control where they go the moment they go in there. Mayor Nicholson clarified these are also heavily regulated and how they interact with the City as well. They would have to sign a Host Community Agreement before any sports betting happens within the boundaries of the City that includes a minimum of \$150,000 a year impact fee to the City that can be negotiated higher but now lower based on impacts the City is seeing. There are certain payments the City gets from any transaction that happens from a sports betting license or sports spending transaction that takes place on any of the machines there. There are definitely benefits financially for the City, but again the main reason behind this is where and now they are legally allowed in Massachusetts. Mayor Nicholson stated he does not think they should be going in a residential location but in a place that is already zoned already for entertainment/amusement and fall into a similar category as a sports betting location. Also, any place that wants this would require site plan approval and development review committee approval. Also, each location would have to have an annual vote allowing them to continue their betting operations by the City Council after a public hearing.

**Mr. Schafroth** said assuming the Board votes in the affirmative for their recommendation to the City Council, perhaps a Special Permit would be another check. Mayor Nicholson replied he would be fine with that and thinks that is a great idea.

T. Beauregard spoke of the Special Permit option and said if this is going to proceed, it is a good idea if a facility like this was to come to the City and get permitted right now, they would be able to do it by right which is strictly site plan approval and believes a project of this magnitude would need a little more structured approval process which a special permit would be associated with and certainly would recommend this if this was to be approved.

**T. Beauregard** directed to Mayor Nicholson and noted the legislation has different categories of licenses mainly the one, two and three and recognizes the rigorous and expensive process to go about getting them but asked the Mayor to give a little more insight as to what those cover. Mayor Nicholson explained the application fee itself is \$250,000 and is non-refundable to the State and that is whether the application gets approved or denied by the Commonwealth, there are only three (3) allowed zones for casinos in Massachusetts right now and those three were taken when the casinos opened with Encore, MGM and the facility in Plainville allowing full

retail sports betting. Retail sports betting and all of these other mobile sports betting and Kiosk sports betting are also regulated within those. A person can bet on professional teams but cannot bet on two Massachusetts based college teams. Retail sports betting is sitting at the table and actively betting in a facility as the game is going on where you are watching the game. The mobile app is just like fantasy football, or any type of fantasy draft done on the phone but can bet on each game in between and it is run by the lottery. The Kiosk machines do not have a limit yet and the gaming commission is still regulating those as we speak but expect to have something by May 1 as to if there will be a limit on the number of Kiosks or any of that nature that comes up. The Kiosks are the only facility that will affect Gardner and is called a Kiosk facility.

**Mayor Nicholson** noted there is a fourth exemption in the law because Chapter 128A, the agricultural section, general law allows for horse facilities to be placed in any agriculturally owned, rurally agriculture zoned, or any other placed deemed by a municipality to be fit, however there is an exemption in the sports betting law that allows any horse facility to also be considered a sports betting location on the grounds that there has been an 86.7 percent decline in the number of horses born in Massachusetts in the past 25 years and it is considered a protected agricultural species in Massachusetts but not an endangered species. This is now also related to this but exempted from quota but requires four (4) votes of the City Council and two (2) votes of the Planning Board if the City were to get something like that here.

**T. Beauregard** said if this were to proceed and move forward, in #54, would recommend a small edit to reword what it says now to moving the “or a sports betting facility” at the end up to the first sentence after place of assembly since it is one of the actual uses they identify it with.

**10893** – An Ordinance to Amend the Code of the City of Gardner, Chapter 675 thereof, entitled “Zoning,” to Amend Section 1070 thereof, entitled, “Marijuana Establishments” to increase the quota allowed by the Code of the City of Gardner.

**Mayor Nicholson** stated back when the statute was adopted by the legislature to allow for retail marijuana sales in 2019, adopted a zoning ordinance that limited it to 20 percent of the City’s liquor licenses for off-premise consumption which is the City’s package store licenses, and now have ten (10) that limited the City to two (2). There is some talk the State is going to increase the off-premise consumption licenses which is still very early on in an economic development bill the Governor’s looking at doing Statewide, but what really is the impetus behind this is while the City allowed for two marijuana establishments and the fact the City really only has one that has been allowed to open in Gardner in the past seven years, but things have started now, and believes it is going to be beneficial for the developer who owns the property, and beneficial to the business who has been putting all the work in there. Mayor Nicholson stated he personally has a strong opinion against limiting free enterprise in terms of the City’s economic community since it limits competition, and makes it that much harder for the City to get people in. People have reached out to the City in the past, but the City just could not do it because there were two active Host Community Agreements that were on-going. Further, the Mayor stated this is something he believes the market regulates itself and yes, the City has allowed it for two and have seen how it works right now. The police department fully supportive of this measure and have not had a single police call related to a marijuana facility in Gardner, and it is a benefit to the City. Since 2019, the City has collected 1.5 million dollars in fees and excise taxes from these cannabis retail facilities which is just retail, not cultivation or manufacturing within Gardner. If the City gets more than two great, if not more than two great, but believes this is just something the City has seen how it works and seen how the market works Statewide and should just let the market play itself at this point rather than stifle competition and stifle how the economy can grow and just let the economy regulate itself.

**Mayor Nicholson** noted a lot of what he said today is for future planning, and if it happens, great, if it does not, at least we can say the City is protected from it and made sure it is in the most beneficial spot it could be if something comes up that is beneficial to the City and did what had to be done.

**Mr. Schafron** directed the Mayor and asked if his request is to go from two (2) to four (4) marijuana establishments and not to exceed 35% of liquor licenses as opposed to the existing 20% right now which in real terms is two (2) to four (4). Mayor Nicholson responded correct. T. Beauregard inquired if the pouring licenses increase would that increase the amount allowed. Mayor Nicholson answered it could but feels it may not pass through the Committee based on what he is hearing from the legislature.

**Mr. Schafron** thanked the Mayor for a very comprehensive presentation on all three items.

**Mr. Schafron** stated he would like the Planning Board to vote on each item one at a time.

**VOTE:**

**#10891 – Certain Parcels of Land on Route 140:**

**Mr. Schafron** asked if any further discussion or debate is needed.

**S. Cormier** thanked the Mayor for clarifying a lot of questions he had and after his presentation has been pretty much clear and feels it is upfront with what they are trying to do and benefits the City.

**Mr. Schafron** commented he was concerned about watershed and was convinced there is watershed out there so this is a big stumbling block for him however if there is data that says otherwise that could alleviate his concern.

**P. Cormier** stated his concern on the watershed because the Director said there is a watershed and the Mayor said there is not a watershed, so apparently this creates a kind of standstill here what is watershed and what is not watershed.

**R. Oliva**, City Engineer said there are two things to look at. The City does have what is called the Surface Water Protection District which touches the eastern portion of the southern portion on Route 140. It is a line that goes through the eastern edge of the site and the watershed mapping from the State which he believes is accurate in terms of the topography of the watershed. Does not know the background of how the surface water district the City has on their books was delineated other than it disagrees with the State mapping which of course is based off of topography. That parcel is in the watershed of Wilder Brook on the western southern side of Route 140. Wilder Brook is not in the City's surface water watershed. It is not tributary to Crystal Lake, Cowee or Pearly Brook Reservoir. It actually dumps into Parker's Pond. So, there is some discrepancy between what is on the books and what the State considers the City's watershed. The parcels on the other side of Route 140 he believes are both touched by the State's watershed map and mostly in what is called the Surface Watershed Protection District, and again, there is some discrepancy there. It is zoned as an Overlay District, and it does touch that parcel in the western side and goes up through quite a bit of the other parcels. In fact, the other parcels are probably fully in it. Also, there is State mapping Zone C which is the limits of the watershed. Mr. Schafron asked if there is watershed on the other side of Route 140 within the red parcels as displayed on map. The Mayor replied yes, there are some.

S. Cormier asked if MamJohn Pond off of Wheeler Street is considered part of the watershed or fed off of a pond and comes down through. R. Oliva commented he believes it is probably in the watershed and explained Wilder Brook which is partially mapped within the surface water supply overlay district is not a tributary to all three of the City's reservoirs; it is outside of that. It is only a portion of that which is mapped and do not understand how it was mapped, but it is right on the City's GIS shown as an overlay district. T. Beauregard added it is a Surface Water Overlay District which is mapped off of the State Zone A, B and C. It is not as encompassing as the Watershed District itself. T. Beauregard stated he has a report the City did on its watershed



land and the main basin is the majority of that land in the southeast and encompasses all of it and will share that information with the Planning Board and whoever else wants it.

P. Cormier stated he feels they are not too sure what is going on and not sure about voting and suggested they table the first proposal for the next meeting until receiving more clarification.

Mr. Schafron agreed and said it is an issue as far as it is affecting the watershed or not, and he is not at all clear on this.

**Mr. Schafron** noted there is a joint public hearing scheduled for April 3, 2023, so will have to have a meeting prior to the joint public hearing. The Planning Board agreed to have another meeting and scheduled it for Wednesday, March 29, 2023 at 6:30 p.m.

**T. Beauregard** stated to keep in mind this is not only Watershed, it is Open Space Recreational land that has been identified in the Open Space Recreation Plan, which the Planning Board has been supporting for the past 30 or 40 years. Also, there are ten plus miles of trail systems running through that land. It is an important fact to consider in relation to rezoning.

**#10892 – Sports Betting:**

Mr. Schafron asked if there are any questions, comments, or further questions for the Mayor.

***Motion to recommend to the City Council to adopt the Zoning Change.***

***P. Cormier/R. Swartz.***

***Vote: 5 - 0***

**#10893 – Marijuana Establishments:**

***Motion to recommend to the City Council to adopt the amendment to the Ordinance for Marijuana establishments.***

***P. Cormier/R. Swartz.***

***Vote: 5 - 0***

***2.2 Special Permit Modification Request: Seven Point / Cannapreneur Partners***

**Mr. Schafron** asked that the representatives state their names. David Miller of Seven Point introduced himself as well as Todd Sullivan of Cannapreneur Partners. Mr. Miller stated they were at the January Planning Board meeting to ask or request a new Special Permit for this project that has been ongoing and was obtained at that time.. Also, at that time, Cannapreneur Partners were in attendance and noted they would be a large part of what Seven Point is doing in terms of the capital, such as providing capital for the build out of the retail store as well as provide all their guidance on the operations, however at that time was not able to ask for the Special Permit in their name, and thought it made more sense for everything to be Cannapreneur's name to complete the project in its entirety. Nothing is changing from what was initially represented other than Seven Point to take a step back.

**Mr. Schafron** asked how the project is progressing. Mr. Sullivan said they had a walk-through Friday, and the landlord gave access to map out the site with the engineering plans. Mr. Sullivan stated if this goes well should have about two weeks to receive MEP Plans (*mechanical, electrical & plumbing*) from the Architect. After this goes to bid at construction company hope to break ground on the site the first of May and start construction September 1, 2023. Mr. Miller noted he was in touch with the interim Building Inspector, Jeff Cooke, and explained all of this to him, and if the building permit had already been issued and Cannapreneur were to apply for the building permit, all it would take is a modification of that permit to then have everything in Cannapreneur's name as opposed to going through the whole process of reapplying. Mr. Sullivan said the building permit was issued on the 16<sup>th</sup> of March. Mr. Schafron confirmed the Special Permit request is a name change. The reply was yes for everything to be in Cannapreneur's name. Mr. Miller added they did ask the Mayor to sign the HCA (*Host Community Agreement*) which has been approved. In addition, the release with the owner has been signed, so really the other two pieces that need to be accomplished would be getting the Special Permit requesting the amendment from the Planning Board as well as the Building

Permit. Everything else is already on track and starting to move the information for the licensing with the CCC into their name.

**T. Beauregard** stated all the information has been submitted that was requested in order to change over the HCA and to transfer the Special Permit from entity to the other, therefore, recommend the Planning Board support the modification if there are no other major issues. Mr. Schafron agreed and said it seems like a pretty straightforward piece of it, just administrative business.

***Motion to approve Special Permit modification request transferring the Special Permit and Site Plan Approval from Seven Point to Cannapreneur Partners, LLC. S. Cormier/R. Swartz. Vote: 5 – 0***

### ***2.3 Concord Crossing – Open Space Residential Development: Informal Discussion***

Wesley Flis, Engineer from Haley-Ward introduced himself as well as Ron Koivu and Laural Adams of Harvard Classic Homes and Attorney Peter Campobasso for the applicants.

Mr. Flis explained about two years ago the client and Attorney Campobasso were in front of this Board to talk about Concord Crossing over on Clark Street and Century Way. At that time there was some conversations about the proposal for the open space residential development. A couple of the issues that came up at the time was the access into the development and so the developer went to the Building Inspector to get a determination on the access for the property and the who then sent the applicant to the Zoning Board of Appeals. The Zoning Board of Appeals approved one access point but denied the other, therefore the applicants appealed that decision which went back to the Board. Within the last few months, the Zoning Board of Appeals approved the second egress so now there are two variances for the access into the Development. Now, two years later finally back in front of the Planning Board to start the process of getting this project moving forward. Mr. Flis made note of the letter provided to the Planning Board and explained T. Beauregard wanted to make sure they were succinct on some of the conversation pieces they talked about. The biggest question had to do with some inconsistencies between Zoning Ordinance density requirements and the density requirements of the Planning Board's application for the Open Space Residential Development form. Further, the next question is to talk about the next step to move forward on this project. Mr. Flis commented he read the minutes from the last Planning Board meeting in 2021 and it seems like they would have to go back in front of the Planning Board with a preliminary application as well as a special permit application for the open space residential development.

**Mr. Schafron** believes at this point, they should probably prepare the preliminary plan in a conventional way consistent with the neighborhood aligned with the code along with the other requirements of the pre-application process and then discussions can begin. Mr. Flis thought the last time there already was a pre-application process that occurred as well as a lot of comments when reading the minutes of the last minutes, therefore wants to make sure the proper steps will be carried out correctly.

**T. Beauregard** does not believe they went through the complete process of the pre-application two years ago and thinks it might be a good idea to start with the pre-application meeting again and have a site walk. Further, T. Beauregard commented after reading the minutes of that meeting and reading through the pre-application requirements, he is not convinced everything was actually covered for some of the items in the pre-application description, particularly two items it addresses since a discussion was not initiated and never had a site visit, therefore believes it would be beneficial to both parties to start at that point again and from that point on, after going through the pre-application process can start the Special Permit application. Attorney Campobasso believes there probably has been enough submitted where they may be in a position to discuss having the site visit. Also, the site map and the existing conditions plans have been prepared and submitted and suggested starting with the site visit and then based on the site visit have a follow up and then get going. Attorney Campobasso stated he believes the

plans submitted back in February 2021 conform to the pre-application submittal, the site map and the existing conditions have already been provided and the way he reads the section the next step would be the site visit so they can get this step out of the way, and then based on the site visit would have a follow-up.

**P. Cormier** said at the last meeting two years ago, and if this is the right plan and nothing has changed, there was a discrepancy on this plan with regard to some of the lots near wetlands. Mr. Flis replied the plan in front of him shows the maximum density per zoning by-law, however the applicant is not looking to get to that number but get to a number somewhere between what the application has and what the zoning has, not the number the calculation came up to which was 96 lots, therefore there is some wiggle room with regard to what the concept plan showed before and the preliminary plan that will be submitted as part of the application which is the reason why they would like to have a site walk. Attorney Campobasso noted some of the wetlands have been flagged on the site. Mr. Flis added this was the intent to have a discussion to show the maximum density and also to have a discussion to come to an agreement on the real number the applicants' will be happy with as well as the Planning Board to be consistent with the density adjacent to this with the other open space developments that are right next door. **T. Beaugard** replied correct and said this was one of the things not discussed the last time because there was no knowledge on how it all tied in, and mentioned the square feet for one of the developments that is located in GR3 is allowed by right and is the minimum size lot in General Residential 3. T. Beaugard stated he understands they want to conform with the neighboring residential development, but there are other open space residential lots down in that area that need to be considered too as far as the frontage and square feet because it is an actual open space residential plan that's been developed. The development that is done in GR3 is not an Open Space Residential Plan. T. Beaugard said it makes sense to move on with the pre-application site visit and then continue with the pre-application discussion as the next step under the code where it says, "pre-application discussion of design criteria". Further, once the Planning Board gets a feel of the land and a better of idea what is out there, can talk a little more of how the layout will be for the subdivision.

**Mr. Schafron** stated he is good with the site walk as soon as it is walkable and there is no deep snow. The Planning Board Members agreed. Mr. Flis asked when the next Planning Board meeting will be. Mr. Schafron replied the next meeting is April 11, 2023.

Mr. Flis inquired what information is needed for the next meeting and mentioned a buy right plan which is required for the Special Permit, and a maximum density plan. T. Beaugard responded both would be great. Mr. Flis said what is the next step. T. Beaugard answered the more information provided to the Planning Board at an earlier time frame within the process the quicker the process will be. Attorney Campobasso asked what time and day the site walk could take place and suggested possibly towards the end of next week but will get a "snow report" and can probably schedule for the week of April 3, 2023, so they can have the site walk before the April 11, 2023, next meeting. It was discussed early in the morning around 8 a.m. or 9 a.m.

### **3. OLD BUSINESS:**

*None at this time.*

### **4. ANNOUNCEMENTS~~NEWS~~ARTICLES~~EVENTS:**

*It was agreed to hold another meeting to discuss Route 140 discrepancies on Wednesday, March 29, 2023, at 6:30 p.m.*

→ Joint Public Hearing held on Monday, March 20, 2023, at 6:30 p.m.: *This was continued to Monday, April 3, 2023, at 6:30 p.m.*

→ Next Regular Meeting: *Tuesday, April 11, 2023, at 6:30 p.m.*

Adjournment

*Motion to adjourn.*

*R. Bettez/R. Swartz.*

*Vote: 5 - 0*

**The meeting adjourned at 7:58 p.m.**

All documents referenced or used during the meeting are part of the official record and are available in the Department of Community Development and Planning pursuant to the Open Meeting and Public Records Law.