

**Maynard Planning Board Meeting and Public Hearing**  
**June 22, 2021 – 7:00 p.m.**  
**(Held in person at Town Hall with remote participation available via Zoom)**

---

**Board Members Present:** Greg Tuzzolo – *Chair*; Bill Cranshaw – *Acting Vice Chair*; Jim Coleman; Chris Arsenault; Natalie Robert

**Others Present:** Megan Zammuto – *Assistant Town Administrator*; Kaitlin Young – *Acting Town Planner*; Jon Witten – *Town Counsel*; Danny Ruiz – *Capital Group Properties (CGP)*; Katie Keefe – *CGP*; Normand Martin – *Market Basket*; Carmine Tomas – *LT Development, Inc*;

**Called to Order** at 7:03 p.m. by Greg Tuzzolo

**Public Hearing – Maynard Crossing Operations Manual Proposed Amendments (Continued from 05.25.21)**

Danny Ruiz shared on the screen the proposed revisions to the Operations Manual for all meeting participants to see. He noted that, at the last meeting, someone pointed out that the applicant was referring to the wrong version of the Operations Manual. Subsequent to that meeting, Bill Nemser provided the correct approved version of the Operations Manual to the applicant. The applicant used that version to make the proposed revisions.

Danny Ruiz explained that the Operations Manual was divided into “tenant use” sections to distinguish between the types of businesses on site rather than the previous division by area. He reviewed each of the proposed changes by section and explained the purpose of each of the proposed changes.

Jim Coleman read a statement with the following information:

“ Ken Olsen, the founder of Digital Equipment Corporation, purchased the land where the subject property sits and built his first office building in the 1970s. Jim Coleman stated that he was the Chairman of the Planning Board at that time. Ken Olsen’s vision was to have a large tech campus with a helicopter pad and multiple buildings. However, his vision did not come to fruition and the property lay dormant for many years. It passed through several owners before the 56-acre property was rezoned and became known as 129 Parker Street. There were no homes on Vose Hill, to the south side of the property, at that time, and only a few homes on Field Street to the north. Now there are homes on both sides of the property. The people who bought those homes believed they would be looking at a campus of high-tech buildings as their neighbors. When the rezoning was accomplished, there were many heavily-attended meetings between the Planning Board and concerned property owners about the impact to them of the development of the site. They were assured that they were heard and that their concerns would be addressed. Jim Coleman believes that Market Basket and the other tenants of the property want to be good neighbors, but the abutters have issues that they want the Town to address. Those issues are important to the abutters’ quality of life and are not unreasonable. They are asking the Planning Board to act on their behalf to mitigate the issues with the site developer.

Shortly after the last meeting in which the noise levels were discussed, Jim Coleman arranged an on-site meeting with management at the Market Basket. The managers brought Jim Coleman to the back area of the store where he could observe how each of the two compactor units is loaded – one for trash and one for cardboard. Due to various factors, it is necessary to use the compactors frequently. The cardboard compactor is emptied on site three times a week: Tuesday, Thursday, and Saturday between 9 and 11 a.m. It takes approximately 25 minutes to complete the emptying of the unit. The trash compactor is completely removed, emptied off site, and returned once a week on Wednesdays between 9 and 11 a.m. Jim Coleman watched each procedure as it was done and felt that the noise level was acceptable. During the time that he was there observing the compactors, he saw many delivery trucks arrive, unload, and leave, and he felt that the noise levels were not excessive. He noted that based on the discussions he has had with both Market Basket and Harvey Industries, which is contracted for the trash and recycling disposal, both companies want to be good neighbors.

For the last five to six weeks, Jim Coleman has spent time on site observing traffic and construction activities on site from as early as 4 a.m. to as late as 11 p.m. He has met with representatives of CGP, Market Basket, Harvey Industries, Evviva Trattoria, 110 Grill, delivery people, and concerned abutters. He has witnessed trucks attempting to deliver before the permitted times as well as construction activities occurring before the permitted times, though very few instances. In the instances of early delivery attempts, a Market Basket employee immediately came out and turned the truck away. Market Basket has also place traffic cones across the delivery entrances to further discourage deliveries before the posted delivery times. Harvey Industries has agreed to limit the amount of loading and unloading activities behind the Market Basket building, where it abuts the Vose Hill residents, which cuts down the noise level by 67%: 10 movements instead of 30. The Capital Construction Group has done a good job of keeping to the permitted hours. The site lighting is much better controlled now than it was before. However, he feels that the Operations Manual needs to be further adjusted in order to adequately respect the concerns of the abutters. “

*Jim Coleman made a motion to accept the major modification presented by CGP, with various changes as proposed by Jim Coleman. The motion was seconded by Greg Tuzzolo.*

Greg Tuzzolo thanked Jim Coleman for his thorough research and statement but asked for feedback from the Board on the best way to proceed with a discussion, including public comment, given that a motion was already made. Bill Cranshaw pointed out that it would be difficult to add any additional conditions to the Operations Manual if the vote is only for what was presented. Jim Coleman stated that by putting the motion on the table, it allows for those discussions to occur. Greg Tuzzolo asked for guidance from Town Counsel, Jon Witten.

Attorney Jon Witten stated that the Board can proceed in whatever way they deem most appropriate as long as the public is given the opportunity to comment prior to any vote or votes.

Jim Coleman reminded the Board that the moratorium on the Operations Manual expires tomorrow, June 23, 2021, which is why he was hoping to resolve the modifications during the current hearing.

*Jim Coleman withdrew his motion.*

Greg Tuzzolo recommended reviewing the changes section by section and voting on each section's proposed changes. Within the "General Retail Tenants" section, CGP proposed revising the hours of

operation to 5:30 a.m – 11 p.m. Monday through Sunday, with the exception of the 24-hour health club in building R2. Jim Coleman’s recommendation was to keep the hours of operations for General Retail (except the 24-hour health club) at 7 a.m. – 11 p.m. Monday through Sunday, as is currently allowed. The Board suggested adding a separate line for “Other health clubs” to allow for an earlier opening of 5:30 a.m. only for health clubs.

Bill Cranshaw pointed out that the Operations Manual has site lighting hours noted by tenant type, yet the accompanying site lighting plan is shown by site area, and there is conflicting information between the two documents. Danny Ruiz agreed that the site lighting information should be removed from the tenant sections of the Operations Manual and be in a separate “Site Lighting” section within the Operations Manual.

CGP proposed that the delivery hours for General Retail Tenants be changed to 7 a.m. – 7 p.m. Monday through Saturday instead of Monday through Friday. Jim Coleman recommended that it be changed to Monday through Friday 7 a.m. to 5 p.m., Saturday 7 a.m. to 1 p.m., and no deliveries on Sundays or federal or state holidays.

Bill Cranshaw suggested adding language that explicitly states that the delivery hours that are applicable to a particular tenant are applicable site wide, meaning that a delivery truck for a particular tenant cannot show up early to the site and park at another tenant location until the appropriate delivery hour.

Katie Keefe expressed concerns about restricting the delivery hours as it might impact the interest level of prospective tenants from national companies in leasing at the site.

Trish Saunders of Dettling Road noted that when CGP purchased and developed the site, they knew that there were abutting neighborhoods that they would need to consider and that there is a Neighborhood Business Overlay District (NBOD) that governs the site and that afforded the abutters protection from any negative impact from the site. She feels that the delivery hours would be generous for CGP in that they would only guarantee the abutters one and half days of the week free from delivery disruptions and noise.

John Bresnahan of Dettling Road suggested that Danny Ruiz explain to Katie Keefe what the NBOD is so that she has a better understanding of the protections it is meant to provide the abutters.

Katie Keefe attempted to respond but was having technical difficulties.

Trish Saunders reminded the Board that at the time that the hearing was initially opened at a previous meeting, the Board specifically asked CGP to lay out the operating, delivery, and lighting hours by building and encouraged them to be conservative and thoughtful of the abutters for the buildings that are closest to the property line. She feels like that request was ignored and that the proposed revisions to the Operations Manual are not within the spirit and guidelines of the NBOD.

Danny Ruiz stated that it was actually CGP who had proposed delineating the use by building in order to alleviate some of the issues. What they found was that it seemed to create more issues during the discussions. He stated that he does understand Trish Saunders’ perspective and that CGP is trying to balance the needs of the tenants with the impacts on the neighbors.

Katie Keefe asked if the bigger concern is deliveries versus operating hours based on the disruptions that are caused by deliveries versus when a business opens or closes. Trish Saunders pointed out that even the opening and closing hours impact the neighbors due to traffic coming into the parking lot, noise from engines and car radios, the sound of cars being locked and beeping, car alarms going off, people talking in the parking lot, etc.

Linda Thayer of 14 Chandler Street asked if 24-hour operation is allowed in the NBOD. Danny Ruiz noted that it was approved as part of the concept plan to allow for a 24-hour operation of a health club only in the R2 building.

For the Restaurant Tenants, CGP proposed expanding the delivery hours to include Saturdays from 7 a.m. to 7 p.m., whereas Jim Coleman recommended reducing the weekday delivery hours to 7 a.m. to 5 p.m. (except federal or state holidays), allowing Saturday and federal/state holiday delivery hours from 7 a.m. to noon, and no deliveries on Sundays.

Bill Cranshaw recommended clarifying the parenthetical reference "or as permitted" to be more specific since it is intended to refer to liquor licenses specifically. Jim Coleman suggested changing it to "or as permitted by liquor license".

The Board discussed delivery hours for restaurants with the applicant and asked for public comment. Katie Keefe indicated that restricting the delivery hours for the restaurants might impact certain deliveries in the event of rush hour traffic in the evenings. Chris Arsenault suggested that the delivery hours should be consistent across the site, regardless of business type. Jim Coleman's recommended delivery hours are consistent across the site.

Linda Thayer asked how many additional restaurants will be allowed at the site. Danny Ruiz stated that there are currently two restaurants located at the site: 110 Grill and Evviva Trattoria. CGP is in discussions with a couple other prospective restaurants for the R3, R4, and R5 buildings. There is no limit to the number of restaurants that are allowed on site. There is a limit on the number of drive-thrus (for any type of business) as well as drive-thru restaurants.

There were no concerns about restricting the Grocery Store Tenant hours of operation to a closing time of 9 pm instead of 11 p.m. There was a discussion about the delivery hours for the grocery store. The revised general delivery hours were proposed by CGP to be 7 a.m. to 5 p.m. Monday through Sunday. Jim Coleman's counterproposal was 7 a.m. to 5 p.m. Monday through Friday except federal and state holidays, and 7 a.m. to noon on Saturdays, Sundays, and federal and state holidays. Carmine Tomas of LT Development, Inc. noted that holidays tend to be times of greater demand for Market Basket when restocking might be needed. Normand Martin stated that Market Basket is closed on Christmas, Easter, and Thanksgiving. Bill Cranshaw pointed out that the current Operations Manual allows for deliveries from 10 a.m. to 9 p.m. every day. Carmine Tomas noted that Market Basket is trying to work with the town and the neighbors by restricting the approved hours somewhat without negatively impacting their operations. He suggested weekly deliveries from 7 a.m. to 5 p.m. and weekend deliveries from 7 a.m. to 1 p.m. He asked that the holiday delivery hours be consistent with the regular weekday hours of 7 a.m. to 5 p.m. for the holidays on which the store is open.

Greg Tuzzolo asked for public comment. Trish Saunders reminded the Board of previous comments made by her and fellow abutters regarding the impact that the deliveries and operations have on the

abutting neighbors, and she referenced, again, the language of the NBOD that there are not to be disruptions from the businesses on the local neighborhood. She stated that she and her neighbors are disrupted and are trying to be reasonable. She referred to the sound analysis results that showed there are multiple times per hour during the deliveries where the decibel level far exceeds the ten decibel increase that is allowed by the state. She asked if Market Basket has worked with other towns that have not been as lenient with delivery and operating hours and if they've found a way to work around it. She is asking that there be no deliveries on Saturday afternoons, Sundays, or federal holidays. John Bresnahan asked for at least one entire day of the week without any deliveries. He feels that the NBOD is not being considered and that it is unreasonable to have deliveries seven days a week with surrounding neighborhoods affected.

Mike Hughes of 13 Dettling Road stated that he doesn't normally speak up but that he wanted it on the record that Trish Saunders speaks on behalf of him and the other neighbors whose properties are located at the back of Market Basket on Dettling Road.

Danny Ruiz reiterated that Market Basket and CGP are agreeing to restrict what was already approved prior to the site being developed. Trish Saunders pointed out that, just as Market Basket realized that adjustments needed to be made to the Operations Manual once they were operating, the neighbors, too, have had a chance to understand the full impact of the approved Operations Manual and would also like adjustments to be made.

Jon Witten reminded the Board that they own the special permit and they control any revisions to it, or subsidiary aspects of it, such as the Operations Manual. It is up to the Board to make a determination of any conditions or revisions it sees fit for the special permit. It is well within the authority of the Board to restrict hours of operation, delivery hours, or any other aspect of the Operations Manual. He also noted that the special permit does not run with Market Basket, though they are an important party to the conversations. The special permit runs with CGP and they are the party that is pertinent to the negotiations. The special permit is not a perpetual right. It is always subject to revision and modification at the authority of the Planning Board, as was clearly written into the decision. Carmine Tomas reiterated that both Market Basket and CGP are working in good faith to accommodate the neighbors as much as possible without impacting operations. He also stated that Market Basket has no restrictions on delivery hours for any store in its chain. This would be setting a precedent for the chain. He took issue with Jon Witten's comments that the Planning Board has the authority to make changes to the conditions of a special permit that was agreed to by all parties.

Greg Tuzzolo noted that the discussion of the proposed revisions to the Operations Manual would likely extend beyond the current meeting and he reminded the meeting participants that there was a temporary modification to the grocery store delivery hours, which expires on June 23, 2021. The modified hours were 7 a.m. to 5 p.m. every day except Sunday, which is 9 a.m. to 1 p.m. Greg Tuzzolo asked Jon Witten if the Board could extend the end date of the modification. The modification was approved previously as a minor modification during a public meeting versus a public hearing. Therefore, Jon Witten indicated that the Board could extend the modification as part of the current advertised public hearing for revisions to the Operations Manual. Greg Tuzzolo suggested a 60-day extension to the modified hours. All parties agreed to extend the modification until the end of July.

*Jim Coleman made a motion to extend the minor modification of the grocery store delivery hours to July 31, 2021, which was seconded by Greg Tuzzolo.*

***The Board voted unanimously in favor of the motion.***

The Board agreed to continue reviewing the remaining sections of the Operations Manual for the proposed changes. Bill Cranshaw pointed out that the existing Operations Manual defines a specific employee parking area whereas the proposal does not. Danny Ruiz stated that because the site will now have security lighting, there is not a need for a designated employee parking area. Normand Martin stated that, typically, overnight employees will park directly in front of the store whereas, during daytime hours, employees are asked to park as far from the store as possible. Trish Saunders stated that her observation is that most of the employee parking is happening between Market Basket and the Paper Store, and that the employees hang out there for hours after the store is closed. Greg Tuzzolo asked if employee parking could be designated on the plan for the next review. Danny Ruiz stated that he will add it to the lighting plan.

The Retail/Fast Food Tenants section of the proposed revised Operations Manual is new. At this point in time, it only applies to Dunkin' Donuts. Bill Cranshaw asked for it to specify that the 5 a.m. opening time and starting delivery time would only be allowed in the R1, R5, R6, R7, and R8 buildings in order to avoid impact to the residential abutters of the other buildings.

The next part of the discussion was related to the trash pickup hours. CGP proposed restricting the pickup hours to 7 a.m. to 5 p.m. Monday through Friday, with no pickup on the weekends. Jim Coleman reiterated that Harvey Industries came to an agreement with Market Basket to conduct the compactor change (from a fully compactor to an empty one) away from the back of the building to reduce the amount of noise when switching out the compactors. Trish Saunders noted that although that agreement may have been made, she does not see it happening in practice. She stated that Harvey does not appear to be taking the compactor to the middle of the site to perform some of the noisier operations. She also pointed out that where they are supposed to be taking the compactor on site will eventually be developed with new buildings, making the agreement unsustainable in the long term.

Jim Coleman stated that he has gone to the site many times to see how it's being done and that he has observed that the process is being done as agreed, with the compactors being brought to the middle of the site to be switched out. Trish Saunders asked that the agreement be put in writing in the Operations Manual. Katie Keefe agreed that the current location for the compactor switch is eventually going to have buildings there. However, she agreed to work with Normand Martin on finding another location on site where the compactor switch can be done. She agreed to work with Danny Ruiz on the appropriate language to be added to the Operations Manual. Carmine Tomas added that Market Basket would agree to enforcement to ensure that Harvey abides by the terms of the agreement.

Chris Arsenault asked about the location of the noise level measurement for the maximum of 60 decibels that is noted in the revised Operations Manual. Danny Ruiz stated that the measurement would be taken at the property line, which he can add to the Operations Manual. Jim Coleman asked what the plan is for testing the noise level on a regular basis. Danny Ruiz stated that there is currently not a schedule for measuring the noise on a regular basis. Megan Zammuto stated that if a resident is complaining of noise levels, the Board of Health Agent can take a sound measurement and follow up accordingly.

Chris Arsenault asked for feedback from Jon Witten on how this type of regular monitoring would be handled in other circumstances. Jon Witten stated that it would be common for it to be a condition of a special permit in situations such as ground or surface water monitoring, soil sampling, air quality, or noise levels. Since it was not part of the original special permit, Market Basket could agree to a regular schedule of monitoring at this point. Chris Arsenault asked Danny Ruiz to consider setting up a regular schedule for noise monitoring.

Trish Saunders pointed out that Jim Coleman's recommendation was to allow for a maximum of 50 decibels instead of 60 in the revised Operations Manual. Carmine Tomas stated that some of the measurements from the sound study were in the mid-50s, so he feels that the 60 decibel level max is appropriate. Chris Arsenault suggested that the Board needs input from Wayne Amico and other technical experts prior to making a determination.

Jim Coleman asked if CGP can edit the revised proposal to include all of the changes discussed and not include all of the redlined information.

*Greg Tuzzolo made a motion to continue the public hearing to July 13, 2021, which was seconded by Jim Coleman.*

***The Board voted unanimously in favor of the motion.***

## **Town Planner Update**

Katie Young stated that the applicant for 115 Main Street would like to open the public hearing for that property on July 27, 2021 and request that the meeting begin at 6 p.m. instead of 7 p.m. Some of the Board members stated that they would not be in town but could potentially participate remotely. There was also a discussion of availability for an executive session for the subject property in early July. Everyone agreed to a remote executive session on July 1, 2021 at 4 p.m.

Bob Brown is interested in the Alternate Board Member position.

The Town Planner and Assistant Town Planner will be preparing for Fall Town Meeting and asked the Board Members to send any proposed Zoning By-law changes over.

The Housing Production Plan Public Forum will be held via Zoom on June 23, 2021 from 6-8 p.m.

*Jim Coleman made a motion to close the meeting, which was seconded by Greg Tuzzolo.*

***The Board voted unanimously in favor of the motion.***

**Adjourned** at 9:46 p.m.