

**Maynard Planning Board Meeting and Public Hearing**  
**July 13, 2021 – 7:00 p.m.**  
**(Held in person at Town Hall with remote participation available via Zoom)**

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

**Others Present:** Bill Nemser – *Planning Director*; Joey Fonseca – *Bohler Engineering*; Don Jordan – *Security Vault Works*; Jon Witten – *Town Counsel*; Danny Ruiz – *Capital Group Properties (CGP)*; Katie Keefe – *CGP*; Carmine Tomas – *Market Basket*

**Called to Order** at 7:00 p.m. by Greg Tuzzolo

**Public Hearing – Special Permit Request for ATM Drive-thru at Maynard Crossings (continued from 06.08.21)**

Joey Fonseca stated that there were some revisions that were requested at the last meeting, which the applicant discussed with Wayne Amico and the team at VHB. Prior to the current meeting, Wayne Amico responded to the applicant's response letter that there were no further comments from VHB. Joey Fonseca presented the revised proposal. The revision includes removal of one additional parking space to allow for a wider entrance area into the ATM area, as well as to allow for two cars to queue behind a car at the ATM. He feels that the current proposal addresses the concerns that were brought up at the last meeting.

Wayne Amico stated that the applicant has adequately addressed all of the concerns that VHB had. He mentioned that there was a previous discussion regarding the proposed pavement striping and whether or not there could be a raised island area and/or vegetation in lieu of the striped pavement. Wayne Amico's team discussed that topic with the applicant and understands the applicant's reasons for proposing the striped pavement, including easier access to the ATM and easier maintenance and snow removal. VHB also agrees that striped pavement next to the parking space that is adjacent to the entrance of the drive-thru is acceptable for the revised proposal.

Greg Tuzzolo asked for questions. Trish Saunders of Dettling Road asked if the lighting plans for the drive-thru are reflected in the plans that will be discussed later in the evening during the Operations Manual discussion. Joey Fonseca clarified the information from the photometric that he had presented, stating that there will be just one 18-foot light pole adjacent to the ATM. Greg Tuzzolo asked what the intended hours of lighting would be.

Don Jordan of Security Vault Works, the general contractor for the proposed project, stated that the light pole would be a four-inch-square, dark bronze pole. Although it might not be as tall as the other light poles in the shopping center, the look of it will blend with the others on site. There will be a timer on the light so that it turns on when it gets dark and turns off in the morning. A photo cell could be installed if requested. Jim Coleman asked if the light will be dimmed at a certain time of night. Don Jordan stated that their lights are typically either on or off without a dimming feature. He noted that

there might be ATM customers at the drive-thru after operating hours of the shopping center. Jim Coleman pointed out that the existing ATM on site at Middlesex Bank has its lights dimmed at night, with the exception of the overhead canopy lighting. Don Jordan stated that if the Board requests that there be a dimming feature, he can revise the design to include that.

Greg Tuzzolo stated that he feels that the light should look like all the other lights on site and that consideration should be given to having the ATM light function in the same manner as all the other lights at the property.

Katie Keefe from CGP proposed that the ATM pole light could be tied in to the security lighting circuit along the main roadway so that it is on the same schedule of dusk to dawn lighting. There is a light pole on the main road approximately 30 feet from the ATM, and it follows the security lighting schedule of dusk to dawn. Bill Cranshaw suggested that the ATM light is located in the parking lot and should follow the parking lot lighting rules. Katie Keefe state that the light could be tied into the parking lot circuit if that is preferred.

Wayne Amico asked for clarification of overhead lighting for a customer who uses the ATM at night. Don Jordan stated that there is overhead canopy lighting that stays on all the time and would shine light directly on the customer making a transaction at the ATM.

Natalie Robert pointed out that having security lighting just 30 feet from the ATM would mean that dimming the 18-foot light at the ATM would make no difference in the overall light in the surrounding area. Jim Coleman stated that his preference would be to have the ATM light be consistent with the parking lot lighting. Bill Cranshaw stated that he feels the proposed ATM light should be consistent with the other ATM that already exists (which would be consistent with the parking lot lighting).

Greg Tuzzolo reiterated that he would want the light to be aesthetically consistent with the other existing light poles on site.

Danny Ruiz clarified that the parking lot lighting is shut off at 11:30, not dimmed. So the ATM light would shut off overnight. Don Jordan stated that that would be an area of concern for Chase Bank since its ATMs are open 24x7. Katie Keefe stated that CGP can review the lighting plan to see which nearby lights are connected to the security lighting circuit and would be dimmed instead of turned off at dusk. Danny Ruiz reiterated that the ATM light pole can be connected to the security lighting circuit so that it does stay on until dawn. Bill Cranshaw stated that he would want to see the photometric of the existing light that's located along the main road near the ATM to see if the light distribution would be sufficient.

Danny Ruiz pointed out that the site plan decision specified that once the site is completed, CGP would meet with the police department to review the security lighting to make sure that it is adequate or if changes are required.

Greg Tuzzolo suggested that the 18-foot ATM light pole be designated as part of the parking lot lighting system, with the canopy light staying on 24x7, and that the lighting can be evaluated once the site is completed. Don Jordan stated that, given that there is a large street light adjacent to the ATM that would remain lit throughout the night, Greg Tuzzolo's suggestion would be acceptable.

Greg Tuzzolo expressed some concern regarding the parking space directly adjacent to the entrance of the drive-thru and whether it presents a hazard if the drive-thru is just striped with no curb, bollard, or other structure installed. Wayne Amico noted that there is a bollard included in the proposal; however it was not called out on the plan. Joey Fonseca agreed to edit the plan to call out the bollard. Natalie Robert also pointed out that the entrance of the drive-thru was widened to 30 feet from 20 feet in the previous proposal.

*Jim Coleman made a motion to approve the special permit with the following conditions:*

- *The overhead canopy light at the ATM may remain on at all times.*
- *The ATM light pole will be aesthetically consistent with the existing site light poles.*
- *The ATM light pole will be connected to the parking lot lighting circuit and operate on the same lighting schedule as the parking lot lights.*
- *The lighting will be re-evaluated post completion of site construction, consistent with the site plan decision.*
- *The bollard will be called out on the plans.*

*The motion was seconded by Greg Tuzzolo.*

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

Bill Nemser clarified that the Board found that the criteria for a special permit has been met. The Board agreed.

*Bill Cranshaw made a motion to close the Public Hearing, which was seconded by Greg Tuzzolo.*

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

### **Public Hearing – Maynard Crossings (continued from 06.22.21) – Request to Amend Operations Manual**

Danny Ruiz reviewed the updated proposed Operations Manual dated 06.28.21. Greg Tuzzolo noted that the changes seem to reflect what was discussed during the previous discussion. He asked for any comments.

Trish Saunders of Dettling Road pointed out that the delivery hours for General Retail Tenants in the updated proposal do not incorporate the recommended changes that Jim Coleman had recommended. Jim Coleman reiterated his recommended General Retail Tenant delivery hours as follows: Monday through Friday from 7 a.m. to 5 p.m., Saturday from 7 a.m. to 1 p.m., and no deliveries Sundays or federal holidays. Jim Coleman provided a written copy of his recommended delivery hours for all categories within the Operations Manual to the applicant and Board Members. The Board reviewed the proposed changes to each section of the Operations Manual.

Bill Cranshaw noted that, with regard to how compactors are handled for pickup, the exhibit shows an interior drop zone, the Operations Manual does not include language to reference that information.

Katie Keefe stated that CGP can create language for the Operations Manual that refers to the location on the plan and present the proposed language to the Board for review. Jim Coleman offered to work with CGP and Market Basket to craft the appropriate language. Carmine Tomas, on behalf of Market Basket, agreed to work with the Planning Board and CGP on that as well.

The Board reviewed the details of the hours of operation of the compactors and the associated maximum decibel level of 50. Bill Cranshaw asked how, where, and when the sound measurements would be conducted and by whom and noted that that information should be included in the Operations Manual. There was a discussion about where the sound studies were originally conducted and where the future sound measurements should be conducted. Wayne Amico stated that the decibel level of 50 should not be specified and that the maximum level should be consistent with state standard, which is 10 decibels above the average ambient level. VHB's recommendation is that the sound is measured on a quarterly basis for three years to see if the site as a whole is compliant, including noise from the compactors, deliveries, loading and unload, etc.

Bill Cranshaw asked what the current measurement of the ambient level plus 10 decibels is on site at the property line. Wayne Amico stated that it varies. Quan Tat of VHB stated that there were ambient measurements below 40 that were taken at the property line in the sound studies that were previously conducted, meaning that the maximum level of 50 that was proposed would exceed 10 decibels over ambient. Trish Saunders noted that, although the current discussion is related specifically to the compactors, there have been concerns about noise levels related to deliveries as well.

Carmine Tomas agreed that there needs to be a threshold of noise for the compactor operation. He noted that the language that Danny Ruiz and Katie Keefe had suggested was based on the analysis that was done by Market Basket's sound consultant. He asked that the Board have the Town Planner or Wayne Amico work with the respective sound experts to determine the appropriate standard that should be set.

Jim Coleman stated the he purchased an off-the-shelf decibel reader and has visited the site on numerous occasions at various times of the day and night to measure the noise levels. He noted that the noise from the compactors appears to be consistently 10 decibels above the ambient noise and that the greater increase in noise level happens during the times of deliveries.

John Bresnahan of Dettling Road stated that he feels the monitoring of the compactor noise should continue beyond three years as the mechanical systems age. Bill Cranshaw suggested that measuring the sound of the compactors four times a year might be excessive and that perhaps it could be up to two times a year. Natalie Robert stated that she would like to ensure the abutters have an avenue for handling noise issues from the compactors that might come up years in the future.

Carmine Tomas suggested requiring two sound studies to verify compliance within the first year of the decision. If the noise levels are found to be compliant, he suggested there would be no further obligations to conduct sound studies unless the equipment is changed in the future, in which case the requirement for two sound studies within a year would be reinstated for the new equipment.

Greg Tuzzolo asked Wayne Amico if he feels like the studies that were already conducted provide a good baseline for future assessments. Wayne Amico and Quan Tat agreed that those results would provide a good baseline.

Jon Witten pointed out that the intent of the monitoring is to detect a problem before it becomes a problem. He noted that the Board has the authority to require long-term monitoring and that the burden should not shift to the Board or the abutters to have to raise complaints if there is a violation of the permit limits. Natalie Robert asked what the process would be for any complaints that might arise in the future. Jon Witten said there is always the path of going through the Building Commissioner but also through the special permit process, which gives the Planning Board authority over the special permit and any violations of it. John Bresnahan stated that he would like to see ongoing monitoring. Bill Cranshaw wondered who would be responsible for the cost of conducting a sound study if an issue arises several years from now. Greg Tuzzolo agreed that that needs to be determined.

The Board discussed what the parameters of future sound measurements should be. Carmine Tomas suggested that the studies that have already been conducted should be the basis of future measurements in terms of location of the sound readers. Bill Cranshaw pointed out that the discussion has been related to one particular compactor – the cardboard compactor, whereas there should be consideration given to the fact that there is another compactor being used by Market Basket. Wayne Amico stated that the sound studies were conducted on the compactor that was creating more noise, which is the cardboard compactor. Carmine Tomas noted that the intent would be to have both compactors governed by the MassDEP noise regulation but that the sound tests would only be required for the more problematic compactor. Greg Tuzzolo suggested that there could be annual testing done for five years and then a reassessment of future testing requirements done at that time.

Jon Witten suggested that he, Wayne Amico, and Bill Nemser can craft the appropriate language for the sound study requirements outside of the current meeting and come back to the Board with the proposed language at a later time.

The Board reviewed Jim Coleman’s delivery hour proposals. For General Retail, Katie Keefe expressed concerns about restricting the hours for both current tenants and prospective tenants. Bill Cranshaw noted that there should be clarification to the size of the delivery vehicle since some deliveries might occur via car versus a large truck, which would make more noise. He also questioned whether the end time for deliveries refers to the time the delivery vehicle can enter the site, or when the delivery will be complete and the truck leaves the site. Greg Tuzzolo reiterated a point from a previous meeting, that there also needs to be clarity as to the start time for deliveries and whether that means when the delivery vehicle can enter the site or when the unloading can begin at the retailer.

Trish Saunders stated that, at a previous meeting, the Board requested that any reference to delivery vehicle size be eliminated, which she supports since it would be difficult to monitor and enforce deliveries based on various vehicle sizes. She noted that if a delivery vehicle is there, regardless of the size, it is causing a disruption with the noise. Trish Saunders responded to a question that was posed by Katie Keefe, who asked what difference two hours would make if the delivery end time was moved to 5 p.m. from 7 p.m. Trish Saunders stated that it would make a big difference to the abutters to be able to have dinner with the windows open without all the noise from the deliveries. She referred once again to the language of the NBOD, where it states that any project within the NBOD should “prevent detrimental effects and impacts upon neighboring land uses and upon the town of Maynard”. She pointed out that there is detrimental effect and that she is asking for it to be reasonably contained by allowing peace for abutters on Saturday afternoons, Sundays, and during the weekday dinner hours.

Katie Keefe stated that she can add language to the Operations Manual to specify that delivery hours are the times during which a delivery vehicle can be on site.

The applicant was in agreement with Jim Coleman's proposed delivery hours for Restaurant and Grocery Store Tenants. Trish Saunders requested that the Board consider restricting any deliveries from occurring on Sundays in order to provide the abutters with one weekend day without the noise disruption. Carmine Tomas stated that, after the last meeting, he reviewed the regular deliveries with Market Basket to see if it would be feasible to eliminate Sunday from the delivery hours. He stated that Market Basket feels that they would be able to do that in the interest of working with the Board and the abutters.

Greg Tuzzolo asked Jon Witten about whether the hearing should remain open or not given that there will be new information forthcoming, including new language written into the Operations Manual in various sections. Jon Witten recommended not closing the hearing since the pending information is substantial to the discussion. Bill Cranshaw asked whether there would be further conversation related to noise from deliveries. Greg Tuzzolo stated that his position is that the businesses on site will require deliveries to run their operations and that the mechanism for controlling the noise is the Operations Manual, which restricts deliveries to the approved delivery hours. Jim Coleman pointed out that some deliveries are made when a tractor drops a trailer on site and the product is then unloaded from the trailer into the store. He noted that there is a great deal of noise that occurs from the unloading process, even more so than the noise from the compactor. Therefore the delivery vehicle would be gone by the appropriate time, but the unloading of the delivery would occur long after the vehicle is gone.

Carmine Tomas agreed that there are some deliveries that occur when a tractor leaves a trailer on site to be unloaded over time, but that the supermarket needs to run its business and that Market Basket is trying to work with all the parties involved by limiting the delivery hours.

Trish Saunders reiterated that some of the noise levels were recorded as well above what is permitted by state regulations. She recognizes that zero deliveries would not be an option. She noted that after the site plan approval there was the addition of a roof and metal louvers on top of and along the sides of the delivery bays. She feels that the addition of those louvers might have amplified the sound created by the deliveries. She suggested that adding some sort of sound dampening feature inside the truck bay might help, and she asked the Board to give consideration to that.

*Jim Coleman made a motion to continue the Public Hearing to July 27, 2021, which was seconded by Greg Tuzzolo.*

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

## **Minutes of 06.08.21 and 06.22.21**

*Greg Tuzzolo made a motion to approve the Minutes dated 06.08.21 and 06.22.21, which was seconded by Jim Coleman.*

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

## **Town Planner Update**

Bill Nemser stated that in addition to discussing the Chair and Vice Chair positions in a future meeting, there will also need to be a discussion about a CPC Rep from the Board. Natalie Robert is currently in the role and she agreed to continue in the role. A new Alternate Board Member will be appointed on July 20, 2021 by the Select Board.

Jim Coleman nominated Greg Tuzzolo as Chairman of the Planning Board for the upcoming term and himself (Jim Coleman) as Vice Chair, with each nomination being voted on separately. Greg Tuzzolo declined the nomination and stated that he plans to step down from the Board at the conclusion of the 115 Main Street hearing on August 10, 2021. The Board agreed to postpone the discussion until the next meeting.

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

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

**Adjourned** at 10:07 p.m.