



City of New Bedford Department of City Planning

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MAYOR
JON MITCHELL
PLANNING DIRECTOR
TABITHA HARKIN

PLANNING BOARD

November 18, 2019

Councilor Hugh Dunn, Chairman
Committee on Ordinances
133 William Street
New Bedford, MA 02740

RE: MARIJUANA ESTABLISHMENT ZONING
CASE #19-33 Ordinance Amendment Marijuana Establishment Zoning

Dear Chairman Dunn:

This is to advise you of Planning Board action on Monday, November 4, 2019 regarding the proposed request to amend the marijuana establishment zoning ordinance. **The Planning Board sends an unfavorable recommendation for this proposal.**

Councilor Joseph P. Lopes, who submitted the request was not in attendance to present the case to the board. In his absence, Chairwoman Kathryn Duff requested that Director of City Planning Tabitha Harkin explain to the board and members of the public in attendance how the request would change the City's current marijuana establishment regulations. Ms. Harkin explained that the amendment would remove the phrase "marijuana establishments" from section 4131 B II of the city's code of ordinances, in order to allow the "clustering" of marijuana establishments.

Ms. Harkin and Ms. Duff discussed the current ordinance, which limits marijuana establishments to industrial zones and prohibits them within 500 feet of a residential area, thereby restricting them to small pockets of the city. As it currently reads the code would prohibit marijuana establishments to exist within 500 feet of each other. Mr. Alex Kalife asked if the amendment was proposed with a specific marijuana purveyor in mind, while Ms. Kamile Khazan wondered if it was intended to allow the establishment of marijuana production facilities and retail stores in mill buildings. Ms. Harkin responded that it was not clear if the proposal was meant to aid a specific purveyor or intended to allow a specific location to be used.

Mr. Arthur Glassman and Mr. Peter Cruz discussed the prudence of changing the current marijuana ordinance without knowing how current regulations would affect the community at large. After discussion among the board members, it was decided that if the board were to send a favorable recommendation regarding the amendment they might assist in setting a precedent that would allow the city to change rules without having seen the effect of the original regulations. The Board noted that three marijuana establishments are in pre-permitting and the city has yet to establish a facility using the existing ordinance.

At Chairwoman Kathryn Duff's invitation to speak in favor or in opposition to the motion, none spoke in favor and two spoke in opposition.

Mr. Norman Vieira of 19 Worcester St., a lifelong resident of New Bedford, explained that he was an opponent of marijuana. As a direct abutter to the proposed MetroHarvest marijuana retail store on Tarkiln Hill Road, he explained that motorists currently use his street as a throughway because of the heavy congestion in the area. Mr. Vieira argued that the marijuana ordinance should be looked at extremely carefully and possibly made even more stringent because a 500-foot buffer was not large enough. He went on to say that the board should take into consideration Fall River's experience with traffic congestion caused by marijuana establishments, which required police details. Mr. Vieira concluded with a warning that once these establishments are allowed to open, residents of the surrounding community will have to live with them.

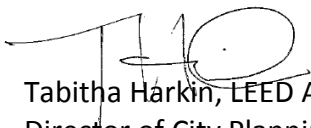
Ms. Michelle Pacheco of 136 Jarry St. echoed similar concerns. Ms. Pacheco argued that the ordinance was not stringent enough and that the buffer should be enlarged. She took issue with the fact that in the case of MetroHarvest, the buffer was measured between lot boundaries rather than the front door of nearby residences and the marijuana establishment. Ms. Pacheco was also frustrated with the process because it allowed City Council members to amend the ordinance and make changes before the City was able to see the effect of even a single marijuana establishment in operation. With regards to the specific amendment before the board that evening, Ms. Pacheco argued that a favorable recommendation could open the door to the creation of "marijuana districts" and it would be more prudent to maintain the city's conservative approach to date.

As it does with all rezoning requests, the Planning Board's review included consideration of the following specific criteria to ensure its action is consistent with existing case law: **uniformity, consistency, surroundings, fiscal impact and discriminating benefit.**

After closing the public hearing, a motion was made in the affirmative to recommend the removal of the phrase "marijuana establishments" from the list of places included in the 500 foot buffer, limiting the placement of marijuana establishments. **The motion failed on a vote of 0-5**, with no board members recorded in favor; board members A. Kalife, K. Khazan, P. Cruz, A. Glassman and K. Duff recorded in opposition.

As such the **Planning Board sends an unfavorable recommendation for this proposal.** Please find enclosed a copy of the Planning Division Staff Report regarding this matter for the Council's convenience and reference.

Sincerely,



Tabitha Harkin, LEED AP ND
Director of City Planning

encl. Staff Report

cc. Christina Connelly, COO
Danny Romanowicz, Building Commissioner

Mikaela McDermott, City Solicitor
Dennis Farias, City Clerk