

THE COMMONWEALTH OF MASSACHUSETTS
 OFFICE OF THE ATTORNEY GENERAL
 CENTRAL MASSACHUSETTS DIVISION
 10 MECHANIC STREET, SUITE 301
 WORCESTER, MA 01608

MAURA HEALEY
 ATTORNEY GENERAL

(508) 792-7600
 (508) 795-1991 fax
 www.mass.gov/ago

February 25, 2020

Carolyn Hurley, Town Clerk
 Town of Fairhaven
 40 Center Street
 Fairhaven, MA 02719

RECEIVED
 TOWN CLERK
 2020 FEB 25 P 1:42
 FAIRHAVEN,
 MASS.

Re: Fairhaven Special Town Meeting of November 12, 2019 – Case # 9725
 Warrant Article # 19 (Zoning)
 Warrant Articles # 11, 12, 13, 14, 15, and 18 (General) & 19

Dear Ms. Hurley:

Articles 12, 13, 14, 15, 18, and 19 - We approve Articles 12, 13, 14, 15, 18 and 19, and the map amendments adopted under Article 19, from the November 12, 2019, Fairhaven Special Town Meeting. We will return the approved map to you by regular mail.

Article 11 - We take no action on Article 11 because it is not subject to the Attorney General's review and approval. Article 11 is a vote to dedicate certain Town-owned land for park use. Article 11 is not a vote to amend the Town's by-laws. Therefore, we take no action on Article 11.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the town has first satisfied the posting/publishing requirements of that statute. Once this statutory duty is fulfilled, (1) general by-laws and amendments take effect on the date that these posting and publishing requirements are satisfied unless a later effective date is prescribed in the by-law, and (2) zoning by-laws and amendments are deemed to have taken effect from the date they were voted by Town Meeting, unless a later effective date is prescribed in the by-law.

Very truly yours,
 MAURA HEALEY
 ATTORNEY GENERAL

Kelli E. Gunagan

by: Kelli E. Gunagan, Assistant Attorney General
 Municipal Law Unit, Office of the Attorney General
 Ten Mechanic Street, Suite 301
 Worcester, MA 01608
 508-792-7600

cc: Town Counsel Thomas Crotty



Carolyn Hurley
Town Clerk

Town of Fairhaven Town Clerk's Office

Town Hall · 40 Center Street · Fairhaven, MA 02719
Telephone: 508-979-4023 x 3 · Fax: 508-979-4079 · Email: churley@fairhaven-ma.gov

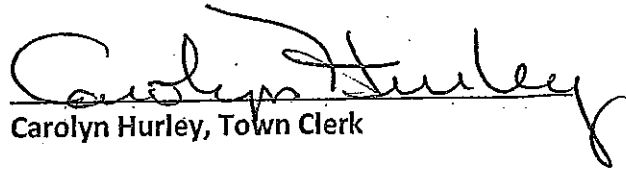
SPECIAL TOWN MEETING - TUESDAY, NOVEMBER 12, 2019
WALTER SILVEIRA AUDITORIUM – ELIZABETH HASTINGS MIDDLE SCHOOL
TOWN MEETING MEMBERS PRESENT 122 – QUORUM REQUIRED 100

ARTICLE 12. MUNICIPAL LIEN FOR STORM WATER COSTS

By majority vote, the Town voted to provide that costs incurred by the Town to remedy violations of the stormwater management bylaw are collectible as liens against the subject property, by adding to Section 194-19(B) (3) the following:

“such special assessment shall constitute a lien for the purpose of G.L. c. 40 § 58.”

A TRUE COPY, ATTEST:


Carolyn Hurley, Town Clerk



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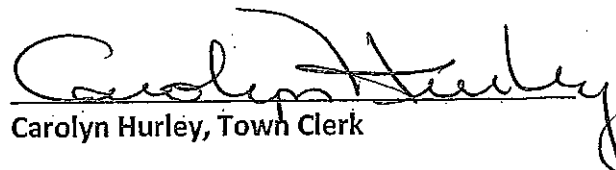
ARTICLE 13. SPECIAL SURETY ACCOUNTS

By majority vote, the Town voted to amend the town bylaws by adding the following section:

“Sec _____: Special Surety Accounts

The Town, acting through any officer or board authorized by law, may provide by rule, regulation or contract for the deposit of cash, bonds, negotiable securities, sureties or other financial guarantees to secure the performance of any obligation by an applicant as a condition of a license, permit or other approval or authorization, and the monies or other security received may be deposited in a special account. Such rule, regulation or contract shall specify: (1) the type of financial guarantees required; (2) the treatment of investment earnings, if any; (3) the performance required and standards for determining satisfactory completion or default; (4) the procedures the applicant must follow to obtain a return of the monies or other security; (5) the use of monies in the account upon default; and (6) any other conditions or rules as the city or town determines are reasonable to ensure compliance with the obligations. Any such account shall be established by the Town treasurer in the Town treasury and shall be kept separate and apart from other monies. Monies in the special account may be expended by the authorized board, commission, department or officer, without further appropriation, to complete the work or perform the obligations, as provided in the rule, regulation or contract. This section shall not apply to deposits or other financial surety received under section 81U of chapter 41 of the general laws, or other general or special law.”

A TRUE COPY, ATTEST:


Carolyn Hurley, Town Clerk



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ARTICLE 14. OFFICE HOURS ON WEEKDAYS AND SATURDAY

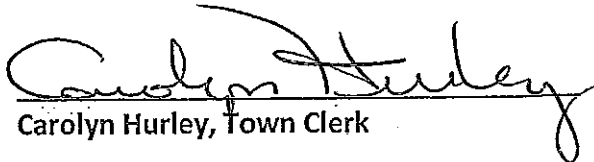
By majority vote, the Town voted to amend the town bylaws and to accept M.G.L. c. 41 § 110A, by striking therefrom § 56-11, and inserting in its place the following:

"§ 56-11: Office Hours

The public offices of the Town shall remain open on all weekdays, except legal holidays, and as otherwise directed by the Town Administrator.

The public offices of the Town shall remain closed on all Saturdays, and the provisions of section nine of chapter four shall apply in the case of such closing of any such office on any Saturday to the same extent as if such Saturday were a legal holiday."

A TRUE COPY, ATTEST:


Carolyn Hurley, Town Clerk



Town of Fairhaven

Town Clerk's Office

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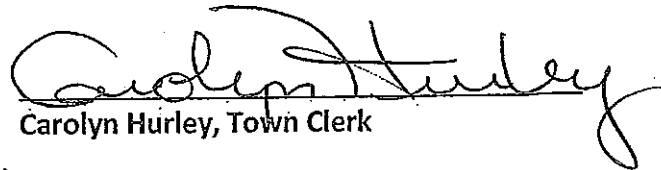
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ARTICLE 15. CHANGING DOG LICENSE PERIOD

By majority vote, the Town voted to change the period of licensure for dog licenses from April 1 through March 31 to January 1, 2019 by amending Chapter 87-8 of the Town Code by deleting “(the time between April 1 and the following March of any year, both dates inclusive)” and replacing it with “(the time between January 1 and the following December 31 of any year, both dates inclusive)”

A TRUE COPY, ATTEST:


Carolyn Hurley, Town Clerk



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Town Clerk

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ARTICLE 18. GENERAL BY-LAW: DEMOLITION DELAY

By majority vote, the Town voted to approve any building proposed for demolition or significant alteration, in whole or in part, built before 1921 or those built after this date which have otherwise been determined by the Historic Commission to be potentially historically or architecturally significant based on established criteria, shall be referred to the Historic Commission for a public hearing to determine if they are "preferably preserved". Any building which the Historic Commission determines to be preferably preserved shall not be demolished within twelve (12) months of such determination in order for the Historic Commission and the Town to seek alternatives to demolition in order to protect the historic character of the community.

Intent and Purpose of the Demolition Delay By-Law

This By-Law is enacted for the purpose of preserving and protecting historic and architecturally significant buildings within the Town of Fairhaven that constitute or reflect distinctive features of the architectural, cultural, economic, political or social history of the town and to limit the detrimental effect of demolition on the character of the town.

This By-Law provides:

- a) An opportunity to develop preservation solutions for significant buildings threatened with demolition;
- b) An opportunity to inform residents of the town of impending demolitions of significant buildings;
- c) A reasonable time for public notice and discussion by interested parties to preserve such buildings;
- d) An opportunity to create an historical record, including photographs, of significant buildings prior to demolition.

Owners of significant buildings will be encouraged to:

- a) Seek out alternative options that will preserve, rehabilitate or restore such buildings; or
- b) Seek out persons who might be willing to purchase such buildings in order to preserve, rehabilitate, or restore such buildings rather than demolish them.

To achieve these purposes, the Fairhaven Historical Commission is authorized to advise the Town of Fairhaven Building Inspector with respect to demolition permit applications. The issuance of demolition permits is regulated as provided by this By-Law. The Historical Commission shall review all buildings that are proposed for demolition or significant alteration that are potentially historically or architecturally significant. If, after a public hearing, the Historical Commission determines that the building(s) is/are "preferably preserved" then a twelve (12) month Demolition Delay shall begin in order to seek alternative options. The Historical Commission, in conjunction with the Planning Board, may develop incentives in order to encourage preservation of Fairhaven's historic structures and small town charm.

Procedure for Obtaining a Demolition Permit

No demolition permits for a building which, in whole or in part, was built before 1921 or has otherwise been determined by the Historical Commission to be potentially historically or architecturally significant, shall be issued without following the provisions of this By-Law. An applicant proposing to demolish a building subject to this By-Law shall file with the Building Commissioner an application containing the following information:

- a) The address of the building to be demolished.
- b) The owner's name, address and telephone number.
- c) A description of the building with photograph(s).
- d) The reason for requesting a demolition permit.
- e) A brief description of the proposed reuse, reconstruction or replacement.

The Building Commissioner shall within ten (10) business days forward a copy of the application to the Historical Commission and the Planning Director. The Historical Commission shall, within fifteen (15) business days after receipt of the application, make a written determination of whether the building is potentially historically or architecturally significant or not.

Upon a determination by the Historical Commission that the building is not potentially historically or architecturally significant, the Historical Commission shall so notify the Building Department and the Applicant of the decision in writing within fifteen (15) business days after receipt of the application. The Building Commissioner may then issue the Demolition Permit.

Upon determination by the Historical Commission that the building is potentially historically or architecturally significant, the Commission shall so notify the Building Commissioner and the applicant in writing within fifteen (15) business days after receipt of the application. No demolition permit may be issued at this time. If the Historical Commission does not notify the Building Department in writing on the close of business on the 15th business day after receipt of the application, the Building Inspector may proceed to issue the Demolition Permit.

If the Historical Commission finds that the building is potentially historically or architecturally significant, it shall hold a public hearing within twenty (20) business days of the written notification to the Building Department in order to determine if the structure is "preferably preserved". Public Notice of the time, place and purpose of the hearing shall be posted in a conspicuous place in town hall for a period of not less than seven (7) days prior to the date of said hearing and the Building Commissioner and the applicant shall be notified in writing of the meeting time and place.

The Commission shall decide at the public hearing or within ten (10) business days after the public hearing whether the building should be "preferably preserved". If agreed to in writing by the applicant, the determination of the Commission may be postponed.

If the Commission determines that the building is not preferably preserved, the Commission shall so notify the Building Commissioner and applicant of the decision in writing within ten (10) business days after the public hearing. The Building Commissioner may then issue the demolition permit.

If the Commission determines that the building is preferably preserved, the Commission shall notify the Building Commissioner and applicant in writing within ten (10) business days after the public hearing. No demolition permit may then be issued for a period of up to twelve (12) months from the date of that determination unless a shorter period is agreed to by a majority vote of the Commission.

If the Historical Commission does not so notify the Building Commission in writing on the close of business on the 10th business day following the public hearing, the Building Commissioner may issue the Demolition Permit.

No permit for demolition of a building determined to be a preferably preserved building shall be granted until all plans for future use and development of the site have been filed with the Building Commissioner and have been found to comply with all laws pertaining to the issuance of a building permit or if applicable, a Certificate of Occupancy for that site. All approvals necessary for the issuance of such building permit or Certificate of Occupancy including without limitation any necessary zoning variances or special permits, must be granted and all appeals from the granting of such approvals must be concluded, prior to the issuance of a demolition permit under this section.

The Building Commissioner may issue a demolition permit or a building permit for a preferably preserved building within the twelve (12) month review period if the Historical Commission notifies the Building Commissioner in writing that the Historical Commission finds during the twelve (12) months and after a further public hearing, that the intent and purpose of this By-Law is served even with the issuance of the demolition permit or the building permit. Following the twelve (12) month review period, the Building Commissioner may issue the demolition permit.

Definitions

DEMOLITION OR SIGNIFICANT ALTERATION, IN WHOLE OR IN PART -- Any act of pulling down, destroying, removing, dismantling or razing a building or any substantial portion thereof or commencing the work of total or substantial destruction with the intent of completing the same, or removal of the building from its site with the intent to relocate it to another site. A substantial portion or substantial destruction of a building is defined as either half the volume of the building or half its value, as determined by the Building Commissioner. A building shall be considered to be demolished if more than twenty-five percent (25%) of the front, back or side elevations are removed or covered so as to substantially obliterate the original design. Each elevation shall be calculated separately.

PREFERABLY PRESERVED -- Any historically or architecturally significant building that the Commission determines, following a public hearing, is in the public interest to be preserved or rehabilitated rather than demolished. A preferably preserved building is subject to a demolition review period as stated in this By-Law of up to twelve (12) months.

POTENTIALLY SIGNIFICANT BUILDING -- Any building within the Town of Fairhaven, in whole or in part, that was built before 1921, or has otherwise been determined by the Historical Commission to be potentially historically significant based on any of the following criteria:

- a) The Building or area is listed on the National or State Register of Historic Places; or
- b) The Building or area is eligible to be listed on the National or State Register of Historic Places; or
- c) The Building is importantly associated with one or more historic persons or events, or with the broad architectural, cultural, political, economic or social history of the Town of Fairhaven or the Commonwealth of Massachusetts; or
- d) The Building is historically or architecturally important (in terms of period, style, method of building construction or association with a recognized architect or builder) either by itself or in the context of a group of buildings.

Emergency Demolition

If after an inspection, the Building Commissioner or the Board of Health finds that a building subject to this By-Law is found to pose an immediate threat to public health and safety or the health and safety of the occupants due to its deteriorated condition and that there is no reasonable alternative to the immediate demolition of the building, then the Building Commissioner may issue an emergency demolition permit to the owner of the building after making every reasonable effort to notify the Historical Commission and the Planning Department (preferably within forty-eight hours) of making this determination. The Building Commissioner or the Board of

Health shall first prepare a report explaining the condition of the building and the basis for the decision that shall be forwarded to the Historical Commission and the Planning Department.

The Building Commissioner shall require the property owner of the building to be demolished to provide photograph(s) and other documentation about the property as outlined in this By-Law. The Building Commissioner shall make every reasonable effort to provide the **Historical** Commission reasonable time to document such property or building prior to demolition provided such activity poses no threat to public health or safety or appropriate precautions are taken to protect public health and safety.

Enforcement and Remedies

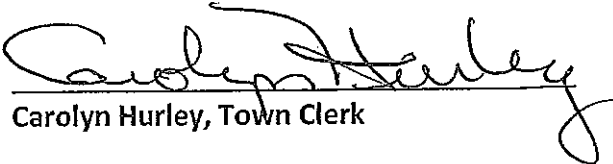
The Historical Commission and/or the Building Commissioner are each specifically authorized to institute any and all actions and proceedings, in law or equity, as they may deem necessary and appropriate to obtain compliance with the requirements of this By-Law or to prevent a threatened violation thereof.

A building is considered to be demolished if it is destroyed due to the owner's failure to maintain a weather tight and secure structure or if it is destroyed willfully or by neglect during the demolition review period. Any owner of a building subject to this By-Law who demolishes a building willfully or by neglect and without first obtaining a demolition permit in accordance with the provisions of this By-Law shall be subject to a fine of not more than Three Hundred Dollars (\$300). Each day the violation exists shall constitute a separate offense until the demolished building is recreated as directed by the Historical Commission, or unless otherwise agreed to by the Historical Commission.

If a building subject to this By-Law is demolished without first obtaining a demolition permit, no building permit shall be issued for a period of five years from the date of the demolition on the subject parcel of land or any adjoining parcels of land under common ownership and control unless otherwise agreed to by the Commission.

Nothing in this By-Law shall be deemed to exempt applicants from any requirements of the state Building Code or other local by-laws and other rules and regulations. In case any section, paragraph or part of this By-Law be for any reason declared invalid or unconstitutional by any court, every other section, paragraph, and part shall continue in full force and effect.

A TRUE COPY, ATTEST:


Carolyn Hurley, Town Clerk



Town of Fairhaven

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ARTICLE 19. AMENDMENT TO ZONING MAP: BENOIT SQUARE MIXED USE ZONING

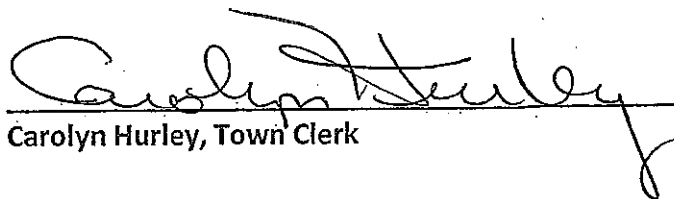
By 2/3rds vote, the Town voted, as amended, to amend the Zoning Map by adding Map 19 Lot 376: North Fairhaven Benoit Square/Main Street area.

By 2/3rds vote, the Town voted to accept amended Article 19 as follows:

Rezone the following described lots from Single Residence District (RA), General Residence District (RB), Business District (B) to the Mixed Use District (MU) and comprised of the following Assessor's Map-Lots:

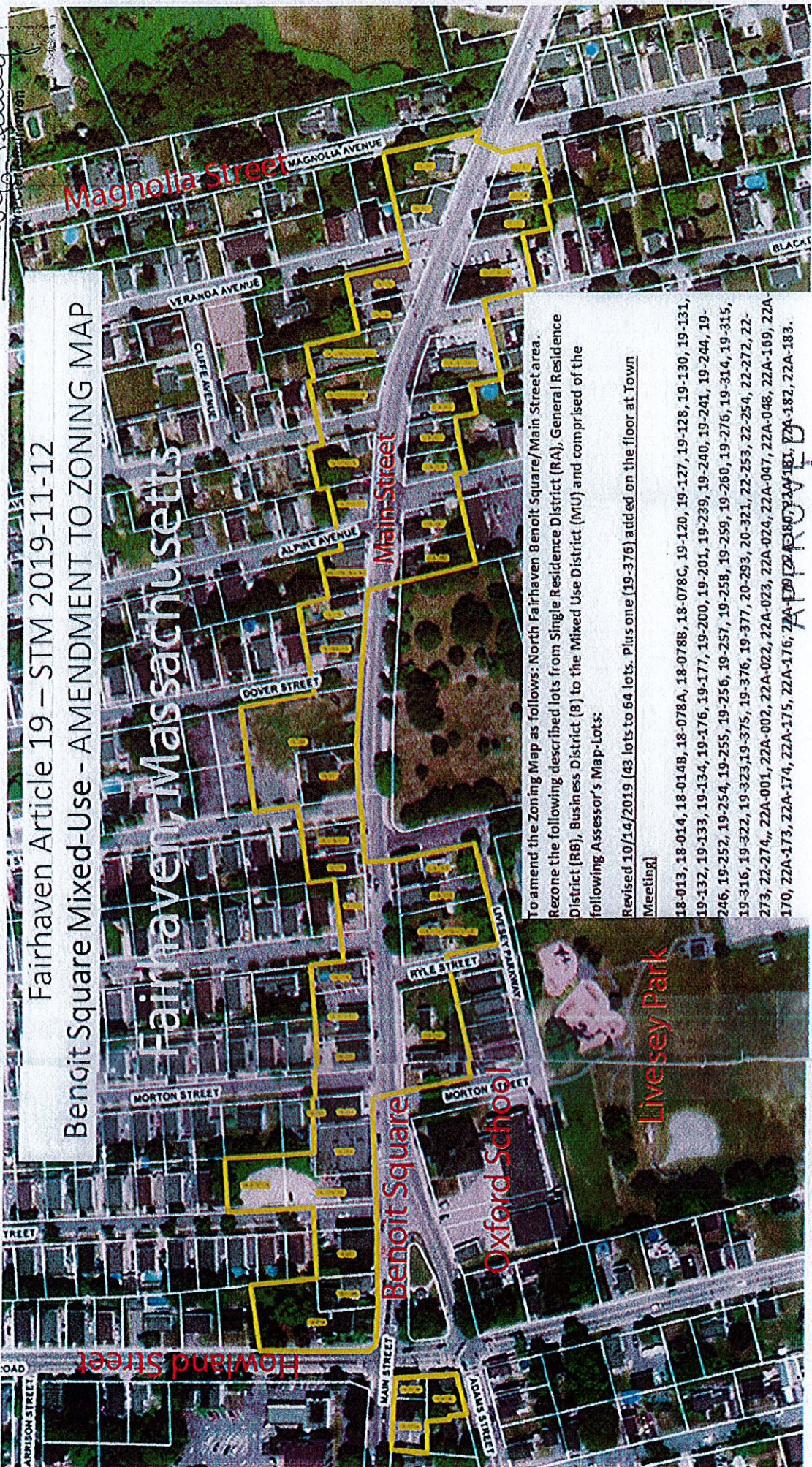
18-013, 18-014, 18-014B, 18-078A, 18-078B, 18-078C, 19-120, 19-127, 19-128, 19-130, 19-131, 19-132, 19-133, 19-134, 19-176, 19-177, 19-200, 19-201, 19-239, 19-240, 19-241, 19-244, 19-246, 19-252, 19-254, 19-255, 19-256, 19-257, 19-258, 19-259, 19-260, 19-276, 19-314, 19-315, 19-316, 19-322, 19-323, 19-375, 19-376, 19-377, 20-293, 20-321, 22-253, 22-254, 22-272, 22-273, 22-274, 22A-001, 22A-002, 22A-022, 22A-023, 22A-024, 22A-047, 22A-048, 22A-169, 22A-170, 22A-173, 22A-174, 22A-175, 22A-176, 22A-179, 22A-180, 22A-181, 22A-182, 22A-183.

A TRUE COPY, ATTEST:


Carolyn Hurley, Town Clerk

A TRUE COPY, ATTEST:

Carol H. Hurler



Fairhaven Article 19 – STM 2019-11-12
Benoit Square Mixed-Use - AMENDMENT TO ZONING MAP

Fairhaven, Massachusetts

To amend the Zoning Map as follows: North Fairhaven Benoit Square/Main Street area. Rezone the following described lots from Single Residence District (RA), General Residence District (RB), Business District (B) to the Mixed Use District (MU) and comprised of the following Assessor's Map-Lots:

- Revised 10/14/2019 (43 lots to 64 lots. Plus one (19-376) added on the floor at Town Meeting.)
- 18-013, 18-014, 18-014B, 18-078A, 18-078B, 18-078C, 19-120, 19-127, 19-128, 19-130, 19-131, 19-132, 19-133, 19-134, 19-176, 19-177, 19-200, 19-201, 19-239, 19-240, 19-241, 19-244, 19-246, 19-252, 19-254, 19-255, 19-256, 19-257, 19-258, 19-259, 19-260, 19-276, 19-314, 19-315, 19-316, 19-322, 19-323, 19-375, 19-376, 19-377, 20-293, 20-321, 22-253, 22-254, 22-272, 22-273, 22-274, 22A-001, 22A-002, 22A-022, 22A-023, 22A-024, 22A-047, 22A-048, 22A-169, 22A-170, 22A-173, 22A-174, 22A-175, 22A-176, 22A-177, 22A-181, 22A-182, 22A-183.

Attorney General's Office

By: *Kelli G. Dunne*

Date: 02/25/2020

Art. 19 Town Meeting Date 11/2/19