

Fairhaven Planning Board

Minutes

Tuesday, January 28, 2020 – 6:30pm
Town Hall, 40 Center Street,
Fairhaven MA 02719

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FAIRHAVEN,
MASS.

1. GENERAL BUSINESS:

a) Chair's Welcome and Media Notification – Chairperson, John Farrell opened the meeting at 6:30p.m. and notified the public that the meeting was being taped and send out live on Facebook.

b) Quorum/Attendance:

Present: Mr. Farrell, Ann Richard, Geoff Haworth, Wayne Hayward, John Malaspino, Rene Fleurent and Jeffrey Lucas.

Absent: Cathy Melanson

d) Planning Board Bills:

Pitney Bows Reserve Account – 2/4/20 - \$393.30 Jeffrey Lucas made a motion to pay the Pitney Bowes Reserve Account in the amount of \$393.30 and was seconded by Rene Fleurent. The motion passed unanimously.

Monaghan Printing – January 21, 2020 - \$79.00 – 500 envelopes – Jeffrey Lucas made a motion to pay the \$79.00 Monaghan Printing bill and was seconded by Rene Fleurent. The motion passed unanimously.

GCG Associates – 11/23/19 & 1/4/2020 - \$2830 – Map 31, Lot 117C- for the Lewis Landing proposal at Huttleston and Gелlette Peer Review – Jeffrey Lucas made a motion to pay GCG Associates \$2,830 and was seconded by Rene Fleurent. The motion passed unanimously.

Mr. Foley stated that Conservation is adding a peer review fees.

Staples - \$104.38 – Green Hanging File Folders – Jeffrey Lucas made a motion to pay Staples \$104.38 and was seconded by Rene Fleurent. The motion passed unanimously.

Fairhaven Neighborhood News - \$100.00 both from January 19, 2020 – Jeffrey Lucas made a motion to pay Fairhaven Neighborhood News and was seconded by Rene Fleurent. The motion passed unanimously.

e) Correspondence:

Mr. Foley stated he received a letter from the lawyer for Crow Island to ask about getting on the warrant for Town Meeting.

Mr. Hayward stated a public hearing must be held within six months of Town Meeting for a rezone. Mr. Foley stated he could not remember if they held a Public Hearing but that Planning did discuss it. Mr. Foley will review what was done and whether it was within 6 months.

2. PUBLIC HEARINGS:

- i. **SP 2010-13 – Lewis Landing/Huttleston Multi-Unit Condominiums:** To create twelve (12) 2-bedroom condominiums in four buildings on 2.5 acre on Huttleston Ave (Map 31, Lot 117C)

Mr. Foley reviewed his staff report dated January 27, 2020 with a presentation.

The Applicant is Dana Lewis being represented by Richard Rheaume of Prime Engineering, Inc. The project is to construct twelve (12) residential units with twenty-four bedrooms in four multi-unit residential buildings with three two-bedroom units each. Also proposed on the vacant 2.5-acre piece of land are two one-story storage buildings (84' x 20' and 60' x 20'), one maintenance shed (24' x 24'), twenty-eight parking spaces and associated infrastructure, stormwater and landscaping.

The property was rezoned to Apartment/Multifamily (RC) from RA and B in 2018. They need permits from the Conservation Commission for a Notice of Intent for work within the 100-foot buffer to wetlands; Building; and a Land Disturbance Permit (Chapter 194) from the Fairhaven Board of Public Works. The proposed work area is over 1 acre and requires filing an US EPA - NPDES permit and associated SWPPP

The site is believed to have been a wetland that was mostly filled and became a roadwork staging area. The site is overgrown with brush with a paved curb cut and a small paved area. A stonewall separates the smaller lot 115A which is a few feet lower than 117C which was filled.

As part of the rezone the "Covenantors" agreed to a condition "that they will limit their Project to a total of not more than twelve (12) condominium units having no more than twenty-four (24) bedrooms total and structures not to exceed two (2) stories." The units are intended to be rented at this time.

Some Potential Key Planning Issues include Traffic; Stormwater and Drainage; Wetlands and Flooding; and protection of Natural Features. The sightline distance to the left when exiting the property from the proposed westerly entry opposite New Boston Road is not optimal. Although listed as 400 feet it appears to be less than 300 feet and cars generally drive faster than the posted 35 MPH. The proposal includes two driveways onto a busy section of Route 6 that carries 11,000 cars a day.

The Site is apparently located on fill over a onetime wetland with poor soil and a high water table. Therefore, infiltration is difficult. The Peer Review indicates the applicant is looking for twelve (12) waivers from stormwater regulations. Without waivers the Peer Review indicates they would need an additional 6,000 sf of infiltration area to control the stormwater runoff. The smaller lot opposite New Boston Road that was zoned Residential is several feet lower than other. The site appears to have once been mostly wetlands that were largely filled.

The southern border and southwest corner are still wetlands. Stormwater is piped under the road to a low spot to an old manhole and then piped in another line to an open swale that runs several blocks along Brook Drive. BPW has noted that the SW corner of the property has a ponding issue.

The proposal calls for fill on the smaller parcel (115A) which appears to handle some of the existing stormwater flow. This parcel is proposed to be filled for the second entry and a maintenance building.

The plans show designing around an existing Linden Tree but do not show the old stone wall that separates 115A from 117C.

Richard Rheume, PE of Prime Engineering was present on behalf of the applicant, Dana Lewis. Mr. Rheume explained when he did soil tests it showed that the fill was about 5' deep.

Mr. Foley reviewed some traffic statistics that have been compiled by SRPEDD in that area. Resident, Martha Mayer stated there were significant accidents on that curve.

Mr. Rheume explained the infiltration unit, saying it was comparable to a leaching field that leaches into the ground, the infiltration unit is in the ground. He said the peer consultant stated collection should be 65% and infiltrate into the ground into a 6' deep pond in back of south west corner. Mr. Rheume explained the draining system of catch basin.

Mr. Farrell asked if there was drainage in the parking lots. Mr. Rheume stated there was not. He said there were some catch basins and gutters would be on the building, with downspouts.

Mr. Rheume stated he has been in front of Conservation and several reviews by GCG peer reviews of the property have been done.

Mr. Lucas asked about the elevation how many feet from sidewalk to the deep marsh. He wondered if there would be a fence. Mr. Rheume said there would be a hedge. Mr. Rheume stated the indigenous vegetation is a request by Conservation and if Planning Board agrees they would be okay with changing that.

Ms. Richard referenced the covenant on the property that read it was limited to not more than 12 units, 24 bedrooms total and the structure not to exceed 2 stories. She stated there was no proposed storage buildings listed on the covenant. Mr. Rheume stated that the covenant does not restrict accessory units. He also said there is no easement for the State stormwater pipes. He said those are not his applicant's problem.

Mr. Hayward stated that when covenant went to attorneys it stated the number of buildings but came back before Town Meeting and the number of buildings were not listed and that's what was voted on.

Mr. Hayward explained what was first discussed with the owner at that time. "Up to 12 units" was discussed. I feel 12 units is doable on this land if done right. Mr. Hayward stated he does not agree with the proposed 'garage' units.

Discussion on the velocity of the water and where it will land once it goes through the property. Images in the slide show illustrated the various issues including with the manhole and the ponding. Mr. Farrell asked what the distance is to the buffer zone of the wetlands. Mr. Rheume said less than 25'.

Ms. Richard asked if the client is willing to do the project without the storage units. Mr. Rheume stated he would bring it to his client or at least propose to reduce the size of storage unit and eliminate the shed. He said he was here to get your input.

Mr. Hayward said there were too many issues with stormwater on this site. He asked why they would not put the stormwater retention on the low side of the site. Mr. Rheume said there was precious little

room. Mr. Hayward said they could put the retention on the low side if they did not have these storage buildings. He added that there are 84 units at Ocean Meadows and they do not have garages. He thought these might be illegal storage units. Mr. Rheume said they would only be in conjunction with the units.

Mr. Rheume was asked about the need for the storage buildings on the plan. He responded that there is no storage inside the units and no basements because of high flood table. These could either be garages or storage. He said the snow removal and landscaping would be done by Applicant who will manage the site. He will have to truck the snow off site in a big event, as there is no place on site to do it.

Resident, Nathan Bekemeier of 354 Huttleston Avenue stated he had some major concerns with this project. He said there was a major stream under the road and although he would not be subject to the flooding in this area, as he lives across the street, he is still concerned about the flooding of the people that do live down there. This was wetlands. He said the manhole on the property is more than a manhole that needs attention. There is serious flooding that occurs on that part of the property. There are also issues with the soil. This area has poor soils. On his property that used to be a farm you have good loam for a foot then you hit hard pan. He said it was a great neighborhood area, but he was also concerned with them now talking about renters. We were told this was going to be condominiums and there would be pride of ownership. Now they are going to be rentals. If he knew the town would let this was going to happen he would not have bought his house and fixed it up. He does not see why they would have the storage unit rentals. Mr. Bekemeier noted the Applicant said this was not his problem and the town is making it a hardship. When his applicant bought the property, it became his problem.

Mr. Fleurent stated he grew up in this area and the area North of Route 6 is a large area that is swampy. He stated he had a lot of concerns regarding the wetlands and flow of the water in that area. He also said he was concerned about the elementary school across the street with the high amount of traffic in that area as well.

Mr. Haworth presented a 17 sec video that he took that shows stormwater running from the area that occurred last fall. Mr. Haworth stated he had severe concerns about the storm water.

Martha Mayer stated she has copies of maps that show the water body that used to be located across the street and how the water does not just disappear. She presented maps from 1885, 1962 and 1973 showing the waterbody that used to be there. She wanted to know the depth of the forebay and what the Applicant was proposing in addition to the BMP's to keep the water on site. A resident asked how far the property is from the rear abutters.

Mr. Hayward reiterated that up to 12 units could potentially be located here but this has to be totally reconfigured. He also discussed the history of the site and the rezone and the peer review process. He also noted that there are gas and sewer lines going right under or through the proposed rain garden. The engineer needs to look at our regulations again. He would love to take him on a tour and show how well they work.

Nathan Bekemeier said he wished the applicant had come in with a schematic instead of full plans. It would have saved him a lot of money and time. They need to remove the storage and the second curb cut. If you had less but bigger units you might get more for them. What you have here is not an answer to this complicated site.

Mr. Rheaume would like opportunity to come back in two weeks to continue the discussion.

Mr. Hayward made a motion to continue the public hearing to February 25, 2020 and was seconded by Rene Fleurent. The motion passed unanimously.

- ii. **SP2019-15- Mazda Dealership/Carapace LLC:** To create a new Mazda Dealership on the corner of Bridge Street and Route 240 (Map 36, Lot 15)

Mr. Foley reviewed his staff report dated 1/28/2020. The Applicant is Carapace LLC represented by Richard Rheaume, P.E. of Prime Engineering, Inc. The location is 250 Bridge Street on the northwest corner of Bridge Street and Route 240 with 3.99 acres. The proposal is to construct an approximately 14,000 square foot commercial building for an auto dealership with fifty-four (54) parking spaces and associated infrastructure, stormwater control and landscaping. It is zoned Industrial.

The proposed Mazda Car Dealership already exists a short distance away at 37 Alden Road. The proposal is to move from that location to this one. A similar proposal with a smaller building (10,000 sf) was reviewed with six (6) public hearings in 2015. The Proposal was eventually approved with conditions and five (5) waivers from the Stormwater Management Section 198-31.1 and a number of variances. The proposal was not developed and the approval lapsed.

This site was originally part of a farm and is currently managed as an upland and wetland meadow plus driveway to Alden Buick. The site contains a USGS mapped intermittent stream in the existing draining ditch to the west of the drive and is about 42% wetlands. The wetlands were re-delineated and the limit of the BVW was revised and the revised delineation has been surveyed and is shown on the updated plans dated December 3, 2019.

The plans show "right turn only" sign. Applicant has clarified that allowing a left turn out of the driveway is no longer part of proposal. The existing driveway is proposed to be relocated to the west a bit. The proposed facility will do mechanical repairs indoors. Several Variances have been petitioned and granted by the ZBA and several Variances are being petitioned from Stormwater management. The Town Planner and the Engineer do not agree on how many variances from the Stormwater are still being sought.

Mr. Foley outlined some of the potential key planning issues with stormwater and drainage, wetlands and flooding, traffic and circulation, lighting and the variances that were granted. The Applicant is asking for 11 waivers from our Stormwater management. The key one being that the site is entirely located within HSG 'D' soil with a very high water table. Therefore, infiltration is impossible and without the waivers, the site is un-developable. The site is approximately 42% wetlands. More pavement within the 100' buffer and up to the wetlands on a site with HSG 'D' Soils and a high water table that needs 11 waivers from stormwater management will not improve flooding issues. The adjacent Alden Buick, owned by the same entity, is a massive sheet of paving that contributes to the wetness of this site. The existing Alden Buick has a massive amount of bright lighting that spills beyond the property border and detracts from the area. This is a green gateway to the Town.

Mr. Rheume stated they went to the Zoning Board of Appeals and received variances for setbacks. He stated the variance was in front and the rear setback and for narrower landscaping, and to not have to put trees on the Route 240 side.

Mr. Lutz reviewed the history on Alden Mazda.

Mr. Foley said planning concerns include 11 waivers from Stormwater. Mr. Rheume said he believed there are 6 waivers being requested. Mr. Rheume explained the GCG peer review and the waivers that were being requested.

Mr. Foley continued to review his staff report with the concerns from Department heads. Mr. Farrell asked if this is the first time hearing those concerns. Mr. Rheume stated it was. Mr. Farrell was concerned that this may be a 'waste of time'. He was concerned that the engineer is writing down the concerns tonight without getting the review of comments from different department heads.

Mr. Foley continued with his staff report. He stated it was also a difficult site and did not think the public hearing would be closed this evening.

Mr. Rheume went over in detail the project, highlighting the building. Craig Lutz stated that they have gone three rounds with GCG per the Conservation requirement. Mr. Foley reviewed the document from GCG from January 10, 2020, the peer review. Mr. Rheume stated that the communication is currently between Conservation and GCG for the stormwater regulations. This is the first time Planning Board is reviewing the proposed project.

Mr. Lucas shared his concern that the "giveaway" variance went from 50' to 5' in the front right on Bridge Street. The Planning Board is trying to clean things up and improve where we can. He feels this is our gateway and this kind of variance is a giveaway. Every project seems to be trying to stuff 10 pounds in a 5-pound sack. People do not care about the rules because they can just go get a variance or a waiver.

Wayne Hayward does not see this as the gateway to Town. It is not his gateway anyway. This is the industrial district. The problem is business uses in the industrial district.

A review of signage was discussed.

Mr. Hayward wants to know what the issues regarding the waivers is.

Ms. Richard asked if they would consider solar on their roofs, which Mr. Lutz said both buildings will get solar on the building.

Mr. Rheume asked if we could continue to the next meeting.

Mr. Lucas asked to include the flow layout on the plans.

Rene Fleurent made a motion to continue the hearing to 2/11/20 and was seconded by Wayne Hayward. Motion passed unanimously.

b) Written Decision Review

i. DS 2019-01: Pappas/Roderiques: Denial of proposed Definitive Subdivision off Hiller Avenue and Timothy Street for 16 buildable lots (Map 28C, Lots 71 and 71A)

Mr. Lucas asked about the Board of Health denying the project and if it was redundant. Mr. Farrell said it was per the regulation. Mr. Foley stated that Attorney Tom Crotty told him to refer to the Board of Health decision by reference in our decision.

Mr. Hayward stated that the lot that Director McPherson stated should be looked at as the applicants owning should be stated in this denial report. Mr. Lucas confirmed that he did read it is already in the document.

Mr. Farrell stated that oral testimony from the public should be added to the document. Mr. Farrell said that he had to be away on business and asked that it be signed by the Vice-Chair.

3. CURRENT PLANNING:

a) Upcoming Public Hearings: January 28, 2020

i. **SP2020-01 – Ocean Breezes 4 Unit Condominium:** Proposal to construct a 4-unit multi-family residential complex at 294 Huttleston Avenue. PH scheduled for February 25, 2020.

Mr. Farrell asked what the date of this was stamped in and scheduled for this February hearing. Mr. Foley stated he would have to look on the application. Mr. Farrell asked going forward that the administrative dates be included in staff report.

ii. **SP2020-02 – Acushnet Co. New Entry and Wellness Center:** Proposal to construct a 900 square feet new visitor entrance and 7,500 sf wellness amenity. PH scheduled for February 25, 2020.

b) Receipt of plans:

i. **Form A ANR – McKenzie Lane – 34 Glenhaven Ave.** will be reviewed for the 2/11 meeting

ii. **Form A ANR – 110-114 Green Street**

Mr. Foley explained it was a homeowner who wanted to sell land to his neighbor. It will be reviewed at the 2/11/meeting

c) Continued discussion of potential Town Warrant Articles for May 2, 2020.

Mr. Foley stated that February 3, 2020 was the last date for the placeholder setting.

Discussion on short-term rentals. Mr. Hayward stated that he believes he read there may be an insurance issue for short-term rentals.

The Board discussed the potential Town Warrant Article regarding review of Wireless Equipment. Discussion on pros/cons of administrative review. Mr. Hayward believes there should be some type of review happening here at Town Hall for an administrative review of the wireless equipment.

Re: PB decisions “up to 3 years”; all agreed they could move forward for Town Meeting. Mr. Foley will write up the wording.

RE: National Flood Maps: Mr. Foley will review and write up the wording.

4. LONG RANGE PLANNING:

a) Town Planner Update

Mr. Foley updated the Board that the EDC had voted to put \$5,000 towards the redevelopment study for Route 6 and 240. He will be meeting some people from the State and the Town Administrator about the Publically Assessed Clean Energy (PACE) program soon. Mr. Farrell asked for updates on Planning Board staff. Mr. Foley stated at the most recent Department Head meeting, Mr. Rees said people should not expect too much from funding. Mr. Foley stated he was presenting to the DPW for the dog park soon.

Ann Richard made a motion to adjourn and was seconded by Mr. Farrell. Motion passed unanimously at 10:02p.m.

Respectively submitted,

Patricia A. Pacella

Documents reviewed:

1. Staff Report dated January 27, 2020 – 2019-13 Lewis Landing 12 Unit Housing
2. Staff Report dated January 28, 2020 – 2019-15 New Mazda Car Dealership on Bridge Street