



Fairhaven Planning & Economic Development 40 Center Street, Fairhaven, Massachusetts 02719

Special Permit: 2021-03 Lewis Landing 12-Unit Housing Staff Report: June 8, 2021

1. DESCRIPTION

- 1.1 Applicant:** Dana Lewis, Represented by Richard Rheume, P.E. of Prime Engineering, Inc.
- 1.2 Project Location:** The location is Huttleston Avenue (between 347 and 355), Map 31 Lots 115A and 117C. The project is directly to the west of the liquor store on the corner of Rt. 6 and Gелlette Rd.
- 1.3 Proposal:** To construct Twelve (12) residential units with twenty-four (24) bedrooms in four (4) multi-unit residential buildings with three (3) two-bedroom units each. Twenty-eight (28) parking spaces and associated infrastructure, stormwater control and landscaping.
- 1.4 Zoning:** Rezoned to Apartment/Multifamily (RC) from RA and B in 2018.
- 1.5 Local Permits:** Conservation Commission Notice of Intent for work within the 100-foot buffer to wetlands; Building; Land Disturbance Permit (Chapter 194) from the Fairhaven Board of Public Works.
- 1.6 Other Permits:** The proposed work area is over 1 acre and requires filing an US EPA - NPDES permit and associated SWPPP; Applicant has offered to grant a 10' easement for the stormwater pipes & manhole.
- 1.7 Surrounding Land Uses:** The site is on Route 6 and abuts a Liquor Store and residential neighborhood. The East Fairhaven School is across Route 6 a little to the west.
- 1.8 Project History and Summary:**
- To construct twelve (12) residential units with twenty-four (24) bedrooms in four (4) multi-unit residential buildings with three (3) two-bedroom units each. Also proposed on the vacant 2.5-acre piece of land are twenty-eight (28) parking spaces and infrastructure, stormwater and landscaping.
 - One entry is proposed about 80' east of the existing curb cut and aligned with the four buildings.
 - The project was reviewed in 2019 and 2020 with several public hearings and numerous continuations. The overall plan is similar to the project reviewed previously but this is a new public hearing with new Board members. During the previous review, the stormwater plan was reviewed and revised several times. The Stormwater here is the last variation with the last GCG Peer Review of the same plan.
 - Soil tests indicate the site was a wetland that was mostly filled and became a roadwork staging area.
 - The site is overgrown with brush that are mostly invasive species. The existing site has a paved curb cut and a small paved area. Otherwise the site is overgrown with mostly invasive species.
 - A stonewall separates the smaller lot 115A, which is a few feet lower, than 117C which was filled app. 5'.
 - The two properties were rezoned to Apartment/Multifamily (RC) from RA and B in 2018 by a developer. The rezone was approved with a Covenant "limiting the total number of condominium units in their project...". The Covenant also requires "Condominium Documents, which will be reviewed by Town Counsel prior to project approval...".
 - The smaller lot, Map 31, 115A, is 19,005 square feet and was a Single Residence District (RA).
 - The larger lot, Map 31, Lot 117C is 2.06 acres and was previously zoned as a Business District (B) since 1965. Both were rezoned to Apartment/Multifamily Districts (RC) in 2018.
 - The current proposal is for rental apartments but the applicant has submitted condominium documents.
 - 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."
 - At the time of the rezone, the Police Department noted that they had a concern with any future ingress/egress to the site because of the curvature and hill on Huttleston Avenue.

2. ADMINISTRATIVE SUMMARY

- 2.1 **Complete Filing Received: September 21, 2019.**
- 2.2 **Advertisements:** The project was advertised in the Thursday May 20, 2021 and Thursday May 27, 2021 editions of the Fairhaven Neighborhood News.
- 2.3 **Routing Sent:** June 1, 2021
- 2.4 **Public Hearing:** June 8, 2021. **Continued to June 22, 2021**

3. Comments From Other Town Departments

- Fire Department (Deputy Chief Todd Correia):
 - The fire department has no concerns about the scope of the proposed residential facility.
 - FD notes the developer needs the correct water main size need to supply the sprinkler system.
 - The Fire Department will require a new fire hydrant be installed on the site.
- Police Department:
 - The police note that Route 6 has heavy traffic at this location.
 - There is some concern with the sightline distance to the left when exiting the property.
 - The Posted Speed Limit is 35 MPH due to the school, hill and curve but the Police note that most vehicles drive well in excess of 35 MPH.
- Public Works Department:
- Highway Department :
 - The existing drain manhole at the Southwest corner of the property needs to be rebuilt.
 - The property that abuts the site at the Southwest corner of the site has ponding of water now. The discharge at the proposed maintenance shed will only make the problem worse.
- Sewer:
 - Manholes FL=? Bench or invert elevation?
 - Install cleanout for each unit.
 - Lateral to unit 4? Need cleanout or preferably a manhole on main.
 - All cleanouts need 12" frame and cover marked sewer.
 - If disturbing sidewalk will need State Permits.
- Water:
 - 8" Ductile Iron Water Main needed for this Multi-Unit Residential Development.
 - Separate water shut off needed for each unit.
- BPW:
 - Preconstruction Meeting with Utility Contractor
 - Fees: Sewer, Water, Driveway, Trench Permit, Inspection Services and As-built plans
- Assessor (Def Garcia): Property is assessed at \$400,000.
- Conservation Agent (Whitney McClees):
 - It appears the configuration of the stormwater system has changed since the project was approved by the Conservation Commission.
 - The project will likely need to go back to Conservation for an amended Order of Conditions.
 - Changes to the plan will need to ensure compliance with Massachusetts stormwater standards for compliance with Conservation and also for compliance with Chapter 194.

4. ZONING AND SPECIAL PERMIT CRITERIA AND PLANNING CONCERNS

- Zoning Criteria: § 198-2. Purpose of Zoning: How does the proposal adhere to the following purposes of § 198:
 - **A. Does design promote the health, safety, convenience and general welfare?**
- The proposal creates a new curb cut and generates new traffic between two curb cuts that are
 - **B. Does design lessen the danger from fire, flood, panic and other... disasters?**
- The existing site has distinct flooding problems.
 - **C. Does design improve and beautify the town?**

- The removal of invasive species and addition of street trees would be an improvement. The design shows basic residential buildings that do not beautify the Town.
 - **D. Does design prevent overcrowding of land?**
- The design proposes to fit the maximum number of units allowed by Town Meeting. The two-story units are less than 900 sf each with little storage and few amenities.
 - **E. Does design avoid undue concentration of population?**
- - **F. Does design facilitate the adequate needs of water, water supply, drainage, sewerage, schools, parks, open space and other public requirements?**
- The site is adequately served by utilities. The site has existing drainage problems that will not be entirely solved by the proposed stormwater system. The site is across Route 6 from the East Fairhaven School but the apartments are small.
 - **G. Does the design conserve the value of land and buildings, including the conservation of natural resources and the prevention of blight and pollution of the environment?**
- The buildings originally billed to the Town as condominiums have become rentals that will not improve the value of the neighborhood.
 - **H. Does the design encourage the most appropriate use of land throughout the town?**
- Residential use, if designed safely, is probably the best use of this land.
 - **I. Does the design preserve and increase amenities ...**
- There is no room for additional amenities on the site when fitting 12 units on the available land.

Special Permit Criteria: §198-29(1): How does the proposal show Harmony with the general purpose and intent of the Special Permit chapter, and are the standards of Section 198-29(1) met by the use as designed:

- **§198-29(1)(a): Does design assure safety with respect to internal circulation and egress of traffic.**
 - The site egress is not optimal given the velocity, volume and topography of the road at the site.
- **§198-29(1)(b): Does design provide adequate access for fire and service equipment.**
 - The Fire Department had no concern with accessing the site in the case of emergency.
- **§198-29(1)(c): Does design provide adequate utility services and drainage facilities ...**
 - The site was a wetlands that were filled. There was once a larger pond across the road that was filled in over the years. The low side of this site accumulates stormwater before draining to a long drainage swale.
- **§198-29(1)(d): Does Landscape design conform to § 198-27C of this chapter.**
- **§198-27C(1): No off-street parking area for five or more cars shall be located within the required front, side or rear yard setback. If no setback is required minimum parking setback shall be 6'.**
 - There is no parking in the setback.
- **§198-27C(2): Required parking areas paved, unless exempted by Special Permit.**
 - The parking is proposed to be paved.
- **§ 198-27C (3): Backing onto a public way?**
 - There is no proposed backing into a public way.

§198-27C (4): Perimeter landscaping requirements. Parking for 5 or more cars include the following:

- **§ 198-27C (4) (a): A landscaped buffer strip shall be provided adjacent to any public road...**
 - A vegetated buffer strip is proposed with Red Maples and an Inkberry Holly hedge.
- **§ 198-27C (b): A landscaped buffer strip shall be provided adjacent to any adjoining uses...**
 - There is no landscaped buffer between the units and the abutting liquor store. A 6' stockade fence is proposed along the liquor store parking.
- **§ 198-27C (c): Plantings shall include the incorporation of evergreen and deciduous plantings ...**
 - Blue Spruce evergreen and inkberry evergreens are included among the mostly deciduous plantings.

5. OTHER PLANNING CONCERNS

- Traffic:

- Sightline and Curb cut: Sightline distance to the left when exiting the property is not optimal. Cars generally drive faster than the posted 35 MPH. The proposed curb cut adds approximately 120 trips a day between two high accident intersections just after a hill and curve on busy road.
- Stormwater and Drainage:
 - Infiltration is difficult.
 - The chamber infiltration system consists of 3 areas of subsurface chambers beneath the parking to infiltrate the stormwater. Additional soil testing should be performed at the proposed infiltration chamber system location to determine soil conditions, depth of water table, depth of excavation and/or replacing unsuitable material. Applicant has requested additional test holes be performed prior to or during construction as part of the approval conditions.
- Wetlands:
 - Soil surveys indicate the site 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 poorly functioning manhole and then piped in another line to an open swale that runs several blocks down along Brook Drive.
- Flooding:
 - BPW has noted that the SW corner of the property has a ponding issue.
- Natural Features:
 - The plans show designing around an existing Linden Tree.
 - Revised plans show the old stonewall that separates 115A from 117C will be retained.
- Zoning Bylaws:
 - The site was limited to no more than 12-units and 24-bedrooms in Condominiums when it was rezoned in 2018. The proposal is for rentals but Condominium documents have been reviewed.

6. Environment

6.1 Environment

- **Vegetation**:
 - Overall, the site consists of invasive brush and contains a lot of wild rose and phragmites. There is one specimen Linden Tree that has been identified to be retained.
 - All of the proposed rain garden plants are native.
 - Most of the landscaping plants are native.
- **Wetlands**:
 - Soil tests indicate the site was a wetland that was mostly filled. The soils are not suitable for infiltration. The southern border and southwest corner are still wetlands.
 - Two of the proposed four-unit buildings are within the 100-foot buffer of the 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 down along Brook Drive.
- **Habitat**: The site is not in an NHESP Priority Habitat
- **Lighting**: No plan.
- **Landscaping**:
- **Energy/Sustainability**: No special measures being taken for energy or sustainability.
- **Storm water**:
 - **Waivers**: The development is requesting the following 4 waivers from 198 and 1 from MSH:
 1. 198-31.1 (c)(2)(g)[6]. A 4:1 side slope to the forebay is being provided. It is requested to allow all other slopes to be 3:1 and 2:1 in order to save the large linden tree and to provide more separation from the wetlands.
 2. 198-31.1(C)(2)(l) - Fence enclosure for the stormwater basin
 3. 198-31.1 (c)(2)(n)[6]. To allow the existing pipes in the detention basin and the proposed pipes that are not under paved areas to have less than 2 feet of cover since they will not be subjected to vehicle loads. To allow HDPE pipe (c)(2)(n)[6]

4. 198-31.1(C)(3) [(C)(4)(A) THROUGH (C)] - The Pocket Wetland is requested for approval through (C)(3)(d).
 5. MASSACHUSETTS STORMWATER HANDBOOK – PROPOSED INFILTRATION BASIN IS WITHIN THE 50' BVW (SURFACE WATER OF THE COMMONWEALTH SETBACK).
 - The collection and treatment systems will be in the form of a sediment forebay, a constructed wetland detention basin, an infiltration area, and three underground infiltration chamber systems.
 - Stormwater will be collected from impervious areas by a catch basin, precast concrete with 4-foot-deep sump for sediment settlement, and will be equipped with hoods on the outlets to prevent the discharge of floating debris and other substances.
 - The collected runoff will be conveyed to the water quality components through high density polyethylene (HDPE) piping with corrugated exterior walls and smooth interior walls.
 - All roof runoff will be directed to a Cultec 330XLHD, a chamber infiltration system in order to avoid increasing the volume of storm water. Therefore the proposal does not require a waiver from Section 198-31.1 (A)(1)(a)[2]. This is a requirement that the proposed post-development 10-year storm event cannot increase the runoff volume from the predevelopment condition. The chamber infiltration system consists of 3 Areas of subsurface chambers beneath the parking to infiltrate the stormwater.
 - The pocket wetland system will be constructed with a sediment forebay, a 18" to 24" deep marsh, 6" to 12" shallow marsh and 6-inch-high semi wet berms.
 - All the proposed improvements will be located and graded such that runoff from the paved areas will be directed to a BMP. Runoff from these areas will be collected and conveyed to the water quality measures through a deep sump catch basin and subsurface piping. This collected runoff will receive a treatment utilizing Best Management Practices measures designed into the catch basin units, the sediment forebay and the detention basin constructed as a pocket wetland.
 - Stormwater BMPs have been designed in order to meet the objectives of removing 80% of the average annual load of total suspended solids. Note: New standard on the warrant will require removal of 90% TSS.
- **GCG Peer Review dated February 22, 2021**
 - RE: Waiver for “198-31.1(C)(2)(g)[6]. Requiring basin and ponds to have 4:1 side slopes and sediment forebays to have 3:1 side slopes:
 1. 198-31.1(C)(3)(d) allows Other water quality BMPs. Based on the MSH pollutant removal efficiencies, the constructed pocket wetland BMP meets the requirements of 198-31.1(A)(1) standards except for the flooding requirements, (additional clarification or calculations are needed); The applicant has proposed 2:1 side slopes with one side with 4H:1V slope for access. There is room in the area to provide the required 3H:1V slope, if the Board deems necessary. The wetland sediment forebay requires maintenance cleaning once per year granting this waiver should not have any adverse impact to the design.
 2. The forebay side slope 3H:1V is required under MSH, granting the forebay side slope waiver does not relieve the MassDEP’s authority to superseded Order of Conditions.
 - RE Waiver 198-31.1(C)(2)(l) - Fence enclosure for the stormwater basin may be required.
 1. The regulation requires a post & rail fence with pressure treated or locust posts, with a backing of plastic coated wire fencing and shall further inhibit access by a planting of thick shrubs. A wooden guardrail, and dense shrubs along building 4 have been proposed to dissuade access to the constructed pocket wetland. Since there is no definition of “in close proximity to the residential units”, Board decision is required.
 - RE: Dilapidated Manhole:
 1. Plan shows three drainpipes (15” (capped) and 18” inlets and 18” outlet) connected to an on-site dilapidated drainage manhole (DMH) within the wetland resource area.
 2. GCG recommends obtaining an easement to preserve the right of the existing drains.

- An easement should be required as part of the approval conditions.
 - DPW should be notified during drainage installation to determine the condition of the 15" capped pipe and uncap if desired with the easement right.
 - GCG recommends easement be widened to 20-feet for construction.
3. Applicant offers that once the project is approved an easement will be granted to MassDOT and the Town to preserve the right of the existing drainpipes.
 4. The existing manhole will be rebuilt with concrete blocks and mortar and wrapped in a double layer of 1-1/4" galvanized wire mesh and mortar.
 5. Manhole is in the wetlands and this work will require review and approval of Con. Comm.
- RE: Infiltration Chambers:
 1. Additional soil testing should be performed for the infiltration chamber system location to determine soil conditions, depth of excavation and/or replacing unsuitable material.
 2. Applicant has requested additional test holes be performed prior to or during construction as part of the approval conditions.
 3. The Applicant will dig out the area around the chambers and replace the soils with sand.
 4. GCG noted in conversation with Town Planner that if the water table is higher than the applicant expects this may have to be redesigned.
 5. The proposed 6-unit chamber between building #2 and building #3 needs to be relocated northward outside the 50' BVW setback and 15' setback to downhill slope. **(MSH Waiver)**
 6. The 18-units chamber system needs to be relocated to the east side of building #4 to meet 50' setback. **(MSH Waiver)**
 7. GCG recommends revising the minimum spot grade at the top of chambers within the pavement to 66.58.
 - GCG Summary Comments:
 1. Roof drain chamber systems and infiltration basin should be sized with draw down time not to exceed 72 hours to accommodate multiple storm events. Based on the Hydrologic Soil Group 'C' soil exfiltration rate, (Rawls 1982 per MDEP). **The 40% stone void volume should be included in the calculations. Increase bottom surface area as necessary to control the draw down time to within 72 hours.**
 2. The site consists of a layer of muck at 5' to 7' below surface. Approximately at the depth beneath the proposed chambers. Additional soil test pit should be performed during construction and witnessed by the engineer to verify ESHGW separation. All unsuitable material should be removed and replace with gravel and sand. **Applicant has stated they will replace any unsuitable soil material as determined by the additional soil testing at start of construction.**
 - Massachusetts Stormwater Handbook (MSH) - Infiltration basin is within the 50' BVW setback.
 1. Applicant requests a waiver for the 50' setback requirements. This is a MSH requirement, Planning Board and/or Conservation Commission waiver does not guaranty MassDEP will approve action toward the waiver. Alternately, there is room to pull back the infiltration basin outside the 50' setback by relocating basin toward to Huttleston Avenue.
 2. The proposed 30+/- feet of pocket wetland outlet pipe is in the BVW resource area and 25' of pipe and portion the infiltration basin is located within the 25' no disturb area. Conservation Commission approval is required.

7. Transportation

- **Access:**
 - Proposal has one driveway onto a busy section of Route 6 carrying 11,000 cars a day.
 - The existing driveway is proposed to be relocated to the west about 80' from existing curb cut.
 - The abutting liquor store has a 60' wide curb cut on Route 6 and 160' wide cut on Gellette Road.
- **Sight Lines:** The sightline from the proposed driveway is just over 300 feet but is located at a dangerous location. The driveway is proposed between two intersections that experience a higher crash rate than

other sections of the road. Exiting the property to the left is an intersection, a curve and a hill. Police noted during the Rezone that this was an area of concern and that most drivers exceed the limit coming around the curve.

- **Safety/Accidents:** From 2015-2017 there appear to have been about six (6) accidents at the New Boston Road/Route 6 Intersection. There appear to have been four (4) accidents at the Gelllette/Route 6 intersection with two of those including injuries.
- **Trip Generation:** (Existing – Zero)
 - Twelve residential units can be expected to create approximately 120 vehicle trips a day.
 - **Proposed:** According to the Applicant traffic estimates
 - The peak hour trips during the morning peak weekday hour (7 a.m. to 9 a.m.) is projected to be 11 with 2 vehicles entering and 9 vehicles exiting.
 - The peak hour trip ends during the adjacent street's afternoon peak weekday hour (4 p.m. to 6 p.m.) is projected to be 12 with 8 vehicles entering and 4 vehicles exiting.
- **Vehicular Volume of Road:** Route 6 at this location carries approximately 11,000 – 12,000 cars a day (SRPEDD Rt. 6 Study). East bound the Speed Limit is 35 MPH and west bound it is 40 MPH.
- **Nearby Intersections (LOS):** The LOS for the nearby Intersections is C.
- **Parking:** Proposal is for 28 parking spaces including two accessible spots.
- **Vehicular Circulation:**
- **Mass Transit:** This area is not currently serviced by mass transit.

8. Local Impact on Abutters

Abutters have expressed concerns that the site has a flooding problem that the owner needs to deal with, that this section of Route 6 is dangerous; and that the rezone was based on condominiums not rentals where there is no pride of place.

9. CORRESPONDENCE

- 9.1 **Public:** Nate Bekemeir 2021-02-21 Resubmitted; Nate Bekemeir 2021-06-16; A. Andersen 2021-06-15; DeMary & Fortier w/ Petitions 2021-06-21; DeMary & Fortier w/ Traffic Data 2021-06-21