



FAIRHAVEN PLANNING BOARD

Town Hall • 40 Center Street • Fairhaven, MA 02719
Telephone (508) 979-4082 • FAX (508) 979-4087

Fairhaven Planning Board

Minutes

Tuesday June 22, 2021– 7:15pm

Town Hall, 40 Center Street,

Fairhaven MA 02719

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FAIRHAVEN,
MASS.

1. GENERAL BUSINESS:

Chair's Welcome and Media Notification: Mr. Farrell opened the meeting at 6:30p.m. and read the Media Notification.

Quorum/Attendance:

Present: Chair John Farrell, Vice Chair Wayne Hayward, Cathy Melanson, Rene Fleurent, Jeff Lucas, Jessica Fidalgo and David Braga

Absent: Geoff Haworth

Minutes: June 8, 2021 drafts to be reviewed. Mr. Lucas had a correction on line 30, which should be Mr. Hayward. Jeffrey Lucas made a motion to accept the minutes with the one correction and was seconded by Cathy Melanson. The motion passed unanimously via roll call vote with Ms. Fidalgo and Mr. Farrell abstaining as they were not present (6-2).

Planning Board Bills: None at this time.

2. PUBLIC HEARINGS:

a) Public Hearings:

i. **SP 2021-02 - Crow Island:** Continued Public Hearing on proposal to create a destination for events such as weddings, corporate outings, parties and other special events on Crow Island.

Mr. Farrell opened up the public hearing.

Attorney John Markey was present on behalf of the applicant.

Mr. Foley said this was a continued public hearing and everyone in attendance is eligible to vote. He reviewed the project as a destination for events and also a dock and dine with food offered by a food truck placed on the island. He said they also want the home to be a Short Term Rental. Their narrative also describes an expanded dock in the future after the harbor dredging takes place. They have an emergency response plan. They have included a 6 foot tall stockade fence to minimize noise. The hours of operation have been changed to 10 am to 10 pm. They have a plan to put in sewer in the future. He reviewed the comments from other departments. The planned parking is Pier 3 and the Whale's Tooth Parking Lot. He showed them the revised plan dated June 22, 2021.

Mr. Foley reviewed possible additional conditions. He said police and fire put a threshold of 150 guests at events that would require a police and fire detail.

Mr. Farrell asked about the fencing.

Attorney Markey stated there would be 24 feet of fence on either side of the electrical building coming out at a 30 degree angle from the base of the building. He said there would be arborvitaes as well, with the stage facing toward the west.

Mr. Foley reviewed their standard conditions as well as possible additional conditions for this particular sight.

Mr. Farrell stated he was able to read the emergency response plan and didn't see a plan for an automatic defibrillator and asked Attorney Markey if that was discussed. Attorney Markey stated he would definitely make that amendment to the safety plan to add it to the premises.

Mr. Lucas said he has seen various sketches and hasn't seen many dimensions or details on the building or proposed picnic area or game area. He would like to see a detail image of the proposed pier layout and docking site and more specific plan to where the boats were going to launch from when visiting the island. He said he didn't understand where they would be docked or how they would handle it if there were more boats than can fit. Mr. Lucas asked if there would be anything posted about 'no swimming'. He asked if the Harbormaster has to approve the markings in the harbor or if that is the state.

Harbormaster, Tim Cox was present. He said there's only one way in and one way out to the island. He said he could send it up to Coast Guard once he received the plans. He said he has not seen the proposed dredging plans as of yet.

Mr. Lucas said he was concerned with late night in darkness with the place open until 10 pm. He said he would like to see a clearer image of the boats for that area being docked.

Attorney Markey stated it would be the island's two boats for launches in picking up guests that would be docked on their pier. Mr. Cox said he was at the safety meeting and they discussed that their two boats would be tied up and if an emergency, the public safety boats would tie up to their boats and then the dock if necessary. He said that both he, police and fire decided they didn't need a designated spot to tie up.

Mr. Lucas shared his concern of a lot of people on the water that might be a high traffic area.

Mr. Farrell said he thought this was only a venue proposal at this time. Mr. Lucas asked for clarity if a person can just pull up for a beverage and food. He thought he read something about having music.

Attorney Markey said they originally wanted a seasonal liquor license, but they learned the Town of Fairhaven required more paperwork. He said they are currently seeking only a beer/wine license at this time. They are looking into getting a permanent food truck and have a small bar in the chapel,

to attract a small crowd to be able to stop and grab a glass of wine and eat something. He said this was in their original proposal for the Special Permit.

Mr. Lucas asked what the trigger would be to come back to the Planning Board in the future. Mr. Farrell said the dredging and the expansion of the dock.

Attorney Markey said he understood the trigger to be a change in the structures or a change of docking. He said they have a lot of other hurdles to jump before they can even make changes to the water travel. He said right now it's potential for Bed & Breakfast, intention of small bar, and intention of a venue hosted event.

Mr. Hayward noted that the dock and pier also trigger a special permit at the Planning Board and they should be involved (referencing, 198-32.2). He said he agrees with the prior speaker that at a minimum every structure on the island needs to be referenced on a plan so they can see what is there.

Mr. Hayward said he thought the intention was a venue for corporate events and perhaps they should restrict the permit to only that at this point. He said the one-day liquor license is an approval by the Select Board and believes they should really narrow the scope down now. He said he is not in favor of a bar/restaurant and having people just float up for a glass of wine and food. He said they need to hone in on specifics of the plans. He said it should be limited to corporate events or weddings and a short-term rental (STR) would be fine. He said he would like to see some dimensions of the structures on the plans.

Mr. Cox agreed that the planning board has to review docks and piers. Mr. Fleurent asked for clarification if the Special Permit is a request for an event only type of situation and not a bar/food establishment.

Attorney Markey said in the paperwork it stated a small dock and dine, basically a food truck and a few table tops to have a drink as well as a venue for corporate events or weddings and the third part would be the short-term rental in the house. He said he understood the concerns that were being presented however it is their request to have the Special Permit offer the three uses they are requesting. He said hearing the concerns of the board, they should put a separate cap on the dock and dine. He said the 150 number was really the number for special events.

Mr. Foley said that at the first meeting they did request the three different uses. Mr. Farrell asked when the narrative changed, as in the agenda it does not say anything about dock and dine. Mr. Markey admitted when they went before the Town for the zoning changes (a year & half ago) there wasn't talk about it being a B&B of dock and dine. But as they have looked at the possibilities that just seemed like a natural addition to make the island financially feasible.

Mr. Markey agreed it is broader than when they first started discussing a year and a half ago.

Mr. Fleurent stated his concern for the dock and dine and visitors to the island he becomes more concerned this will turn into restaurant. He is happy with the event venue but not a dock and dine restaurant on the island. He said he would not support that type of venue.

Mr. Hayward said at this time the permit should be restricted to the event driven request. He said the dock/dine initiative might be a future idea but should be more restrictive to events and short-term rental of the house this year.

Mr. Braga agreed it was a cool idea but as the project stands in front of them presently, he agrees a dock and dine should not be permitted at this time. He would be comfortable voting for a venue for a wedding/corporate events now.

Mr. Farrell asked if there were any public comments, there were none.

Attorney Markey asked for a continuance. He stated he would speak to his client about keeping the events only and short-term rental or address the concerns of the dine/dock proposal that the board is seeking. He asked for date certain.

Mr. Farrell made a motion to continue, SP2021-02, Crow Island at the applicant's request to July 13, 2021 and was seconded by Rene Fleurent. The motion passed unanimously via roll call vote.

ii.)SP 2021-01 – Bijou Theater Building Apartments: Continued Public Hearing on proposal to renovate theater.

Mr. Farrell opened up the public hearing. Attorney Medeiros as well as applicant Julio Barbosa was on the zoom call.

Attorney Medeiros instructed members to review the new plans that have been revised dated June 3, 2021 to address concerns of the board members. Mr. Medeiros stated the original plans from September 22nd had 24 parking spaces, the revised plans show 20 spaces with a buffer area with trees and plantings and snow removal area on the north and west of property. There are no changes to the existing building for this parking lot as it serves for the mixed-uses of the building that it was designed for. He stated there were 15 apartments and 3 commercial properties in the front. The theatre will not be used. He explained what he felt the parking spaces represent to the building itself.

Mr. Foley stated the regulations require a buffer in the front along Deane Street as well and that there appears to be room to shift the parking over but they will lose a parking space in the southwest corner. Mr. Foley reviewed 198-27, parking requirements from the Planning Board special permit bylaw and that the plan has enough spaces for the proposed number of apartments and retail space but does not account for the theater space. Most, if not all, visitors to the retail spaces will park on Main Street. The Planning Board can waive the strict adherence to the parking schedule through the Special Permit process. Mr. Foley reviewed the plans with the trees that should be retained.

Attorney Medeiros referenced the roadway of the buffer on Deane Street and stated they would lose a parking space if they created that buffer. He said that his client was in discussions with the owner of Map 19, Lot 256, but the owner wasn't ready to sell his client that portion of parking spaces.

Mr. Medeiros spoke of the ladder that his client pulled down on the fire escape as it was dangerous to children climbing on it. He said they would be more than happy than to put it back on the building once the building is permitted and occupied. Mr. Medeiros spoke about the signage on the building stating where people could park. He spoke about the larger trees not being removed, but the smaller ones on the side of the parking lot being removed. He said they are only 2-3" in diameter and will be removed to create necessary parking

Mr. Lucas asked about the confusion of parking spaces stating he sees only 19 and question how many parking spaces there are. Attorney Medeiros apologized that he had the total count incorrectly and confirmed there were in fact nineteen in total.

Mr. Lucas shared his concerns about not having enough parking with fifteen apartments, three businesses and only nineteen spaces. He said if the parking spaces were not delineated he said people would just park wherever they could.

Mr. Hayward said the parking lot was gravel and tends to be noisy and cannot delineate parking spaces where it states. Mr. Hayward referred to their regulation that 180 sf of space is required for one paved parking space but 300 sf is required for gravel because they cannot be delineated. He said that he would like to see some green space on Deane Street, maybe 4-6'. He would like to know what vegetation is being proposed.

Mr. Foley stated that the plan says existing gravel parking lot to remain but the actual lot is hard dirt as appears in the photos.

Mr. Farrell asked if there were any waiver requests by the applicant. Mr. Foley said no list has been submitted and they would need to work them up.

Ms. Melanson and Ms. Fidalgo had no comment. Mr. Braga stated he would like to see the parking be just for the apartments and store front workers.

Mr. Medeiros said the parking is for the tenants but anticipated that they will be at work during the day and he said most likely the employees will park here during the day but the patrons would likely be parking right in front of the building.

Mr. Hayward said there was room on Deane Street with the concrete sidewalk and parking spaces that if they put in some green space, they would probably only lose half a parking space. Mr. Lucas asked if connected parking lots were going to happen just to make sure there is some type of screening so that the garbage isn't rolling around the parking lot. He had concerns by not delineating parking spaces.

Mr. Fleurent stated he would prefer to see screening around the dumpster to prevent overflow or it being seen by the public. Ms. Fidalgo was fine with or without screening as long as it is kept clean.

Attorney Medeiros requested a continuance to compile the information to include a buffer along Deane Street, the planting list needed and screening for the dumpster.

Mr. Farrell made a motion to continue to July 13, 2021 per the applicants request and was seconded by Cathy Melanson. The motion passed unanimously via roll call vote.

iii. **SP 2021-03 – Lewis Landing/Huttleston Multi-Unit Condominiums:** Public Hearing on proposal to create twelve (12) 2-bedroom condominiums in four buildings on 2.5-acre on Huttleston Ave (Map 31 Lot 117C).

Mr. Farrell opened the public hearing for Lewis Landing.

Richard Rheume was on the zoom call representing the applicant. He said since the last meeting they submitted final condominium documents and originals were notarized and will be recorded at the registry of deeds if a positive vote is issued. He said there were no plan changes. He also explained the site visibility from both the east and west. There are 620' from the proposed driveway where road dips to the West which equals eight seconds so a car can safely pull. To the East visibility is seven seconds of pull out time before a car traveling at 55mph reaches the driveway. Mr. Rheume stated the drainage was covered and reviewed at the last meeting. He said they are proposing to reinforce the damaged manhole on the property which should alleviate the drainage issues that have occurred on that site. He said they will have to get an amendment to the Order of Conditions from Conservation. Mr. Rheume stated they were asking for the waivers as submitted.

Mr. Hayward said he would like to see the property sign 'triangle' for traffic concerns outlined on the plans. He said it will be critical for the property management in the future in maintaining ingress and egress from the property.

Ms. Melanson stated she was fine with the project. She stated she understood the traffic concerns, but they can't always determine what traffic may be. She said the applicant has done everything they have requested and they should move forward.

Mr. Braga stated he had no further questions at this time. He said he personally felt comfortable with the project and appreciated the comments of the public. He said in his experience driving in that area he does not have the same level of concern that has been discussed.

Mr. Fleurent said he had concerns about the number of units at this location. He also had concerns about the elementary school and creating more traffic in that area. He said he doesn't believe it's going to create a better environment in that area.

Mr. Farrell asked about the entrance details stated on the plans. Mr. Rheume identified where the entrance detail is on the plans and how it would be maneuvered by and be ADA compliant.

Mr. Farrell asked about the sign detail. Mr. Rheume addressed the sign detail on page 7. He said they can stipulate the setback of the sign.

Mr. Farrell opened it up to the public for comment.

Resident and abutter, Nate Bekemeier, of 354 Huttleston Avenue stated he lived across the street from the project and has been involved in this project for the last two years following it. He said he was concerned about the project sitting on the wetlands and the problematic site and the danger of the curve and traffic in the area. Its's just a bad site. Town Meeting did not know the facts about the site. That's why they said up to 12 units. They did not consider the curve on the road or the poor soil or the wetlands or the flooding and how wet the whole area is. He said although he appreciated the hard work of the Planning Board regarding this project he still didn't believe it was the best project for the area. He stated that a neighborhood petition of over forty names opposing the project was forwarded to the board members and that should carry some weight to the neighbors who live in that area.

Mr. Rheume said they have had intensive peer review on this project and although they may not solve all problems it will be better than it is now.

Resident, Dave Vincent, of 2 Brookfield Street who is an abutter to the project shared his concerns of water runoff.

Mr. Hayward stated he was hopeful that rebuilding the manhole will relieve some of that water in that area and that the Special Permit will condition and require a 20' easement that will allow property manager and or state, or town to deal with the drainage more efficiently. He hates to see the list of names submitted at the 11th hour, as they've been working through this project in the last year and half.

Mr. Bekemeier stated he appreciated Mr. Hayward's point of views and the attempts of all the changes however he was still of the opinion that this site is not suited for all the units on it. He stated he also had parking issues and the proposal as a whole. These tiny apartment don't have any patios or decks or garages. They just crammed in as much as they could.

Michele DeMary, 1 New Boston Road stated she lives across the street and although she's not affected by the water, she believes she will be affected by the traffic. She is concerned for the safety in that area with the traffic. She recommends two parking spaces per condo unit.

Ann Richard asked regarding about the fence waiver and asked for an explanation for the no fence waiver. Mr. Farrell stated he believed it was because of the retention pond depth of 3'. Mr. Rheume stated there would be a continuous hedge around the majority of the basin and a gate at the end of it. He said there will be a fence at the end of the basin and should deter people from being near it.

Ms. Richard stated she was concerned for the children from the school and the basin. She also said she read the staff report and stated in it there was concern from the police on the traffic and location near the curve.

Mr. Rheume explained the detention basin wasn't a flooding basin.

Resident, Christine Albano, 352 Huttleston Avenue stated she lived across the street from the project and wondered if there had been any discussion to change the light there from yellow to a working light.

Mr. Rheame said that the trigger to have the traffic light has to be a bigger project than this through the State. He said the school could possibly request one.

Ms. Albano said that when it was a working light it never helped accidents anyway. She shared concerns as well about the water impacts, siting that it has always been an issue.

Mr. Hayward stated that the Superintendent of Schools has stated that no child would be allowed to walk on Route 6 to get to the school. He stated that as part of the Master Plan that smaller, affordable units is what was identified as a need in Fairhaven; not the one million dollar homes on Wilbur's Point. He said these condominium units would be good for an elderly couple and or small families. As far as the water problem, Mr. Hayward said he would hope that the issue would be corrected with the correcting of the pipe and manhole.

Mr. Bekemeier stated again that there are misconceptions regarding the project. He said he was of the opinion it was not going to be used for elderly as the bedrooms are on the second floor. He appreciates affordable housing but not this dense, he believes it's too dense for the property.

Mr. Farrell closed public comment at this time. And asked if Mr. Foley had the waivers and/or conditions written up as of yet. Mr. Foley stated they are asking for three waivers. Mr. Hayward stated the waivers were for fencing, the wetland pocket and the 4:1 slide slopes Mr. Foley reviewed the three waivers and stated there were a few standard conditions. Mr. Hayward asked about the easement and how it will be drafted up as its not been listed on the plan and/or site plan.

Mr. Rheame stated they could condition that the easement be prepared during the appeal process.

Mr. Foley stated it would be ideal to have it listed on the plan. Mr. Hayward stated he agreed with the planner to have it in hand as well. Mr. Rheame stated that was fine and he would get the plan to Mr. Foley.

Mr. Farrell made a motion to continue Lewis Landing to July 13, 2021 per the applicants request and it was seconded by Cathy Melanson. The motion passed unanimously via roll call vote.

b) Other Reviews:

- i. ANR 2021-Oxford Residents: Mr. Foley stated what was agreed to with the comprehensive plan review for the oxford school. The property is in the residential area and does not have the 100' frontage. However Attorney Crotty has said that it doesn't need to have the frontage to have the lot granted because it's part of the comprehensive permit. Mr. Foley stated it allows the NFIA Fire Station to have its own lot and the parking behind it.

No questions from the board and public.

Mr. Hayward made a motion to approve the ANR as presented and was seconded by Mr. Farrell. The motion passed unanimously via roll call vote.

- ii. DS 2018-Overlook Acres: Security Bond Release Foley - Form E- Overlook Acres, Overlook Acres was approved in 2018. 2 of the 3 lots were approved for security release with the one thing to do was the topcoat for the last lot. They do want to release the last lot with the bond for \$20,000. As noted in the letter there is \$10,000 left in their engineering account which should cover the cost but the engineer does not want to make an estimate until they are ready to go due to the ever increasing costs of materials. So they provided an additional \$20,000 bond to make sure the topcoat goes in to release the last lot. Also brought in their recorded form E from the previous two lots. If approved, Mr. Foley can bring it around for signatures with the Oxford School ANR. He said this one is pretty straight forward.

Mr. Hayward said he was in favor of releasing the last form and that \$20,000 bond is sufficient. He just wanted to make sure the bond is properly written.

Mr. Hayward motion to approve DS 2018-Overlook Acres, subject to Town Counsel reviewing the bond and it was seconded by John Farrell. The motion passed unanimously via roll call vote.

- iii. DS 2021 - 46 SNR Subdivision: Security Bond Release as they are offering security bond for the whole subdivision in the amount of \$361,000. Mr. Foley stated he needs to run it by Town Counsel as they wanted the bond approved and then another condition pertaining to the homeowners association.

Mr. Foley stated he would hold on this and run it by Attorney Crotty. Mr. Farrell stated they should be in compliance by the conditions set forth regarding the Homeowners Association.

Mr. Hayward was in agreement with the \$361,000 bond in conjunction done with Superintendent of the Department of Public Works. He said if Mr. Furtado was okay with it he was fine, as it was usually in conjunction with DPW.

Mr. Foley stated it came from Ms. Vento addressed to Mr. Foley and Mr. Furtado. He did note Mr. Furtado was on vacation until July

c) Receipt of Plans:

- i. ANR 2021-03 Alden Road: Form A (ANR) for 3 lots at 240 Alden Road
Mr. Foley stated this would be reviewed at the next meeting.
- ii. ANR 2021-04 Starboard/SNR: Form A (ANR) for 2 Lots at Starboard Drive and Sconticut Neck.

Mr. Foley said they will be reviewing these two proposed ANR's at the next meeting.

3. **CURRENT PLANNING:**

- a) Town Planner Update: Site Readiness Tour, Union Wharf Study

Mr. Foley reviewed the site readiness tour grant and looking at properties that the Town owns as well as others around the redevelopment target area. He said phase one environmental studies will be done along with other barriers to development issues.

Mr. Foley will be asking FXM Associates to do the feasibility study they got a grant for at the Union Wharf.

Mr. Foley also reported that he submitted the Complete Streets Grant and is waiting for that information to come through in August. He also submitted a Shared Streets Grant for crossing improvements on Alden Road at Glenhaven and Howland Road and also crossings on Main Street where the bike lane is. They should hear about that in July.

He is also working on a few other contracts with SRPEDD to encumber \$6,000 in EDC money for a DLTA and EDA Grant for a total of \$75,000. He has applied for two additional grants and still waiting for those planning grants to hear more information.

Mr. Hayward stated he'd like Mr. Foley to look at the cross street in front of Oxford School on Main Street. He said they talked about shifting it about 50' down. He asked Mr. Foley to look at the bus stops he mentioned.

Mr. Foley stated both those ideas are on his radar. He's hoping to get Benoit Square re-engineered and will bring it up with the JTPG group. He also spoke about a man who called him to donate money for benches at local bus stop. He said on Route 6 near Burger King, one near the Dunkin Donuts and possibly one near CVS. Mr. Foley stated he is looking at a shelter, benches at these bus stops with the SRTA representative.

Mr. Foley is looking at Bridge Street and plans to get the \$1,000,000 out of the transportation bond bill to get sidewalks there. He is meeting with Mr. Furtado and Mr. Charbonneau to review existing plans of the right of way.

Mr. Foley explained a situation at the Ice House and an agreement was set forth for a new proposed deck that wouldn't increase the occupancy load. He did tell them they had a parking area that wasn't approved by the Planning Board and they could either remove it or submit for review so they removed it. They have received a shared parking agreement with their neighbors in the evening.

4. LONG RANGE PLANNING:

a) Town Planner Update: Rt. 6/240 Study

5. Other Business:

Mr. Farrell asked about the Rogers School Committee. Mr. Foley said at the EDC the Rogers School Committee asked for representatives from both the Planning Board as well as EDC.

Mr. Farrell stated that he heard it was Cathy Melanson. Ms. Melanson stated she offered, however they stated they should ask the Select Board and request the membership that way.

Mr. Foley stated he would put it on the next meeting for discussion.

Mr. Foley stated the problem has been in the past that RFP has gone out too quickly and not being presented correctly by going through the Planning Board. Mr. Foley stated will reach out to the Rogers Reuse Committee for a formal offer if they are requesting a Planning Board member.

John Farrell made a motion to adjourn and was seconded by Cathy Melanson. The motion passed unanimously.

Respectively,

Patricia A. Pacella
Recording Secretary