



FAIRHAVEN PLANNING BOARD

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FAIRHAVEN PLANNING BOARD
November 9, 2021 Minutes

1. GENERAL BUSINESS:

Chair's Welcome and Media Notification: Mr. Hayward opened the meeting at 6:33 pm and welcomed all and read the revised Open Meeting Law Statement per the State of Emergency issued by Governor Baker with instructions that public hearings may be conducted remotely via zoom.

a) **Quorum/Attendance:** Present: Vice Chair Wayne Hayward, David Braga, Jeff Lucas, Cathy Melanson, Jessica Fidalgo and Rene Fleurent (arrived at 7:15pm).

Absent: John Farrell and Geoff Haworth

b) **Minutes: October 13, 2021 draft to be reviewed:** Cathy Melanson made a motion to accept the minutes of October 13, 2021 and was seconded by Jeffrey Lucas. The motion passed unanimously via roll call. (5-0)

c) **Planning Board Bills:** None.

d) **Correspondence:** Schneider Letter re 200 Huttleston Special Permit
Mr. Foley explained that a letter was received from Doug Schneider of Davignon, Schneider & Leone Engineers regarding 196-200 Huttleston Avenue. A Special Permit was issued in 2012 for a restaurant that never took place at the 200 Huttleston property. The Used Car lot at 196 Huttleston wants to expand into 200 Huttleston.

Mr. Foley felt that they would have to come before the Planning Board for a Special Permit review, but Mr. Schneider was making his case in the letter for why he feels they do not need a Special Permit per §198-27. Mr. Schneider reached out to the Building Commissioner who responded that the project needs a Special Permit as well.

Mr. Foley referred to §198-29 - A4, regarding the restriping of four parking spaces. He said that he believes any modification to a special permit and the expansion of the business onto the adjoining lot should require review. The distinction between parking requirements in §198-27 C and what is required for a "used car dealership" in §198-27 F is unclear. Mr. Schneider feels the requirements of §198-27 C do not apply because of §198-27 F, but Mr. Foley said it is not clear so he wanted to bring it to the board for them to advise.

Mr. Hayward said he does say that they would have to get their license expanded by the Select Board. Mr. Hayward suggested at least a site plan review is required.

Mr. Lucas stated he was confused if this was supposed to be separate or in conjunction with the other. If no change at 196, would it be distinct and separate but also said the applicant can't pick and choose what portion will be distinct and separate. Mr. Lucas also expressed concerns about 196 Huttleston, where there are cars on the street and there is a very wide curb cut with cars creeping up on the side. Mr. Lucas agreed that a plan review should take place. He asked if they purchased end of Shirley Street. Mr. Foley showed an aerial showing cars parked in the street. He said it would help if he had a motion to go to special permit review through the Planning Board.

Mr. Hayward stated there was never a used car lot on this site. He asked any other board members for comments, there were none.

Mr. Lucas made a motion to inform the applicant that a Special Permit is required for this plan/project. The motion was seconded by David Braga. The motion passed unanimously via roll call vote, 5-0.

2. **PUBLIC HEARINGS:**

a) Public Hearings:

- i. **SP 2021-04 – Nye Lubricant Expansion:** Proposal to construct a 60,000 sf addition to the existing easterly industrial manufacturing building (Building 3 - 33,690 sf) at 12-16 Rio Way (Map 19 Lot 242 - 10.28 acres) off of Howland Road.

Mr. Hayward opened up the public hearing for SP2021-04-Nye Lubricant Expansion.

Mr. Foley reviewed the project as a proposal to construct a 60,000 sf addition to the existing easterly industrial manufacturing building at 12-16 Rio Way off of Howland Road. The new building would be built partly in the green space along Sycamore Street and partly in the parking area. Two years ago the Planning Board looked at stormwater changes near building one. The Company was locally owned until last year. It is now a wholly-owned subsidiary of Fuchs Petrolub SE, a \$3 billion German lubricant company that operates around the world. Mr. Foley introduced Mr. Mock as one of the former owners that is currently President of the company and present via the Zoom platform. This proposal is going to expand and consolidate their operations. Mr. Foley reviewed the slides showing the property and the plans and went over the staff report. Mr. Foley said he received a landscaping plan an hour prior to the meeting and would forward to the members so they can review at next meeting.

The company was founded in 1844 when Nye started making specialty oils derived from fish and whales to lubricate machinery such as watches and clocks. Today Nye formulates, manufactures and sells synthetic oils, greases and specialty fluids and industrial maintenance lubricants. This is a Modification to an existing Special Permit, first issued June 24, 1992, and modified in 2019 to re-pave the parking lot in front of Building 1. The purpose of the Building 3 expansion is to increase capacity for manufacturing, packaging, and warehousing to meet Nye's needs including the consolidation of other specialty manufacturing from other Fuchs locations in the U.S.

Mr. Foley said because of Chapter 91, they would need to create access to an area that may not be a place we want to direct people and it would be costly. The Applicant has contracts with the Department of Defense and access to this area may affect that. The Applicant would prefer to contribute a similar amount in cash to another public access project in Town. He said there are various reasons why this site wouldn't be a good site for public access and would essentially be an attractive nuisance.

The proposal will add some impervious surfaces but would also include cuts into the parking lot to deal with stormwater. Mr. Foley said that this has been reviewed per GCG once already and they did have some concerns on the stormwater. GCG was not sure that this would work as they are so close to the water table. GCG said the general drainage design concept should be simplified and that due to the shallow groundwater table and redundant pretreatment requirements subsurface infiltration system is impractical. They suggested some pipe and stone beds should be eliminated and recommended re-grading the lawn area to provide the required infiltration volume. Mr. Foley went over the rest of the staff report with regards to transportation, vehicular circulation and comments from other departments. They need a waiver for a few parking spots but they have much more than they need. They had run a conceptual plan by Mr. Foley last year and he asked them to relocate the new building further to the west onto the existing underused parking area. They did move the proposed building to the west a bit but much of it is still located in the green space along Sycamore Street.

President of Nye Lubricants, Mr. Mock was present and introduced himself. Callie Thompson of Apex Companies was on the Zoom platform representing Nye Lubricants. Ms. Thompson stated they would be proactive on their environmental staging.

Mr. Hayward began with a few questions regarding the stormwater. He confirmed this was a redevelopment project which has its own provisions in our stormwater regulations. He said that in reading the GCG report they had a lot of questions regarding the stormwater regulations. He was concerned at first about the catch basins, but he did a site visit and saw there were basins on the site.

In reference to the plans, Mr. Hayward said that it reflected the 2014 flood panels, and he wanted to advise the applicant that the flood panels have been updated since then; with the latest update in 2020. He said he wanted to make sure the applicant as well as the Town departments were using the updated panels for review as well as GCG

Mr. Foley agreed and stated one of the concerns of GCG were that the plans and notes on the plans need to be clearer.

Mr. Hayward advised the applicant to work closely with GCG and add the oil separation as suggested by them which should be specified in their O&M plan. Also to make sure the catch basins are going to the manhole basin. He said he would rely a lot on how they react to the GCG concerns.

He said it was a 40' tall structure with a flat roof and would have some impact on Sycamore Street. Mr. Hayward said they may or may not have parking issues and the notes should be a bit clearer as they are not specific enough.

Mr. Mock said the design of the building and color is conceptual at this point, it may be beige or off white. He said the plan is that the part to the East would be screened and heavily landscaped. He said it is not a part of the building where they would want activities to take place other than emergencies or repair. He also said they are open to aesthetic improvements to the architecture and landscaping.

Mr. Hayward asked about the bump out on the south end of the new building and if there could be windows to break up the massive wall of the building.

Mr. Mock said the bump out is a simple place-marker and would be used for tanker truck delivery for loading and unloading oil.

Mr. Hayward, in reviewing the P3 plan asked if the proposed building would interface with the existing as on this plan it shows it does, but the other plans show it 20-30' away. Ms. Thompson stated there should be a gap in between. She said she would make a note to clarify.

Mr. Foley said that P3 was a bit hard to read as the lines indicating the new building are missing because of the notes and the dimension lines are there but thick and confusing. He asked that the proposed building be better outlined.

Mr. Lucas asked if it was going to be a steel building. Mr. Mock said it would be of formed concrete in sections or panels that would be brought in.

Mr. Lucas asked if they could do something with the roofline, suggesting perhaps faux gables in the front like we did at Benny's to break up the squareness of the building. He suggested possible a mural or painting like they do in Europe. He said he would also like to see the truck route outlined on the plans for delivery. Ms. Thompson said Mr. Foley asked for that as well and plans will be updated.

Mr. Lucas asked about the Sycamore Street entrance and if it is used. Mr. Mock said some employees who live in North Fairhaven use it but others are encouraged not to use it.

Mr. Mock explained why the Chapter 91 was being triggered. He said in the 1920's a line was coming through the old Medeiros property and it used to have an inlet that was filled in 1920.

Mr. Hayward said they could certainly work with them on the parking waivers. He said the remaining parking spaces seemed adequate. Ms. Thompson stated that under the code, 284 parking spaces were required with the expansion and they are proposing a revision of 276.

Mr. Hayward asked if the spaces are painted currently and Mr. Mock responded it was and would also have to be repainted. He said that it was cleaned up approximately three years ago with seal coat and restriped.

Mr. Fleurent asked about the overview of the proposed plan of hiring an additional 20-30 people. He asked if that was accurate or if it was more like 15-20?

Mr. Mock said it is possible. He said that the new building would have a minimal amount of people in it and that they may be already employed with the company. He said that currently the bulk of their employees are in packaging.

Ms. Melanson had no comment at this time. Along with Mr. Braga and Ms. Fidalgo with no additional concerns or comments at this time.

Mr. Lucas said he would be open to reducing six parking spaces on the south side facing Howland Road, if the bottom six or more spaces could be removed and converted to green space along Howland. He said he would prefer to see green space on Howland Road.

Mr. Mock asked if the small island perhaps was to be stretched onward to the East, where the flag post is, would be sufficient. He said they would review that area and update the landscaping plan. Mr. Foley suggested they extend the landscaping along the front and then up Rio Way to make the entrance nicer.

Mr. Lucas asked if the board would comment on his suggestion. Ms. Fidalgo stated that the suggestion of green space would be great in that area. Mr. Lucas suggested to the applicant that they get the plans as tight as they can, so by the third meeting they can come to a consensus.

Mr. Foley suggested the meeting of December 14th. The Applicant agreed that would be a good date and give them time to work with GCG and update the plans.

Mr. Lucas made a motion to continue the hearing to December 14, 2021 and it was seconded by Mr. Fleurent. The motion passed unanimously via roll call vote 6-0.

Mr. Hayward said they haven't discussed the Riverwalk on the Acushnet River side and asked if that was being handled by Conservation. Mr. Foley said they did submit plans for that and that he has reached out to Chapter 91 to discuss alternatives.

The public hearing was continued to December 14, 2021.

- ii. **SD 2021-01 – Torrington/Reservation Unaccepted Street Discontinuance:** Public Hearing on proposal to discontinuance a portion of Torrington Road off Reservation Road between Lots 203 and 221 on Map 29A.

Mr. Foley explained this piece of Torrington Road has never been used. He said the other piece between Reservation and Gilbert Road has already been discontinued. The owners on either side agreed to split the piece between the two of them. Referencing the image on the slide, Mr. Foley said the pink side would go to Ms. Branco and the other side to the Eble's. He said they just wanted to share the piece of land between themselves. Mr. Foley said the Branco property

would be less non-conforming. The proposal was routed to all departments and no one had any issues or concerns.

Mr. Hayward said he has no issue with this as it is a simple administrative thing they are doing. He said that the applicants should do their own research for the title of the land to make sure they can get to the center of the property. He didn't see it as any concern for planning. He opened it up to the board members.

Mr. Lucas said he had no problem with the request.

Eunice Eble said they have nothing to dispute and were in agreement.

Mr. Hayward noted it would have to be recorded at the Registry of Deeds at their expense.

Mr. Fleurent asked if anyone else had submitted concern. Mr. Foley said that the notices went out and there was no feedback.

Ms. Melanson made a motion to discontinue this portion of Torrington Road/Reservation Road as shown on Map 29a through lots 203-221 and was seconded by Mr. Hayward. The motion passed unanimously 5-0 via roll call vote.

b) Other Reviews:

- i. **Chapter 65 Park Project:** Continued review of Proposal to CPC for new Pickleball Courts in Livesey Park.

Ken Pottel and Al Valle were present in the banquet room to speak on the project.

Mr. Foley reviewed the 6 court proposal.

Mr. Valle had a slide show to present to the board but there were technical difficulties with it. Mr. Foley noted many of the images were in his slide show and he would forward it to Planning Board members for their review.

Mr. Valle said they had Mr. Furtado come out to review and said there was no concern as far as DPW was concerned. Mr. Furtado said DPW would help them put the courts in.

Mr. Valle said it is a sport that is multi-generational and emphasized the need in Fairhaven with such great growth. It started with 8 people and is up to about 190 in the membership. He said they did clinics and many people came out during those clinics. That is the drive for more courts in Fairhaven and Livesey Park is a great spot because there are other opportunities to do other sports at that park. He said their application is in to the CPC for funding. They have received 100% support from the DPW. They have gone to NFIA for their support. He also said they have spoken with the tree warden ways to minimize the carbon footprint of the asphalt at Livesey Park and would be planting three trees.

He said they had quotes from Fairhaven residents in support of the Pickleball courts in the presentation. It brings a lot of opportunity to the Town to engage in a family sport with a sense of community and comradery. Mr. Valle said that the size of the court is smaller than tennis courts. When there are only 14' between people and teams they can speak with one another. They are looking for the support of the Planning Board to move forward to the CPC for funding.

Mr. Hayward said he never questioned 'if you build it people will come'. He said it is not in their purview to weigh in if it's a popular sport. He advised that the Planning Board reviews lighting, noise, water draining, parking and etc. Mr. Hayward asked if the courts would be available in the evening and if there was any lighting plans.

Mr. Valle said they had no lighting plans. Mr. Pottel said there was lighting at the baseball fields.

Mr. Pottel said they play in the mornings with 6 courts, 24 players and there are no problems in the morning to park. He said if evening playing created an issue with other sports taking place at the park, they would have people sign up via their app and would be able to address the parking if need be.

Mr. Pottel said they have played at Cushman Park for a while now and there has not been one noise complaint and the houses are closer to the courts than these would be. The houses could be seen on the slide. Mr. Valle showed the ball and racquet used in the game.

Resident, Ray St. Armand from Precinct 4 was on the zoom platform. He said that the impact on the neighbors regarding noise was irrelevant in his opinion as there are basketball courts there and that has noise as well. He said he was at the last meeting and heard some reluctance regarding open space. He believes that open space and recreational planning goes hand-in-hand and satisfies three out of the six goals from the open space and recreational plan and master plan. He said that Fairhaven should strive to accommodate all levels of recreation, from young to old and pickleball does that. He believes it has pretty clear benefits to all of Fairhaven at all levels.

Mr. Hayward said they are not approving or disapproving pickleball. They are just giving their review to the proposal brought before them.

Mr. Fleurent said he has had residents approach him to ask for his support and he is comfortable supporting the courts.

Mr. Foley said he was not against pickleball, but feels there is a lot of pavement in the park already. He thinks we should do an overall comprehensive look at all the facilities in the parks in Fairhaven and see what is being used and what is not. Maybe we can find them more courts without paving that area. Once it's paved with a fence up no one can walk their dog there or throw a Frisbee or have a picnic. There also could be some drainage issues in that location as there is a hill with a lot of pavement and a manhole in the area they want to pave.

Mr. Hayward said that if the Department of Public Works was going to be the contractor on these courts then Mr. Furtado and the DPW will have to make sure there is good drainage and it is

designed properly. He does believe that the Town Planner brings up some valid points and these hard issues is what Planning Boards look at. He thinks the lighting, parking etc. would need to be addressed by the contractor. We may have to look at screening issues in the future to prevent noise.

A resident that only identified herself as Carolyn said she wanted to remind the board that this is a public park and the goal is to attract as many users to it as possible. She said there are parking issues all over Town and doesn't understand where the concern is here at this location.

Resident, Debbie Almeida of Precinct 2 said she could have taken pictures on Sunday where people were waiting to play at 9:00 am. She said there were 24 people waiting to play. She has been going to Livesey Park for years and it is clearly under used.

Again, Mr. Hayward reiterated that nobody is questioning the use of pickleball. He said the Planning Board concern is around parking, lighting and noise; which is for all projects not just this one.

Mr. Fleurent said he wasn't sure why they needed the six pickleball courts and why they couldn't just start with four or five.

Mr. Hayward said this is not a Special Permit application in front of the Planning Board that they can condition. This is just a Chapter 65 review to get the Planning Board thoughts or recommendation.

Mr. Foley said he is willing to work with the membership but it was his personal feeling that it should be scaled back and we should look for alternative locations for more courts.

ii. **DS 2021-02 Frederick Ave Subdivision**: Form D and Mylar.

Mr. Foley said the law suit was dropped. As part of the conditions of the one-lot subdivision they never completed a Form D Covenant or submitted a mylar to be endorsed. He put it on the agenda in case they submitted this in time but he has not heard from the developer. No action needed to be taken tonight.

3. **CURRENT PLANNING:**

a) Rogers Reuse Committee Update:

Mr. Foley said we did not receive for the technical support and that the Rogers Reuse Committee would move forward with developing a new RFP, He said the committee will meet again on November 16, 2021 where they will begin the process for a new RFP. He said once they put it out, he would suggest they leave it out for a longer time, at least six weeks to two months. He said the goal is to sell the property to someone who will preserve the historic character of the 1884 building and not overburden the neighborhood with overdevelopment.

Mr. Hayward stated there was nothing to report at this time as the last meeting was cancelled.

b) Town Planner Update: Community Planning Grant (\$75,000); Site Readiness Grant; Union Wharf Feasibility Study; Upcoming Reviews.

Mr. Foley said they did receive the one-stop program grant for community planning for \$75,000 to hire a consultant to help write a 40R bylaw and develop design guidelines. Mr. Foley reported they still have \$26,400 left over from Best Practices Grant so they have a little over \$100,000 in grants to help write 40R bylaws.

Mr. Hayward said they have announced a Special Town Meeting coming up in January, and the Planning Board would need to schedule a meeting for rezoning at Narragansett Boulevard.

Mr. Hayward asked if there was anything else they were going to town meeting.

Mr. Foley gave an overview of the Site Readiness Grant so far. Assessments are being done at the old drive in property and at the Town owned property at 194 Bridge Street. He said there are four different environmental assessments that are being done right now in one stage or another.

Mr. Hayward asked about the meeting on November 23, 2021 and wanting to understand the liquor license for the Crow Island property. Mr. Foley said he sat down with Attorney Markey last week for potential conditions. Attorney Markey said they were looking for a seasonal liquor license. Mr. Foley thinks the Town should get a better handle on the demographics of the town for seasonal population growth. Mr. Hayward stated Frank Mahady has been a consultant with Fairhaven for a long time and he could possibly advise of that number.

4. **LONG RANGE PLANNING:**

a) Town Planner Update:

5. **OTHER BUSINESS:** Any other business that may properly come before the Board, not reasonably anticipated when posting 48 hours prior to this meeting.

6. **Next Meeting:** Tuesday November 23, 2021.

Cathy Melanson made a motion to adjourn and was seconded by Ms. Fidalgo. The motion passed unanimously via roll call vote. (5-0).

Respectively submitted,

Patricia A. Pacella
Recording Secretary