



City of Lowell - Planning Board

Planning Board Meeting Minutes

Monday November 2, 2020 6:30 p.m.

Conducted via Zoom

Note: These minutes are not completed verbatim. For a recording of the meeting, visit www.ltc.org

Members Present

Thomas Linnehan, Chairman

Gerard Frechette, Vice Chairman

Richard Lockhart, Member

Robert Malavich, Member

Caleb Cheng, Member

Sinead Gallivan, Associate Member

Members Absent

Russell Pandres, Associate Member

Others Present

Fran Cigliano, Associate Planner

A quorum of the Board was present. Chairman Linnehan called the meeting to order at 6:31pm.

I. Minutes for Approval

October 19, 2020

R. Lockhart motioned and C. Cheng seconded the motion to approve the minutes from the October 19, 2020 meeting. The motion passed unanimously, (5-0).

II. Continued Business

Site Plan Review Amendment: 2 Prince Ave, 1 Markley Way 01852

The Planning Board will hold a public hearing to hear all interested persons on an application by the Markley Group seeking to amend a 2018 Site Plan Review approval to expand the data center at 2 Prince Ave, 1 Markley Way. The data center is in the Light Industrial (LI) zoning district and the applicant is seeking approval for various site plan changes including but not limited to: reorientation of generators, addition of two water storage tanks with pump house, relocation of cooling equipment, demolition of an existing boiler building, removing of auxiliary fuel storage tanks with underground piping, relocation of parking spaces, site circulation improvements, and associated modifications. The changes require Site Plan Review approval under Section 11.4.2 and any other relief required of the Lowell Zoning Ordinance.

On Behalf:

Luke Kipfer, Markley Group

Theo Kindermans, Stantec

L. Kipfer: Neighbors have raised concerns about the previously approved generators. Our current stacks are in compliance with MassDEP guidelines. If raised to 25 feet, there would be an improvement to particulate dispersion. We plan to raise them. Also on the south side, plan to move forward with planting between generators and abutters' houses. Have planted some screening. 25 total plants installed since last meeting. Finishing landscaping on that side of the property. Fuel storage permit was unanimously approved by City Council. Full fence replacement along Bourne

Street. Received an email from the Water Department stating that there would be no negative impact on neighbor's water.

T. Kindermans presents the site plan.

Speaking in Favor:

None

Speaking in Opposition:

Randall Snead, 63 Otis Street: I appreciate the work they have done so far. The fencing they showed around some of the properties is not sound-deadening. Not what they proposed. As for the water tanks that are on the agenda, I still believe even after their plantings and after 5 years, they are still going to be visible to us from residences and the street. The fence they are proposing to put in may help eliminate some of that view. Question regarding stipulations on the generators. City Council said this is a responsibility of the Planning Board. One stipulation I would like to see placed - be able to do air quality testing at the level of residents. The property line is below the height of stacks. Would like to test air quality at the height of residents that are going to be experiencing emissions. Project that has been going on seems like it never stopped. Still doing foundation work where they have a proposed new HVAC center and location of the proposed cooling towers. They have foundation work that they are placing at those locations. Have never stopped doing construction.

Eileen Castle, 64 Otis Street: Sounds like they're trying to put trees on my side of the fence. I don't think they should be able to do that. I plan on doing things about this and I think the Planning Board should look at this. Not the right thing to be done. I sent some pictures. One photo will show you the fence. I'm standing at the fence looking down, all you can see is rocks. No place to put trees so that I might not be able to see the water towers. Down below, there is always water coming from up above. Sometimes it looks like a pool. Going to have erosion. That's why the rocks are there. Have they looked into other areas for these? They were supposed to, but only showed this site plan. No one seems to do anything about it or care. Noise levels. Fence – another fence in my yard? No one has talked to me about any of these things. What about cooling tower waste?

Fred Laffin, 101 Bourne Street: My concern is, I mentioned before about the dirt pile. It is still there. I want to know, has it been checked out? Usually when dirt doesn't leave a construction site its due to contamination. I'm concerned about that. Sprayed stuff on it. Green stuff to hold down dust. I can't open my doors or windows. Directly across the street. Cooling towers, I could throw a rock to them. What type, how many tons would it hold? Also concerned about the noise level.

Nancy Fortes, 36 Iowa Street: Thank you for putting trees in behind my house. It's a start. A few minutes ago, L. Kipfer said you are working to raise the generators. Wondering what the timeline is. What recourse do I have if it's not done? Things were promised in the past that weren't done. Would like some definite answers.

Jake Fortes, 36 Iowa Street: It's been four years now that two generators have been installed. Refreshing to hear from L. Kipfer. Haven't heard from Mr. Eliades tonight. Presents photos of old Prince Factory. We have given enough to Markley Group to have them come to town. Work for cooling towers has never stopped. I will continue to be here until you do what you say you are going to do.

Discussion:

T. Kipfer: I have a few things to give more information on. Tried to take notes. Hales Brook – we had an emergency repair on the wall because it caved in in 2016. Part of the wall this spring we found had caved in. Filed for amended OOC this summer. Received it for repair of wall. At that point, repaired entire wall. Have an OOC for that. All the material shown on the plan is there. Maples don't have any leaves. Quite a few tall grasses planted. Stubby at the moment. At

the moment you can't see them. Everything shown on the plan is there. As far as water or overflow on Otis Street, we are on the downslope from Bourne Street so we get quite a bit of water. Quite a bit that came down. The berm helps protect us from the water. LK: Did discuss looking at alternative locations of the water tanks in last meeting. Due to infrastructure, it needs to go in at the proposed location. Addressed this in previous meetings.

G. Eliades: I just want to say I chose not to speak tonight. Disappointed that I have to be thrust into this thing to distract the Board. That's it.

G. Frechette: Obviously we've made a lot of progress from where we started in May. Disappointed it's taken this long, but have made some progress. Challenge we are dealing with here is when you have conflicting zones. No transitional zone. Residential abutters right next to light industry border. Challenges there. Conflicting interests of any business in LI zone with neighbors. That's always a challenge. There are some limitations of what we can and can't do. Reasonable conditions for some technical violations in application. As far as an application that meets requirements, it is within the purview of the board to render a decision with reasonable conditions. Biggest concerns is buffer around residential neighborhood. Obviously, disappointment in the landscape plan, in 2020, not much progress on site. I understand frustration and skepticism of neighbors. Nice to see progress. But we had to hit you over the head to see the progress. Even as work would continue within the site ... I am looking at if we condition landscaping had to be completed by "Spring 2021", seems that that would be reasonable. We are losing time now but if we made May 2021, would that be reasonable from your perspective? Had this been done some time ago, it would have helped the situation. At the end of the day, stacks are up to state authority. Comply with City's noise ordinances. Make that a condition. Point made with second water tower. Would like to propose as a condition that the second tower would not be erected until a sign off from DPD as to the adequacy of the landscaping from the residential neighborhood as a result as the second tower. Did the mature trees accomplish what we wanted to do, was fencing adequate. Would not be tool to top the second tower, but to see whether something else needs to be done in addition to help conceal the towers.

T. Linnehan: Erection of second tower tank? Not foundation.

G. Frechette: Yes, ability to go back to redo landscaping. To ensure we accomplish what we wanted to with landscaping.

R. Lockhart: is there a timeline here?

G. Frechette: Landscaping end of May. Included as a condition.

S. Gallivan: I agree with G. Frechette's comments. Appreciate neighbors coming continually since I wasn't here. Agree with implementing a timeline. Of the two water tanks, has there been a decision on what one is being erected first?

L. Kipfer: Furthest tank from the abutters.

S. Gallivan: I think that makes sense.

C. Cheng: I agree with G. Frechette's conditions and suggestions. I think that would address all the issues I'm concerned with.

E. Castle: I did hear him saying fence was not going to be moved onto my property.

T. Kipfer: Yes. Will be planted on Markley's side of the fence.

J. Fortes: Thank you for hearing our concerns, G. Frechette. Appreciate that stipulation. Fencing/landscaping. No timeline on smokestack elevation. 12-16 weeks timeline according to L. Kipfer. Wondering if you could include a May 2021 timeline for smokestack improvements.

G. Frechette: That would make sense. Reasonable. Would tie it all in at the same time.

L. Kipfer: Yes, still working on details. May 2021 is reasonable date for that.

G. Frechette: Appreciate the input. A lot of moving parts to this.

Motion:

G. Frechette motioned and R. Lockhart seconded the motion to APPROVE the Site Plan Amendment with the following conditions:

- 1) The applicant shall comply with noise level regulations per the Lowell Zoning Ordinance and will mitigate noise in excess of City requirements;
- 2) The final plans are subject to final approval from the City Engineer;
- 3) Prior to erecting the second water tank, DPD shall review the landscaping screening to determine the adequacy of the buffer between the water tank area and residences;
- 4) The applicant shall raise the exhaust stacks prior to the month end of May 2021;
- 5) The landscaping and fencing along the south side of the property where the site abuts all residential properties shall be completed by the month end of May 2021; and
- 6) The sound barrier fencing is to be reviewed and approved by DPD.

The motion passed unanimously, (5-0).

III. New Business

Definitive Subdivision Approval: 4 Tamarack Street 01851

John Cox has applied to the Planning Board on behalf of Martin Burke for the approval of a definitive subdivision plan that includes the extension of Tamarack Street by approximately one hundred forty (140) feet, and construction of a single-family dwelling at 4 Tamarack Street. The site is entirely within the 100-year flood plain and is located within the Traditional Neighborhood Single Family (TSF) zoning district. This project requires Planning Board approval under Lowell's Subdivision of Land Regulations.

On Behalf:

John Cox, Applicant's Attorney

J. Cox: This was heard before the Conservation Commission on September 9. Matter was granted unanimous approval. Then on September 28, out of the blue, we received notice that DEP had appealed it. Can't remember this ever happening. Have been trying to reach people at DEP. Difficult due to pandemic. Finally did get ahold of the person assigned to this matter. They have set up a site visit, required in this process. Scheduled this Friday at the site. Hopeful that site visit will clear up the matter. That's where we are at.

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

T. Linnehan: Would like to know what DEP is doing. Would give us more clarity.

G. Frechette recused himself from this petition.

Motion:

R. Lockhart motioned and R. Malavich seconded the motion to continue the hearing to the December 7, 2020 Planning Board meeting. The motion passed unanimously, (5-0). G. Frechette recused himself from the vote.

Zoning Amendment: Rivers Edge Road 01852

In accordance with M.G.L. Chapter 40A, Section 5, the Lowell Planning Board will hold a Public Hearing to hear all interested persons relative to an ordinance to amend "The Code of Ordinances City of Lowell, Massachusetts," with respect to Chapter 290, thereof entitled "Lowell Zoning Code" by extending the existing Suburban Neighborhood Multi-Family (SMF) zoning district boundary to an area presently zoned Traditional Neighborhood Two-Family (TTF) to an area comprising a 12.5 acre parcel in the vicinity of Rivers Edge Road.

On Behalf:

Kevin Murphy, Applicant's Attorney
Kevin O'Brien, Developer

K. Murphy: Last leg of reinvention of Julian Steele. Proposing to finalize this development, 12+ acres, that are depicted on the plan. We are permitted to put in 26 units in that parcel. These units would be single family homes and duplex units like the rest of the development. Unfortunately, because of the economics of the situation, we cannot complete the project financially with only 26 units. Looking to be able to change density requirements to build more units on that parcel than are presently permitted to make it financially feasible. Haven't completed a review for the exact number. We are having an internal debate relative to that. Don't want to make too dense. There are parking issues and whatnot. Want to make sure it is a viable development. Maybe 35-40 units that we would propose to construct at this development. Because this is the reinvention of Julian Steele, we are looking to change the zoning to come in with an amended plan. Any amended plan would need to be reviewed by the Planning Board under Site Plan Review. Not only the Planning Board, but also the City Council would need to approve. Lowell Housing Authority would need to review the amendment. DHCD would need to approve it. Many steps need to be encountered before coming to a final decision. First step is to ask the City Council to rezone property to bring in plan that we think is financially feasible to finish out the reinvention of Julian Steele. We would never ever put 7 dwelling units on a single parcel. Rowhouses didn't work and multiple units on one parcel don't work. Any plan which we have to bring before you would be similar to what's there now, single families and duplexes.

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

R. Malavich: One question. In the area being proposed for rezoning, are there any existing homes from the phase 1 of reinvention on that site that would be affected by the rezoning?

K. Murphy: No, no existing houses there.

T. Linnehan: All comes down and stops at end of Adie Way. Grass down to the river.

G. Frechette: I am quite familiar with the site. I understand the economics of it. Lot of infrastructure to make site buildable. As I look at dimensional table within ordinance... we have to look at underlying zoning. Having a hard time understanding how that would be accomplished. Not sure what you're gaining.

K. O'Brien: Apartments next door are in the SMF zone. That's why we chose to do SMF here.

G. Frechette: Would have to be building units that are more than 2 family units. Is that correct? You're going to need a bigger lot to build a two family home in the SMF zone. Trying to understand if you are trying to retain the character. Having a hard time understanding how that is going to be achieved. Unless there's a zoning change and you're looking for waivers.

K. O'Brien: I think we were looking at condominium type development.

K. Murphy: This is a question Whitman would need to answer. Any proposal would have a complete design by engineering firm showing the lots. Showing how we would achieve increased units within zoning district.

C. Cheng: Are we expecting the lot lines to be redrawn for whatever LHA is proposing?

K. Murphy: Yes.

T. Linnehan: I understand where G. Frechette is coming from on this. In the TTF, you are looking at 6000 sq. ft. lots. That's what is currently out there now. In the SMF, looking at 20000 sq. ft. lots. I know what you're requesting to do. But, once we change the zoning, if we allow SMF, 7 units or more on one lot, 12.5 acres, probably talking 190 units.

K. Murphy: Never going to do that Mr. Chairman.

T. Linnehan: Once we approve, you could put in that many units. We had the same situation in the past on the Boulevard. We have to decide whether to allow, with what we've seen in the past where they turn around and sold the property and put something else in there.

G. Frechette: The only way to accomplish what you want to accomplish is by not doing single family and two family homes. We are giving a recommendation based on being asked. I am tempted to give a no finding on this. This is in the Councilor's purview. What's being purported as accomplished, doesn't seem to fit. That's my concern.

S. Gallivan: I agree that without a proposal in front of us, hard to see how it would work. Might be a question for Fran. Could there be an overlay district to allow more?

F. Cigliano: Not sure that we utilize overlay districts in this way in Lowell.

G. Frechette: It appears intent is to upzone it for the economics of it. More units to pay for site cost. What's being asked and what's being represented, doesn't seem to match as presented.

T. Linnehan: Section 11.3.10 talks about selling to another entity, retain taxes from it. 7+ is allowed by right.

G. Frechette: In both instances its by-right.

R. Lockhart: I concur with Mr. Frechette's analysis.

R. Malavich: We are looking at an applicant here who has a track record and has to go through million hoops by all entities involved. Leaning toward allowing this to happen so that they can develop a plan that is consistent and is feasible financially. Will provide more low income and middle income housing.

C. Cheng: I looked at the dimensional regulations as well. SMF wouldn't help because minimum lot sizes are bigger. I think it depends on how the applicant is going to develop the land. I guess if they are requesting for SMF I would give them the benefit of the doubt that they know what they are proposing.

S. Gallivan: I still agree with G. Frechette. Reluctant to see how it could be done with single family homes and duplexes. Could develop in a completely different way. Would be allowing it by right by changing the zoning.

G. Frechette: From a planning perspective, the Planning Board recommendations. The Council has the final say. A lot of work has gone into it. Council would have the binding vote. For planning recommendation, no finding. Not voting it down or negative recommendation. I feel that it is appropriate to move along with "no finding".

T. Linnehan: I understand the applicant is in good standing with us. A lot of extra development could go in there. 35-40 would be great. I'd welcome that. It's tough making a zoning change because it opens up a lot more. Have to look at all other requirements not just for a buildable site in the future.

Motion:

G. Frechette motioned and R. Lockhart seconded the motion to render a "no-finding" recommendation to the City Council. The motion passed unanimously, (5-0).

IV. Other Business

V. Notices

VI. Further Comments from Planning Board Members

R. Lockhart said that the Historic Board will meet on November 9.

G. Frechette said that the Rourke Bridge Advisory Committee will be meeting in November. Hoping to report progress. Seeing some movement. Reasonable timeline. Hopefully at next Planning Board meeting, will have an update.

VII. Adjournment

C. Cheng motioned and R. Lockhart seconded the motion to adjourn the meeting. The time was 8:40PM.