

MINOR SITE PLAN MODIFICATION/REVIEW

Site Plan Modification - Solar array, 885 Fisher Rd., add proposed battery storage (cont'd)

Item continued to a later meeting. The proponent's engineer has forwarded a plan showing possible locations for the BSS, but not enough time to get to the Board prior to tonight's meeting.

Site Plan Modification - Happy Car, 652 Water St., revisions to USTs

No one present for this item. Last year, the Board approved a minor site plan to increase the capacity of underground fuel storage at this location from 24,000 gallons to 30,000 gallons. Two 6,000 gallon tanks were to be removed and replaced with a 5,000 gallon and a 10,000 gallon tank. No other changes to site. Now, Mike Montuori is proposing to keep the two 6,000 gal. tanks & install just one 7,000 gal. UST. An aboveground 2,000 gal. diesel tank will be removed. Fire Prevention has reviewed and is OK w/it.

Motion made & seconded to Approve the Minor Site Plan Modification. Vote 7-0 in favor.

MINOR SPECIAL PERMIT MODIFICATIONS / EXTENSIONS

Harper Furniture project – revised elevations & floor plans

Present: Jon Rudzinski, Rees-Larkin Development, Bob Williamson and Gary Kane of The Architectural Team.

Per conditions 8, 10 & 12 of the Board's 40R Smart Growth Plan Approval last fall, Jon had submitted a landscaping plan, architectural plans & renderings for the Board's review & approval. There will be plantings on the level above the main entrance and window boxes, which will all have irrigation.

Ms. Caron suggested adding some landscaping on either side of the old firehouse doors if possible, and reusing a portion of the black metal fence in front of the vacant middle parcel to use as a border of the courtyard to provide some separation from the street. Jon's team will investigate that.

Number and unit types have not changed: 44 rental units & approx. 8,000 sq. ft of commercial space on the first floor.

Q: What will project name be? Jon: TBD, but they want to use a distinctive local term, not generic. Addition of decorative lighting on the exterior facing Moran Square will be addressed with the signage application.

Motion made (Mr. Capodagli) & seconded (Ms. Koeck) to approve the submitted landscaping plan, architectural plans & renderings. Vote 7-0 in favor.

Mr. Fontaine recused himself from the following item due a conflict of interest.

Gionet, 579 South St. - revisions to bldg. footprint & floor plan & transfer Special Permit

Present: Mark Gionet, Bill Lorigan, Lorigan Architects.

Bill presented plan revised 6/2/20 by Lorigan Architects which showed a slightly smaller footprint. Approximately ten feet will be removed from the northeast (street) side of the 20-unit building, and approx. seven feet will be removed from the northwest (Ashley Ridge) side of the building. Building elevations will change slightly. Per Special Permit conditions revisions to the plan need to be reviewed by the Board. More landscaping will be added. The # of units, # of BRs, # parking spaces will remain the same.

Ms. Caron: Is the intent to still build the office bldg. that was approved as part of the PUD?

Mark: Yes, when the apartment building is completed. They will prep the bldg. pad for the office building. It should only be a matter of months after the completion of the apt. bldg. to start that.

Ms. Caron cautioned that if it's longer than that, there needs to be a buffer between the parking area and the street. Mark agreed.

Ms. Caron also pointed out that per condition #8, a landscaping plan needs to be submitted for the Board's review & approval. Mark: Landscaping plan not completed yet; he anticipates having one to submit by August.

The Special Permit also had a condition requiring Planning Board approval of any transfer of the Special Permit. Mark proposes to transfer it to Tegra Properties, LLC which is his business partner, Lance Dellagono. Lance is aware of and agrees to abide by all the Special Permit conditions.

Mark: Fencing to the abutter to the south will be installed after construction. Sidewalks will be constructed connecting to the sidewalk in front of Ashley Ridge after apt. bldg. once completed, but before work on office bldg. begins

Mr. Capodagli: Why change footprint of bldg.? For aesthetics and less ledge to be removed, less costly.

Motion made (Mr. Capodagli) & seconded (Ms. Koeck) to (1) approve the proposed modifications to the plan and (2) to approve the transfer of the Special Permit to Tegra Properties, LLC. Vote 7-0 in favor.

Mr. Fontaine returned to the meeting.

Game On - Request to open 3 playing fields prior to completion of off-site improvements (cont'd)

Present: Atty. Tom Bovenzi, Steve Marsden.

Board reviewed a 6/16/20 memo from Atty. Bovenzi titled "Timeline for Completion of Outstanding Conditions". Atty. Bovenzi & Steve Marsden presented their case for allowing an early opening of the three fields. Fields are proposed to be open 8:30 a.m. - 7:30 p.m.

There will be no construction on Sundays from now on.

Board questions:

How is vehicular access to fields 5, 6 & 7 and construction access separated?

Steve: By elevation, access drive to fields is higher

Mr. Lopez: Lighting? Only in parking lot of bldg. when finished. No lighting of fields currently.

Tom Skwierawski reviewed notes from meeting earlier today between dept. heads, the Planning Bd. chair and the applicant concerning the request to open fields early.

Comments from public:

Michelle St. Cyr asked how can construction continue while fields would be open?

John Savone, Victoria Lane suggested a "Deer Crossing" sign on Industrial Rd.

Q: What happens to gate at site entrance? The present gate at westerly end of site will be removed. Old culvert under Westminster Hill Rd. will be replaced w/ a box culvert per plan. Water, wastewater & stormwater connections still need to be completed. Then that section of Game On Way will be paved.

Cassandra Cushing: Will Industrial Rd. be repaved?

Steve M: They will make contribution toward road repair as per Special Permit condition.

Are there plans for widening Game On Way to provide a separate lane for local residents? They are concerned that with cars lining up to get into soccer fields it will make it difficult for local residents to get up their street.

No plans for street widening at this time. Game On can open the gates an hour before the facility opens so that there won't be a backup of vehicles onto Game On Way.

Jeff Dewing, Victoria Lane asked why project wasn't sticking to original schedule and conditions.

Ms. Caron asked if Board needed more information before voting.

Board discussion:

Mr. Capodagli: After hearing tonight's presentation, he has changed his mind about the opening of the 3 fields.

Mr. Lopez did not agree, is not in favor of an early opening.

Ms. Butland: Why should the Board allow an early opening? Are there any compelling reasons?

Ms. Koeck: It doesn't seem right to open early. Since we've been waiting so long for this project to be finished we should wait another 3-4 months until the project is entirely done.

Atty. Bovenzi: Yes, the early opening is to get some revenue, but it will also facilitate getting the rest of the work done if Game On can show the bank that the project has some positive cash flow. The early opening will also allow kids that have been stuck at home during the pandemic to get out & get exercise.

Ms. Caron noted that the request is for a modification of a special permit and thus, requires a 2/3 majority to pass, same as the original special permit.

Motion made (Mr. Fontaine) & seconded (Mr. Capodagli) to approve a Modification to allow early opening of Fields 5, 6 & 7 as requested per 6/16/20 letter from Atty. Bovenzi.

Votes in favor: Mr. Capodagli, Ms. Caron, Mr. Fontaine, Ms. O'Kane.

Votes against: Mr. Lopez, Ms. Butland, Ms. Koeck. Vote 4-3, so motion did not pass.

PUBLIC HEARINGS

Modification of Special Permit & Definitive Subdivision Approval, "Candlewood Park" subdivision, 0 Richardson Rd., Belliveau (continued from 2/11/20)

Present: Judy Belleveau. Atty. Robert Meyers & Karl Makela, The Richardson Trust.

Ms. Caron noted that since this was a request for a modification of a special permit it requires a 2/3 majority to pass.

Atty. Meyers presented request to Board to release the Open Space restriction in their 1994 decision. The parcel being discussed is a conforming lot, meets min. lot size & frontage. The materials submitted with the request includes a petition signed by a majority of the residents in the development stating that they have no objection to this parcel being a building lot.

Public comment:

Bill Gates, 46 Kyle Rd: The Homeowners assoc. for the development was never formed, but the open space restriction on the Declaration of Covenants runs with the land.

Atty. Meyers: Technically, the "association" is still Brian Carlson. The Planning Board will still have the authority to undo the restriction in their decision.

Board comments:

Mr. Fontaine read from a statement (attached) stating the reasons why he thinks the Board should not undo the restriction.

Motion made (Mr. Fontaine) & seconded (Ms. Koeck) to close the hearing. Vote in favor.
Board deliberation.

Motion made (Mr. Fontaine) & seconded (Ms. O'Kane) to Deny the request based on Mr. Fontaine's comments.

Votes in favor: Capodagli, Koeck, Fontaine, O'Kane, Lopez, Caron.

Voters against: Butland. Vote 6-1 to deny the request to Modify the Special Permit & Definitive Subdivision Approval.

OTHER BUSINESS

City Council petition #143-2020 - Day St. municipal pkg. lot

Mr. Fontaine advised that he had learned from a member of the Council's Economic Development Committee that this petition was to be withdrawn. Board agreed to make no recommendation.

Board appointment to Montachusett Regional Planning Commission

Discussion continued from last meeting. Ms. Caron asked if anyone was interested in being the Board's representative to MRPC for the coming year. Ms. Butland said she was interested.

Motion very quickly made & seconded to appoint Ms. Butland as the Board's representative.

Vote in favor.

Discussion scheduling future public hearings

For the July 14th meeting, the Board decided to schedule items postponed/continued from 3/10:

- Site Plan Review - Self-Storage Facility, 34 Kimball Pl.
- Special Permit - 223 Lunenburg St. - Retail sales of Adult-Use Cannabis
- Special Permit - 226 Westminster St. - Retail sales of Adult-Use Cannabis
- Special Permit - 50 Whalon St. - Retail sales of Adult-Use Cannabis

New applications submitted since March include:

- Special Permit & - Seney, 4-unit PUD, Fifth Mass. Tpk.
- Special Permit - Capodagli, conversion of 938 Main St. to 2-family
- Special Permit - Marrone, Retail sales of Adult-Use Marijuana, 105 John Fitch Hwy.

The applicants continued from 3/10/20 will be asked to submit any additional information requested by the next meeting.

Board agreed that the next meeting date would be Tuesday, June 30th @ 6:00 p.m. for administrative items only, no public hearings.

MINUTES

Minutes of the May 27th meeting reviewed.

Motion made & seconded to approve the 5/27/20 minutes with several corrections. Vote in favor.

Motion made & seconded to adjourn. Vote in favor.

Meeting adjourned: 8:32 p.m.

Next meeting: Tuesday, June 30, 2020

Minutes approved: August 4, 2020.

Attachments:

6/16/20 letter from Atty. Bovenzi - Fitchburg Soccer, Timeline for Completion of Outstanding Conditions

**Fitchburg Soccer
100 Game On Way
Modification Request to Open Field Nos. 5, 6 & 7
Timeline for Completion of Outstanding Conditions
and Construction and Operation Measures**

Outstanding Conditions

- Condition 8 - Exterior improvements
 - o Sound barriers and signage installed by June 26, 2020
 - o Paving for Fields 5, 6 & 7 will be completed by June 26, 2020 and all other paving by August 21, 2020
 - o Install vinyl fence on neighbor's property line by June 30, 2020
 - o Install utilities in road by August 21, 2020
 - o Complete building by October 16, 2020

- Conditions 15 (a) through (h) – Traffic Mitigation Measures
 - o All off-site signage and signage pertaining to Fields 5, 6 and 7 installed by June 26, 2020
 - o Directions to complex including those on website completed by June 19, 2020
 - o Eliminate proposed island on the Westminster Hill Road westbound approach to Victoria Land and install “No Right Turn” sign at this location by June 26, 2020
 - o Complete all other mitigation measures by October 16, 2020

- Condition 16 – Discontinuance of portion of Westminster Hill Road
 - o Completed

- Conditions 17 through 19 – No parking and other signs
 - o Installed by June 26, 2020

- Conditions 42(c) and (d) – Street Lighting and Entrance Sign for Industrial Park
 - o Completed by September 4, 2020

Construction and Operation Measures

1. Construction work and the use and operation of Fields 5, 6 and 7 will be physically separated so that there will be no overlap in these uses at the Facility.

2. No construction work shall be performed after 5:00 p.m. on Mondays through Saturdays or at any time on Sundays. Owner will coordinate efforts with the Building Department to ensure compliance.

3. Hours of Operation for three fields will be from 8:30 a.m. to 7:30 p.m. – 7 days a week.
4. By June 26, 2020, Owner will provide certification by professional or civil engineer that Fields 5, 6 & 7 have been installed in compliance with the approved Site Plan.
5. No parking signs will be installed on the temporary access road to Fields 5, 6 & 7. This road will remain gravel as shown on the approved Site Plan, but will be watered and treated with calcium as needed to reduce dust.
6. Rock crushing will be completed by July 10, 2020.

Statement of Planning Bd. Vice-chair Paul Fontaine Jr. read at 6/16/20 Planning Bd. meeting re: 0 Richardson Rd.

We have received guidance from non-interested parties such as the City DPW, North County Land Trust and the Community Development Department that the applicants request may create bad precedent. While there was shown to be non-opposition from 24 out of 40 property owners within the development, this merely constitutes a simple majority (60%). Approval from this board would require a supermajority (in the case of this board, this is a 2/3 vote or 66%). Furthermore, of the 4 direct abutters (25 & 19 Jessica Way, 484 Richardson Road & 46 Kyle Road), only one has shown support of this request (from review of the signature sheet provided by the applicant). There has been specific dissent from one direct abutter (46 Kyle Road) and a property owner directly across the street (499 Richardson Road).

Unfortunately, prior developers never conveyed these lots appropriately, however the open space restriction applied then as it does now, regardless of ownership. The reduced lot sizes allowed within this development at the time of original approval appears to have been in exchange for other concessions made by the developer at the time, most notably the creation of the three open space parcels.

I'm not going to lie; I've lost sleep over this proposal. I am usually all in favor of new development, however, as a planning board member, it is important to make a decision that is in the best interest of the city, even when it may be unpopular. I do sincerely hope that the applicants chose to construct a home in Fitchburg as I agree that quality new construction is in desperate need in the City, however the potential harm to past, current and future permit decisions does not outweigh the benefit for this particular lot.

These factors, combined with the dangerous precedent created by approving this lot, I believe it is not in the City's best long-term interest to approve removing a development open space restriction.