

**FRANKLIN PLANNING BOARD
REGULAR MEETING AND PUBLIC HEARING –
COUNCIL CHAMBERS
Wednesday, December 10th, 2014 at 7:05 p.m.**

Call to Order: Acting Chair Veysey called the meeting to order at 7:05 p.m.

- Pledge of Allegiance
- Roll Call

Present: Brian Sullivan, Mayor Ken Merrifield, Anthony Giunta, Tim Flaherty, Timothy Stangroom, Ted Starkweather, Powell Glenn, Jo Brown, David Veysey and Planning and Zoning Administrator, Richard Lewis.

Absent: Kirk Johnston, Brian Colburn and Michael Freeman.

Member Giunta was seated in place of absent voting member Kirk Johnston. Member Veysey was seated in place of absent voting member Brian Colburn. Member Flaherty was seated in place of absent voting member Michael Freeman.

❖ Approval of Minutes: November 12th, 2014.

MOTION: Mayor Merrifield moved and Member Starkweather seconded to approve the minutes of the November 12th, 2014 Planning Board Meeting. All were in favor of approving the minutes as submitted, with the attachment.

New Business:

- P14-011: HRES Franklin, LLC, Applicant/Owner; Doug Murray, Hunt Real Estate, Agent; Titcomb Associates, Engineer, request Subdivision approval to subdivide off a portion of land in order to create a nonbuildable, non-conforming lot without frontage on a city maintained roadway, the lot is identified as Tax Map/Lot # 147-401-00, 785 Central Street, B-1 Zone (Low-Density Business and Commercial District) and RS Zone (Single- Family Residential District).

At this time, Mayor Merrifield recused himself.

MOTION: Member Starkweather moved and Member Veysey seconded to accept the application of Hunt Real Estate Services for a proposed subdivision on Central Street, Application file P14-11. All were in favor and the motion passed.

Chair Colburn indicated that there was correspondence on the tables tonight for the board. Richard Lewis stated he received an email from Paul Doucette today with an attachment, which was on the table. He stated the attachment was comments received in a social media thread regarding this application. Mr. Doucette asked Richard to provide to the board and that was done.

Jake Seaton was present from Hunt Real Estate. He stated besides the information submitted, he had nothing further to add.

Tim Stangroom asked if there was any interest from the abutters in the property. Mr. Seaton stated they are willing to give the property to an abutter to merge. Member Starkweather asked if they have spoken with the abutters. Mr. Seaton stated not that he is aware of. Member Starkweather asked if they intend to speak with the abutters. Mr. Seaton stated there are two areas, the front area of the lot is in the B-1 Zone is over an acre and has the Family Dollar building on it and the back area in the Residential Zone is the piece they want to give to an abutter for a merger. Member Starkweather asked if all the drainage is on the front lot or if it spills over to the back lot. Mr. Seaton stated all drainage is on the northern portion of the lot and will be on the front lot where the building is located. Member

Starkweather asked if any drainage will spill over onto this back lot and Mr. Seaton stated it is all contained on the front lot.

Chair Colburn asked why they aren't just applying for a lot merger with one of the abutters. Mr. Seaton stated they are trying to get this portion of the lot subdivided off as Family Dollar only wants the front portion of the lot and not the back portion and they are trying to get everything lined up so they can close with Family Dollar. It was indicated that currently Hunt Real Estate owns the lot and after the lot is subdivided then it will be turned over to Family Dollar after the closing on the lot. Member Starkweather stated it doesn't appear that they are that concerned about getting rid of the lot as they haven't contacted the abutters. Mr. Seaton stated he thinks they have made an effort but isn't sure who has been contacted.

Member Stangroom asked about the tax structure and Chair Colburn stated this would be discussed during the board discussion.

Public Comment

Bill Hamel, the direct abutter with the property closest to the building, was present to speak. Mr. Hamel stated they have asked him if he wants the back portion of the lot and he has indicated he does not. Mr. Hamel stated his concern is who will end up with the back lot when Hunt Real Estate sells the front property to Family Dollar and leaves. He stated that Hunt Real Estate doesn't care about the abutters now. He indicated he feels the city would end up with the property once Hunt Real Estate sells the front property to Family Dollar and leaves. He stated if it isn't merged now, then they will leave, no one will want it and it won't be able to be used in the future.

Dave Therrien was present to speak. He stated he is concerned that they haven't already contacted and lined up an abutter who wants the rear portion of the lot. He stated the board shouldn't give final approval until they do the footwork or the city will end up with the property and will collect no revenue on the lot.

Board Discussion

Richard Lewis stated that he has spoken with Deb Ryba, the assessing technician and she gave him copies of the tax cards. He stated the total property is valued at \$250,800, the buildings are currently valued at \$51,800 as that assessment was for the old buildings, in April the assessment will go up for the new building. The land has two components for value. The land is valued at \$199,000 total and is broken down into the following: 1.250 acres of Primary Land valued at \$178,130; and, 1.390 acres of Residual Land valued at \$20,850. The residual land is backland. Until the assessors go out to review the property and do the calculations, he would not be sure what the back lot would be valued at. The backland may have a value of 14,000-18,000 as will be unbuildable and non-conforming. Mr. Lewis stated he is unsure how Corcoran Consulting will assess the land if the approval went through. Mr. Lewis stated that based on the new building, the assessment on the property will be going up this year.

Mr. Lewis stated there were a lot of questions posed in the social media thread on the legality of approving a subdivision to create a lot without frontage. Mr. Lewis stated that he has spoken with the City Attorney Paul Fitzgerald about this and Paul was in agreement that it could be approved with the classification of being non-buildable added as a condition. He stated if the board would like further legal advice they could continue this hearing and he could pose these questions to Attorney Fitzgerald.

Member Stangroom asked if anyone had spoken with Brian Sullivan about the drainage. Mr. Lewis stated that was part of the site plan approval and added that the storm water basin and all drainage will be captured on the front lot and won't be on the back lot. The abutters have indicated that the back portion of the lot always has a little water but this isn't changing. There is no construction being done in this area.

Member Starkweather asked if in the second paragraph of the decision it should be added that Hunt Real Estate will hold ownership of the back lot until it is merged with an abutter's property. Mr. Lewis stated this is not something that can be refuted or challenged. Hunt Real Estate owns the property now and if they sell the property to Family Dollar then they would own it and whoever owns the property as of April 1st are entitled to pay the taxes.

Member Giunta asked for a ten minute break to review the handout on the social media thread that was handed out this evening.

The meeting was recessed at 7:25 p.m. The meeting was reconvened at 7:33 p.m.

Member Stangroom asked if anything in the original decision impedes them from being able to subdivide this lot. Mr. Lewis stated that the subdivision has been brought up numerous times and there is nothing in the site plan that prevents a subdivision of the lot.

Richard Lewis stated the B-1 Zone runs along Central Street, and goes approximately 300' back into each lot with frontage on Central Street and then after that the RS Zone begins. Member Stangroom asked if the property is split in half by the zone line and Mr. Lewis stated when CVS came before the board it was brought forward that a portion of their lot was in the B-1 Zone and RS Zone, like this property. The zoning lines do not follow the property lines and run through many properties on Central Street.

Member Flaherty asked what the advantage was to approving this subdivision. Chair Colburn stated the board is not here to determine if the application has a benefit to the city and if the proposal is in accordance with the regulations then it should be approved.

Member Giunta stated that three members of the public indicated that this approval would be illegal and Mr. Lewis stated based on his discussion with the City Attorney he does not but that the board could continue the application to get more feedback from the City Attorney on this. Mr. Lewis stated he can check to see if there are other conditions that could be applied, whether a variance is needed and what thresholds need to be met before this is approved.

Member Giunta stated that if they can legally do this, then the board cannot deny the application.

MOTION: Member Giunta moved and Member Veysey seconded to continue Application P14-011, Application of Hunt Real Estate, to the January 28th, 2015 meeting of the Planning Board to be held in Council Chambers of City Hall at 7:00 p.m. for Richard Lewis to confer with the City Attorney on whether the board can legal approval this subdivision.

Member Colburn stated it seems weird that there is no requirement for the applicant to request waivers or to receive a variance prior to the approval being granted by the board. He also finds it weird that the board can approve a non-conforming, unbuildable lot without waivers or variances.

Member Colburn also stated that he would like the applicant to provide backup that they have spoken with abutters. He thinks it is odd that they wouldn't have done this before and then requested a lot line adjustment instead of a subdivision.

Member Stangroom asked how access to the property would be if this is not purchased or given to an abutter. Chair Colburn stated that currently there would be no access. Member Starkweather stated he was under the impression that the law was that if there was no access the access would be granted through the lot that this lot was subdivided out of, being the front lot. Mr. Lewis stated that if this was granted then the back area would be accessed through the front lot.

All were in favor and the motion passed.

Old Business: None.

Public Comment:

Mr. Hamel stated that he believes and was under the impression from Hunt Real Estate that the entire reason why they built the building so close to his lot was so they could access the back lot through a 50' right of way across the front

lot. He stated there is more to this than what is being said. Chair Colburn asked Richard Lewis to review whether this was true and that they would be putting in a deeded right of way to the back lot through the front lot.

Other Business

- Discussion regarding Edmunds Asphalt Plant on Punch Brook Road.

Chair Colburn stated that the board had received a memo on the proposed amendments to the Asphalt Plant. Mr. Lewis stated he gave the board a memo, an email and a plan with the details of the amendment. He stated the changes are the addition of a primary power source, being gas, and the originally proposed #2 diesel fuel would be a secondary power source. He stated that a modification hearing is appropriate for notification of abutters and public comment as the area the proposal would be put in was originally proposed as green space and the additional impervious surface could affect drainage. The discussion at the meeting would be compacted to the amendments and no discussion on the asphalt plant as a use or the already approved aspects would be discussed.

Chair Colburn asked if Mr. Lewis was looking for a motion or a head nod and it was indicated a motion would be appropriate. The difference is a major modification versus a minor modification. The changes are approximately a 4,600-5,000 square foot area, with two trailers with natural gas containers; there will be truck traffic so there will be a decompressed pad area, a pad for the trailers and a module area. The area would have to be paved or crushed gravel for truck traffic.

Member Giunta stated the modification needs to come before the board as there are a few concerns he has when changing fuel supplies. These include:

1. Plume study when changing a heating source as oil spills down and gas spills up;
2. Fire protection is different with the change in fuel; and,
3. Change in fuel will increase traffic, as a tanker will have to deliver this fuel more frequently.

MOTION: Member Giunta moved and Member Veysey seconded that the proposed modification to the Edmunds Asphalt Plant on Punch Brook Road is a major modification and needs to come back before the board for a modification hearing. All were in favor and the motion passed.

The Mayor returned to the board at 7:55 p.m.

Planner's Update

Richard Lewis stated that he gave the board a short memo on the Master Plan and the Colby Sawyer Project. He stated they did a presentation on their draft, which needs some amendments, and the board will need to review the document to see if they want to incorporate any of the findings into the master plan. Mr. Lewis stated he expects the final draft in a few days and will get a copy to each member of the board. Mayor Merrifield stated that after their presentation there was a discussion by City Staff on correcting the factual information. Richard Lewis stated that he and Brian Sullivan have reviewed the document and sent amendments to the Professor. He will wait for the final, get a copy to the board and the board can determine what if anything, they want to incorporate.

Adjournment

MOTION: Member Sullivan moved and Member Starkweather seconded to adjourn the meeting of December 10th, 2014 at 7:08 p.m. All were in favor and the meeting was adjourned.

Respectfully submitted,
Angela M. Carey
Planning and Zoning
Assistant to the Administrator