

**FRANKLIN PLANNING BOARD
REGULAR MEETING AND PUBLIC HEARING –
COUNCIL CHAMBERS
Wednesday, July 22nd, 2015 at 7:00 p.m.**

Call to Order: Chair Brian Colburn called the meeting to order at 7:02 p.m.

- ❑ Pledge of Allegiance
- ❑ Roll Call

Present: Brian Colburn, Tim Flaherty, David Veysey, Mayor Ken Merrifield, Brian Sullivan, Ted Starkweather, David Testerman, Michael Freeman, Timothy Stangroom and Planning and Zoning Director, Richard Lewis, and Planning and Zoning Assistant, Angela Carey.

Absent: Jo Brown, Anthony Giunta, and Powell Glenn.

Member Veysey was seated in place of absent voting member Jo Brown and Member Flaherty was seated in the absent voting member Powell Glenn's seat, for tonight's meeting.

❖ Approval of Minutes: June 24th, 2015.

MOTION: Member Veysey moved and Mayor Merrifield seconded to approve the minutes of the June 24th, 2015 Planning Board Meeting. Angie Carey indicated she made some revisions since the minutes went out in the packet and the revised minutes were on the desks this evening. All were in favor of approving the minutes as submitted.

Old Business

At this time, Mayor Merrifield recused himself.

Chair Colburn stated that on the desk this evening was a new plan from HRES and correspondence from Richard and the Engineer. He asked the board if they would like to recess for 10-15 minutes to review the paperwork. The board indicated they would. The meeting was recessed at 7:04 p.m. and reconvened at 7:14 p.m.

- ❑ P15-011: HRES Franklin, LLC, Owner; Jake Seaton, Agent; Gorrill and Palmer Consulting Engineers, Inc., Engineers, request site plan review of the Family Dollar Site, regarding conformance to the current Site Plan Approval issued on March 26, 2014, and to review possible modifications to address drainage and site stabilization issues. The property is located at 785 Central Street, Tax Map/Lot # 147-401-00, B-1 Zone (Low-Density Business and Commercial District), New Map # N9.

Doug Murray was present and stated that he did not have anything else to add and would defer back to the board and the public rather than making a presentation.

Richard Lewis stated earlier today, approximately 25 minutes after completing his changes to the decision and his memo, he received a new email with a new plan and letter attached to it from HRES. He stated he did not bring those this evening, as he did not want to overwhelm the board. He stated the cover memo summarizes the comments from Mike Vignale, the Planning and Zoning office and MSD. The plans given out this evening are about at 99%, not including a revision on the date and any other changes needed after the meeting this evening. Mr. Lewis stated that Mike Vignale has not reviewed these plans as he is on vacation.

Doug Murray stated the first plan was done following an onsite meeting on June 26th. Subsequent to the July 7th submission, Mike Vignale and Richard met and generated new comments which warranted a new submission.

Member Starkweather asked if HRES had received a copy of the July 16th comments and Doug Murray indicated they did. Member Starkweather asked if HRES has had any conversation with the abutters to resolved the issues. Mr. Murray stated that he believes their concerns were addressed at the meeting with Dick and Mike Vignale and stated that the abutters are here and can address that.

Member Sullivan stated that they met last Friday with the abutters, and since that time the plans have changed again, so the abutters have not seen the most recent plan. There are some improvements. Some of the changes that have been made are a 3 to 1 slope; a proposal of cement instead of gravel, which is not acceptable; that they will need to fully excavate this area; and, as water is coming from the street, the apron will need to be removed and reconstructed properly to fix this.

Richard Lewis stated a different set of plans were available at their Friday meeting then is available today. Mr. Murray stated the new plan brought the proposed cement area back to gravel, showed the repair of the pavement, and the apron. Mr. Sullivan stated that the current plans were not available when they met with the Hamels, so the Hamel's are not totally up to speed. Mr. Murray stated they had to react to Mr. Vignale's comments and thus a new plan had to be generated.

Attorney Chris Seufert was present to speak for the Hamels. He stated they are not trying to deter new businesses, but the mess was not created by the Hamels. He stated they need all the current information, the revised plans, and everyone needs to get together and see if a proposal can be put together between his client and the Family Dollar. He stated that an area, 6" x 12" deep would have the dirt removed and crushed gravel would be put in, but he wanted to know what the specifications on this were.

Attorney Seufert stated that Edmunds was on the site and indicated that only curbing will fix the erosion problems. He stated the edge of the Hamel's driveway will collapse again and wanted to know who will fix it then. Edmunds indicated the cost of the curb stop was \$9,000 and this fix would be permanent. He indicated the other fixes will be short term and may not work and when the developer leaves where do the Hamel's turn. Edmunds has been in business for a long time and if they say the only permanent fix is a curb stop then that should be done.

Public Comment was closed as no one else was present to speak.

Board Discussion

Member Sullivan stated the original comments were received in May. Some of the concerns included people driving from Hamels property over the hill and into the Family Dollar property. The access has been a problem and stabilization on the lot. Member Sullivan stated that he met on the site several times with HRES. He stated that granite curbing is the only thing now that is the issue to be cleared up. A fence will be put up, but the curb could be the solution to keep the water on the Hamel property from running off and eroding the hill and causing stabilization issues.

Doug Murray stated that Family Dollar will put in the curbing.

Member Veysey stated the TCO expires the beginning of August. He stated that a schedule needs to be developed that can be met. He asked if the board gave approval this evening, would the work begin tomorrow? Member Sullivan stated the problem is coming up with a set of plans that are acceptable to all parties. He stated this could take three weeks to accomplish. He also indicated that this is not the time to

hydroseed, and that should be done in late August. He stated a final set of plans cannot be ironed out until there is a consensus with HRES, Hamel and the Board. Then they can put a timeline together.

Member Sullivan stated that he is concerned about the stabilization. DOT standards for loom and seed is that from June to the end of July no seeding is allowed, as weeds grow and not grass and so you need to wait until fall or late summer. As of right now there is no schedule set, but they are gradually chugging along.

Chair Colburn stated that some things need to be done after the TCO has expired.

Member Veysey asked if the board does approve the changes this evening, if a schedule of when things will be done will be provided. A schedule needs to be developed and signed off on by Brian Sullivan and Richard Lewis. He stated this has been sliding for months. He indicated getting the site into compliance is huge for the Hamel's as a lot of the work affects them directly.

Chair Colburn indicated that his thought on curbing is that the City Engineer met on the site and there were solutions brought forward by the Applicant based on those recommendations, and they were approved by the City Engineer. He stated his thought is that they shouldn't have to do more, but HRES, based on the comment by Doug Murray, has agreed this evening to do this work.

Member Starkweather stated the developer does not know what offer to put in the plan. Hamel has not viewed the plans, the replies from the engineer come in the last minute, and there are too many things that are up in the air. The plans need to be revised and sent to the abutter to view.

Member Stangroom stated that if the approval is contingent on the Hamel's agreeing to the work, and the Hamels have not reviewed the plan, then time needs to be given to them to review the plans.

Richard Lewis stated that the most recent plan was received this afternoon. He stated he feels that this plan responds to all comments that have been brought forward. The plan tweaks the one that was received the end of last week, removing the cement and going back to gravel. The plan covers the work that is necessary, including the issues raised by the TCO, Mike Vignale and Brian Sullivan. It takes care of the issues with people driving over the area that is suppose to be grass between the Hamel and Family Dollar property and all other issues.

As far as the issue with the 8" pipe being put in instead of the 12" pipe, the plan presented includes a catch basin addition of a 6" pipe to catch water between the lots. At least a quarter of the work is work that needs to be done on the Hamel's property, and if they do not agree to them doing the work, then we are back at square one. He stated this is the first time that he has heard that the Hamel's are okay with the granite curbing. Mr. Lewis stated that he would suggest, that if the board continues this application, that the final revised plan include the granite curbing and all other items brought forward. Mr. Lewis' recommendation was to continue the application to the August 12th workshop meeting, that plans get generated by Gorrill and Palmer and Mike reviews these plans to come up with a final plan. HRES can then generate a schedule and on August 12th the board can tie this up with a ribbon.

Attorney John Bisson, for HRES, indicated that what he has been hearing is disturbing, as it appears the board is giving the Hamel's the final decision on the approval. He stated the board needs to move along and make a decision, as Mr. Murray has already indicated that he would put in the granite curbing. He stated they are not interested in a further continuation and the board should not defer the approval. The process needs to end, and you can't always make everyone happy. The offer for granite curbing was put on the table and his client has stated they will do it.

Richard Lewis stated that the point he was making is that there is work taking place on the lot of another person, and the board cannot approve that without the approval of the Hamel's as it is their property. Richard Lewis stated that the statement was made by Attorney Seufert of granite curbing and HRES has indicated they are okay with putting the curbing in. In the draft approval document dated today, there is adequate language for the board allowing their approval with the need for additional information on the plans; however, this would be up to the board. The granite curbing would be added to a new plan and the plan would be approved by Mike Vignale.

Member Starkweather stated that he agrees with Dick that this has been dragging on for too long. He stated they are headed in the same direction, but he would like to see the plan noting all changes discussed this evening. The plan amendment dates should be updated reflecting the amended plans and a document showing the time line for approval before the CO is renewed.

Richard Lewis stated the TCO expires on August 12th, and if the board approved the application tonight, then a condition would be to get the plan with all agreed upon items and that a new TCO could be issued to either October 15th or November 1st. The work can be accomplished pretty easy, and he does not want to see them lose another construction season.

Member Sullivan indicated that he agrees with Ted that the Hamel's not having seen the plan concerns him. He stated he agrees with Richard that everything needs to be on one final plan, with property dates, including the granite curbing, and that this plan needs to be sent to Mike Vignale for approval. He added that the granite curbing will help to stop the erosion and add to the longevity and permanency to protect the Hamel's or any future property owner. He stated he is in favor of the granite curbing and the curbing will also protect the fencing. He stated the other issue is that assurance is necessary, whether through a construction easement or some kind of written approval, to allow access for Hunt to go onto the Hamel property to excavate and do the work. The curbing should be 6" by 12" granite curbing. Brian Colburn corrected the dimensions on the curbing to 18" x 5". Brian Sullivan stated this will benefit everyone, the area can be stabilized, and there will be assurance (with both the fence and the curbing) that people will not cut through one property to the other. Member Sullivan stated the city gets the curbing at \$15-\$18 a foot installed. Member Sullivan stated that continuing the application to August 12th workshop gives them time to get the plans, a construction agreement and a timeline done.

Member Sullivan stated that they can order the supplies, but that this time of the year the curbing companies and fencing companies are busy, so the applicant needs to contact someone and set a time for the work to be done, so that it can be placed on the time line showing the accurate time frame.

Chair Colburn stated that the problem with this is that everything was built so close to the property lines. If a plow hits the curbing, who will fix it. He stated he is okay with the rail, as is 1' off of the line, but he is concerned with items placed right on the line. The added height of the curb makes the slope steeper and harder for growth. 90' of curb flowing along the property line, will run the length of the rail, the water will be concentrated into one area and could cause erosion problems at the end of the curb in this area. He stated he heard testimony from the abutters that the gravel will not support the water flow; however, this is the standard practice for DOT to build roadways across the state. Regarding the work on the abutters property and repairing the pavement, most of the work is on the abutters property, the edge of the pavement has cracked and is falling off, a new saw cut line and 1' will be repaired, if they do not grant them access then they are left with how it is today.

He stated he was concerned at the May meeting about the slope being too steep, and all issues have been addressed. The curb makes everything go away, then fine, but the plans are good how they are now. There

was a plan received today and abutters haven't reviewed it, and this is the only reason for not issuing a conditional approval.

Doug Murray stated they will do the granite curbing. He added that the abutters had a meeting on Friday and stated he found it hard to believe that they did not see the new plan. Attorney Seufert indicated they have not seen the plans that were submitted today!

Member Lewis asked if the granite curbing is installed if the fence is necessary. Brian Sullivan stated that it is. He stated that those with 4wheel drive vehicles will still drive over the curbing as they do it on city property all the time. He stated the curbing is not to keep people out, the fence is, the curbing is to control the water. Member Sullivan stated it is a good question as to what will happen at the end of the curbing. The water will need to be redirected to where it needs to go. The curbing is added assurance to keep the water on the Hamel property, it is a fail safe and an improvement that seems to satisfy everyone. He added that he does not believe the board is ready to approve any type of conditional approval this evening as the plans have changed two times since last Wednesday. Member Sullivan stated that the Hamels originally allowed a contractor on their property, without a construction easement, and damage was caused. The city is in the practice of getting construction easements when they do work on another persons properties.

Member Flaherty stated that based on the plans submitted this evening, he is okay with the plans. He stated the added issue of the curb could be done by the board this evening if HRES and Hamel agree to this. The only other thing that is needed is the detailed timeline for completion. Member Testerman stated the board needs a clearly summarized timeline. He stated that the board could approve the project this evening as they need to move it on. He stated it could be approved conditionally with a cleaned up plan being submitted, including the curbing, and the timeline. Member Colburn stated that the latest plan was developed and sent to the Planner today. That plan is not the plan that is before the board this evening. The abutters have not reviewed the revised plan and if you have granite curbing you will need a rip rap swale at the end of it to divert the water.

Member Veysey stated if the board approves the application this evening, then they are approving a plan that they have not seen and that the abutters have not seen and hasn't been approved by Mike Vignale. Chair Colburn stated that the board doesn't see most of the final plans, as they are conditional approvals granted, the final plan goes to Dick and he reviews them and approves them and then the chair signs off on them.

MOTION: Member Sullivan moved and Member Starkweather seconded that the applicant shall add granite curbing to the plan, with an outlet or riprap swale, and amended the plans with the proper revision dates. All were in favor and the motion passed.

Member Veysey asked if the board still wanted to continue the application to the August 12th meeting or if they were in favor of approving the application conditionally tonight.

Member Sullivan stated that he thinks the application should be continued. He stated the plan needs to be given to the abutter and Mike Vignale for review. This has been ongoing since May with numerous new plans being submitted and a final plan with all information on it needs to be submitted.

Chair Colburn asked if all information and plans would be ready for the 12th. Mr. Murray stated that they developed plans for the 7th and have delivered plans as quickly as they could. Mr. Murray stated they dropped the plans off on the 7th and didn't get a response till the 12th. Mr. Lewis stated a timeline is also needed.

Member Colburn stated that once the revised plan is received, a copy needs to be sent to the abutters.

MOTION: Member Starkweather moved and Member Sullivan seconded to continue the hearing for application P15-011, of HRES Franklin, LLC, to the August 12th, 2015 meeting of the Planning Board to be held at 7:00 p.m. in Council Chambers. All were in favor and the motion passed.

New Business: None.

Public Comment: None.

Other Business: None.

Planner's Update

Dick indicated that he met with the Engineers on the Northern Pass Project and they had some questions on the Master Plan. He stated he plans on getting back into the Master Plan in August or September, he will work on the amendments. Two sections have been prepared, 1 or 2 public hearings will be needed and then the new sections will be given to the board for review in the fall and approval early next year.

Member Freeman asked about the numerous do not enter signs at McDonalds. It was indicated this was due to traffic flow, deliveries and the duel take out windows.

Member Flaherty asked about Ciao Pasta building and the Lucky Lenny lot and asked if the office can make these building owners fix them. Richard Lewis stated that there has been discussion on redevelopment, that the City just acquired the building and needs to hold it for a period of time. Richard stated that as far as rebuilding or demolishing, this is between the owner and the insurance company and this can sometimes be a lengthy project. He stated that as long as the building is secure and safe the city is limited as far as what it can do and the fire department would be the only ones that could issue a condemnation order. Condemning a building is complicated and is Code Enforcement and the Fire Department's expertise. Member Testerman stated that they should be issued an order that they need to fix the buildings and this should be tied into their tax bills if they do not. Member Sullivan stated the city is looking into a streamline format that would involve a ticketing violation. He stated that Jim Curran is working on this and the Department Heads and the City Manager are meeting to discuss this on August 8th, as a lot of compliance issues get hung up in the court system and cost the city a lot of money. He stated that if the City demo's the buildings, the costs can be very high, and there is no funding available to do so.

Richard Lewis added that Inspector Chuck Bodien has spoken with the owner of the Rowell Auction building and they are looking at removing the building and will be in soon for a demolition permit.

Adjournment

MOTION: Member Veysey moved and Member Starkweather seconded to adjourn the meeting of July 22nd, 2015 at 8:35 p.m. All were in favor and the meeting was adjourned.

Respectfully submitted,

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