



TOWN OF RAYNHAM

PLANNING BOARD

RAYNHAM, MASSACHUSETTS 02767

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Planning Board Meeting September 20, 2018

Meeting opened: 6:05 p.m. by Christopher Gallagher, Chairman

Board members present: Christopher Gallagher, Daniel Andrade, Russell Driscoll, John Teixeira

Board members absent: Burke Fountain

Also present: Robert Iafrate, Building Commissioner/Planning Coordinator; Maureen McKenney, Administrative Assistant

6:05 p.m. Bassett Knoll Estates/Raynham Preserve: Lee Castignetti appeared before the Board on behalf of Long Built Homes to request release of lots in Phase II/Sparrow Drive. He submitted a "Status of Phase Two Lots In Raynham Preserve (as of September 20, 2018)." Mr. Gallagher explained that the Board did not grant any lot releases at the previous meeting; however, they have since received an e-mail, dated September 20, 2018, from Ed Buckley stating that work is substantially complete and Mr. Buckley is okay with releasing lots. Mr. Gallagher informed Mr. Castignetti there were funds due to the review account; Mr. Castignetti said he submitted \$7,000 earlier tonight.

Mr. Castignetti explained it's in the interest of all to keep the project moving. He stated the basins are done. Mr. Iafrate said he'll go over the phasing with Mr. Castignetti but he is okay with releasing eight lots tonight and the others at a later date. Mr. Castignetti said he didn't intend to ask for the release of all 17 lots in Phase II tonight. Mr. Gallagher noted no lotting plan was submitted tonight.

It was discussed that all the lots up for release tonight are on Sparrow Drive; the specific lot numbers are unknown but that will be confirmed at the next meeting. Mr. Gallagher said he would entertain a motion to release eight lots and Mr. Iafrate and Mr. Castignetti can meet to determine which lots, on the condition that the additional project review funds are received. Mr. Castignetti agreed to deliver \$10,000 tomorrow for deposit.

Mr. Andrade moved that an additional \$10,000 be received for the review account and that eight lots be released on Sparrow Drive with Mr. Iafrate to determine the balance of the nine or ten lots left for the next hearing; second by Mr. Driscoll. Motion passed unanimously (4-0-0).

Bassett Knoll Estates/Raynham Preserve - Phase III: Lee Castignetti presented a tree clearing plan for Phase III. He explained they will be clearing so they can construct Basin C and then Basin D. Mr. Gallagher said it looks like all the lots will be clear cut. It was noted that buffer strips were not required with plan approval.

Mr. Andrade moved to accept "Tree Clearing Plan Phase 3" for Raynham Preserve, dated September 19, 2018; second Mr. Teixeira. Mr. Gallagher moved to amend the motion adding that if buffer strips were required, they are needed; second Mr. Teixeira. Motion passed unanimously (4-0-0).

6:17 P.M. Mastria Kia/1555 New State Highway site plan: Ed Ferreira of Mastria Auto appeared before the Board to request a temporary occupancy permit for the site. Letter dated September 17, 2018, from Jasen Nunes, Project Manager, Kirker-Perry Construction Co., Inc., to Robert Iafrate, Building Commissioner, was received.

Mr. Gallagher explained the project was approved as an abbreviated site plan so there was no Nitsch review even though it was a substantial project. He noted the Kirker-Perry letter established \$634,000 as the amount needed to complete the work and there seems to be a substantial amount of work left for any occupancy permit.

Mr. Ferreira explained they have to complete the work on the left side of the building so they can move in and start the next phase; the work includes drainage, parking lot lights, removing the trailer. He noted Mr. Iafrate has been to the site. Mr. Gallagher stated there seems to be a huge amount of work left; Mr. Ferreira stated yes, all on the left side and back of the building, not inside.

Mr. Andrade noted the Board had asked the engineer to prepare calcs for a drainage detention area. Mr. Ferreira stated that applicant provided sewer and water to Brookside Circle at the Board's request. Mr. Gallagher said he was more comfortable getting the work inspected.

Upon question from Mr. Teixeira, Mr. Iafrate stated the building is substantially complete for occupancy; the trailer has to be moved so the parking lot can be improved; drainage is not constructed yet but that's what the \$634,000 is for; he can get Nitsch to inspect but there is nothing constructed yet; and applicant has to occupy the building or leave the site. Mr. Iafrate said he has no issue with occupancy of the building but 130% surety bond is needed.

Mr. Gallagher stated the Board typically has Nitsch provide a construction cost estimate, not the applicant's contractor. Mr. Iafrate noted this was abbreviated site plan. Mr. Gallagher stated temporary occupancy permits can get "ugly" if a project is not completed. Mr. Ferreira stated the auto manufacturer pressures the dealerships to complete the project. Mr. Gallagher said he was okay with Mr. Iafrate's suggestion of a 130% surety bond.

Mr. Andrade noted Mastria has a history in town, and the Selectmen will have to issue a license to sell autos on the site. Mr. Gallagher agreed but noted the Board has to treat all the same. Mr. Ferreira said he had no problem with the bond.

Mr. Iafrate suggested a six month temporary occupancy permit; Mr. Gallagher asked if a year is needed. Mr. Iafrate said it can be extended if necessary and the bond can be reduced as work is done. Mr. Gallagher moved to allow a six month temporary occupancy permit with the condition of the bond; second Mr. Teixeira. Mr. Andrade amended to add that all bollard and safety items must be completed before occupancy; second Mr. Teixeira. Amended motion passed unanimously (4-0-0). Mr. Ferreira noted the bollards are in.

General Business:

- Invoices were signed
- No minutes were received
- No correspondence received

SRPEDD update: None tonight.

- The Board agreed to send Mrs. Claire Harris a sympathy card due to the recent death of her husband, Nick Harris.

6:30 p.m. 1000 New State Highway/Tri-State Trucking Center site plan public hearing reconvened. Mr. Gallagher explained a plan was previously approved for this site, and the site was cleared for that project but then the plans changed; Mr. Iafrate has solicited proposals for noise and sound studies for the Board; bids were received but not all were within the scope sought; the CEC proposal was considered reasonable and covered the scope. He noted Bill Hoyerman of CEC is here tonight to speak with the Board.

Mr. Gallagher noted he feels the starting datum for a noise study should be what the noise level was before the site clearing; he feels the project could have already exceeded the level allowed. He stated they need to find an area on Rte. 44 to start the study.

Mr. Hoyerman addressed the Board. He stated there is literature to do modeling for the study; he has looked at the assessors' map and has seen there is quite a bit of vegetation on the west side so they can start the study there. Mr. Teixeira noted there is 70 acres east on Rte. 44 as a possible use. Mr. Hoyerman noted access to that area could be a problem but the west side is owned by applicant.

Mr. Gallagher said the study should compare apples to apples, and the neighbors have said the noise level has already gone up so the project may have already broken the threshold. Mr. Andrade noted the grade may be up two feet when finished and applicant's expert had said the second floor of residences may be penetrated by sound and he questioned what would happen when the grade goes up two feet.

The Board asked Mr. Hoyerman to review the CEC scope of work. Mr. Hoyerman noted they will give a more detailed scope before the start of work. He explained a noise evaluation will be done, quantitative analysis will be done, there will be sound meters adjusted accordingly, there will be two or maybe three days with a focus on peak hours; the focus hours will be determined; it can be expensive. Mr. Andrade noted this is a 24-hour business proposed. Mr. Hoyerman said they may look at other operations. Mr. Hoyerman said they will evaluate for trucks backing up; CEC has 900 people available, some of those are sound experts; there are 30 people in Raynham office who are not experts but they will gather data. They can use peak- and time-integrated averages. Air evaluation will be done looking at pollutants from the facility; typical truck repairs are more qualitative but are done by modeling not by sampling.

Mr. Teixeira commented that he would like a pollutant study done at applicant's other site and used for this, noting a desktop study doesn't mean anything, literature doesn't tell all, such as the condition of trucks. Mr. Hoyerman agreed but noted cost is expensive. Mr. Teixeira stated there are

real people involved. Mr. Hoyerman said regardless, regulations won't be violated. He stated they could do air testing. Mr. Gallagher noted actual testing beats office desktop testing.

Mr. Andrade asked what kind of noise the residents were going to hear. Mr. Hoyerman said it will have to do with how business is operating and he cannot say this business will operate the same as their other business. Mr. Andrade noted the Board has the plans and CEC can meet with the applicant at Town Hall and have the Town, including Mr. Lafrate, involved so all are working on the same concerns. Mr. Hoyerman said they could do that.

Mr. Gallagher felt the visit to the applicant's other facilities should be unannounced. He asked if visits to other sites were included in the scope. Mr. Hoyerman said it wasn't, but he understands there is a facility in Rhode Island. Mr. Gallagher noted there is one in Shrewsbury; he feels they should do a site visit.

Time involved was discussed. Mr. Hoyerman said they can do this in less than a month if they have full access to everything. Buzz Artiano, property owner, and Steve Georgallas of Tri-State, agreed they were welcome at their facility, and no advance notice is required although safety glasses will be needed on site so CEC should announce themselves when they arrive, and an employee will go with them. Mr. Artiano stated CEC was welcome to use his whole property on Rte. 44, including the woods. Mr. Hoyerman said it should take about one month to do everything.

During discussion, it was noted the contract was not yet voted on.

Attorney Brennan stated there was nothing new to present tonight; applicant is waiting on the consultant's report and Nitsch follow up so there will be no evidence tonight. Mr. Gallagher advised those present to keep comments tonight to the noise and pollution study.

Attorney Matthew Costa, Taunton, MA, addressed the Board, stating he represents several abutters to the site, and he would like the Board and Consultant to look at all sources of noise such as back-up beepers, deliveries. He noted the Town by-law does not refer to DEP noise policy, it refers to noises that would be a nuisance, would be unreasonably detrimental and would be unreasonably offensive; he asked the Board to be mindful of the Town by-law. He said a practical concern is how would sharp noises, such as back-up beepers, as previously referred to by an abutter, impact the abutters, not just noise per DEP policies. Mr. Andrade thought back-up beepers would not be excluded from their review, and this might be a "different ballgame" if the Board were looking at a treed lot.

Attorney Costa stated he represents Mr. and Mrs. Cruz, 279 Judson St.; Mr. and Mrs. Innocenzi, 290 Judson St.; Mr. and Mrs. Foscarota, 283 Judson St.; Mr. and Mrs. Kelly, 302 Judson St.; People, Inc., 317 Judson St.; Mr. and Mrs. Reidy, 329 Judson St.; and, Mr. and Mrs. Menconi, 339 Judson St. Mr. Gallagher asked that the names be submitted for the record in case needed for the study; Attorney Costa agreed.

Brant Cruz, 279 Judson St., addressed the Board and thanked them for reiterating his concerns that there should be a representative baseline and a representative sample of actual noises taking place. He discussed that he wants to understand what the truth is from multiple representative samples for today and the future. He stated the Board is doing a great job.

Joe Reidy, 329 Judson St., commented that elevations of the houses will be needed for modeling and asked how that will be determined. Mr. Hoyerman said there was a cursory review of the plan and there were some topos on the plans; he explained how they might proceed from there.

Mr. Iafrate said he went over the scope when he met with John Kitchen of CEC, and he thought a site visit was part of the proposal, but basically noise and air pollution are the concerns..

Mr. Teixeira asked if the dollar quote will need to be updated to do a site visit. Mr. Hoyerman said they will do a more detailed scope to see what is needed. Mr. Iafrate suggested CEC can work with Attorney Brennan to save time. Attorney Brennan was okay with Mr. Iafrate's suggestion.

Mr. Andrade noted applicant said the project would not be outside DEP standard acceptance; however, this is a 24-hr. operation, there is outside storage, diesel engines can't run more than three minutes outside unless repairs are being done and this is a repair facility so how can this work. He is concerned with the four hour time used on the desktop study, noting all cannot be compared in four or eight hours at a 24-hour business. He questioned how everything occurring on site can be captured; the Board is looking for real world information because this is a repair center.

Mr. Gallagher noted the three minutes idling doesn't make sense because the trucks will be starting and idling just to be moved.

Mr. Hoyerman said they have not reviewed the prior report; to review and critique that report is easier but they're doing an independent study; they will try to take in all sounds. He noted DEP does not have strict regulations for sounds and pollutants that are not permitted; unless permitted items are at the facility, it will be subjective, which is part of the problem; and, DEP idling regulations cause angst because of the time limits.

Mr. Gallagher told Mr. Hoyerman he wants him to do the study as if he were the one living behind the site; he wants the study to look at annoyances as suggested by Attorney Costa. Mr. Hoyerman said that will definitely be done.

Mr. Iafrate discussed that CEC could make professional suggestions, such as buffering, slopes, building configuration, similar to Nitsch making mitigation suggestions. Mr. Hoyerman said they are planning on that.

Mr. Gallagher asked if elevations on abutting houses should be verified in the field because what is shown on the plans is from GIS topo maps and does not look accurate; actual data would settle concerns. Mr. Iafrate said he might have as-built plans in his office that can be used.

Attorney Brennan noted the professional engineers the Board is hiring can communicate with Beals & Thomas or Tech Environmental; the Board should let the experts do their job. Mr. Gallagher said the elevations can be crucial, explaining they seemed "pretty far off." Mr. Hoyerman noted CEC has civil engineers but not surveyors. Mr. Gallagher asked if CEC can get elevations and show a revised plan for the houses relevant to the project. Attorney Brennan asked if they could wait and see if needed. Mr. Hoyerman explained the elevations were important but maybe not to the nearest foot but he did not want to speak out of turn so he could pass the concern to the civil person and sound expert to see how critical they think it is.

Mr. Teixeira asked if elevations were taken into consideration in the noise study. Matthew Reigert, Tech Environmental, answered they were and they were from Mass GIS. Mr. Gallagher noted in his experience as a professional engineer the Mass GIS specs as not very accurate. He believes the elevations should be done if they matter in the study. Mr. Artiano said he had no problem providing survey data. He said if they could get permission in writing through abutters' counsel to enter the properties to obtain data, they would schedule.

Brant Cruz, 279 Judson Street, asked if a qualitative assessment will address what the abutters would experience in terms of noise or smells, wondering what a typical night at his address would be like and what he may smell and how it may affect his health, and would it be different than what is allowed in the by-laws. Mr. Hoyerman answered they will definitely do that; qualitative will give more relative terms; it will be worked out if they will do sampling for pollution; they will take trucks and equipment and what they are doing and prevailing winds into consideration.

Paul Cavallaro, 7 Bear Stump Circle, asked if CEC is doing their own simulations or doing testing. Mr. Gallagher said they are doing a scratch report without taking the other reports into consideration. Mr. Cavallaro asked if they were going to run simulations, computer modeling. Mr. Cavallaro suggested the Board consider having the two experts do a benchmark study to see if software gives the same answer; simulations only take into account steady state responses not transient responses; transient responses may provide higher sound levels but he believes they were excluded from applicant's sound expert. He suggested the Board require for the study that trucks be parked in parking spots on the north side of building next to the berm and include back-up alarms. He thanked the Board for their time and effort.

Mr. Andrade noted the Board wants everything in the study but it's not going to be easy; the comfort level for the Board was not answered so they are doing their own study; they want real-life information but there will still be a lot to go into the Board's decision. He noted there was no parking approved along the property line for the first plan and that won't change; there was also no outside storage allowed; no dumpster was allowed along the property line.

Mr. Cavallaro stated he believes reverberations from idling trucks parked near the berm, the 10 DB would be exceeded.

Mr. Gallagher noted the studies will be public record as soon as submitted.

Attorney Brennan said he was hoping for Nitsch comments for next meeting, Nitsch had the Beals and Thomas letter on July 25th, and other issues can be addressed while waiting for studies.

After discussion, it was agreed to continue the public hearing to October 4th meeting.

Mr. Andrade asked that the Board get the Nitsch reports when they received, Atty. Brennan requested that also. Mr. Iafrate will contact Nitsch for reports.

The hearing was continued to October 4th, 6:30 p.m. Mr. Gallagher commented that abutters have been a great help with their input. He noted Mr. Iafrate is awaiting any updates from Nitsch. Mr. Gallagher stated no new notifications will be sent to abutters.

Mr. Andrade moved to select CEC to do the study as submitted and changes that are needed will go through Mr. Iafrate and applicant and his attorney for approval of any additional funds; second Mr. Driscoll. Motion passed unanimously (4-0-0).

Mr. Driscoll asked Mr. Hoyerman if he had literature on sounds that may occur even if they don't happen while they are on site for the study, such as snowplowing, emptying of a dumpster. Mr. Hoyerman said yes.

Planner update:

- Mr. Iafrate noted the information from CEC studies will give a baseline; the Board may not want more site plan testimony presented until it is determined if the project is a nuisance or not, or if it meets the by-laws. Mr. Gallagher noted it is applicant's choice if they want to go forward with presentation. Mr. Andrade said applicant can present if they want but the study is a must step. Mr. Gallagher agreed the study is needed first.
- Two building permits have been issued for properties on Sandy Hill Road that were purchased at Town auction; the owner is doing the roadway but no occupancy permit will be issued until all work is done and Ed Buckley approves the work. A contractor has been hired by Sullivan to work on the Sullivan section and the contractor's section.
- Briarwood, Easton, MA, purchased four lots on Pine Street at Town auction and is improving the roadway per the approved Carney plan. Mr. Buckley is making changes to the work done as needed.
- 1550 Rte. 44 (former Honey of A Ham building) – drainage work will be done next week. Mr. Iafrate asked if he should inspect the site himself or bring someone else in. After discussion, it was agreed Mr. Iafrate can inspect as the site is privately owned and an as-built plan will be required, and Mr. Buckley can assist if needed.
- Harbor Freight will be occupying the former Benny's building on Rte. 44. The site will need to conform to sign by-laws.
- Skyline Marble & Granite, Broadway, is 99% complete and they will be seeking an occupancy permit on October 4th so they can open on October 6th. Most of the work is done but gates are needed; the building is state-of-the art. Mr. Driscoll questioned if applicant can be fined if the work is not done with the temporary occupancy permit. Mr. Iafrate noted if a mortgage is involved and bonds are in place, that type situation is easily resolved; lending institutions require a final occupancy permit. Mr. Andrade noted these situations are better now than they were 20 years ago. Mr. Driscoll questioned if the Board should have a policy in effect even if they don't need to use it; Mr. Iafrate said the Board can add specific language when approving a plan.
- A proposed plan for Raynham Preserve East, 28 lots off Bayberry Road, is considering the use of wet basins. Mr. Iafrate noted the by-laws say a plan can accommodate site characteristics; applicant does not want to have to bring in fill. He asked if Nitsch should be

consulted on the issue, noting Mr. Buckley is overwhelmed by basin maintenance now. Mr. Gallagher noted these basins don't always stay wet and they can work well. He also noted the Selectmen collect \$500 per lot maintenance fee for subdivision basins and asked if Mr. Buckley is aware of this.

Mr. Andrade said he would like Nitsch to be consulted on the pros/cons of the issue. He noted fencing could be needed and mosquitos are an issue with standing water. Mr. Iafrate noted if ponds are made, they could be by resident for fishing or other activities. Mr. Andrade requested that a report be received from Nitsch. Mr. Iafrate agreed to do so. During discussion, it was noted that wet basins have been done in Raynham.

There was no further business. Mr. Andrade moved to adjourn; second Mr. Teixeira. Motion passed 4-0-0. Meeting adjourned at approximately 7:45 p.m.

Respectfully submitted,



Russell Driscoll, Clerk