

The Brockton Planning Board held a meeting on December 1, 2015 at 7:00 PM in the auditorium at West Middle School, West Street.

Members present: Chair David Wheeler, Ross Messina, Gary Keith, Andrea Burton, Robert Pelaggi, Reggie Thomas and Ollie Spears. Also present were Pamela Gurley Planning Board secretary, Rob May, Director of Planning & Economic Development and Staff Planner Shane O'Brien.

### **5:30 to 7:00 PM**

#### **2. Site Plan Approval – 40 R Application**

Property: 121 Main Street

Applicant: Brockton Main Street Improvement LLC

Representative: Same

Paul Mullaley said the site is the Kresge building on the corner of Main and High Street. He said they are proposing to demolish the current building and replace it with a mixed use building with retail on the first level and 48 units of housing (10 units will be affordable and the remaining market rate). The exterior of the building will replicate the existing Kresge building.

Mr. Spears asked what type of retail they were looking at and Mr. Mullaley said that it would be something that supports the needs of the development.

Mr. Wheeler asked for public comment.

Lynn Smith representing the Frederick Douglas Neighborhood Assoc. (FDNA) said they were not in opposition, they just have some comments; she said the renderings are not to scale and building will be taller than it looks and she is worried about a shadow effect on building across the street. She said she is concerned with the type of siding they are proposing as there is a class action suit against that company. She wants to make sure that the Liberty Tree across the street (site of Underground Railroad stop) will be protected and is worried that construction may affect the community garden. She is also concerned about the well being capped and its effects on the groundwater

Frank Gurley said he is in favor of the project and said it finally looks like the city is turning a corner; he said the project fits in to the plans for the downtown. He said he is happy that the design pays homage to the Kresge building.

Councillor Robert Sullivan said he is a proponent of 40R smart growth zoning; he said this project this makes sense and will be bringing development downtown. He said he would like to be on the record in favor as both a taxpayer and a City Councilor.

Paul Chenard said that the proposal compliments the area and will provide much needed housing.

Janet Jacobson asked if the units will be rentals or condos. Mr. Mullaley said they will be all rentals.

Bill Hogan said we need retail downtown and is in favor.

Mr. Mullaley said regarding the siding they will probably use Hardy board. He said it will not be the tallest building downtown, the building across the street is seven stories. He said they will protect the Liberty Tree.

Mark Schryver said that the building will be set back 10' on Frederick Douglas and that the well has not been used in the last 10-15 years and capping it will not change anything. He said they addressed various scenarios for possible greenspace and said trees will not have enough room between the street and the face of the building. He said that the balcony will have some green space.

Mr. Keith asked if there was a backup plan for the proposed parking waiver. Mr. Mullaley said they are looking to lease nine spaces in either the lot beside the property or across the street.

Seeing no further comment or questions, the Chair asked for a motion.

A motion was properly made (Keith), seconded (Messina) and unanimously passed to grant a standard 40R approval of the project at 121 Main Street.

A motion was properly made (Spears) and seconded (Thomas) to grant waivers to the following:

- Section 9.6.3 (trees)
- Section 27-94(1) (density)
- Section 27-94(2) (height)
- Section 27-99(1) (affordability)
- Section 27-96(1) (parking)

Ms. Burton asked how important the waiver to affordability was and Mr. Mullaley said it is a difference of two units, but it makes the project less viable. Mr. May said that earlier this year the Planning Board favorably voted on the proposed updates to the zoning ordinance and included in that were changes to the 40R regulations. If the ordinance passes Council they will be in compliance.

Unanimously passed.

### **3. Site Plan Approval**

Property: 1315 Main Street

Applicant: Teen Challenge

Representative: Scott Faria & John Holmgren, JK Holmgren Engineering

Mr. Faria said this is a small addition (26x48') to the existing dormitory building and 52 additional parking spaces for a total of 70. He said they added curb stops to the parking lot. Mr. Faria said they have made the changes to the drainage and increased width of driveway going out to Clifton per the Technical Review comments.

Mr. Spears asked how many more beds are being added; the site director said they are adding 46 extra beds. Mr. Keith said he took a look at the site and has no issues and there was no public comment.

A motion was properly made (Keith), seconded (Spears) and unanimously passed to grant site plan approval of the project as submitted with the standard conditions.

### **3. Definitive Subdivision**

Property: 574 & 578 Centre Street

Applicant: Carl Djusberg

Representative: Bill Self, Curley & Hansen

Mr. Self said the proposal is a three lot subdivision on a C-1 zoned site (Great Elm Nursery property). He said they have already appeared before the ZBA and received a variance. There will be two homes fronting on Howland St. and one small colonial on Centre St.

There was no opposition. The abutter from 16 Sherman St. spoke in favor and said this is a windfall for the neighborhood.

A motion was properly made (Keith), seconded (Burton) and unanimously passed to approve the subdivision plan as submitted with the standard conditions.

Mr. Wheeler said the Board had the issue of the requested waivers.

A motion was properly made (Pelaggi) and seconded (Burton) to grant waivers to the following sections of the Rules & Regulations.

Section IV Design Standards

B Streets 3. Width (Howland and Centre are existing public ways)

F. Utilities (underground)

Section V Required improvements for an approved subdivision

### C. Curbs and sidewalks

On the motion Mr. O'Brien said the plan should be modified to show the curb openings along Centre St. closed, to maintain granite curbing through that area and repair or replace the sidewalk corner to corner along the limits of the subdivision.

#### Other Frontage

Lot A 92'

Lot B 95.29'

Lot C 60'

Mr. Pelaggi withdrew the motion.

A motion was properly made (Pelaggi), seconded (Burton) to accept the waivers as presented with the condition that the plan is modified to show the closing of the curb openings along Centre St. exclusive of the driveway for the new single family home. Vertical granite curbing shall be installed along those areas and the sidewalk shall be reconstructed/replaced corner to corner along the limits of the subdivision.

A revised plan is to be submitted showing the limits of this work for signature of the Planning Board.

Passed by a unanimous vote.

Developer stated he will be placing cash surety with the City.

### **4. Definitive Subdivision**

Applicant: James Victorine

Property: Plot 164 and a portion of Plot 165 Pearl St.

Representative: Bruce Malcolm, Land Surveys Inc.

Mr. Malcolm said the plan shows a two lot subdivision along Pearl St. He said that the plan conforms to the variance granted by the ZBA. He said the property is a 2.6 acre site with 30' of frontage. Per the variance they are reducing the existing frontage from the single family home by 15' to add to the 30' of frontage. He said per the terms of the variance the new home cannot be built until the existing "green" home on Pearl Street is re-built and issued an occupancy permit.

Frank Gurley, 375 Pearl Street said he is in favor and lives across the street. He said he is concerned about the debris on the property that has been there for quite a while. He said he would like Mr. Victorine to work a little harder to get it cleaned up.

Bill Dunphy, Windsor Ave., said he is not opposed to one house on back of the property.

A motion was properly made (Keith), seconded (Pelaggi) and unanimously passed to approve the plan as presented.

Mr. Wheeler said there was the issue of requested waivers.

A motion was properly made (Pelaggi), seconded (Burton) and unanimously passed to grant the following requested waivers.

Section IV Design Standards  
B Streets 3. Width Pearl St. is an existing public way)  
F. Utilities (underground)

Section V Required improvements for an approved subdivision  
C. Curbs and sidewalks  
Other Roadway Construction

Method of surety will be covenant. Mr. Malcolm asked if the existing home could be excluded from the covenant as Mr. Victorine was attempting to sell it. Mr. Malcolm was told that it cannot be excluded, but once the plan was signed to ask the Board for a lot release for the existing home.

Bob Pelaggi left the meeting and did not participate in the remainder of the meeting.

**7:00 PM to 9:30 PM**

**5. Continuation of Site Plan Approval Hearing – Brockton Power Company**

Property: Plots 3 & 4 Industrial Blvd.

Applicant: Brockton Power Company LLC

Representative: JK Holmgren Engineering

Attorney Barry Fogel said since the October 5<sup>th</sup> meeting they have responded to comments from the reviewing engineer. He said that members asked for Members asked for background on the project timeline (see attached).

Attorney Fogel said it was helpful to have had the outside peer review as the plan has been fine tuned.

Ms. Burton said that one of the concerns brought up by the public at the last meeting was the transportation chemicals. She asked where the ammonia was going to be stored and said it needs to be separated from other corrosive chemicals. Attorney Fogel said that the tank is self contained and within a containment berm. He showed pictures of the proposed storage tank and

containment area. Mr. Keith asked about the amount of ammonia to be stored and was told 15,000 gallons.

Mr. Wheeler asked Mr. Martin if he saw anything in the proposal that does not meet the criteria the planning board is charged with. Mr. Martin said that the board has his latest report which contains four comments/suggestions. He said that the Fire Department has said that further review will be done during the permit phase and that they will be hiring an independent agent to review the plans at the applicant's expense. Mr. Martin said that the reclaimed water is a legal issue but the pipe size is sufficient to the proposed flow. He said the board previously asked for perspective drawings of building and size of stack etc. He has not seen the drawings at this time. He said he received a lighting plan; was provided a drawing showing all the buildings, but there is no perspective drawing. Attorney Fogel said it was submitted in the latest set of plans.

Mr. Wheeler opened the meeting to public comment and asked that those opposed line up on the left side of the stage and those in favor line up on the right side. He said they will alternate sides when speaking.

State Rep. and Councillor 6 Michelle Dubois said that the proposed plant is on top of West Bridgewater's water supply. She said she was appointed to protect public health and protect the city and is 100% opposed; she said the site is wrong.

A member of the trades union spoke in favor stating that Brockton Clean Energy has gone above and beyond; he said some of the wealthiest communities have power plants and stated that he made his living building power plants.

Patricia Cooker said she lives in ward 4 and is concerned about particulate discharge. She said Brockton has respiratory issues and wants to be recorded as opposed.

Robert (unknown last name) said he lives on south side of Brockton with his four children and is in favor of the project. He said the City has wasted enough time and that Brockton needs the revenue.

Kate Archard said she is opposed; she said there is no ordinance in place to allow for the use of sewer effluent. She said that the Water Commission has not issued a permit and the Council has not approved the use of the effluent.

Craig Pina said that when he was a member of the water commission they voted to grant water to the power plant; he said he is 100% in favor and with the use of diesel fuel off the table there is no issue with W. Bridgewater's water supply.

Lori Garcia said she is surrounded by landfills; she has asthma and is concerned about air quality and is opposed.

Mark (unknown last name) said he was strongly in favor; he said he is a 49 year resident of the City and took a tour of another plant; he asked that the board go by facts not emotion.

A concerned citizen from Bridgewater said he was opposed; he said he worked for testing firm that tested cooling towers.

Bruce Willis said he was in support of the project, and asked that the board consider it from an economic point of view.

Pat Watson, E. Bridgewater resident, said most people would put health above economics and is opposed to the plant as it will make pollution worse.

Doug Nelson, EBEW member (Brockton) said he is in favor and that economic development in the city needs a boost.

Israel Collazo said his back yard will be in the back of the power plant; he said the city if looking at temporary jobs only and they should not be at the expense of the residents. He asked if the city will reimburse the residents if there are mold issues etc.

Danny Healy said he is 100% in favor and that the city needs the revenue and the jobs.

Lucia Cerci said she was opposed and read a portion of the declaration of independence into the record; she said that the average Brocktonian does not want the power plant.

Larry Curtis said he is in favor and that the developers have met or exceeded the requirements.

Bishop Teixeira spoke against the project.

Gary Leonard spoke as an advocate for citizens of Brockton; he said Brockton needs a tax base and it is time Brockton said yes to business.

Edward Downey asked that the board consider taking more time to make a decision; he said he sees people who suffer from asthma, bronchitis etc; he asked that the board consider the location of the plant to the school and elderly who are in the area and asked to be recorded in opposition.

Jim Bragg said that he felt Mr. Spears should not vote as he was opposed to the project.

Josh Hays asked how the board could vote on a plant that has no water source; he said there is no fossil fuel that is clean; and felt the plant was not in the right location.

Barbara Carchidi wanted to know the truck route; she said the roads are old and will take more damage. She wondered how many people in the audience were union workers and said once the building is complete there will only be three full time workers.

A gentleman spoke and said he has been building power plants for 30+ years; he said it's how he supports his family; he said the courts have made this decision.

Jeanne Holmes said that the board should postpone the vote; she said that the board is under investigation for an open meeting law violation and that any action that the board takes is tainted. She said she received the communication from the city attorney and said it was untrue, she said that the board wait until a decision is made by the attorney general's office.

George Carney spoke in favor.

Laurie Mathews said that former members of the planning board are named in a 68 million dollar law suit and felt that because of that the members are under duress to vote.

Nancy Sarson said she was opposed and asked that the board consider the health and welfare of the residents...people come first.

John LaFrenient said he has lived here for 63 years and thought it was convenient that the meeting was scheduled post election.

Jim Bosco asked if the board was voting on a project using sewer water from the city.

Mark Chartier said he works at the Dighton power plant; he asked that visit his plant or the one in N.H. if they have any questions; he said the plant will be built to today's regulations and asked to be recorded in favor.

Councillor Jass Stewart said he is also named in the law suit and said he will continue to be in opposition to the plant; he feels it is in the wrong area.

Councillor Paul Studenski said he is strongly opposed and asked that the board hold off on a decision.

Councillor-elect Ann Beuraguard said she is opposed; she said she is concerned about chemicals etc; and asked that the board postpone its decision tonight.

Councillor Shaynah Barnes asked if the (alleged) open meeting law violation is still an issue, how is the board able to meet and asked that the board postpone their decision.

Mr. Wheeler said he is confident with their answer to the Attorney General.

Jim Bosco said that if the plans are approved for use of effluent, is the board aware that the City of Brockton is responsible for all the negative impacts.

Francis Mara said he was in favor.

Councillor Michelle Dubois said that the Governor has asked all state boards to review their rules and regulations.

Public comment section closed.

Mr. Wheeler said there would be a 10 minute recess to allow members to use the rest room.

Mr. Wheeler asked the member if there were any questions.

Mr. Spears asked what compounds and chemicals will be used to treat the water. Attorney Fogel said that their 10-16-15 memo outlines the chemical usage. (See attached.)

Ms. Burton asked if there was a second testing process after the water is treated before it is released. Attorney Fogel said that the City has an NPDES permit to discharge water. He said that the facility will have to get an industrial pre treatment permit from the city; he said DEP also has a set of regulations for use of re-claimed water and that the effluent will be permitted in both directions.

Regarding the issue of mold that was brought up by a citizen, Mr. Spears asked for Mr. Martin's comments. Mr. Martin said he is not an expert in air quality, and felt that the applicant should address that issue. Attorney Fogel said they are using an established procedure; "Air Quality Impacts" were contained in the application. Ms. Burton asked if "the background information" is what exists in Brockton now and was told yes by Attorney Fogel.

Mr. Wheeler asked about noise; Attorney Fogel said that taking into consideration all the equipment etc. and with the use of the sound wall the increase would be 5 DSB.

Ms. Burton asked for an explanation of the difference between an ammonia tanker and a regular gas tanker coming through the city; Attorney Fogel said there is no difference; they are both regulated by the same department.

Mr. Wheeler asked the City Solicitor Nessralla if he have any concerns about the alleged open meeting law violation. Attorney Nessralla said he did not and felt that they had addressed all the concerns and that the meeting could go forward.

A motion was properly made (Keith) and seconded (Messina) to grant site plan approval of the project as submitted with the standard conditions.

In favor: Wheeler, Keith, Messina, Thomas & Burton  
Abstained: Spears

### **Unfinished Business**

Endorsement of ANR Plans, Subdivision Plans and/or Lot Releases

Ms. Gurley said that the board has a covenant release for Lots 1 and 2 Beacon Park. She said that the lots were released many years back and all surety returned to the builder. She said she was contacted by a closing attorney for one of the properties and that they could find no release on record. This covenant release will clean up the anything that is outstanding for both lots.

A motion was properly made (Burton), seconded (Spears) and unanimously passed to release lots 1 and 2 Beacon Park from covenant.

Ms. Gurley said the board also has a copy of the proposed ANR plan for the Ralsco property and the abutting Cowen Taxi property. The City has received a grant to make the Ralsco site into a park. During the survey of the land the city realized that a portion of Mr. Cowen's fencing was actually on the their land. She said the City has an agreement with Mr. Cowen to allow him to purchase the land he has been using. The design of the park excludes this property.

A motion was properly made (Burton), seconded (Spears) and unanimously passed to sign the plan as submitted.

Correspondence

Minutes

Updates from Board Members

Meeting adjourned.