



# City Of Attleboro, Massachusetts

## PLANNING BOARD

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## MINUTES

MAY 13, 2020

In accordance with the provisions of the Massachusetts General Laws Ch. 40A and Ch. 41, as amended, the Planning Board held public hearings on Monday, May 13, 2020 at 6:30 p.m. remotely via Zoom, relative to the following :

Planning Board Members Present: Chairman Paul Danesi, Vice Chairman Jason Gittle, Secretary Sheryl Guglielmo, Bert Buckley, Melinda Kwart, and Jim Lewis

Planning Board Members Absent: Sean McNamara and Fred Uriot

The Board heard the application of Tian Ann Jih Der Sheng Daw Yuan Temple for a Major Project Site Plan Review pursuant to the provisions of §17-15.0 SITE PLAN REVIEW of the ZONING ORDINANCE, to accommodate the construction of a temple facility consisting of three buildings, paved access drive with sidewalks, a parking lot consisting of 34 off-street parking stalls, landscaped walking paths, and associated grading and stormwater management systems; the subject premises being located at 61 Thurber Avenue, more specifically Assessor's plat #34, lots #5 & 7, located in the Single Residence-B zoning district.

Senior Land Use Planner Stephanie Davies informed the Board that she had received an email late in the day requesting to continue the public hearing.

Melinda Kwart made a motion to grant a continuance to June 15, 2020. Bert Buckley seconded the motion and all voted in favor.

There being no one else to speak, the public hearing was continued.

The Board heard the application of SOWA, LLC for an amendment to the approved Major Project Site Plan Review decision dated July 17, 2018 for "Shops on Washington" to reconfigure the proposed bank, restaurant, and retail buildings; and create new curb-cuts providing right-in only access to the site from Newport Avenue and Route 1A, the subject premises being located at 1 Highland Avenue and 5 Route 1A, more specifically Assessor's plat #64, lots #1A and #1B, located in the General Business zoning district.

The Board reviewed the letter from attorney Jack Jacobi of Coogan Smith, LLP, received March 12, 2020, requesting to withdraw without prejudice the Major Site Plan Review application of SOWA, LLC for 1 Highland Avenue/5 Route 1A.

Chairman Danesi pointed out that the site is very unkempt and he would like to see the applicant clean things up.

Speaking in favor of the application was attorney Edward Casey of Coogan Smith, LLP who stated that the Board's request sounds reasonable and he will inform the applicant.

Jim Lewis made a motion to grant leave to withdraw without prejudice. Bert Buckley seconded the motion and all voted in favor, save Sheryl Guglielmo, who abstained.

**The Board heard the application of Pike Avenue Acquisitions, LLC for the proposed forty-nine (49) lot definitive subdivision plan entitled “PIKE ESTATES,” located at 419 Pike Avenue, more specifically Assessor’s plat #130, lot #81, located in the Single Residence-D zoning district, engineered by Daniel R. Campbell, R.P.E. of Level Design Group, 249 South Street, Unit 1, Plainville, MA 02762.**

Speaking in favor of the application was attorney Edward Casey of Coogan Smith, LLP who explained that they’ve reached an impasse with this application as there is a gap in the roadway layout of Rambler Road that doesn’t allow access to the subdivision without a street extension. He stated that the current design is not viable as it has no second means of access, requiring either a waiver or to redesign with a lesser number of house lots. He noted that his client had a separate law firm confirm that the applicant does not have rights to use Rambler Road until an extension is approved, constructed, and accepted as a public way by the Municipal Council. He asked that the Board continue the matter so his client can explore options on how to proceed. He stated that they are considering moving forward with the Rambler Road street extension and seeking to get that accepted while simultaneously redesigning the Pike Estates subdivision to have only 20 lots with the single access point from Pike Avenue. He stated that later, once the Rambler Road extension was accepted, they would approach the Planning Board with a second phase of the subdivision, containing the remaining 29 lots once they have secured a second means of egress.

Mr. Ayrassian sought to confirm if a revised plan showing only 20 lots will be submitted.

Mr. Casey replied that the change hasn’t been approved by the client yet or designed by the engineer. He stated that in his opinion, it is the only practical way to pursue the project.

Speaking in favor of the application was engineer Dan Campbell of Level Design Group who stated that with the current design, the main road off of Pike Avenue already exceeds the dead-end house lot maximum as it contains 22 lots. He noted that the roadway also exceeds the maximum length for a dead-end, being 1,300 feet long. He stated that the plan would have to be redesigned with a temporary cul-de-sac and shortened to only 16 lots on Paisley Way and placing a couple of lots on the street side, allowing for the first section of drainage to be installed on the side roads and the primary drainage basin for both phases.

Mr. Ayrassian asked if a smaller subdivision were to be pursued, whether the applicant would continue with an Open Space Residential Development project.

Mr. Casey stated that it is his preference to maintain the philosophy, but that it will depend upon the engineering feasibility.

Mr. Ayrassian agreed that it would be preferable.

Mr. Campbell agreed that his client does not want to develop any more land than is necessary and will strive to maintain the open space.

Speaking in opposition was Susan Sweeney of 74 Del Jo Drive in Seekonk, MA who was speaking on behalf of her mother-in-law, Stacia Sweeney of 41 Rambler Road. She stated that her family is wholeheartedly against the full build-out of 49 lots. She stated that if the applicant development only consisted of 20 lots and did not make Rambler Road a through street, they wouldn’t have any objections.

Chairman Danesi sought to confirm that they would support only Phase 1 development if no further phases were proposed.

Mrs. Sweeney replied in the affirmative.

Mr. Ayrassian expressed skepticism with an abutter being comfortable with a plan that has yet to be designed.

Mrs. Sweeney agreed that Mr. Ayrassian had a point and that it would be important to see the plans before she supported the idea fully. She stated that her support was primarily focused on Rambler Road, where her family's property is located, not becoming a through street.

Speaking in opposition was Carol Connolly of 27 Rambler Road who sought to confirm that the applicant is proposing to submit a new plan with only 20 or so houses off of Pike Avenue and that they may return for the future development through to Rambler Road.

Chairman Danesi agreed with her summary, but noted that a new plan has yet to be submitted.

Ms. Connolly asserted that if the applicant's plan is just to delay creating access through Rambler Road, she is against the entirety of the project.

Chairman Danesi noted that the access for Rambler Road would be the subject of a separate application and decision.

Mr. Ayrassian stated that staff recommend continuing the public hearing.

There being no one else to speak, the public hearing was continued.

#### **The Board held a business meeting.**

**The Board discussed the application of John J. & Mary F. Donovan to extend Rambler Road 2-5 feet, as shown on the street extension plan entitled "RAMBLER ROAD EXTENSION," engineered by Daniel R. Campbell, R.P.E. of Level Design Group, 249 South Street, Unit 1, Plainville, MA 02762, dated March 1, 2018, revised through October 28, 2019. The subject premises are located on Assessor's plat #123, Lot #8 in the Single Residence-D zoning district.**

Jim Lewis spoke in his capacity as the Chairman of the Subdivision Committee and explained that they had reviewed the plan's shortcomings as determined by staff. He suggested that the Board can either deny the application and cite the explicit reasons for denial or put on record the Board's objections to the plan and give the developer leave to submit updated plans. He stated his preference for the latter approach.

Mr. Ayrassian noted that the last stamped copy of the plan contained in the file is from March 11, 2020.

Jim Lewis pointed out the problem that speed bumps are still shown on the plan, even though that feature would need to be approved through the Municipal Council. He stated his assumption that they are shown on Rambler Road rather than within the "Pike Estates" subdivision.

Mr. Ayrassian clarified that one is located on Rambler Road and the other within the Pike Estates subdivision.

Jim Lewis stated that the second objection is that the edge of existing pavement along with the width of Rambler Road from its intersection with Nash Road is not shown or labeled. He stated that the third issue is that the accepted length of Rambler Road, 720-feet from the intersection of Rambler Road with Bishop Street, is not shown. He explained the fourth issue is a technicality in that the permitted benchmarks based on USGS data are not shown. He stated that the last objection is that the slope of the proposed new pavement does not meet the City's requirements that dictate it cannot be less than 8%. He noted that this deviance would require the request of a waiver if not corrected. He suggested a straw poll be held to decide how to proceed. He noted that most of the issues are technical, rather than substantive in nature. He recommended that the Board allow the applicant to submit a one-time revised plan.

Jason Gittle agreed, based on the technical nature of the deficiencies.

Melinda Kwart and Bert Buckley also agreed.

Mr. Ayrassian stated that staff had discussed whether submission of an updated plan after the close of the hearing was possible. He stated that he opined that due to the technical nature of the objections, it is permissible and that he supports the Board's decision. He stated that the changes in no way change the complexion of the plan.

Jim Lewis brought to the Board's attention that approving the plan will verify that the Board agrees that only one abutter needs to sign off on the application for a street extension to be valid. He stated that five waivers have been requested due to existing conditions, including the request to install underground lighting, the reduction in the width of the pavement from 31-feet to 28-feet, construction with 15-foot rather than 30-foot radii at the T-intersection, 5-foot wide bituminous sidewalks on only one side of the roadway, and to eliminate the turnaround requirement, as they intend for the end result to be a through street into the "Pike Estates" subdivision.

Mr. Ayrassian stated that should the applicant move forward with submitting a revised plan for Rambler Road and the Board approves it, the applicant can simultaneously be seeking approval of a modified 20-lot subdivision off of Pike Avenue while they are constructing and seeking the Municipal Council to accept the Rambler Road Street Extension. He stated that after that, they could come back for the second phase of the subdivision. He stated that should the applicant not pursue the second phase of development, he felt that the existing Rambler Road and Nash Street intersection is sufficient in size to allow fire trucks to turn around.

Jim Lewis made a motion to table the street extension plan subject to the submission of a revised plan in accordance with the before mentioned objections, no later than June 8<sup>th</sup> in preparation for a final vote on June 15<sup>th</sup>. Bert Buckley seconded the motion and all voted in favor, save Sheryl Guglielmo, who abstained.

**The Board discussed the Form A plan submitted by Atlantic-Attleboro Route 1, LLC for 463 Washington Street, 643 Washington Street, 0 Summit Street .**

Speaking in favor was Matt Bombaci of Bohler Engineering who stated a previous ANR was approved last November to subdivide out the front lot for the BJ's Gas Station. He noted that the Zoning Board had approved the project's use and earth removal permits earlier this year. He explained that that this amended plan includes a finger of land that extends up to Summit Road as they are now anticipating tapping into the water line there for the gas station. He stated that Lot A and Lot B will be labeled not buildable.

Ms. Davies stated that staff recommend approval of the plan.

Bert Buckley made a motion to approve the Form A plan submitted by Atlantic-Attleboro Route 1, LLC for 463 Washington Street, 643 Washington Street, and 0 Summit Street. Sheryl Guglielmo seconded the motion and all voted in favor.

The Board reviewed the Form P2 - Request for an Extension of Time to a date uncertain, received March 16, 2020, submitted by attorney Jack Jacobi on behalf of Atlantic-Attleboro Route 1, LLC. Ms. Davies noted that she didn't feel the extension was necessary with the Governor's declaration of the state of emergency, but the date could be adjusted to May 13<sup>th</sup> for a vote.

Jim Lewis made a motion to grant an extension to time to May 13, 2020, for the Form A plan submitted by Atlantic-Attleboro Route 1, LLC for 463 Washington Street, 643 Washington Street, and 0 Summit Street. Bert Buckley seconded the motion and all voted in favor.

**The Board discussed the Form A plan submitted by Nancy Cox for 18 Tyler Street.**

Ms. Davies explained that there is an existing house lot at 18 Tyler Street and the applicant is proposing to carve out a second house lot with frontage on Wendell Drive. She stated that the proposal meets the required frontage and will not make the existing lot non-conforming, so staff recommends approval.

Jim Lewis made a motion to approve the Form A plan submitted by Nancy Cox for 18 Tyler Street. Melinda Kwart seconded the motion and all voted in favor.

**The Board reviewed the letter from Mark Rioux of Murette & Sons, Inc., received April 7, 2020, requesting a 24-month extension of time relative to the "DEER RUN ESTATES" definitive subdivision.**

Mr. Ayrassian offered to determine the current deadline for the subdivision and request that Mr. Rioux provide the reasoning behind the request. He noted that the Board has never granted two year extensions in the past.

The Board tabled the letter.

**The Board reviewed the Mayor's Communication, dated April 28, 2020, to the Municipal Council, requesting approval of a loan order in the amount of nine hundred forty six thousand (\$946,000.00) dollars relative to the permitting, bidding, construction oversight and construction costs associated with the replacement of the water main, including the road restoration, on Deanville Road.**

Jim Lewis made a motion to recommend to the Council that the Loan Order, in the amount of NINE HUNDRED AND FORTY-SIX THOUSAND (\$946,000.00) DOLLARS, for the Water Department's Deanville Road Watermain Replacement Project is consistent with Section VI.(J) Municipal Facilities, Goal 16, Policy 1 and Policy 2 of the City's Comprehensive Plan. Bert Buckley seconded the motion and all voted in favor.

**The Board discussed the Letter from Kevin S. Freytag of Murphy, Hesse, Toomey, & Lehane, LLP (City Solicitor's Office), dated February 8, 2019, to Thomas Fitzgerald regarding the notice of default and demand to complete work at the "BEECH TREE ESTATES" subdivision.**

Ms. Davies informed the Board that the City performed on the bond, hiring Lighthouse Land Surveying to prepare the as-built and street acceptance plans. She stated that staff just need to submit everything to the Municipal Council for acceptance and that the developer will be issued a refund for the remaining balance. She stated that the remaining funds cannot even be used to pay for the recording fees.

Jim Lewis asked if we are limited by our Rules and Regulations or the statute.

Mr. Ayrassian stated that it is in the statute that the funds have to be returned.

**The Board tabled the letter from Tim Caponigro of Woodlark Development Corp., received March 13, 2020, providing comment on the proposed amendments to the Zoning Ordinance relative to performance guarantees.**

**The Board reviewed all other correspondence.**

**The Board approved the draft minutes of February 24, 2020. The Board tabled the pending minutes of March 2, 2020.**

The meeting adjourned at 7:45 p.m.