

**CITY OF BEVERLY
PUBLIC MEETING MINUTES**

BOARD OR COMMISSION: Beverly Planning Board
DATE: June 22, 2021
LOCATION: Beverly Middle School, 502 Cabot Street (with remote access options)
MEMBERS PRESENT: Chairperson Ellen Hutchinson, Vice-Chair Alexander Craft, Sarah Bartley, Derek Beckwith, Ellen Flannery, Wayne Miller, Rodney Sinclair (remote), Brendan Sweeney, Andrea Toulouse
MEMBERS ABSENT: None
OTHERS PRESENT: Assistant Planning Director Emily Hutchings, Planning Director Darlene Wynne
RECORDER: Sarah Scott-Nelson

Call to Order

Hutchinson calls the meeting to order at 7:00 p.m. and reads a prepared statement introducing the meeting, the authority to hold a remote meeting. Hutchinson takes roll call attendance.

Flannery: Moves to recess for public hearing. Seconded by Beckwith. Hutchinson takes a roll-call vote. The motion carries 9-0.

Public Hearing: Order #110 Proposed Amendment to the Beverly Zoning Ordinance – IR Zoning District (cont.)

Hutchinson summarizes the request and the previous public hearing with the Beverly City Council, during which the Planning Board continued the hearing to this meeting. Hutchinson states that the Board continued the public hearing to allow members of the Board and the public to review the development agreement between the City and the property owner, which was submitted as supplemental material with the proposal. Hutchinson notes that the Board received an email from City Councilor Todd Rotondo, and noted the extensive efforts he made to reach out to neighbors regarding the project. Councilor Rotondo's email stated that the neighbors he spoke with directly were in favor of the zoning change, and that the zoning change and development agreement gave the neighbors more input regarding what may occur on the property in the future.

Hutchinson asks the Board if there are any questions regarding the development agreement. Beckwith asks about language used in the development agreement and what role the development agreement has in the Planning Board's decision. Wynne clarifies the purpose of the language used in the development agreement, and notes that the Planning Board is not being asked to approve the development agreement. The Board reviews the purposes of a development agreement, and why it was submitted to the Board for its review.

Beckwith asks if the agreement is considered permanent or if the development agreement could be changed in the future, with the approval of both the City and a future property owner. Atty. Mark Glovsky, representing Cell Signaling Technologies, clarifies the facts that (a) the agreement has not been signed as is therefore not yet final, (b) that the agreement runs with the land, and (c) that the agreement could be modified only with the approval of both parties. Wynne notes that allowances for amendments, with the approval of both parties, is a standard part of a development agreement. The Board discusses how the development agreement and zoning could impact the property and site plan review processes that would need to be followed with proposed changes. Hutchinson notes that all zoning is subject to change in the long term, and while there is the potential for this agreement to be removed, there are built-in protections regarding future development.

Hutchinson invites comment from members of the public.

Hugh McKenna, 46 Cornell Road. Mr. McKenna states he is a direct abutter, and expresses his concern about the project and although he is not necessarily against the proposal, he would like to see more detailed plans and how it might impact his property. Hutchinson clarifies that the Board is only considering the zoning change, not potential additions or constructions. Hutchinson describes how the zoning change impacts the review process of future development.

Beth Ann Sperr, 11 Oberlin Road. Mrs. Sperr asks for clarification about what the zoning change would allow in terms of development and height. Hutchinson clarifies what would be permitted, and that the property owner could not build higher without getting a variance from the Zoning Board of Appeals (ZBA). Ms. Sperr asks for clarification about the development agreement. Hutchinson provides an overview of the development agreement and the fact that it holds the property owner to stricter building standards. Ms. Sperr expresses her concern that a development agreement will not be kept based on past experience with a separate covenant.

Bruce Sperr, 11 Oberlin Road. Mr. Sperr provides further comment on their past experience, stating that an access covenant was not upheld by the City and that the situation was not easily addressed. Mr. Sperr expresses his concern about whether a covenant will be upheld.

Wynne presents the setback, height, and review requirements that exist under current zoning, and how those would change with the proposed zoning change and with the development agreement. Wynne reviews how zoning amendments are policy considerations, and describes how proposed zoning amendments may be considered versus proposed developments. Sinclair asks for further clarification, and Wynne provides an overview of the site and reasoning for the proposed zoning change, and why the City considers it to be appropriate. Sinclair asks why a zoning amendment is being proposed rather than requesting a variance from the ZBA. Atty. Glovsky clarifies why a zoning change is more appropriate than a variance.

Flannery: Moves to close the hearing. Seconded by Craft. Hutchinson takes a roll-call vote. The motion carries 9-0.

Hutchinson provides an overview of the Board's role and asks if there are any further comments from the Board. Sweeney expresses his support for the new IR zoning district, noting the

additional review from the Board that would be required and the benefits to the City and abutters. Sinclair expresses his concern about the zoning amendment given its relation to specific development project, and the effects on the trust of community members. Board members review the proposed zoning change and their perspectives on the proposal, and how it may be considered in lieu of the development agreement and potential future development. Beckwith comments that the property will likely always be a commercial property and notes that it is a small lot with unique circumstances, and that the change will allow significantly more review than under current zoning.

The Board discusses what a vote would entail and what is being considered by the Board. Toulouse notes that the development agreement is not part of the recommendation that would be made to the City Council, but was provided to provide clarification about the intentions of the property owner.

- Craft:** Moves to recommend that the Beverly City Council approve City Council Order #110 to change the zoning of a certain parcel(s) consisting of recorded and registered land, described below from CG “General Commercial,” R-10 “One-Family District,” and RSD “Special Residential District” to IR “Restricted Industrial.”
- City of Beverly Tax Assessor Map 52, Lot 75, which is 235,573+/- square feet, and is currently zoned CG and R-10.
 - The portion of Lot 14 located within the City of Beverly, which is 19,024+/- square feet, as shown on the aforementioned map, and is currently zoned RSD.
- Seconded by Toulouse. Hutchinson takes a roll-call vote. The motion carries 8-1 (Sinclair dissenting).

Public Hearing: Request to Nullify Decision: Endorsement of a Definitive Subdivision Plan – 133 & 143 Brimbal Avenue – Alexander & Femino

Hutchings reads the public notice. Atty. Thomas Alexander, representing the applicant, notes that the abutter was not consulted in the creation of this plan and requests that the decision be rescinded due to the fact that it was inappropriately presented.

Hutchinson asks if there is a secondary plan which would come into place if this plan is rescinded. Atty. Alexander notes that there is not. Beckwith clarifies that this request is to rescind the approval and endorsement made in April 2021, not the decision made in 2016. Atty. Alexander confirms the request is to rescind the April 2021 actions. Atty. Bill Sheehan, representing 133 Brimbal Ave, clarifies the history of the project, and argues that the decision made in 2016 is null and void due to its failure to conform to the Planning Board’s rules and regulations and requests that the Board nullify its approval.

Hutchings notes that the City Solicitor recommends that due to the facts of the case, the Board would rescind, rather than nullify, the approval of the plan. Atty. Miranda Siemasko, representing 143 Brimbal Avenue LLC, comments that the 2016 decision may not be null and void, and some results of the 2016 decision affect next month’s public hearings due to the

resulting zoning freeze. The Board reads the 2016 decision and discusses the details of the legal implications. Hutchings clarifies that the Board's current task is to decide whether or not to rescind the April 2021 decision.

Miller: Moves to close the public hearing. Seconded by Flannery. Hutchinson takes a roll-call vote. The motion carries 9-0.

Craft: Moves that the Board rescind their decision to endorse the Definitive Subdivision Plan – 133 & 143 Brimbal Avenue, made April 21, 2021, pursuant to Massachusetts General Law chapter 41, section 81W. Seconded by Flannery. Hutchinson takes a roll-call vote. The motion carries 9-0.

Release of Covenant (Performance Bond): 53-57 Williams Street Definitive Subdivision – MJP Properties

Bob Griffin, representing the applicant, summarizes the request to release the performance bond, now that work has been completed. Hutchings confirms that the Engineering and Planning Departments have received all requested information to close out the project, and that she is waiting for Engineering to confirm their approval of final submittal materials.

Beckwith: Moves that the Planning Board approve the release of the Covenant and Performance Bond for \$3,000 for the 53-57 Williams Street Definitive Subdivision and determines that construction of the 53-57 Williams Street Definitive Subdivision Plan is complete, with the condition that the release become effective with approval from the Engineering Department. Seconded by Sweeney. Hutchinson takes a roll-call vote. The motion carries 9-0.

Modification to Site Plan Review #141-19 – 108 Bridge Street – David Cutler, 108 Bridge Street Development LLC

David Cutler explains the modifications that are being requested for the project. The applicant shows the before and after plans. Flannery summarizes the Design Review discussion, which covered concern for the lack of windows. Cutler notes that the removal of windows on the southern elevation were done to promote privacy. The Board reviews other proposed changes, and notes that the wraparound deck is larger than before. Cutler confirms the neighbor is okay with that change.

Flannery: Moves to determine that the modification of Site Plan Review #141-19 at 108 Bridge Street is minor. Seconded by Beckwith. Hutchinson takes a roll-call vote. The motion carries 7-2 (Miller and Craft dissenting).

Flannery: Moves to approve the modifications made to Site Plan Review #141-19 at 108 Bridge Street. Seconded by Beckwith. Hutchinson takes a roll-call vote. The motion carries 9-0.

Set Public Hearings:

Special Permit #180-21 and Site Plan Review #151-21 – 143 Brimbal Avenue, construction of 3-story addition, with related site improvements, with the change in use from social club/meeting hall to retail establishment and warehouse and fabrication headquarters for a rugs and carpeting business – 143 Brimbal Avenue LLC, c/o Glovsky & Glovsky LLC (cont.)

Flannery: Moves to set the public hearing for July 20, 2021 for Special Permit #180-21 and Site Plan Review #151-21 – 143 Brimbal Avenue, for July 20, 2021. Seconded by Craft. Hutchinson takes a roll-call vote. The motion carries 9-0.

Waiver of Frontage and Definitive Subdivision Plan – 75 Livingston Avenue – Paul R. LaPenna, Michael C. LaPenna, Nancy J. Hadley, Marie J. Hadley and Joanne Holehouse

Beckwith: Moves to set the public hearing for the Waiver of Frontage and Definitive Subdivision Plan for July 20, 2021. Seconded by Flannery. Hutchinson takes a roll-call vote. The motion carries 9-0.

Other / New business

Edit Planning Board calendar: Reschedule September 21 meeting

The Board moves the September 21, 2021 meeting to September 22, 2021, to not conflict with election dates.

Hutchings notes that an inquiry to the Board of Health is still being drafted in response to Councilor Ames' discussion of rodent control.

Bartley notes that the City is starting the process of developing an Accessory Dwelling Unit (ADU) ordinance, and asks Hutchings to share about the process. Hutchings notes that she has not been as involved in the process as other Planning Department staff, but that the Planning Department received a technical assistance grant to work with MAPC to develop the ordinance, which the Planning Board will review in the future. Miller asks Hutchings whether this is informed by the former Great Estates Committee. Hutchings clarifies that the Great Estates / Cultural Heritage Properties ordinance is on hold, and although it also addresses housing needs, it is different that the ADU ordinance and would achieve different results. Hutchings confirms that the Great Estates ordinance is also a priority, but the ADU ordinance is being developed first. The Board asks if additional information about the ordinance could be shared, and Hutchings states she will share the Board's request with the Director of Planning and Development.

Adjournment

Craft: Moves to adjourn at 9:41 p.m. Seconded by Miller. Hutchinson takes a roll call vote. The motion carries 9-0. The next regular meeting of the Beverly Planning Board will take place on July 20, 2021.