

ZONING COMMISSION, CITY OF BOSTON

MINUTES

Wednesday, February 25, 2009

Room 900, City Hall, Boston

Attendance

Commissioners

David Marr	
Building Trade Employers' Association	Absent
Robert L. Fondren, Chairman	
Boston Society of Architects	Present
Jay Hurley	
Greater Boston Massachusetts Labor Council AFL/CIO	Present
James C. Clark, Vice Chairman	
Mayor's Selection	Present
William Tarlow	
Neighborhood Association of the Back Bay	Absent
Vacancy	
Mayor's Selection	
Ralph Cooper	
Franklin Field South Neighborhood Association	Present
M. Pat Tierney	
Greater Boston Real Estate Board	Present
Nelson Arroyo	
Mayor's Selection	Absent
Jill Hatton	
Greater Boston Chamber of Commerce	Present
Jane Brayton	
Neighborhood Association	Present

Staff

Rick Shaklik	
Deputy Director for Zoning/ Advisor to the Commission	Present
Jeffrey M. Hampton	
Secretary to the Commission	Present

PUBLIC HEARINGS

1. Chairman Fondren called the meeting to order at 9:05 and opened the public hearing on Text Amendment Application No. 402, Map Amendment Application No. 567 and an application for the Development Plan for Planned Development Area No. 74, Fenway Center.

The following spoke in favor of the petitions:

Rick Shaklik, BRA
John Fitzgerald, Project Manager BRA
Jonathan Greeley, Project Manager BRA
John Rosenthal
Councilor Michael Ross
Pam Beale, CAC Chair
Paul Lynch, Iron Workers
Ed Marenberg, Sheet Metal Workers
George Thrush, CAC Member
Julie Jordan, House of Blues
Larry Kankros, Boston Red Sox
Gene Devolio, Painters Union
Gary Walker, Local 103 Electrical Union
Carl Nagy, Fenway CDC
Elizabeth Corcoran Hunt, Representative Byron Rushing's Office
Mark Lederman, resident of East Fens
Steve Hines, Massachusetts Turnpike Authority
Joe Cosgrove, MBTA
Meg Meisner Cohen, Back Bay Neighborhood Association
Jack Creighton, Audubon Circle Neighborhood Association

Mr. Shaklik presented the petitions to the Commission and stated what was being asked of the Commission. He stated that there were three approvals being asked: 1) a text amendment to Article 61, Audubon Circle Neighborhood District; 2) a map amendment to add the PDA designation to the Fenway Center site; and 3) approval of the Development Plan for PDA #74. The petitions were approved by the BRA Board on January 29, 2009. He introduced John Fitzgerald.

Mr. Fitzgerald gave a brief history on the Proposed Project and the outreach done by John Rosenthal prior to the official submission of plans. He introduced Jonathan Greeley.

Mr. Greeley discussed the Citizen's Advisory Committee ("CAC") process. He stated that the backdrop for the Proposed Project was the "Civic Vision" for the Massachusetts Turnpike Air-Rights development. There was general discussion on current and future traffic patterns and improvements. He introduced John Rosenthal.

Mr. Rosenthal gave a presentation to the Commission detailing the Proposed Project. There was a Power Point presentation shown to the Commission which Mr. Rosenthal went over. Discussion surrounded the need for improvements in this area and that the site was ideal for transit-oriented development. He stated that there was unprecedented support for the project from neighborhood residents to business owners. Development of the site was made easier due to the fact that 50% of the project site was land and that the Turnpike Air-Rights development would be the first phase of the Proposed Project. Yawkey Station is scheduled to be re-built starting next year.

There was general discussion among the Commissioners and BRA staff on Urban Design and transportation issues, specifically dealing with loading areas for the Proposed Project.

Commissioner Clark asked how many jobs were expected to be generated, whether they would be union and if the Boston Plan would be adhered to.

Mr. Rosenthal stated that over the life of the Proposed Project it would be well over 1,000 jobs, it would be union and the Boston Plan would be followed.

Chairman Fondren asked if the initial construction would be with the new station and then building over the Turnpike.

Mr. Rosenthal stated that this was the plan. The station would start in 2010, take approximately 12-18 months then the platform over the Turnpike would be constructed. He stated that the station would not be fully accessible until the platform over the Turnpike was completed.

Chairman Fondren asked if that concluded the presentation, Mr. Greeley stated that it did. He then asked if there was anyone who would like to speak in favor of the petitions.

Councilor Michael Ross spoke in favor of the petitions/Proposed Project.
Pam Beale spoke in favor of the petitions/Proposed Project.
Paul Lynch spoke in favor of the petitions/Proposed Project.
Ed Marenberg spoke in favor of the petitions/Proposed Project.
George Thrush spoke in favor of the petitions/Proposed Project.
Julie Jordan spoke in favor of the petitions/Proposed Project.
Larry Kankros spoke in favor of the petitions/Proposed Project.
Gene Devolio spoke in favor of the petitions/Proposed Project.
Gary Walker spoke in favor of the petitions/Proposed Project.
Carl Nagy spoke in favor of the petitions/Proposed Project.
Elizabeth Corcoran Hunt spoke in favor of the petitions/Proposed Project.
Mark Lederman spoke in favor of the petitions/Proposed Project.
Steve Hines spoke in favor of the petitions/Proposed Project.
Joe Cosgrove spoke in favor of the petitions/Proposed Project.
Meg Meisner Cohen spoke in favor of the petitions/Proposed Project.
Jack Creighton spoke in favor of the petitions/Proposed Project.

Chairman Fondren asked what the affordable housing percentage of the Proposed Project was.

Mr. Rosenthal stated that it was 15%, with 5% on-site.

There was no further discussion.

Chairman Fondren declared the petitioner's case closed at 10:20 AM.

Chairman Fondren asked if anyone wished to speak in opposition to the petitions.

The following spoke in opposition to the petitions:

Jennifer Francis, HRPT – Property owner of 109 Brookline Avenue
Mary Marshall, Ropes and Gray

Jennifer Francis spoke in opposition to the petitions. Her concerns were to the Proposed Project's impacts on the property at 109 Brookline Avenue, specifically with loading accessibility. She stated that the Proposed Project as it was presented would actually need to take some of the property located at 109 Brookline Avenue.

There was general discussion among the Commissioners on the issue of whether there was a paper street involved and whether the City would need to issue a taking of some of 109 Brookline Avenue for the Proposed Project to move forward.

Mary Marshall spoke in opposition to the petitions. She addressed the issue of the taking saying that it would need to happen in order for the Proposed Project to move forward and that the developer has not addressed the issues of concern related to 109 Brookline Avenue. She stated that HRPT did not formal review any plans of the Proposed Project.

There was general discussion on the legal issues that may be involved with a taking of property and question to whether it would be necessary.

Chairman Fondren declared the opposition's case closed at 10:31 AM.

Chairman Fondren asked if the Petitioner would like to respond to the opposition and issues raised during the hearing.

Mr. Greeley stated that the City has met and will continue to meet with HRPT to discuss the issues they raised.

Mr. Rosenthal stated that he met with HRPT in the past and felt that they understood what was going to happen with respect to the Proposed Project. He stated that the issue concerning access and roadways is an issue between the City and HRPT.

Chairman Fondren stated the matter would be taken under advisement and would be discussed at the next business meeting to be held immediately following the hearing which was open to the public.

The hearing was declared closed at 10:39 AM.

Chairman Fondren declared a five minute recess.

2. Chairman Fondren called the meeting to order at 10:49 AM and opened the public hearing on Text Amendment Application No. 396.

The following spoke in favor of the petition:

Rick Shaklik, BRA

Brad Swing, Director of Energy Policy, Mayor's Office

Mr. Shaklik presented the petition to the Commission and stated that the revised edition of the Wind Energy zoning has the recommended changes that were brought to the Commission's attention at its hearing on November 5, 2008. The BRA Board approved the revised Article 88 on January 29, 2009. He stated that this is the latest effort by the City to establish sustainable energy zoning regulations in the spirit of the Groundwater Overlay and Green Building zoning

regulations. The new wind energy regulations have 1) the addition of “pole-mounted” turbine; 2) a change to Building Integrated height from thirty-five feet to forty-five feet; 3) revisions where Building Integrated were allowed to be consistent even though some subdistrict names were different; 4) maximum nameplate output from five to six; and 5) change to safety provisions. He stated that the document is similar to the November version except with the recommended changes.

Commissioner Cooper asked where these structures would be forbidden.

Mr. Shaklik stated in the low-density residential districts.

There was general discussion on the “Applicability” section of the Article with respect to the Board of Appeal language.

Brad Swing spoke in favor of the petition. He stated that the changes to the provisions show how serious the City is in sustainable energy.

Chairman Fondren asked if the Code addressed solar panels and if it doesn’t shouldn’t it?

Mr. Shaklik stated that it could be next.

Chairman Fondren declared the opposition’s case closed at 11:11 AM.

There was no opposition.

Chairman Fondren stated the matter would be taken under advisement and would be discussed at the next business meeting to be held immediately following the hearing which was open to the public.

The hearing was declared closed at 11:11 AM.

Chairman Fondren called the Business Meeting at 11:12 AM

1. Chairman Fondren opened the discussion regarding Fenway Center. There was discussion among the Commissioners about the road issue and whose responsibility it was and that talks should continue between all parties.

Commissioner Clark made a motion to approve Text Amendment Application No. 402, Map Amendment Application No. 567 and an application for approval of the Development Plan for Planned Development Area No. 74, Fenway Center, all as submitted. Commissioner Brayton seconded the motion.

Commissioner Fondren put the motion to vote:

Yeas: 7

Ms. Brayton, Mr. Hurley, Ms. Tierney, Mr. Cooper, Mr. Clark, Ms. Hatton, Mr. Fondren,

Nays: 0

The motion was declared carried.

2. Chairman Fondren opened the discussion regarding Wind Energy. The Commission was appreciative of the changes made to the original document and if there were even more changes that could be made down the road.

Mr. Shaklik stated that there needed to be an amendment to the proposed article because references to certain sections were not identified on Page 3.

Commissioner Clark made a motion to amend Text Amendment Application No. 396 by amending Section 88-4, Paragraph 3, by striking out the letter "X" and inserting "88-4.5" just before "(Design Guidelines)" and striking out the letters "XX" and inserting "88". Commissioner Brayton seconded the motion.

Chairman Fondren put the motion to vote:

Yeas: 7

Ms. Brayton, Mr. Hurley, Ms. Tierney, Mr. Cooper, Mr. Clark, Ms. Hatton, Mr. Fondren,

Nays: 0

The motion was declared carried.

Commissioner Clark made a motion to approve Text Amendment Application No. 396 as amended. Commissioner Brayton seconded the motion.

Commissioner Fondren put the motion to vote:

Yeas: 7

Ms. Brayton, Mr. Hurley, Ms. Tierney, Mr. Cooper, Mr. Clark, Ms. Hatton, Mr. Fondren,

Nays: 0

The motion was declared carried.

Commissioner Fondren adjourned the meeting at 11:48 AM

Secretary