

**CITY OF CONCORD PLANNING BOARD
October 1, 2014 MEETING**

A meeting of the City Planning Board was held on October 1, 2014, in the Heights Community Center, at 14 Canterbury Road, at 7:00 p.m.

Present at the meeting were Chair Drypolcher and Members Dolcino, Foss, Hicks, Lavers, Smith-Meyer, Rosenberger, Woodfin and Councilor Champlin. City Planner Nancy Larson and Patricia Murray of the City's Planning Division were also present.

At 7:00 p.m., a quorum was present and the Chair called the meeting to order. Chair Drypolcher seated Alternate Member Dolcino for Member Regan.

PUBLIC HEARINGS

Site Plan Review

1. Request by Fournier Foods, LLC on behalf of Jay W. Stewart Realty Holdings, LLC for a Major Site Plan Approval to construct a 5,524 SF poultry processing facility, a 1,558 SF garage/storage building, and a 1,225 SF covered outdoor storage area with parking, drainage, lighting and other associated site improvements at 52 Locke Road in the IN (Industrial), RO (Open Space Residential) Districts and the FH (Flood Hazard) Overlay District. Map/Block/Lot: 121-1-17 (2014-0041)
 - a. Public Hearing
 - b. Deliberations and Action on the Application

The Chair opened the public hearing.

Ms. Larson updated the Board on revisions to the staff report. She stated revised plans were received from Bedford Designs and she was able to eliminate some conditions from the first staff report and also updated some comments.

Amy Manzelli, Esq., BCM Environmental & Land Law, PLLC, representing the applicant, introduced the applicants, Craig Fournier and Omar Khudari, co-owners of Fournier Foods, LLC, and the rest of her team; Katherine Weiss and Bob Baskerville, Bedford Design; Doug Proctor, Turner Group; Kathryn Ward and Michael Donahue, Aries Engineering; Charlie Creswell, Webber/Smith Associates; and Harlan Bisbee, City Clerk, Stacyville, Iowa.

Atty. Manzelli stated that this project is about opening up the NH market for small scale farmers in New Hampshire to make a meaningful living raising poultry. She also spoke of the Farm to Plate Policy which supports and encourages local food. Atty. Manzelli noted that 23 new jobs will be created during one shift at Fournier and could indirectly generate over a half million dollars through NH farmers.

Mr. Craig Fournier, CEO, co-founder and co-owner, Fournier Foods, LLC, spoke. Mr. Fournier gave an overview of his background and stated that three years ago he started a mobile poultry processing unit out of a trailer and went from farm to farm to process poultry. He stated there was a tremendous demand from farmers but the farmers also requested a USDA inspected facility so more chickens could be raised and sold. Mr. Fournier stated a USDA inspector would be present 100% of the time the proposed facility is operating and the proposed plant would be processing 2000 birds per shift with a

maximum of 3 shifts per day. He also stated no birds would be raised on site. Mr. Fournier spoke about potential nuisance odors and stated that they understand there are concerns and they are confident that all possible sources of odors associated with the proposed facility are known and can be managed so that any nuisance odors can be a non-issue for neighbors just as it is in plants he has visited in Stacyville, IA, Johnson, RI and Alston, NY. He stated the Stacyville residents objected strongly against the plant when proposed 6 years ago but there are no complaints on record regarding odor issues at City Hall to date. This facility has been designed, engineered and materials have been selected specifically to make sure odor is not an issue. The birds will be withheld food for a twelve hour period prior to processing, per USDA regulations, so fecal matter is not produced. Fournier Foods and the USDA have zero tolerance for fecal contamination during processing. Upon arrival at Fournier Foods, the birds will be unloaded in a covered staging area which is power washed after the birds are removed from the area. Any debris will be washed in to the drainage pretreatment system. The floor of the receiving area, as well as all other floors in the plant, will be coated with a special non-odor absorbing resin material. The entire facility, including walls, floors and equipment will be thoroughly washed and sanitized before and after each shift. This is a biosecurity best practice. Waste product will be stored inside the building inside a refrigerated room. The waste will be picked up by a rendering company. Mr. Fournier stated he wants to assure all that this is the kind of a facility to be proud of having in the community.

Ms. Katherine Weiss, Bedford Design Consultants, spoke to the application. Ms. Weiss pointed out the proposed location using a map. The site is approximately 20 acres of which approximately 2 acres in the center will be used. She stated Locke Road is an industrial park and the site is zoned industrial as well as open space residential and the proposed project is a permitted use. She stated there are no residential abutters to the site. No disturbances to either wetlands or wetland buffers, bluffs or buffers to bluffs, steep slopes or flood hazard areas are proposed. Ms. Weiss stated the proposed building is 5,524 sq. ft. The staging area is attached to the main building and is open to the air but covered. She explained that farmers will go in to the site, go straight back to back up to the covered staging area. Farmers would then unload and leave the site. Once the birds are processed and ready for pick up, the farmer will return and back up to the docking area to pick up the product. The farmer would enter the business through a buzzer system. The employee entrance is a separate entrance. The proposed garage will contain extra trailers and crates.

Mr. Bob Baskerville, Bedford Design Consultants, spoke to the application. Mr. Baskerville gave an overview of the traffic report supplied by Stephen G. Pernaw & Company, Inc. The report indicated that the hourly volume of traffic generated by the proposed facility is not of sufficient magnitude to alter traffic or operations in the area nor will it affect the levels of service nearby. The analysis includes three shifts with 23 employees per shift and trips made by farmers.

Councilor Champlin asked what size vehicles would be traveling to the location. Mr. Fournier responded that Ford 150 pickup trucks will be used pulling a horse trailer. Cattle trailers may also be used that are 16 to 22 feet in length and 6 feet in width.

Mr. Baskerville spoke about wastewater. Wastewater will come out of the building in four locations; from the processing facility, drop off area, garage, all three of these will go into a pretreatment separator system, and also, waste from restrooms, break areas etc. will enter the city sewer line. Mr. Baskerville reiterated the cleaning process before and after every shift.

Councilor Champlin asked if there is a screen to separate particulate matter and what is the smallest particle that would trap. Atty. Manzelli indicated that has not been specified yet. She stated that the important places for the screens are at the scalding area and the picking area and the screens will be appropriately sized to collect feathers.

Ms. Weiss spoke about stormwater; all will flow into a bio retention area then into the Locke Road drainage system, which was designed to handle the flow from the entire industrial park. Ms. Weiss spoke briefly on future expansion which would need Planning Board approval. She stated the landscaping includes a 20 foot buffer from the neighbor. She stated the lighting will be on the building and they are proposing wall packs that are night time friendly which will shine on the parking areas.

Ms. Kathryn Ward, Aries Engineering, spoke. She stated three permits are required for this project; an industrial discharge permit, a sewer connection permit and a general state permit for the emergency generator. The first two permits have been submitted and are being reviewed and the last will be applied for after the generator has been selected.

Mr. Doug Proctor, Turner Group, spoke. Referring to the elevation drawings Mr. Proctor stated there are two buildings; the process building and the garage. The exterior of the process building will be constructed of insulated metal panel. Canopies were included for the delivery of the birds and at entrances for the employees. The building is 5524 sq. ft., 16 feet high and is small compared to other buildings in the area. Concrete block was incorporated to make the building more durable at possible stress points. An unscreened rooftop housing mechanical equipment is also proposed which is typical of the area. A 10 foot exhaust stack, which aids in the release of humidity, is the highest piece of rooftop equipment. An exhaust fan will introduce fresh air into the air stream.

Mr. Charlie Creswell, Webber/Smith Associates, spoke. He stated his company services only the food industry. He stated that he is confident that no odor issues will be associated with this facility. He stated there is some odor associated with the scalding tank which cleans the birds and loosens the feathers but there is an exhaust fan which introduces fresh air diluting any air released from the building. He spoke of personal experiences with large poultry processing plants and stated he never noticed any smell.

Mr. Harlan Bisbee, City Clerk, Stacyville, Iowa, spoke. He gave an overview of the poultry processing plant located in his town and stated that he has received no complaints at all about the plant.

A discussion regarding economic development ensued.

Atty. Manzelli read a letter from Mr. Mike Kowsak outlining USDA regulations, the poultry plant in Stacyville, Iowa and the ideal location Fournier has chosen in Concord for the proposed project. The letter also reiterated that there have been no complaints regarding odor. Atty. Manzelli also spoke of other letters of support which were included in the Planning Board packets. She also reiterated that this project does not propose to raise poultry; it is strictly the delivery of live birds, the processing of them and the return of the finished product. Atty. Manzelli stated this property is ideally situated for this use; it is at the end of a deadend of an industrial park, its use is permitted by right, it is surrounded by woods that will not be developed, there are no residential abutters between this property and the highway. The application satisfies all of the site plan requirements, it supports the farm to plate policy, and it is job creating and income generating.

Atty. Manzelli reviewed the requests presented to the Planning Board which include removing the screening requirement, architectural design review approval and final conditional site plan approval. She requested that precedent conditions 4 and 5 be revised to allow for more flexibility.

A discussion regarding the use of a regenerative thermal oxidizer, the waste removal schedule, the scheduling of poultry drop off, seasonality and concerns of odor ensued.

The Chair asked if members of the public had any comments or questions on the application.

Ms. Cheryl Coletti, 79 Oakmont Drive, spoke. Ms. Coletti stated she is not in opposition to the project but implores the Planning Board to be gatekeepers of any conditions they set for this project. She spoke of RTOs and pollution that still exists and escapes in to the air with dilution.

Mr. Tom Piper, 6 Oakmont Drive, spoke in opposition of the application. Mr. Piper is in opposition to the project. He referenced Fournier Food's attempt to locate in Leominster Massachusetts. He stated Leominster has sound and lighting ordinances which would prevent Fournier from running three shifts. He inquired if the business is sold will the new owners be as conscientious. He spoke of odor concerns and ordinance 28-5-24. He asked that a condition be placed on approval that if ordinance 28-5-24 is broken then the City has the right to shut down the plant. He also spoke of concerns over the city water supply and wastewater contamination.

Mr. Andrew Howe, Gilford, NH, spoke in support of the application. Mr. Howe is a farmer and spoke in support of the project. He stated this would be a good opportunity to increase his sales and would provide a dramatic improvement to his business. He presently slaughters on his premises now and prefers not to.

Mr. Don Jewell, 39 Locke Road, spoke in opposition of the application. Mr. Jewell expressed concerns over the odors, stating that discharging contaminated air through the roof is potentially risky because of downdraft winds. He also stated possible coyote and other predatory animal attacks. He mentioned Harts Turkey Farm and their losses suffered by coyotes. He also stated the operation was not odorless.

Mr. Ken Roos, 17 N Curtisville Road, spoke. Mr. Roos asked what the employee base is and if employees will be provided with a livable wage and benefits.

Ms. Sheila Booth, 14 Pekoe Drive, spoke in opposition to the application. Ms. Booth stated that this project runs contrary to the Master Plan for Concord. She expressed concerns for an Animal Operation (AO) affecting the surrounding environment and community with chemical, ground water and particulate pollution. Ms. Booth expressed concerns regarding odor. She stated this project, if allowed, will adversely affect the Master Plan, property values, taxes, and quality of life and asks the Planning Board to reject the application for these reasons.

Mr. Richard Lavers clarified that Fournier Foods has worked with planning staff not with the Planning Board.

Mr. David Sky, 98 Appleton Street, spoke in support of the application. He stated he is a hobby farmer and he does his own processing which can be a challenge for a small farm. He urges demanding reasonable studies since those costs will be passed onto farmers.

Mr. Rick Johnson, 191 Mountain Road, spoke in opposition to the application. He explained his personal experience with chicken plants in Delaware stating the smell is oppressive. He was struck by the fact that Fournier will not be raising chickens but said if the operation is 24/7 then there will be live chickens 24/7. Mr. Johnson stated no air scrubber can relieve the odor. He also mentioned the Master Plan.

Ms. Karen Barker, Laconia, spoke in support of the application. She is representing NH farmers. She processes birds on her own property. She stated a bird that has been withheld food there is no fecal matter to deal with. She also stated coyotes are not interested in chicken feathers and she does not have a coyote problem at her farm. She commented on questions raised about the business being sold and only operating for profit stating that all businesses should be held to that standard. Ms. Baker then stated that this plant would be a benefit to farmers in the area.

Mr. William Varnell, 19 Oakmont Drive, spoke in opposition of the application. He noted that just south of the proposed plant is a Marriott Hotel and other professional businesses. He asked why the bird storage area is not enclosed. He expressed concerns for water consumption stating that water pressure is already low in the area. He also stated that odor is not the only problem; it's also the things we can't smell such as pathogens, cleaning solutions which is a concern inside and dispersed outside the plant.

Mr. Paul Still, 288 East Side Drive, spoke in opposition of the application. He stated what will come if the processing plant is constructed. He also talked about odor from the plant and other businesses. Mr. Still talked about the poverty level and minimum wage jobs.

Mr. Joe Alexander, 32 Bainbridge Drive, spoke in opposition of the application. He noted that he submitted a study by John Kilpatrick from Greenfield Advisors Group, LLC to the Planning Board. He stated the firm specializes in economic market value analysis and are best known for evaluating areas with negative impacts such as AOs in the neighborhood. He spoke about odor and RTOs and inquired why the off load area isn't contained. He also expressed concern over the market values of properties declining in the area of the proposed site and property taxes increasing.

Mr. Jay Stewart, owner of 52 Locke Road, spoke in support of the application. He reiterated that the proposed site is in an industrial zoned area and that all requirements have been met. He stated that there is a city ordinance to deal with any smell if it becomes an issue.

Mr. Rob Johnson, NH Farm Bureau Federation, 295 Sheep Davis Road, spoke in support of the application. He gave a history of the bureau and stated that Mr. Fournier presented to their board and they were impressed. He stated the location is ideally situated in an industrial park and has a great chance at success. He spoke of the benefits of open space. He also raises turkeys and would take full advantage of the plant.

Ms. Carol Royce, 56 Oak Hill Road, spoke. She asked a few questions; what is the full dimension of the canopies, what is the cattle trailer height, and where does the cleaning take place.

Mr. Roger Noonan, New Boston, spoke in support of the application. He stated a USDA processing facility is much needed. He stated the plant would benefit farmers and consumers across the region. He also explained that an AO, which can process 140 birds per minute, is different from a small plant such as the one being proposed.

Ms. Anne Bogart, 6 Mills Street, spoke in opposition of the application. She stated she knows processing has to be done somewhere but does not want it in her neighborhood. She is concerned with odor and trash and the plant's effect on the Merrimack River. She asked if other locations were considered.

Mr. Michael Panebianco, 37 Bainbridge Drive, spoke in opposition of the application. He stated he shares concerns raised. He feels support of farmers is irrelevant and what is relevant is if the project meets laws, rules and requirements. He also referred to the Master Plan.

Mr. Greg Grace, 55 Mountain Road, spoke in opposition of the application. He owns a dairy beef and deer farm. He gave an overview of his extensive experience in slaughterhouses. He stated concerns with the three proposed shifts and suggests a more appropriate location for the project. He also stated concerns with his options at his residence if this project is approved.

Mr. Tom Clark, USDA, spoke in support of the application. He stated the concerns mentioned are not founded. He also stated this is not a business that produces odors. He explained the standards for

maintaining a clean facility that produces a safe, wholesome product. He also stated he has never seen an RTO in a processing facility and does not feel it is necessary in this plant.

Mr. Radek Masner, 42 Pekoe Drive, spoke in opposition of the application. He stated this project gives him no financial benefit and only gives risks. He expressed concerns about the effects on the river.

Mr. Jason Hirsch, 28 Mountain Road, spoke in opposition of the application. He stated the reason Fournier pulled out of Leominster, MA was because of community opposition to odor.

Mr. John Bomhoff, 139 Mountain Road, spoke in opposition of the application. He stated he is not opposed to this facility going in somewhere but not in his backyard. He spoke of no reward for the community and concerns about water consumption.

Ms. Marietta Hartt, 29 Oakmont Drive, spoke in opposition of the application. Ms. Hartt read an article from globalmeatnews.com published September 19, 2014. The article spoke of changes in the USDA inspecting of processing plants.

Ms. Katie Miles, 30 Max Lane, spoke in opposition of the application. She stated the proposed site is sensitive land. She questioned if Fournier Foods or any future owner has the right to drill, or use aquifers in the Merrimack River. She expressed concern regarding the chemicals used by the plant.

Mr. Max Blindon, Goffstown, spoke in support of the application. He encouraged consumers to embrace the aspect of local food production and to know where their food is coming from.

Mr. Steve Normanton, Normanton Farms, Litchfield, spoke in support of the application. He stated Mr. Fournier recognized a need in the area and he supports the application. He stated the zoning is industrial.

Mr. Don Latourette, 8 Oakmont Drive, spoke in opposition of the application. He noted that all supporters of the project are not Concord residents. He asked the Board consider their obligation to Concord residents.

Ms. Stephanie Mills, 139 Mountain Road, spoke in opposition of the application. She asked who will reimburse residents if property values go down.

Mr. Scott Hardy, 89 South Main Street, spoke in opposition of the application. He stated he doesn't think anybody is against what Fournier Foods does but they are against the location. He talked about the odor and its effect on people driving on interstate 93 who may not stop because of the odor.

Atty. Manzelli asked if Tom Clark could respond to 1) do regulations prohibit outdoor staging of chicken and 2) is it true that proposed amendments to USDA regulations would result in no regulation of a facility like the proposed facility. Mr. Clark replied that there are no federal regulations to prohibit outside storage of birds and that the proposed amendments affect plants with 500 or more employees and would not affect Fournier Foods. Chair Drypolcher stated that staff would need to verify this information.

Atty. Manzelli responded to questions and concerns raised in the public hearing. She reiterated that there will be no odor; hazard odor, contamination odor, toxic odor, nuisance odor, affecting other properties. She stated DES, the City of Concord or any other entity requires a permit for air emissions produced by the facility. She reiterated that Fournier Foods will fully comply with the ordinance 28-5-24. Atty. Manzelli stated state and concord laws prohibit this type of facility from being on farms. She stated food processing businesses are only allowed in industrial districts. Atty. Manzelli made a

suggestion for a condition of approval; the owner and operator comply with all applicable laws. She explained the difference between Concentrated Animal Feeding Operation (CAFO) and Animal Operation (AO) facilities and stated that Fournier Foods is neither a CAFO nor an AO. She also stated Fournier Foods will only process poultry, no red meat or pork will be processed. She said there is no intention of selling the plant, the land or business. She referred to the Master Plan and how this application relates to the Master Plan. She stated there will be no impact on public recreation and will not affect Concord's character. Atty. Manzelli stated they have uncontroverted, credible expert testimony on several points including traffic concerns, carbon filtration, and RTOs. She also stated there are no odor standards or property value standards in the site plan regulations. She reiterated that this is a permitted use by right.

Mr. Fournier further responded to questions and concerns raised. He stated some of the jobs available will be management and the bulk will be entry level. He spoke of property values and how Fournier Foods will be a model business member of the community. He spoke of feather issues stating that the birds will remain in humane crates until they are in the building and any stray feathers will be washed away in the cleaning process. He stated they will educate farmers regarding the transport of birds and most farmers will use livestock trailers to transport the birds and most will use the highway. He is confident that they do not anticipate any problem odors leaving the site. He explained that Leominster was not chosen due to the size of the lot and the closeness to residences. He stated, in response to his earlier statement that there will be odor, that every industry has odor. He said the site will have an immediate odor at the site and inside the building; something similar to wet dog.

Ms. Weiss stated the dimensions of the staging area are 35x35 feet and 16 feet in height. The trailers are 10 feet in height on average.

Ms. Ward stated that an air disbursement study would not be indicated for this site and there is no comparable input that would give representative data. She listed the chemicals that will be used and stated they will be stored on site and contained.

Atty. Manzelli referenced ordinance section 13-1-6 which covers nuisances and how to report them. She also stated that Fournier Foods door will always be open for complaints or concerns.

Discussion regarding the traffic report ensued. Mr. Stephen Pernaw was present to discuss his report. He stated the report provides a trip estimate of how many cars will enter the site by hour of day. In conclusion, the hourly volume of traffic that will be generated by the proposed facility is not sufficient magnitude to alter traffic operations in the area, nor affect the prevailing Levels of Service at nearby intersections.

Ms. Sheila Booth continued reading her concerns that she started earlier. She spoke of concerns regarding recreation and the effect the proposed project will have. She presented a map which highlighted the trails and parks in reference to the proposed site. She asked about aquifers and Ms. Larson responded that there is an aquifer protection district and this property is not in that district. She asked for an explanation of the traffic report. Discussion ensued about the traffic report. She also asked about buffers. Ms. Larson explained the requirements for a buffer.

Mr. Tom Piper requested that the Board find out if they can enforce ordinance 28-5-4.

Mr. Joe Alexander questioned the lack of an air disbursement study due to no comparable plants for representative data and why the plant in Stacyville, Iowa or similar plants couldn't be used. Ms. Ward responded that there is no concentration data that would be an input for a dispersion model.

Ms. Maureen Herrick, 55 Portsmouth Street, spoke. She stated she has been a property tax payer for many years and she does not appreciate any odor.

Mr. Paul Still spoke of the enemy of history and referenced a period of 9 days of rain and what could happen if it rained that much when there is a poultry processing business in place.

Mr. William Varnell spoke. He is concerned that the receiving area is not enclosed and warned of the dangers of chloroacetic acid.

Ms. Ward explained that the industrial discharge permit was applied for and is being reviewed. She also stated that any chloroacetic acid will be used at a very low concentration.

Atty. Manzelli spoke about the possible expansion in the future and noted that any expansion would need to be approved by the Planning Board.

Discussion ensued regarding the number of trucks entering/exiting the facility, nuisance odor conditions, the open staging area and where the trucks will wait while their birds are being processed. Atty. Manzelli stated that the driver will drop off the poultry and return the next day for their product; they will not be waiting around in the area.

The Board discussed options and discussed the concerns of traffic, odor and the effects on the water system. Councilor Champlin asked what the perimeters for a decision are. Ms. Larson stated there are no grounds for denial but the Board can set conditions. The Board requested that planning staff obtain information from the City Solicitor's office regarding the ability to enforce Article 28-5-4 of the Zoning Ordinance and Article 13-1-6 of the Code of Ordinances if issues arise, follow-up analysis on Steve Pernaw's latest traffic report regarding origins and distribution of vehicle trips generated by the site, more information on stormwater and wastewater (concerns over the millions of gallons of water usage and whether or not water could be re-used or infiltrated), confirmation (in writing) from the Zoning Administrator and City Solicitor that this is an allowed use and whether or not the operation could fall under "the keeping of chickens" as typically found in an agricultural use, and that a third party is hired to analyze odor control procedures including an air dispersing model as well as look at potential impact of any chemicals in use at the site (as it relates to odor control).

Councilor Champlin moved to continue the request by Fournier Foods, LLC on behalf of Jay W. Stewart Realty Holdings, LLC for a Major Site Plan Approval to construct a 5,524 SF poultry processing facility, a 1,558 SF garage/storage building, and a 1,225 SF covered outdoor storage area with parking, drainage, lighting and other associated site improvements at 52 Locke Road, to November 19, 2014 at the Planning Board's regular scheduled meeting at 7:00pm in Council Chambers, 37 Green St. Mr. Lavers seconded the motion. Motion passed unanimously.

2. Any other business which may legally come before the Board.

INFORMATION

- Next regular monthly meeting on Wednesday, October 15, 2014.

There was no further business to come before the Planning Board and the Chair adjourned the meeting at 12:08am.

A TRUE RECORD ATTEST:

Nancy Larson
Clerk