

**MINUTES OF A HEARING HELD ON TUESDAY, SEPTEMBER 23, 2014 REGARDING DOC. #92,
A PETITION FOR A SPECIAL PERMIT FOR PROPERTY WHICH IS IN THE WATERSHED
PROTECTION DISTRICT; FROM ATTORNEY MICHAEL MIGLIORI, FOR OWNER/APPLICANT
KAYROUZ PETROLEUM INC, A HEARING REGARDING ZONING- CONCERNING LAND ON 401
AMESBURY RD, ROUTE 110, TO MODIFY AN EXISTING GAS STATION AND CONVENIENCE
STORE; ASSESSOR'S MAP 459, BLOCK 1, LOT 1A**

SUBJECT: A petition for a special permit for property in the Watershed Protection District, from Attorney Michael Migliori for owner/applicant Kayrouz Petroleum Inc, a hearing regarding zoning concerning land on 401 Amesbury Road, to modify an existing gas station and convenience store, Assessor's Map 459, Block 1, Lot 1A

Present: Council President John A. Michitson, Council Vice-President Robert Scatamacchia, Councillor Melinda Barrett, Councillor William J. Macek, Councillor William H. Ryan, Councillor Thomas Sullivan, Councillor Mary Ellen Daly O'Brien, Councillor Michael McGonagle and Councillor Colin LePage.

Assistant City Clerk Laura Angus: A petition has been received for a Special Permit for property which is in the Watershed Protection District from Attorney Michael Migliori, for owner/applicant Kayrouz Petroleum Inc; a hearing regarding zoning- concerning land on 401 Amesbury Road, route 110, to modify an existing gas station and convenience store; Assessor's Map 459, Block 1, Lot 1A.

President Michitson: I open the hearing.

Attorney Michael Migliori: My name is Michael Migliori. I am representing the applicant Kayrouz Petroleum in connection with the special permit before you this evening. My offices is at 18 Essex Street, Haverhill. Also here tonight is Mr. Kayrouz, owner, and the project engineer, Mr. Hal Chouba. They will be available for comments/ questions as the hearing progresses. I am sure you are all familiar with the site on 401 Amesbury Road. Gas station that was owned and operated by Mr. Wickson prior to his death for many years and has been closed since that time. Mr. Kayrouz purchased the property and plans to operate gas station/convenience store at the property site which has been operated as a gas station and convenience store for many many years. The plans and the report you've received calls for demolishing the existing convenience store, constructing a new one including upgrades to pumps, tanks, significant site improvements including replacing the failed septic system. Because of the location of the property, in the watershed district, the scope of the work proposed requires a special permit from this Council which is the reason why we are here before you this evening. At this point what I would like to do is turn this over to our engineer so he can take you thru the project. I will come back and summarize and then we will be available for questions.

Hal Chouba, I am a consulting engineer with offices on 112 State Road in Dartmouth, Massachusetts. We are here for the modifications for the gas station as Mr. Migliori stated before, this is an existing gas station with 1,600 sq. foot convenience store. I have it on the easel. To the bottom of the sheet, to the south, would be the existing 1,600 foot convenience store. To the north there are 4 pumps between the building and the street. Access to the site is thru two existing driveways on Amesbury Street. Currently, the site has 22% open space which is not in compliance with the zoning by-laws. With the proposed improvements, we are proposing to demolish the existing 1,600 existing convenience store, build another 3,500 sq. foot convenience store to the south of the property. As you see, we pushed it away from the street, so we can accommodate parking, 19 parking spaces between the building and the pumps. Required parking by zoning by-laws is 1 per 200 square feet so we require 18 parking spaces. We are providing 19 parking spaces. Also, we are removing some of the existing pavement around the building. We are increasing the open space. We go from 22% open space to 28% open space. Now the project is in compliance with zoning. Also, part of the improvements would be drainage improvements. We are taking the roof drain to an infiltration system on site in compliance with the watershed guidelines. Part of the improvements would be upgrading the existing septic system on site with a brand new septic system meeting Title V. I believe the sewers are coming to the area soon and have no objection to tying into the sewer once the sewer is available. Also, lighting improvements and the brand new building would be very

architecturally pleasant and attractive building. I do have a 3-D rendering of the project I would like to show. I believe this is an improvement to the site in all terms. I'll be happy to answer and questions to may have.

Attorney Migliori: I think you can see there is a great deal of effort that's been put into this project; improve the site along with the implementation of all appropriate safeguards. We were recently before Conservation Committee, Board of Health and Fire Department for their reviews. You've received reports from those departments. It was thoroughly vetted by all those departments. We don't have a problem with any of the comments that were sent over by the departments and would be more than happy to have them incorporated into the vote and record this evening. As a couple of asides, one I know a couple of Councillors had some questions the gas station across the street from this which Mr. Kayrouz has an ownership interest in that site. Just by way of history, that site was controlled by many, many years by Getty. Getty had a long term, I think it was 30 year lease with full control of the site. Getty went bankrupt back in about 2012. Eventually, the end of 2012, 2013 Mr. Kayrouz was to again gain full control of the site. They owned it thru the bankruptcy court. So the plans now are, and agreements are being generated regarding sewer line with connection of the hotel project. Agreements to tie-in, cross easements and so forth. We are all hopeful that that is going to be coming sooner as opposed to later. Both of those stations is the intention to tie-in, that notwithstanding, we are going to build a new septic site on this site if the sewer isn't available in time and then once it does come by we would tie-in and do whatever you do with a new old septic system. I just wanted to give you that history. Things will be improving in that area on the both side of route 110 in a short period of time.

President Michitson: I have to ask the question. Will residents be able to tie-into that sewer line?

Attorney Migliori: My recollection what that the residents had always been granted permission. I think when we came before the Council on that project as part of the agreement was that any residential neighbor in that general area could tie-in. But with other private sewers being put in, commercial usage gets a different look. Usually because of capacity and usage those are separately negotiated deals with whoever is putting in the sewer which is what has happened in this case. The neighbors had always been provided access to it.

President Michitson: I know there has been confusion about that in the past but that's not what we are here for tonight. Is there anybody else that would like to speak in favor? Is there anyone else that would like to speak in favor? Is there anyone opposed that would like to speak? Is there anyone here opposed that would like to speak? With that I close the hearing. Council, what is your wish?

Councillor Sullivan: Thank you for your presentation tonight. I was one of the Councillors who was concerned about the operation of the Racing Mart store. I go there quite frequently. I do know the people who run that business and they do a very nice job by the way. They are very friendly and they have a great store clientele. My concern has been for years, the condition of the septic system at Racing Mart. I am told it is a failing system. You inherited that system, it wasn't you, but you did inherit that system. I was there this summer and the interior of the store smelled like sewerage and I asked why and they said we are waiting for them to come to drain the tank. And I said how often does that happen? Well, it happens quite often because I guess they need to drain it quite frequently to keep the smell out of the store. That system has been failing for a while and up until now I didn't know who you were. I never knew what I could do as a Councillor to try to help this store. Here you are, and here you be, and you are putting in a system across the street at this very nice new looking Mobil Station. It's the Taj Mahal Mobil. It's very very impressive looking store and I think it will be an improvement to the neighborhood. My fear is what happens to across the street? If it's not being taken care of well now, and it's not, quite honestly. The floors need to be replaced. The exterior façade is not very attractive. The curbing is chipped and broken. My point, do you have any plans to make concrete improve-ments to Racing Mart either now or during the modifications that you are going to make across the street? I really would like to know.

Mr. Kayrouz: Good evening, my name is Johnny Kayrouz. I am one of the owners of 401 Amesbury Road as well as 402 Amesbury Road. The plan is to connect to the new sewer line when it comes in. Right after that, at the same time we are looking to change the dispensers. Give the building a facelift. Pave the site. (audio tape stopped)

Mr. Kayrouz: It hasn't been that long actually. That's been our plan and I've been in discussion with the tenant so the tenant is aware of that.

Councillor Sullivan: Well, I would urge you to do that. It's long overdue and if we are going to have a brand new facility across the street, you're other facility, you must know this, nobody is going to go there. They are going to go to the brand new spanking Mobil and none of them want to go to the dumpy Racing Mart. You have a challenge ahead of you to not just take care of one side of the road. You own both sides now so I hope you will proceed to do that.

Councillor Daly O'Brien: That was a really nice presentation. I want to tell you I'm really looking forward to seeing that happen because the Mobil station that is there is really looking shabby. I feel the same way that this Councillor does. The place across the street looks equally as shabby. I am not a customer there because I don't live in that particular neighborhood. I probably have been in there maybe 10 times. The last time I was there, which was probably late spring, I thought to myself I am not going to come here again because I thought it looked like it really needed a good cleaning. That's how I felt. How long have you owned that John?

Mr. Kayrouz: It's not me personally. It's my father and his partner. They own the site across the street.

Councillor Daly O'Brien: How long has your family then?

Mr. Kayrouz: I believe we acquired the site in 1994 and then shortly thereafter it was leased out to Getty Petroleum. They have had control of the site for many years until they filed bankruptcy a couple of years ago.

Councillor Daly O'Brien: So you would not have had anything to do with how the store has (inaudible)

Mr. Kayrouz: Absolutely not, it was their dealer in there.

Councillor Daly O'Brien: That's probably exactly how this has come about. You're back involved in the store as of when?

Mr. Kayrouz: As of sometime in mid-2012.

Councillor Daly O'Brien: I think that not one property has that much to do with the other, but in the big picture, the reassurance that we need is that the property that has been neglected by Getty needs to be brought up to snuff and I am not going to go thru the things that Councillor Sullivan said. I think he said exactly what needed to be said. I am wondering how we can get any assurance that as that septic system goes in, you're going to not just hook up, which would make sense, but that the property is going to be upgraded. This is going to become a gateway. There's going to be a hotel there. We've got already a beautiful building, the assisted living. We have a beautiful college campus just around the corner as you know and some nice homes. It's really a lovely residential area. I just want this to move forward in a positive direction.

Mr. Kayrouz: I can assure you Councillor that is our intention and it's not even cost effective as it is right now because as Councilor Sullivan stated, we are having to pump the system quite often and that's not cost effective. That pushes us to tie into the sewer as soon as it comes in. As far as the improvements are concerned, that was already the plan. We don't want to dig up the parking lot twice. I have spoken with Mr. Stapinski on multiple occasions and I've always been told the sewer line is coming sometime in November, this year. That's what I've been told at least. We figured we'd tie into the sewer line in time and then come spring time we will be making the necessary renovations across the street as well.

Councillor Ryan: I was interested when Councillor Sullivan was talking about how people would be more inclined to go over to your station. Myself, which one is going to have the cheapest gas? I want to congratulate you for your good work and your investment. Couple of questions. As far as the sewer line in question. I'm not sure I'd count on it if I was you. The proponent for the hotel has been before us for

three or four projects in that area. Condo project next to the assisted living. Another project a little further down the road and they never materialize. They get them approved by us. We are very favorable to them. Then I think they probably try and sell the project and they can't sell it or get the amount of money they think it's worth. I think that's what is going on with the hotel because they were here a year or two ago, we approved it.

Attorney Migliori: It was in litigation for quite some time, which was a major problem. A group of neighbors who filed suit.

Councillor Ryan: I understand that. They wanted to hook in and they finally gave in.

Attorney Migliori: It's a long tortured story. They lost probably nine or ten months dealing with that litigation. I have hope now because agreements are actually going out pertaining to cross-easements and sewer tie-ins which leads me to believe no one would spend the money on attorneys and drawing up those things unless (inaudible).

Councillor Ryan: Having done a development myself, it's wise to get all of the agreements in place because it makes the project more valuable when you sell it. Once all of those issues are recognized and achieved and people have signed on the dotted line then they are going to market it. I don't see them building it. I'm not that optimistic. That leads me to the fact that you are investing so much in your station and you are doing a septic, I'm not sure if they have a two for one deal on septic while they are in the area to do it. It certainly, as my colleagues have pointed out, these are serious issues. The fact that you are up here on TV, you probably have the health department, they watch this program too, might be checking your septic system. I love to see you build a hotel. We are all for it. It was unanimous by the City Council. I encouraged the neighbors I knew down there to work with them and get this thing done. We want this hotel and we want the revenue and the excitement that goes with having another hotel in the City. I am not really that optimistic. I'm just telling you if I was in your shoes, I'd make that new title V system you are putting in will last for many years to come. You may be required (inaudible).

Attorney Migliori: Councillor there is an approved septic design for the site across the street as well, on record. There is an approved septic design. It's more complicated

Councillor Ryan: Okay. Same guy do both of them.

Mr. Kayrouz: It's a more complicated system. The sites, even though they are across from each other, but the topography is slightly different. The one across the street at the Racing Mart will cost probably three times the amount of money that would cost at the Mobil Station. The only reason why we held up is because we are waiting to see what's going to happen with the hotel. If the sewer line is coming in it only makes sense to tie into the sewer. If it looks like it's never going to happen then we will have to put in a new septic system. As I mentioned earlier, we are having to pump it out quite often. It doesn't make any sense to maintain it at the level it is now.

Councillor Ryan: I think the city will work with you on that. We would like to see the whole area tied into the sewer system. Every advance that we make on the sewer system is a positive thing. We could get a nice grant someday from the state or the federal government to complete that. I'm familiar with the Wickson property. Behind it was a storage yard. So you are pushing your whole building back into where the storage yard was?

Mr. Kayrouz: No, that's part of the hotel actually. If you see the fence behind the existing building, I believe we own a few feet beyond that fence.

Councillor McGonagle: Thank you very much for your presentation. I thank you attorney for allowing us to get off, across the street. We are always concerned about that. So we will always stretch this issue. It seems like a very feasible and quality built presentation that you've come here with tonight. It only makes sense businesswise, and you probably know that better than most, if you build that beautiful building across the street, then just to keep the value of your own investment, it only makes sense to fix that up and to make sure that if you ever did want to sell it, it needs to be a new system in it or an acceptable system

in it. Hopefully, the sewer line comes in. I think November would be extremely ambitious I would think with all the things that have been mentioned. I intend to support the special permit and thank you very much for coming before us.

President Michitson: There are no more questions. Is there a motion?

Councillor Ryan: Move the project be approved.

President Michitson: Motion by Councillor Ryan seconded by Councillor Daly O'Brien. Councillor LePage.

Councillor LePage: I am just questioning, are we including also the department recommendations

Councillor Ryan: Certainly include them.

President Michitson: Those are included in the motion.

Councillor Macek: Mr. President, could I also make sure it also includes, not just ones that were maybe in the packet but also the letter that came from Conservation dated September 22nd because that had a number of conditions that I believe are very important to the project.

President Michitson: Those are all folded in.

Attorney Migliori: We've seen those.

President Michitson: Madame Clerk, please call the roll.

Clerk Angus: Councillor Scatamacchia-yes, Councillor Barrett-yes, Councillor Macek-yes, Councillor Ryan-yes, Councillor Sullivan-yes, Councillor Daly O'Brien-yes, Councillor McGonagle-yes, Councillor LePage-yes, President Michitson-yes. 9 Yeas, 0 Nays

President Michitson: That passes.

Respectfully submitted,

Barbara S. Arthur, Administrative Assistant
Haverhill City Council

October 7, 2014

Application from Kayrouz Petroleum, Inc. for a Special Permit , Watershed Protection District, to modify an existing gas station and convenience store, Assessor's Map 459, Block I, Lot 1A

REASON FOR VOTE

President Michitson: I voted for the special permit because it met city requirements with conditions.

Councillor Scatamacchia: I voted in favor of the special permit because it maintains the integrity of the watershed.

Councillor Barrett: I voted for the Amesbury Road Watershed project because I feel it will revitalize a currently vacant property. The plan as presented provides sufficiently for traffic and utilities. It also represents a positive investment.

Councillor Macek: I voted for the special permit because I felt the request was reasonable and in the best interest of the City.

Councillor Ryan: I voted for the special permit because it is good for the city.

Councillor Sullivan: I voted for the special permit because the applicant showed the project to be well designed and in compliance with all local and state laws, and the new convenience store/gas station development will improve the overall condition of the site and is appropriate for the area.

Councillor Daly O'Brien: I voted yes for this permit because it is a significant upgrade that may be a catalyst to further improvements in that section of Haverhill and it provides sufficiently for traffic and public safety.

Councillor McGonagle: I voted in favor based upon the recommendation of the Economic Planning Director and the positive impact to the new building and business we will have in the community.

Councillor LePage: I voted in favor of the Special Permit application with the included conditions and stipulations made by the City Council at the public hearing due to my belief that the described alterations of the existing non-conforming use would not negatively affect the Watershed Protection