

**City of Newburyport
Joint Public Hearing
Planning Board and Planning & Development Subcommittee
October 5, 2016
Minutes**

The meeting was called to order at 7:03 PM.

1. Roll Call

In attendance for the Planning Board: James Brugger, Joe Lamb, Jim McCarthy, Leah McGavern, Andrew Shapiro, Bonnie Sontag, and Mary Jo Verde.

Absent: Sue Grolnic and Don Walters

In attendance for the Planning & Development Subcommittee of the Council: Councilor Ed Cameron, Councilor Barry Connell, and Councilor Jared Eigerman

Andrew Port, Director of Planning and Development, Councilor Greg Earls, Councilor Larry Giunta, Councilor Charles Tontar, and Councilor Sharif Zeid were also present.

2. Planning Board and Planning & Development Subcommittee of the Council Public Hearing

a) Proposed amendment regarding provisions for sidewalks and trees

Chairman Jim McCarthy said examples encountered had caused consideration for modifications. Councilor Eigerman said he crafted a mitigation ordinance whereby a homeowner gutting a home could be exempt through zoning relief if the project stayed within the original footprint. There were three thresholds, no in lieu payment, and Plum Island projects were exempt due to the absence of sidewalks. The proposed amendment raised one threshold; if half of a property's assessed value was spent on a rehab, the ordinance was triggered. The change would capture projects in the \$250,000 range. Some projects had street trees; some did not.

Councilor Giunta, Ward 5, said he considered the amendment after a Farrell Street homeowner contacted him. The ordinance had captured projects on Goldsmith Drive - a neighborhood without infill problems, not downtown, not historic, and did not need sidewalks repaired. Substantial work on a house did not equate with a need to repair sidewalks. Projects in many parts of the City triggered the ordinance where sidewalk repair was not needed. The Farrell Street resident should be allowed to remove the existing sidewalk and plant grass. The amendment would make the ordinance more workable while relieving people in the middle.

Director Port said the DPS, Mayor Holaday, and he all shared Councilor Giunta's concerns. The mechanics of the ordinance raised concerns about the additional unit and the 50% threshold triggering projects below a perceived threshold of reasonable proportion. A concern for the board was the lack of review for project cost accuracy. Was the City establishing arbitrary thresholds? The intent was not to trigger small home improvements and to be fair. Consider the example of two side-by-side lots, one a corner lot with twice as much sidewalk to replace. Regardless of

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concerns over different decisions made over the years, the boards needed latitude in deciding which projects should trigger the ordinance. The ordinance offered no latitude today.

Chairman McCarthy said if a project hit one of the triggers today, the DPS would look at the sidewalk and street to determine what was required, and the homeowner was under a mandate. The amendment said it was not absolutely necessary to address sidewalks. The board would assess the situation before a determination was made. A minimum action would be to require the two boards to consider the sidewalks for projects asking them for relief, the rather than the automatic requirement that sidewalks be addressed. A middle ground would be that the City raised the threshold. If the threshold was met, sidewalk repair was mandatory.

A Planning Board member respected the intent, but thought an ordinance triggered only in certain cases would not affect a large swath of sidewalks. There would be widely varying costs for sidewalk repair as a result of using private contractors. A standard cost applied if the City made all repairs. The board should continue its review and comment on a per project basis.

Public comment open.

Rob Germinara, 2 Ashland Street, wanted contractors held accountable for finishing sidewalks. One in five, or 18%, of street trees removed last year were replaced. He commended the ordinance.

William Harris, 56 Lime Street, said without the presumption of duty the City would miss out. He preferred keeping the ordinance as written and adding a hardship provision. A mandatory sidewalk repair duty for homeowners requesting a variance would prevent developers from getting exceptions. An inflation adjustment was needed for the dollar amount. Councilor Connell asked how hardship could be defined? Mr. Harris said: 1) if they were not a developer hardship could be financial, 2) a disproportionate investment if the property were not in an historic district, or 3) if there were no sidewalks the board would waive the requirement.

Rita Mihalek, 27 Charter Street, wanted better oversight of sidewalk and tree conditions. She reported her fall on a hazardous sidewalk to the City because she wanted it repaired. A few days later, she paperwork to file a claim arrived but no one fixed the sidewalk. The ordinance had merit if applied to the most walked areas and contributed to maintaining sidewalks.

Charlie Tontar, Ward 4 Councilor, 29 Jefferson Street, said the Farrell Street situation was a good example of a problem with the ordinance as written. The mayor asked councilors to list 10 streets whose sidewalks needed attention. Farrell Street was in his top five. But requiring an ADA compliant sidewalk in front of one residence was out character with the neighborhood, although Farrell Street deserved good sidewalks. A hardship provision was a good idea.

Mary Haslinger, 299 High Street, said the ordinance was not extraordinary nor a burden. Many municipalities required contributions to sidewalks and trees as part of being in a community. She did not want the ordinance appealed because residents felt burdened and asked to see Councilor Giunta's written amendment. Councilor Tontar gave her a copy. Director Port, who worked with Councilor Giunta on the amendment, said the issue was to find the right mechanism and

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oversight. Boards needed greater flexibility rather than arbitrary thresholds. Councilor Giunta said the amendment was designed so the board had information from the tree warden and the DPS on what sidewalks and trees needed attention. Applicants would not receive a building permit and developers would not receive an occupancy permit unless the mandated sidewalks repairs and trees were addressed. The amendment would not trigger inappropriate projects.

Public comment closed.

Subcommittee comments: Councilor Eigerman said a board member believed the City should deal with sidewalks, but the City set aside only \$60,000 a year for sidewalks. That was not enough. When a homeowner was subject to the ordinance, the DPS set the specifications but could not repeal the requirement. The issue was mitigation for projects seeking special relief. The bright-line rules were not arbitrary, they were carefully considered with pages of guidelines in the municipal code and state law. Over 900 building permits were issued in the last year. The ordinance might capture the 10 biggest projects in a year. It was not too much to ask for sidewalks on the speculative development at 7 Farrell Street that involved tearing down the entire house. Other cities required a special assessment for sidewalks. Newburyport could do the same. The City had an inadequate culture for dealing with development and that made the ordinance important. It was far easier to enforce compliance with a bright-line rule. Every land use already had a hardship rule called a variance; another hardship rule was unnecessary. The idea that it was unfair to ask anything of an applicant or developer was frustrating. That the administration wanted to appeal the ordinance was shameful. Councilor Cameron agreed with Councilor Eigerman. The thresholds were reasonable. A complete teardown balking at \$4-6,000 for sidewalk improvements when their sidewalk was abysmal was wrong. Fixing 600 feet of sidewalk that left bad sidewalks on either side was a patchwork approach but he supported the ordinance. There was a variance in case of hardship. Councilor Connell said an alternative to patchwork repair was an equivalent contribution to the sidewalk fund.

Board Member comments: Four members were in favor of board input based on a mandatory sidewalk review by the board for every site plan review project. One member was in favor of completely discretionary mitigation with no mandatory requirements. The mechanics of the ordinance were problematic. Chairman McCarthy said if the footprint did not expand, there was no need to fix sidewalks. The City needed additional small units without the hindrance of sidewalk repair. Increasing square footage should trigger the ordinance instead of project cost. A method for determining proportionality was needed. The board still needed discretion if the threshold was raised and sidewalks were mandatory. The board had struggled with special permits where everything was discretionary, such as Section VI.C. Discussions were too open ended. Developing categories for negotiating agreements with applicants provided boundaries for the discussion and offered discretion within the boundaries. The board could not tell a special permit applicant what would happen, but could say what would be discussed. The amendment needed more structure. A safety valve already existed. The board could waive a requirement if the ordinance did not make sense, but the opportunity to discuss it was important.

Councilor Barry Connell made a motion to continue to Oct 19th. Councilor Jared Eigerman seconded the motion and all members voted in favor.

3. Old Business

- a) Evergreen Commons LLC c/o Lisa Mead, Esq.
18 Boyd Drive and 15 Laurel Road
OSRD Permit (2016-SP-03)
Continued from 9/21/16*

Chairman McCarthy said discussion would be limited to traffic and road length. The board's peer review engineer, Jeffrey Dirk, principal, Vanesse & Associates, 35 New England Business Center, Andover, was present. The well water would be discussed at the Oct 19th meeting.

Attorney Paul Haverty, BBMT, 30 Green Street, had submitted a letter to the board in response to the City solicitor's determination that a waiver was required. He disagreed. It was arbitrary and capricious to suddenly require a waiver with this project when Oleo Woods had a 1,400-foot dead end for 22 additional houses and no similar requirement was made for the additional road length. This road would not be a dead end with the emergency access. Precedent could be examined as to whether the waiver had to be granted. There was nothing that suggested that the set up of the OSRD constituted a health and safety issue based on a review of the applicant and board's traffic engineering reports. It was against the purpose and intent of the OSRD to increase infrastructure requirements. Deputy Fire Chief Bradbury had opined that the emergency access road met the standards and he offered no suggestion that the design of the project created health and safety issues. If the board made a determination that the project required a second full access, the applicant would consider redesigning the OSRD or pursuing the yield plan. He asked Chairman McCarthy if the board accepted the OSRD with an emergency access?

Director Port disagreed with a phrase from Attorney Haverty's letter that said, as paraphrased, "because the board did not look at that roadway requirement on a project years ago did not mean that the board should consider it now." An email from Fire Chief LeClaire disagreed with statements on page two of the letter. The fire chief said the project should have two full access points and that it was unacceptable for the homeowner's association to have full responsibility for an emergency access. Attorney Haverty said it was arbitrary and capricious for the fire chief to contradict comments from Deputy Chief Bradbury. Director Port said, although the road could handle the traffic volume, the fire chief was concerned that an event in the neighborhood could present public safety issues if all residents used the emergency access while the main egress was blocked. That concern was relevant rather than arbitrary. It was reasonable to see an OSRD with a second full access as a compromise. Attorney Haverty said if the board determined a secondary access was necessary, a different design than what was before the board tonight was needed. Chairman McCarthy said feedback notwithstanding the board would make the decision.

Mr. Dirk said Director Port's points were valid. It was always good, from a planning perspective, to have two access points given the number of homes. Just as it was good to loop water supply, it was good to loop moving vehicles. A single point of access should serve no more than 30 units and not be longer than 1,000 feet for capacity and safety, from a traffic engineering perspective. Exceeding thresholds increased the possibility of accidents as traffic volume rose. Road length tied directly to the fire code regarding the length of a fire hose. A truck carried 500 feet of hose, hence the 600-foot limit in the ordinance. Two means of access were for life and safety. A

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secondary access was an absolute necessity for roadway capacity, existing and future conditions, and volume of traffic. If the only concern was moving traffic efficiently, one access was satisfactory for capacity. His recommendation was two full access points were desired, but an emergency access was required for life and safety. Chairman McCarthy asked if Mr. Dirk agreed with traffic volumes based on a second full access? Mr. Dirk said yes. The project was not a large traffic generator, with between 35-40 vehicle trips over an hour, coming in and going out.

Members asked if there were examples of a secondary access, kept just for emergency access, and whether it worked, and was a homeowner's association involved? Mr. Dirk had seen both scenarios, but access was typically gated and someone had to open the gate. He had seen municipalities do the plowing but more typical was a private emergency access maintained by a homeowner's association. Chairman McCarthy said Parker Ridge used a gate that could be pulled up. An emergency vehicle preemption system used sensors to open the gate before an emergency vehicle arrived or emergency vehicles used a clicker to open it. What was the minimum roadway width with no parking on either side? Director Port said 20 feet. David Giangrande, traffic engineer and president, DCI, 120 Middlesex Avenue, Somerville, said a North Reading subdivision had a public emergency access that emergency vehicles could open. The town maintained the access as second means of egress for the entire Martins Pond area. Chairman McCarthy said after the site walk, traffic modifications were requested and completed.

Public comment open.

Peter Durning, attorney, Mackie Shea, PC, 20 Park Plaza, Boston, and resident, 12 Arthur Welch Drive, represented 11 residents on Boyd Drive. He wanted to read Attorney Haverly's letter and comment on it. He recommended honoring the legal opinion of Kopelman & Paige. The maximum length of 600 feet for a dead end cul de sac was in place for public health and safety. No other findings were needed. He recounted two occurrences that restricted access to Boyd Drive - when a water main broke and when a tree fell. Proper planning would not allow board to approve the proposal. An access road should be of sufficient width. Mr. Dirk had recommended that proper planning would guide the design. Although the purpose of an OSRD was for minimal impact to City resources, this development was in a specific area where the cul de sac was already 1,700 feet. CSI's recommendation that the cul de sac was too long was on point. A 2,400 foot cul de sac was extreme. Both traffic studies showed the level of service was unchanged, but public comments from the last meeting portrayed a different reality during peak hours. Golf course trips did not occur during a peak hours, they were seasonal, mid-day round trips whereas 38-44 homes affected peak hour traffic year round. The two special permit criteria of impact to the character of neighborhood and to integrate well with the existing community were both detrimentally impacted by the doubling of peak hour traffic and the cul de sacs primary use as a pass through to the new neighborhood. The two criteria should influence roadway length.

Robert Mazzotti, 8 Brown Avenue, asked why no one had requested sidewalks on Laurel Road for the kids? Everyone would be satisfied if the City used its own money and property for a secondary access instead of ruining a neighborhood that had dealt with the new bridge construction. The area had not been developed because of the water and should not be developed now. Chairman McCarthy responded that the board was at a conceptual stage that preceded sidewalk and lighting discussions. He acknowledged concerns about the water.

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Stephanie Strout, 7 Boyd Drive, asked whether public traffic for trail use was addressed? Steve Sawyer, engineer, DCI, 120 Middlesex Avenue, Somerville, said the effect was de minimis. The amenity was for the neighborhood. Had peer review commented on the porous pavement? Chairman McCarthy said that level of detail would not be part of tonight's discussion. Mr. Sawyer said porous pavement was plowable. Ms. Strout said the Parker Ridge gate was not installed for emergency access but to keep cars from passing through because there were two means of full access. Chairman McCarthy asked Mr. Dirk about the impact of public traffic? Mr. Dirk agreed it would be de minimis, but said public parking should influence road width.

Christi Dillon, 113 Ferry Road, said cars would in fact park in the current staging area to access the bike path whether or not a parking lot was built. Director Port, said MA DOT and a three-community working group met to discuss Complete Streets, of which the Whittier Bridge trail was a part. MA DOT offered to build a parking lot in the staging area but Laurel Road neighbors were against it and the mayor declined the MA DOT offer.

Brenda Mazzotti, 8 Brown Avenue, said Ferry Road traffic was not considered. Cars passing through to get to their neighborhood on the downhill slope of Laurel Road would not be concerned about their speed in the cul de sac. Chairman McCarthy asked Mr. Dirk about mitigation efforts there? Mr. Dirk said a full access connection would need sidewalks. He had offered the emergency access only as a consideration because of all the mitigation accommodations needed for a second full access. The emergency access could be 22 feet.

Dan McCarthy, 13 Laurel Road, said kids would need sidewalks if everyone accessed the development through Laurel Road. If the emergency access were on City property there would be minimal impact on trees. Director Port said he spoke to the mayor about using the City's land for access. The mayor did not want to provide land to the developer and said an access road there would be harmful to well protection. There was a general presumption that if a developer increased traffic, the developer had to provide the necessary mitigation.

Mr. Giangrande reiterated that in the trip distribution there would be only two trips out of Laurel Road at peak hours, which was minimal. The desired route was to Ferry Road.

Attorney Durning challenged the trip numbers. Every car would take a left to get to the highway if there were a second access out of Laurel Road. He asked Director Port to put the fire chief's comments on the website so they were on the record.

Attorney Haverty said he had cited case law and was not making threats. He agreed that the length of cul de sac presented a safety problem, but the emergency access removed that concern. Trip generation numbers based upon expertise in the science of traffic engineering were a more valuable input than anecdotal comments from the neighbors. He asked whether the special permit OSRD would have a more detrimental impact on the neighborhood or the traditional yield plan?

Michelle Rogers, 11 Boyd Drive, said some lots in the 44-unit yield plan were questionable. Six lots in the water overlay area had a 15% slope that required stabilization to be buildable, but changing the topography substantially in the water overlay area was not allowed. She

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demonstrated lots on the plan and showed that 16 Boyd Drive was also counted in the yield plan. Sheet C9 and C10 showed that some topography in the water overlay area across the entire site was changed. Permeable pavement required vacuuming every few years and could not be salted or sanded because it would go directly into the water conservation area. Maintaining a permeable surface should be the City's job. Was there proper equipment? Mr. Sawyer said the lots on steep grades were easily stabilized with terraced walls. The project was not challenged in manipulating the site. More curves would oscillate the road around certain areas. The grading plan was under review by CSI. The homeowner's association would have equipment for maintaining the permeable road. Ms. Rogers said terraced walls and an oscillating road substantially changed the topography. The water supply would be affected if 60% of the watershed area were developed.

Peter Hatcher, 15 Boyd Drive, had emailed Julia Godtfredsen, Conservation Commission Agent, about Sheet C1 that showed 13 lots crossing the ISLF boundary. The roads crossed it also. The design would need Conservation Commission waivers. What was the process? Director Port said the applicant had not yet filed with Conservation Commission, who had ruled only on the resources areas in the site as yet. The applicant would need their approval.

Chairman McCarthy said the City's peer review engineers, CSI, had not called the grade into question but there was no determination on the final number of lots yet. Mr. Durning said the lot lines violated the ordinances. Mr. Sawyer said disturbing up to 25 feet of the buffer was permitted with Conservation Commission approval. Once the applicant knew what could be built, they would file with the Conservation Commission.

Dan McCarthy recounted his conversation with the Conservation Commission, who said the location of the emergency access road was a stormwater runoff area where no road could be built. The process was confusing because the Planning Board was considering an access road where the Conservation Commission would not allow it. Director Port explained that projects needing multiple board approvals bounced back and forth between boards in an iterative process. Mr. McCarthy's points were all relevant, but they would not be decided tonight.

Amy Halliday, 4 Laurel Road, said three disabled children were at risk without sidewalks in the neighborhood where the access road was planned. Two were 11 years old. Consider the size and width of the road to accommodate public parking for cars seeking access to the shared use path.

Ms. Strout asked if the traffic impact on other major intersections was addressed? She listed Ferry Road, High Street and Storey Avenue, Noble Street and Storey Avenue, and the three-road Spofford Street connection. Mr. Dirk said yes. The standard was to examine intersections where traffic would increase by 5% or more or where there were more than 100 cars in peak hours. The project did not meet those criteria. Not that there wouldn't be an impact in a bad situation, especially at Noble Street. Adding less than one car every two minutes would not improve the current situation but it would not be worsened. Ms. Strout asked if cars exiting from Boyd Drive during peak hours would affect the intersections, either with or without full access through Laurel Road? Mr. Dirk said no. He had examined both conditions. The traffic volume factor was 10 trips per home on a daily basis dispersed over the day. Not everyone left their home at the same time during peak hours, so it was not 10 trips per home at peak times. Traffic ramped up during peak hours and dropped back down and the spike timeframe was analyzed. Chairman

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McCarthy asked if it was accurate that service was not affected by the time traffic dispersed down Noble and Ferry Roads? Mr. Dirk said that was correct.

Pam Kuhs, 8 Laurel Road, said her house was in violation to setbacks. A sidewalk would take most of her front lawn. She lost many trees behind her house when I95 was widened. A Laurel Road access would also take many trees and change the character of neighborhood. Would the house on Laurel Road also be taken? Mr. Sawyer said the house would be taken only if a full access was required, not for an emergency access.

Mariana Lynch, 5 Briggs Avenue, said traffic during the construction phase was not discussed. She experienced increased traffic from the bridge construction. There was so much risk to 60 homes with either of the two plans and neighborhoods were pitted against each other.

Robert Mazzotti, 8 Brown Avenue, said the exponential increase in traffic from Maudslay State Park during summer, when traffic was backed up much more than 10 cars, was not in the traffic report. Mr. Giangrande said data was collected in June and August. Seasonal adjustments were considered and a conservative approach was taken. The data was reasonably represented.

Ken Groder, 4 Brown Avenue, said traffic during multi-school track meets at Maudslay was not considered.

Michael Lee, 1 Boyd Drive, asked how was traffic measured? Mr. Giangrande said automatic traffic recorders were used over 48 hours. Trip generation used the ITE manual for single-family land use codes and data was proportionalized.

Pam Lee, 1 Boyd Drive, said 190 cars passed by her house already. The development added 300 more cars. The added risk to children and animals was not measured. There was enough information to deny the project.

Steven Lynch, 23 Boyd Drive, asked if two open space elements were required for the OSRD? Director Port said no. Mr. Lynch said the developer said tonight that the public would not use the trails. Did that mean they were not needed? His house was last on the cul de sac. Snow from Boyd Drive was plowed to his yard and more snow would be plowed out of the development onto his yard. Parking was already tight with snow on the street.

Public comment closed.

Chairman McCarthy said the board was ready to deliberate in order to give the applicant feedback on road access and the board's preference for the OSRD or yield plan. Nothing would be decided tonight. He acknowledged concerns about water.

Board member comments: The subdivision regulation required a waiver for over 600 feet of road. Members decided against granting a waiver with only one egress. The egress could not be on City property. The major threat was water safety. If the applicant met regulations and the water resource study supported it, the project would go forward as a traditional subdivision or an OSRD. Saying no to everything was not an option. Members considered the secondary access.

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An emergency access could be 22 feet in case it became a permanent road at a future date. Chairman McCarthy said a bike should be able to ride through even if a vehicle could not. Proper planning would connect the neighborhoods with full access. Laurel Road would need significant traffic mitigation with full access. Any road cutting through would change the character of the neighborhood. It was important to hold developers accountable to mitigating property and providing sidewalks. Chairman McCarthy needed more information on circulation. The OSRD Special Permit allowed the board to require conditions. Requiring conditions was not an option with a conventional subdivision if all requirements were met; there would be considerably less on which the board could comment. Members generally favored the OSRD. The traffic generated would be similar to what was happening all over the Newburyport. A citywide rail trail network could get people out of cars in the summer to reduce traffic. Kids should bikes on trails, not in streets. Would approving the emergency access give a waiver for the road by default? Director Port said yes, causing one member's preference to change to a conventional subdivision. Chairman McCarthy said the solicitor's opinion was mostly about emergency circulation, the basis for the road length requirement. He believed the board would not be granting a waiver by approving the emergency access. Director Port said the solicitor wrote of an implied waiver.

Mr. Durning said residents were concerned for cul de sac egress. The solicitor's conclusion pointed to the exclusion criteria as detrimental to the neighborhood. Attorney Haverty said not to look to special permit standards for granting a waiver, but look at whether a rational basis existed, which was addressed by the emergency access. Chairman McCarthy said it was the board's discretion to decide whether the emergency access road met criteria for not granting a waiver. He disagreed that the waiver would be granted by default. Attorney Haverty said the board could make the determination that the emergency access meant the road was not a dead end because there would be multiple accesses. An emergency access was a benefit to the neighborhood, not a detriment. Ms. Rogers said to plan for a 22-foot road width since the decision was between an emergency and a full access.

Members said approving an emergency access met the substantive access of subdivision regulations, but it was not good planning. If safety was the primary criteria for the OSRD, an emergency access was better for the neighborhood. Full access had neighborhoods sharing the traffic together, impacting both neighborhoods but an emergency access affected only one neighborhood. The majority of streets in the City were connected. There was no reason to maintain the cul de sac despite its amenities to the neighborhood. The only way to make it work as a whole was to a full connection. The board indicated their preference for full access and the OSRD because that was what the applicant presented. If full access somehow became a yield plan, that would be problematic. If the applicant's plan changed, that was their right.

Director Port said the purpose of local regulations was to ensure the safety, convenience, and welfare of present and future inhabitants and travel. The scope went beyond emergency access, which would have been inadequate in his view. Attorney Durning said Attorney Mead agreed to a November 2nd extension at the Board of Health meeting. Attorney Haverty agreed.

Leah McGavern made a motion to continue the OSRD Special Permit to October 19th. Mary Jo Verde seconded the motion and all members voted in favor.

Motions Approved.

During the course of discussion and consideration of this application, plan(s), supporting material(s), department head comments, peer review report(s), planning department comments and other related documents, all as filed with the planning department as part of this application and all of which are available in the planning department, were considered.

b) Ted Nelson
190 High Street
VI.C Special Permit (2016-SP-05)
Continued from 9/21/16

Chairman McCarthy said Sarah White, Chair, Newburyport Historical Commission (NHC) had responded and the board would approve subject to a preservation restriction in perpetuity. The applicant said Ms. White met him at the house. Ms. White, in a follow-up email, corrected a mistake in the restriction language that referenced the back of the house.

Members asked if the draft document would be revised to reflect the correction? Mr. Nelson said yes. The framework was established. All that remained was to fill in the missing pieces. Members offered corrections, including changing 'Federalist house' to 'Federal Period house.' The process of review and approval by the NHC and the MA Historical Commission included filing the restriction with the Registry of Deeds before the permit would be in force.

Chairman McCarthy said conditions included a review of the final document with the board's suggested changes by the Planning Office, the permit would not be in force until recorded at the Registry of Deeds, and both structures remaining as one unit on the same parcel because the whole piece of property was important. The owner could apply to a future board to separate them. Mr. Nelson asked if selling the property as three condos constituted a lot split? Director Port said no, a lot split would sell lots separately. Mr. Nelson asked if the preservation restriction would affect the separate lot at the rear of the property on Washington Street? Members said no, but that was an example of what a lot split would do. A structure out of character with the existing buildings could be built on a separate lot if there was a split.

Bonnie Sontag made a motion to approve the VI.C Special Permit with four conditions: 1) Planning Office review of the final document to include the board's changes, 2) the permit would not in force until state approval was received and the restriction recorded at the Registry of Deeds, 3) no by right building on the property, with any structure requiring a foundation required to come before the board, and 4) no lot division without coming to the board. James Brugger seconded the motion and all members voted in favor.

Motion Approved.

During the course of discussion and consideration of this application, plan(s), supporting material(s), department head comments, peer review report(s), planning department comments and other related documents, all as filed with the planning department as part of this application and all of which are available in the planning department, were considered.

4. General Business

- a) The minutes of 9/21/16 were approved as amended. James Brugger made a motion to approve the minutes. Joe Lamb seconded the motion and all members voted in favor.

b) 6-8 Oakland Street ANR – (2016-ANR-09)

The ZBA granted a variance. Director Port said it was approved as a VI.C.

Andrew Shapiro made a motion to approve the ANR. James Brugger seconded the motion and all members voted in favor.

Motion Approved.

During the course of discussion and consideration of this application, plan(s), supporting material(s), department head comments, peer review report(s), planning department comments and other related documents, all as filed with the planning department as part of this application and all of which are available in the planning department, were considered.

c) Request for security reduction – Donahue Court

Bonnie Sontag made a motion to approve the security reduction. Joe Lamb seconded the motion and all members voted in favor.

Motion Approved.

During the course of discussion and consideration of this application, plan(s), supporting material(s), department head comments, peer review report(s), planning department comments and other related documents, all as filed with the planning department as part of this application and all of which are available in the planning department, were considered.

6. Adjournment

Leah McGavern made a motion to adjourn. James Brugger seconded the motion and all members voted in favor.

The meeting adjourned at 10:42 PM.

Respectfully submitted -- Linda Guthrie