

**City of Newburyport
Planning Board
January 4, 2017**

The meeting was called to order at 7:00 PM.

1. Roll Call

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

Andrew Port, Director of Planning & Development was also present.

2. General Business

a) Request for permit extensions – 223 High Street (2010-SP-05 and 2010-DEF-01)

Director Port said the OSRD, approved years back, was delayed by foreclosure, bankruptcy, divorce, and other legal problems. He worked out an Order of Taking with the mayor that would go before City Council next Monday. Chairman McCarthy said all waiver paperwork had been signed. Director Port recommended granting the Certificate of Vote for the permit extension. He would hold onto it until the Council voted and it was filed at the Registry of Deeds.

Joe Lamb made a motion to approve the permit extension. Andrew Shapiro 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.

b) Request for minor modification for signage – 260, 368, 270, 274, 276 Merrimac Street (2007-SP-03 and 2007-SPR-04)

Attorney Lisa Mead, Mead, Talerman, and Costa, 30 Green Street, on behalf of the applicant, requested a minor modification to install a freestanding sign at the end of the site's entry road facing Merrimac Street. She showed a plan with a sign that read "The Landing," built into natural stone, 14 square feet, and backlit so that only letters would show at night. She showed a mock up of the sign. Neighbors who attended the ZBA meeting had no issues. The sign was not viewable from both directions, only when traveling east, and did not interfere with the walkway.

Leah McGavern made a motion to approve the minor modification. Mary Jo Verde seconded the motion and all members voted in favor.

Motion Approved.

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3. Old Business

- a) *Evergreen Commons LLC c/o Lisa Mead, Esq.
18 Boyd Drive and 15 Laurel Road
OSRD Special Permit (2016-SP-03)
Continued from 12/14/16*

Attorney Mead said they had worked to address issues raised by the board in the last meeting. Director Port said a Water and Sewer Commission meeting was tonight and they would not have the data until next week. Attorney Mead requested a continuance until January 18th. Director Port said the Water and Sewer Commission meeting would discuss the status of soil testing and testing on City property within the required setbacks. He would follow up with the Commission tomorrow. Chairman McCarthy said without test results and knowing whether or not the City could drill another well, there was no new information. He would go back to all City entities once a firm plan was submitted. Director Port was working at a staff level to get as much info as possible. A member said there was a belief that no matter what was done, a resident could put something on a lawn that contaminated the well. In fairness to everyone, the board should vote. Chairman McCarthy said the final conceptual design was not done. There were board members who believed that design changes could make a difference. He was working to have something reasonable for the board to vote on. Members said Chairman McCarthy had suggested at the last meeting that the design would have to be fundamentally different for him to be comfortable with the proposal. Chairman McCarthy said the houses had to move away from the hole. Director Port said waiting for feedback from other City agencies was one benefit of waiting. A member said if the applicant would not spend the money for the test, the board would end up continuing again. Chairman McCarthy said the board should wait for more information. One member said it would be tough to vote yes absent a finding that the Water and Sewer Commission was comfortable. Chairman McCarthy said the process would be a Special permit, a definitive plan, and then separate WRPD special permits. There was sufficient time to attach special conditions.

Andrew Shapiro made a motion to continue to January 18th. Joe Lamb seconded the motion and all members voted in favor.

Motion Approved.

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- b) *Newburyport Manager LLC c/o Lisa Mead, Esq.*

***Brown's Wharf, 54R Merrimac Street, 58 McKay's Wharf, 72 Merrimac Street, 86-90 Merrimac Street, and 92 Merrimac Street
Preliminary Subdivision Plan (2016-PSP-02)
Continued from 12/14/16***

Tim Sullivan, Goulston Storrs, 400 Atlantic Avenue, Boston, represented the applicant. There was no presentation and he could answer questions on the Preliminary Subdivision Plan (PSP). Director Port said PSP process was an artifact of early Massachusetts zoning that provided the applicant early feedback on subdividing land. The PSP would speed up the process during the definitive plan review, freeze the zoning, and helped with financing. The process would not result in permitting or approval, nor did it guarantee the right to develop the project the way it was laid out. The office recommended approval. There were no waivers granted for the project. Approval was limited to the conceptual/schematic subdivision plans submitted. The applicant would address the full scope of grading, drainage, engineering, utilities, and design details in the subsequent Definitive Subdivision filing, as required by law.

Members asked about floodplain, conservation, and Chapter 91 issues? Director Port said a PSP did not address those issues. Members asked what difference it made to freeze the zoning if the applicant was embarking on a process to change the zoning? Peer review made no comments. Jon-Eric White, City Engineer, commented that Lot #1 did not appear. The PSP had to conform to the existing zoning and overlay district. Director Port said it was not an issue for the plan. Attorney Sullivan said NED believed all lots complied. Director Port said Mr. White believed there was a pre-existing or private way. Chairman McCarthy said there would be new zoning, if approved. There were also the underlying zoning with hacked-up parcels, the Waterfront West Overlay that was never developed, and now the New Waterfront West proposal. If all went poorly, the PSP was something for applicant to work with.

Public comment opened.
Public comment closed.

Joe Lamb made a motion to approve the Preliminary Subdivision Plan. Leah McGavern seconded the motion and all members voted in favor.

Motion Approved.

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4. New Business

- a) ***H&R Masonry and Dirk Casagrande
82 State Street
DOD Advisory Review (2017-SP-01)***

Andrew Shapiro read the notice. Hugh Rice, H&R Masonry said the building commissioner authorized an immediate repair because the brick posed a safety threat to pedestrians. The Newburyport Historical Commission (NHC) gave their approval after the work was completed. He had the historical water-soaked brick needed for the repair on hand.

Public comment open.

Tom Kolterjahn, 64 Federal Street, co-chair, Newburyport Preservation Trust, hoped that retroactive approvals would be rare.

Public comment closed.

Director Port said the office recommended approval. The NHC recommended the work, retroactively. The office recommended codifying lime mortar for appropriate for maintenance. Chairman McCarthy said a benefit was that the City was saving historic brick. The board would approve only the scope of work that was done. Members agreed because it was an emergency.

Bonnie Sontag made a motion to approve repairs, retroactively that had been approved by the building commissioner. Joe Lamb seconded the motion and all members voted in favor.

Motion Approved.

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**b) MINCO
166 Route 1
Informal Discussion**

Lou Minicucci, MINCO, said the approved 40R project at the MBTA site was under appeal and could be scheduled for court in the next two or three months. He hoped for an opportunity to settle but until then the project was in limbo. He was proposed developing a 10,000 square foot building in the 40R district on property next to Haley's Ice Cream. The area allowed four-story buildings. He showed three development alternatives: 1) two four-story buildings of 10,000 square feet each, 10 units per floor, 80 total units, and 1.5 parking spaces per unit; 2) an option that required a zoning variance was one 20,000 square foot building with 80 units, a more efficient use of land and more consistent with neighborhood buildings like the courthouse; and 3) two building pushed close together, both 10,000 square feet with 80 total units, and 1.5 parking spaces per unit. He would not start the project if an agreement could be reached in the appeal.

Board members asked how the proposals enhanced the 40R gateway? Mr. Minicucci said the building's appearance would set the tone for the 40R as the first things to catch the eye in the 40R coming from downtown. Was the project 100% residential? Mr. Minicucci said yes.

Member observed the train could be accessed from the Rail Trail behind the buildings. Two buildings fit better with the townhouse neighborhood development across the street. Reducing the scale more would be better, if feasible. The lot was transitional to the smaller neighborhoods. Mr. Minicucci said there would be one level of parking beneath the building with 52 underground spaces and 55 surface level spaces. A member said one building worked better on a busier street. Mimicking what was on the other side of the street was not necessary. Members were concerned with how the building was situated so that parking highly visible. Moving some parking behind the building would be more esthetically pleasing. How much space was between the two buildings close in proximity? Mr. Minicucci said 50 feet by 150 feet. Would there be a clear line of access to the Rail Trail? Mr. Minicucci said the building front would face the Rail Trail. Did he envision vegetation and trees around the parking lot? Mr. Minicucci said yes. A fourth option could be three buildings, consisting of the proposed two buildings and 1 Boston Way. Director Port said a benefit of being next to Haley's was the opportunity to create a plaza-type space between the two buildings that opened up to the Rail Trail to make a dynamic space for Haley's customers. Providing a pedestrian environment was a key opportunity. Chairman McCarthy said parking underneath was important. He preferred the buildings broken-up and did not want pedestrian space mixing with cars. He supported Director Port's idea and did not want buildings presented across a sea of cars. Mr. Minicucci said some of the parking was 8-10 feet below the Route 1 grade. Director Port said buildings oriented toward Route 1 were not as inviting, given the opportunity with Haley's and a dynamic plaza. Where would a majority of the cars come in and go out? Mr. Minicucci said off the side street. Chairman McCarthy said architecturally, there should be some relevance to the approved building at 1 Boston Way. Members said not the same building at a smaller scale, but related. Mr. Minicucci said the first plan met zoning; the other two plans needed waivers. Chairman McCarthy requested electronic copies of the proposals with a list of non-compliant items.

c) *MINCO*
92R Merrimac Street
Informal Discussion

Mr. Minicucci presented an orientation of the site. He was before the board a year ago and held off on an application for a year and a half. During that time, he tried to work with NED, but they were years out from this end of their development. Director Port asked if there was any way to have less asphalt? It was important to coordinate with the NED on architecture. Mr. Minicucci said NED might move the right of way and demonstrated how the entrance would change if that were the case. He showed proposed non-traditional architectural concepts for 26 condos that to set it apart from the rest of Newburyport. Members commented on scale and massing. The board preferred 18 feet vertical divisions in keeping with the rest of Newburyport. A member said the board should not hold a property owner's project hostage to what would occur with an adjacent project. Mr. Minicucci said the project would be completed all at once and would need zoning relief. He proposed screening to hide the posts on the first floor parking. Could the first floor living space be raised and the parking dropped down? Director Port said it was possible; NED was using that concept. Members preferred a more broken-up building design and did not like the defined back of the building facing Route 1 unless it could be dressed up more. Chairman McCarthy said a narrower rhythm was preferred. He liked the simplicity of the brick and wood materials of the NED project better. A member disagreed due to concerns with being overly

Planning Board
January 4, 2017

monotonous. There was an opportunity with the working waterfront theme to be more playful. The land went below Merrimac Street. Director Port agreed with using a more traditional design, but liked the sail reference if it could be softened and more complimentary of the downtown. A member said the building would look new even if brick and wood were used, and there was concern that the building would be trying too hard to resurrect the past. Other members said some new architecture amidst the older architecture helped define the past better than the constant efforts to replicate the past. Chairman McCarthy was concerned for the pedestrian orientation. Older architectural proportions and scale that pleased people naturally was often lost with modern design. Members asked for more articulation for the pedestrian entry, so that it was obvious as a place to meet; the same comment had been made for 1 Boston Way. A member was concerned about walking down the NED lanes looking at garage doors and suggested raising the first level so pedestrians passed by front doors and gardens. If 1.5 parking spaces were not enough, where would cars go? Mr. Minicucci said he would break it down more.

5. Planning Office/Subcommittees/Discussion

a) Miscellaneous Updates

Master Plan public comment and process, the designated medical marijuana and non-medical marijuana areas, and parking garage were discussed.

6. Adjournment

Bonnie Sontag made a motion to adjourn. Mary Jo Verde seconded the motion and all members voted in favor.

The meeting adjourned at 10:41 PM.

Respectfully submitted -- Linda Guthrie