

December 7, 2011

**Newburyport City Council Planning and Development Subcommittee
Newburyport Planning Board
Joint Public Hearing
Newburyport City Hall**

The meeting was called to order at 6:41 PM

1. Roll Call

In attendance: Dan Bowie, Paul Dahn, Sue Grolnic, Jim McCarthy, Bonnie Sontag and Don Walters

Absent: Henry Coe, Anne Gardner and Julia Godtfredsen

City Council Planning and Development Subcommittee members Barry Connell, Chairman, and Brian Derrivan were in attendance.

Absent: Tom Jones

Andrew Port, Director of Planning and Development was present along with city councilors Tom O'Brien, Ari Herzog, Katy Ives, Greg Earls, Allison Heartquist and Ed Cameron.

Representing the Tropic Star Development were Jeff Gove, owner; Scott Mitchell, owner; Wayne Morrill, Jones & Beach Engineers; Jeffrey Dirk, Vanasse & Associates Transportation Engineers and Planners; and Jeffrey Roelofs, Attorney

2. General Business

a) Approval of the minutes

Minutes of November 16, 2011 Meeting

Chairman Bowie made a motion to approve the minutes as amended.

Bonnie Sontag seconded the motion.

Minutes approved as amended

Votes Cast:

Dan Bowie: approve

Paul Dahn: approve

Sue Grolnic: approve

Jim McCarthy: approve

Bonnie Sontag: approve

Don Walters: abstain

3. Old Business

4. New Business

a) Complete Streets, a MASS DOT program proposed for the Merrimack Valley Planning community was introduced. Several communities have undergone the training that includes six hours of free technical training. It is open to the whole region. Juliet Walker, Brown Walker, hopes the Planning Board and Zoning Board will jointly sponsor/host the three-hour program for about 30 people on a Saturday. It was agreed that Bonnie Sontag will host the program, undertaking any work that may be involved.

b) Don Walters will not be able to go to the Community Preservation meetings. If anyone else wants to go, there are two meetings, the first one in February.

5. Planning Office/Subcommittees/Discussion

a) Zoning Amendments Discussion

i. Section III – Amend zoning map to move two parcels on Storey Avenue from the R2 district to the B1 district

Andrew Port, Planning Office, described this amendment as a small map boundary change that came forward as a result of a discussion with a developer who wants to build a pharmacy and a bank or small retail store. Any development in this location requires a zoning change to extend the business district a few hundred feet. The amendment benefits the city economically by contributing to the tax base. The city also benefits in working with the developer Tropic Star because of their interest in conveying open space behind the development to the city.

The two issues are: 1) the zoning change and 2) the site plan, or developer's proposal, which needs to go before the planning board separately. Tonight's discussion does not approve the developer's project, but is an informal presentation of the developer's ideas and addresses traffic issues.

Councilor Barry Connell presented a letter from the Planning Board recommending the rezoning of the two parcels on Storey Avenue from R2 to B1. The City Council as a whole did not have the two-thirds majority vote to pass it.

Andrew Port left at 7 pm for a meeting with the mayor.

Jeff Roelofs, Tropic Star's attorney, said in the row of four houses next to the Shell Station on Storey Avenue the two houses nearest the station already have B1 zoning. Rezoning the other two properties facilitates development. The concept plan includes a commercial building next to the Shell station with a second commercial building for another retail use. The rear 19 acres of the 26 acres in question will be conveyed to the city as open space. Tropic Star will provide access to the open space with devoted parking spaces at the rear of the building. Mr. Roelofs said they are listening to the community's concerns.

Tropic Star modified their original concept plan to meet design standards set by the city of Newburyport. The modified plan shows the buildings pulled forward with

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streetscaping to improve the aesthetic value of the area. Three driveways are combined into one entrance without adding pavement. Parking has moved from the front to the back of the buildings where there is a gravel public access to the open space.

Another conceptual design was presented to discuss traffic. At present, the design shows access from Storey Avenue only. A preliminary traffic report shows the development doesn't require access from Low Street to accommodate projected traffic volume. Tropic Star would like access from Low Street as well, and can pursue cross easements. There have not been successful conversations with Low Street property owners yet. A site plan will be subject to review by MASS DOT regarding traffic studies and other concerns they've heard about from the community.

Tropic Star is open to use restrictions on the development that specifically prohibit another gas station, any auto repair or fast food businesses. They are exploring with current owners of the properties in question for development whether or not they'd be willing to accept these use restrictions.

Tropic Star will initiate a more detailed traffic study, peer review the traffic study and contribute \$50,000 to Newburyport's Affordable Housing Trust to mitigate for the loss of the residential properties, which will be tied to the rezoning of the properties. They'll reimburse the city for the legal costs of the Tripartite Agreement. If there are design features that the city wants to lock in now, such as low impact design for storm water management, Tropic Star will consider doing that also.

Tropic Star believes the design is consistent with the city's Master Plan, particularly the Open Space and Recreation Plan. The objectives are smart economic growth and land use, pedestrian friendly space and open space. Their proposed open space for the city is contiguous with open space behind the Oleo Woods Development, which itself is contiguous with about 200 acres of open space.

Jeffery Dirk, Vanasse & Associates Transportation Engineers and Planners, said they're hoping to include drive through windows for the bank and pharmacy. He provided more detail about traffic concerns. A state highway access permit is required to ensure the traffic study complies with city and state standards.

Traffic counts on Story Avenue were presented that included the interchange with I-95 and northeasterly toward the Mobil Station at peak hours in the morning and early evening, as well as midday Saturday. There were 40,000 vehicles per day midweek and 35,000 per day Saturday during peak summer months.

A traffic safety study showed the actual travel speed is 40 mph versus the posted limit of 35 mph. Most crashes occur at the interchange area. The crash rate, in per million vehicles over three years, do not exceed the state average. Sidewalks already exist for the safety of pedestrian and bikes. There is a bus that goes by this site for potential public transportation. It is safe to stop and let people off.

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The traffic study projects numbers out to 2016, the required five years. Other projects with potential to add traffic are Oleo Woods, a commercial development off Low Street and another at 29-35 Low Street. Projected traffic growth in the next 10 years is half a percent per year. Tropic Star factored a one percent per year growth rate into their figures. Traffic as a result of this development is estimated to be 1,200 vehicle trips a day on an average weekday, including two-way traffic for everything coming in and out. Peak morning commuters, the highest volume time of day, adds 50 more vehicles over one hour. These are existing people going to work, not new vehicles visiting the pharmacy or the bank. Tropic

Tropic Star defined the access as operating safely and efficiently with proposed changes. Signalized intersections with queues (the number of vehicles that might be waiting) and delays at a non-signalized intersection were examined using letter grades A-F. The current delays are five minutes to one minute.

The Park & Ride delay is rated "C" overall. The Noble Street delay is an "F." Tropic Star looked at the impact of their project on queuing and recommends a full traffic signal analysis and report for the Noble Street turn because it meets their criteria for a traffic signal. They also recommend not retiming the traffic signal at Low Street because it is not at capacity, making room for more traffic.

Currently, there are four travel lanes and no turning lane. Tropic Star doesn't want vehicles that are turning into the property to block traffic. They moved the proposed driveway as far away from the intersection as possible. They believe a two-way left turn lane all along the corridor that allows turning cars to get out of the travel lane would be ideal. A vehicle could pull out into traffic in two stages, waiting in the turning lane. There are over 650 feet of site distance and the rule is 500 feet.

A Planning Board member asked when traffic counts were taken. At the response of July 2010, the member asked if the Hines Bridge closure increased counts? Tropic Star will look and adjust their numbers.

Councilor Barry Connell noted the differing curb cut from the submitted plan to what was presented at this meeting. Tropic Star said they removed the kink in the road in front of Dunkin Donuts, heading toward I-95 because it makes cars slow down and creates a back-up of cars coming out of Woodman Way, detracting from the efficiency of the traffic signal.

Thomas Howard, City Marshal, said there are 39 accidents a year in this general area. Left-hand turns cause all of the accidents. Any opportunity to make a left-hand turn safer is helpful. Taking traffic off Storey Avenue by connecting parking plazas is also a positive thing, he said, citing the example of the Market Basket and Shaw's Plazas.

Tropic Star concluded by saying they hold their real estate over the long term and are responsible developers who see an opportunity to make a positive impact on the gateway

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to the community. They see the two residential properties in question as isolated. They're not increasing pavement with their access, just combining what's already there.

Chairman Bowie asked if the proposal was germane to the rezoning since the Board is not considering the application at this stage, it is informational only. He encouraged the public to go to the city website to read the relatively new and comprehensive site plan review ordinance. The ordinance states that a peer review analysis of a traffic study is required. Engineers and developers always pay for the peer review, the city controls the selection of that peer review, and everything is reviewed by the Planning Board. Chairman Bowie encouraged the public to attend the informal application meeting, prior to application submittal. Once the application is submitted, the public hearings that occur over a series of meetings for each phase of development are designed for public participation.

Councilor Connell opened comment to other councilors.

Councilor Alison Heartquist asked if the Whittier Bridge construction was considered. Tropic Star said no.

Councilor Bob Cronin stated that in the past MASS DOT has not been receptive to a center turn lane and asked if it is now back in their toolbox? Tropic Star said yes, this has been true for several years.

Councilor Ari Herzog was focused on the zoning change and wanted to know the background of how this started. Had abutters been contacted? Tropic Star began in May 2011 with a joint meeting with Newburyport Fire, Police, and Public Works departments. All Low Street abutters have been contacted except for the nursing home with whom Tropic Star has reached out four times with no response.

Councilor Barry Connell opened comments to the public.

Ann Sesaliers, Russell Terrace, said it was difficult to make a left hand turn on Storey Avenue and crossing Low Street was very difficult.

Dorothy Sprague, Elmira Avenue, said the Noble Street situation is worse since the Hines Bridge closed.

Ann Johnson, 6 Woodman Way, has changed her mind from against the rezoning to for the rezoning because of the good planning. She asked if it was a 24-hour CVS? Tropic Star said CVS starts out as 24-hours but stops if it's not warranted. The resident said she can't get across Storey Avenue to the stores.

Ted Rudnik, 46 Liberty Street, asked if the rezoning would affect the overall city business. Councilor Barry Connell responded that the change affects only these two parcels – less than one acre.

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Laurel Allgrove, 22 Beacon Avenue, said the CVS was redundant. The resident has had close calls on Storey Avenue.

Joe Teixeira, Conservation Committee Chair, said giving open space to the city is good, but the entire entryway to the parcel is wetland. Tropic Star providing public parking is fine, but it's a wet area that can't be accessed without hundreds, if not thousand, of feet of boardwalk. The city would need escrow for a boardwalk. Additionally, Mr. Teixeira didn't see anything in the Tripartite Agreement about wetland seeding in the plowed area.

Ron Martino, 4 Mosley Place, said as a walker he's observed no lines painted on one cross walk and another crosswalk terminating in a driveway. He supports the rezoning but said our commercial district needs a better look. C&J, a major regional transportation center, may represent an opportunity for funding. He believes this area is the new center of Newburyport. Councilor Barry Connell responded that there's not much state transportation money available.

Mary Harbaugh, Open Space Committee Chair, reiterated the open space committee has no position on the rezoning but affirms the value of the back land. She supports the Conservation Chairman's comments about the requirements to enable public enjoyment of the land.

Joy Buckley, 87 Storey Avenue, said this is the fourth time the rezoning amendment has come up. It didn't pass before, what is different this time?

Deb Massa, Turkey Hill Road, is opposed to another CVS. Planning Board members said that's not part of the decision of the city council and reminded the public that anything on the B1 table can be built. Councilor Barry Connell said this is not just a generic zoning change. One of the advantages of having a specific developer present is it helps us think about the ways the space can be used. The resident said the developer is proposing to agree, prior to the zoning vote, to certain deed restrictions for auto repair, fast food, and a gas station. Could we add a pharmacy and a bank to the deed restrictions?

Kaitlin Reynolds, 81 Storey Avenue, resides at one of the properties in question. She invited the public to spend a day in her rental home to experience eighteen-wheelers parked at 2 AM and car wash buzzers sounding with each car washed.

Linda Cooper, Lime Street, wondered how the development of a CVS would affect Walgreen's and Rite Aid. Councilor Barry Connell said that was not in the authority of the Planning Board.

Doug Muir, Hancock Street, was concerned how badly the western gateway to the city looks, somewhat similar to driving into Salem or up Lafayette Road in Seabrook. He said the residentially zoned houses don't create extra traffic. He wants the city to do more to make the main gateway to the city more attractive and doesn't see how this rezoning amendment will help. Any discussion about zoning should include upgrading the appearance of this part of town.

Larry McCavitt, 5 Madison Street, asked if the Tripartite Agreement was enforceable under state law and who pays for the road improvements. Councilor Barry Connell said the state highway budget most likely pays, but not Newburyport. Jeff Roelofs, Tropic Star's attorney, said the developer is proposing to cover the cost of the road/traffic improvements, but they need Mass DOT approval first. The Tripartite Agreement is tied to the underlying purchase and sale and they don't have any reason to believe it's not enforceable, but it is tied only to the closing of the acquisition of the land, not the rezoning.

Karen Adler, 24 Merrill Street, urged the city council not to approve the zoning change at this time until the problems are addressed.

Councilor Katy Ives said she thought the Tripartite Agreement was for 22 acres of conservation land. Has the development expanded to bring the open space down to 19 acres? There is mixed data in the city records and the conveyance of that portion of lot 3A that lies within the residential zone. It has to be surveyed.

Gerald Swaford, 81 & 82 Storey Avenue said this is just a zoning issue, not a CVS issue.

Councilor Barry Connell said traffic is a big issue, especially because of the way it's already operating. Pedestrian and bike usability is also an issue. Signage is a problem and the general shoddy appearance of Storey Avenue is not the gateway we would like it to be. Environmental impacts are an issue. We gain about 1.3% in additional traffic load, and safety issues are up in the air. Let's move this issue forward into January and require that we take action on this item in Monday's meeting. The deadline for the city council to act is February 12. When the Planning Board makes a recommendation to the city council, we have 21 days to act or we have to start all over.

Councilor Barry Connell concluded by mentioning two letters in hand, one opposed to CVS the other opposed to the rezoning. The committee is not going to make a recommendation to the council at this time.

iii) Section V – add Use #216, Community Center, to Use Regulations

The focus of the change is to convert the Bresnahan School to a Community/Senior Center. Andrew Port, Planning Office, said the change would benefit the city financially and is necessary because the use "municipally owned and operated Community/Senior Center" is not called out in the current zoning table. The proposed wording addresses concerns mentioned in the previous Joint Public Hearing. A Planning Board member asked the Planning Office if there were concerns about traffic. Andy Port said the city will work out traffic and circulation patterns for all work with Sterling Associates, who's been hired for the renovation. There's a good amount of space on the site for parking. We have initial schematics and will work it out with the School Committee and FMA Architects, who are working on the new school.

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There were no comments from other councilors or from the public.

Don Walters made a motion to add Use #216, Community Center, to Use Regulations.
Sue Grolnic seconded the motion.

Motion approved.

Votes Cast:

Dan Bowie: approve

Paul Dahn: approve

Julia Godtfredsen: approve

Jim McCarthy: approve

Bonnie Sontag: approve

Don Walters: approve

Councilor Brian Derrivan made a motion to approve language as submitted from the Planning Board and add Use #216, Community Center, to Use Regulations
Motion seconded.

Motion Approved.

Adjournment

Bonnie Sontag made a motion to adjourn.

Motion seconded.

Motion approved unanimously.

Meeting adjourned at 8:15 P.M.

Respectfully submitted, Linda Guthrie – Note Taker.