

**City of Newburyport
Planning Board Minutes
January 7, 2014**

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

1. Roll Call

In attendance: Sue Grolnic, Noah Luskin, Jim McCarthy, Leah McGavern, and Bonnie Sontag

Don Walters arrived at 7:14

Absent: Doug Locy

Director of Planning and Development Andrew Port was also present.

2. General Business

- a) The minutes of 12/17/2014 were approved. Sue Grolnic made a motion to approve the minutes. Bonnie Sontag seconded the motion and five members voted in favor. Noah Luskin abstained.
- b) In the annual election of officers, Sue Grolnic made a motion to nominate Jim McCarthy as Chair, Bonnie Sontag as Vice Chair, and Doug Locy as Secretary. Leah McGavern seconded and all members voted in favor.

3. New Business

- a) *Newburyport Medical Center
Wallace Bashaw Jr. Way
Completion, private status, traffic improvements at Low St. Intersection, final signoff
2014-SPR-06 – Continued from 11/19/2014*

Mark Griffin, attorney, 11 Market Square, Newburyport, requested the final sign off and bond release for the Newburyport Medical Center project. Final plans and a letter enumerating items the Planning Office wanted done were submitted prior to this meeting; everything was completed. The Medical Center subdivision, constructed in 2008, was modified twice. The building size was reduced and two lots merged, and an access easement for a roadway to the assisted living facility was established from the upper part of Bashaw Way. Two significant projects developed in the area since the Medical Center was occupied had changed the original traffic pattern. The majority of a performance guarantee was released in about 2010. The remaining 10% should be released now that everything was completed. Items related to the roadway were addressed in an on site meeting with the Planning and DPS Directors. Attorney Griffin proposed to keep the roadway a private subdivision way, contrary to the original plan. The Medical Center, as owner, would be responsible for roadway maintenance and utilities underneath. Attorney Griffin asked to be excused from some items relating to the roadway.

Planning Board
January 7, 2014

Director Port confirmed all issues related to the roadway construction met DPS standards. An easement in the area was no longer relevant. The intersection of Bashaw Way and Low Street would be discussed at the city's Traffic Safety Advisory Committee (TSAC) tomorrow at 3 pm. There would be an agreement about what safety action was appropriate. Improvements were needed. The Merrimack Valley Planning Commission was asked to perform a traffic study for safety and queuing. The City engineer had sketched a plan addressing issues of overall safety, rather than congestion. A Condition stating mitigation was the responsibility of the developer and whether the board thought the developer should take action were at issue. Director Port recommended continuing to the next meeting so the TSAC information could be introduced.

Chairman McCarthy asked if the MVPC had submitted anything in writing? Director Port said a draft recommendation not yet finalized suggested re-striping and adding a queuing lane as an alternative to signalizing. Chairman McCarthy said the board needed data from the MVPC in order to interpret the statement in the decision about the developer's responsibility. All other issues were satisfied. Director Port said the road serving multiple private projects did not need to be a public way.

Member comments: Was Condition #29 still open? Director Port said at that time, conditions were safe, so the traffic calming measures in the Condition had been satisfied. Members: When traffic studies were done in the past, did they take into account the Northbridge project? Director Port said the Northbridge traffic study showed little traffic; the board did not request traffic improvements. The only project with a tie to traffic mitigation was the Medical Center. Members: TSAC should be advised the parking lot expansion provided access to an expanded use of the hospital and contributed to incremental changes in traffic. Chairman McCarthy said that during deliberations about the road, he had asked the hospital to write a policy directing their emergency vehicles to the new access.

Attorney Griffin agreed the TSAC information was important, but disagreed that the Condition intended to put responsibility on the Medical Center this far into the future. The intent was directed to traffic generated by the Medical Center itself. Abutter objections to the traffic study were resolved. Neighbors had wanted a traffic signal. The Condition arose as a result of those objections, not from actual data, as the traffic study did not show a left turning lane was necessary. The first subdivision modification reduced the size of the medical building by 16%, decreasing traffic based on trip assumptions. Two additional, substantive projects generated significantly more trips. The greater percentage of the performance guarantee was released in 2010 when the project was completed and there were no objections to traffic conditions. The spirit of the condition was fulfilled. His client should not fund any traffic improvement at this date. The remaining 10% for latent construction defects could have been released in 2013, at the three-year mark. Condition #30 said 'the developer shall fund a fully functioning turning lane if the Department of Safety deems it necessary.' There was no decision from that entity.

Members: The board represented the interests of the developer, the community, and the immediate neighborhood. If the board accepted Attorney Griffin's position, the board should also consider creative solutions with the TSAC and enable all organizations contributing to the problem to be part of the solution, rather than only the medical building. Chairman McCarthy somewhat agreed. The performance guarantee was for roads not fully finished. Attorney

Griffin's traffic study compared to the MVPC numbers would reveal more about the issue. Members: Condition #29 was quantifiable with no ambiguity; was there agreement terms were met? Director Port said a letter from the Newburyport Police Department confirmed the Condition was met. Condition #30 was specific, as well. Members: With no textured, stamped pavement installed, it was probably not deemed necessary at the time. The Condition was not discretionary and should have been done, but the occupancy permit was given anyway. Why was the medical building relieved of something that was a clear obligation? Director Port said with the occupancy permit given, the obligation was met despite the lack of a speed bump and textured pavement. Members: Someone violated the mandate of the board.

Chairman McCarthy said the spirit of Conditions #29 and #30 were that if the applicant caused a traffic problem, they were obligated to mitigate. He was not convinced the applicant's project caused a substantial problem that required action. A member was ready to release the funds. Chairman McCarthy wanted more information. Members: A current study, reviewed by all parties involved, could produce a solution. The 10% was a separate issue. What was the role of the City when there was no applicant? If there was a problem, and the board had released the funds, did it fall to the City? Director Port said that was why the TSAC suggested incorporating their information into the discussion. Members: A clear delineation of responsibility is needed. Why delay a vote if the board did not hold the applicant responsible? Chairman McCarthy said the applicant had responsibility for traffic they generated. The board had the responsibility to try to determine the applicant's percentage of the traffic.

Attorney Griffin agreed the performance guarantee and Condition #30 were not related. The TSAC information was not needed for release of the bond just because the applicant had money on deposit. If a traffic problem was discovered and the City had to take action, that had nothing to do with whether the roadway was built correctly. Members: By signing off on the completion of the road, the board would be saying the road was okay, when things may not be quite right.

Bonnie Sontag made a motion to continue the final sign off and bond release to the next meeting. Sue Grolnic seconded 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.

5. Planning Office/Subcommittees/Discussion

c) 61A Notice of First Refusal Option for 183 Low Street

Chairman McCarthy said the City Council and the mayor would make the decision about the property, located on the left en route to the landfill. The board did not have a position, but would provide input. Director Port said the \$350,000 lot had no offer yet. Eight residential lots were on the roadway with another two lots in back and along Low Street. He expected a second Notice

for First Refusal the other parcel, and another 120 days for a decision. He was organizing a meeting with parties from the Conservation Commission, Open Space Committee, the Conservation Agent, the Parks Director, and the athletic field designer in order to determine if and where a field could fit due to the odd configuration of wetlands, and to determine the cost of any drainage problems. One lot by itself had no use as an athletic field, but coupled to the upcoming other parcel to make a whole piece nested in between wetlands, needed consideration.

The city was not restricted on use, resale, or placing a restriction. Director Port was compiling information to support an educated discussion. A member asked for the parcel to be tested for bordering vegetative wetlands (BVW). Chairman McCarthy thought keeping the pastoral view was preferred. The City should be interested in the parts that were wet. Councilor Larry Guinta asked open space to be considered. Director Port would send out the meeting date notice and include Councilor Guinta. He would prepare a list of 61A land also.

***b) 40R Smart Growth Zoning District
Update/Discussion, Affordable Housing Requirements***

The subcommittee had its first meeting. A member met with the Department of Housing and Community Development (DHCD), who wrote the 40R regulation. The ordinance -- in whatever form -- would be sponsored by Councilor Eigerman at the Monday, January 26th City Council meeting. The submission deadline is Tuesday, January 20th at 4 pm in the Clerk's Office. Board members were invited to attend the Affordable Housing meeting on January 14th where MINCO would present their proposal and the NAHT would discuss 40R for the first time.

What was written in the ordinance would become by right. Applicant negotiations would not occur as they did on special permits considered by the board. Topics for board brainstorming:

1) Density and Height: A determination would help the NAHT calculate the amount of affordable housing expected. The nearest pump station, at capacity, had to be upgraded to support development beyond 200 units. The DPS may need to replace it completely for development of the area. Breaking the area into smaller sub-areas of differing heights, with respect to immediate neighbors, aided the process. Higher heights were furthest from residential areas, nearest to the train station. Fifty acres, subtracting roadways, wetlands, the MBTA station and parking lot, could yield several hundred units. There were 25 net buildable acres. Avoiding four stories across from residential neighborhoods worked, but height and density were related. The state mandated at least 20 residential units per acre in a 40R development.

Terraced height setbacks for some sections and height influenced by siting and the separation between buildings were considered. The only five-story area was 250 feet from the train station. Minimum /maximum parking would be set. Nine-foot upper floors and 12-foot first floors determined building heights, but might not be appropriate for all sub-sections, especially along the Rail Trail, where an existing condominium development right up against the Trail gave it a residential feel. All areas could have differing stipulations for the mixed-use ratio, allowing some sections to be more residential, and encourage office space that mirrored residential, similar to outer State Street. The 12-foot rule could apply to four- and five-story buildings. Different design

guidelines and standards for all sections was viable if the mandate for mixed-use were waived in some areas. Consistency and variety were both needed. Dimensional requirements would help determine use, but defining only the envelope might result in no mixed-use.

2) Design Standards. Standards were ‘musts,’ whereas guidelines were recommendations. Organizing standards for each section, developing them point-by-point, and referencing areas in Newburyport that designs should reflect was a workable approach. Using graphics to illustrate the points could help bridge any conflict between variety and consistency. It was sensible to have a 12-foot first floor when a building was on the street. If a building was set way back, a 12-foot requirement may not be needed. Four- and five-story buildings could mirror downtown Newburyport, without using flat roofs. Large, long buildings were not favored in the purple zone, but proportions were not style. Perhaps the district needed to be differentiated from downtown. More flexible standards would help development. The relationship between subsections was important and implied designs should be coordinated. The area along Route One had potential to become more like a campus than a freeway. Waiver for design standards existed for any project viewed favorably on the whole. What could tie the area to the rest of Newburyport for residents to walk downtown? Each project could interpret how to move people by foot into downtown.

3) Benefits and Betterments: An improvement fund, for projects undertaken in time as the fund grew (such as bike and pedestrian ways), rather than immediately, would benefit the district. The traffic circle, as part of the 40R, was developable land and could be reduced. A subcommittee would consider livable outdoor spaces like pocket parks, courtyards, and City parks.

4) Affordable Housing: A discouraging percentage of affordable rental housing required focus. Affordability affected density; affordable units are smaller. Another layer of complexity for developers was the affordable housing goal. Developers could be asked to make rental units, supported by the rationale and a promise to revisit the rental issue every 10 years, until a survey showed the City had achieved a certain fungible percentage of rentals. A bonus could be prescribed as an option, not a mandate, for rentals.

The 40R subcommittee would convene next week to discuss design standards. A June deadline for MINCO to finalize the land purchase with the MBTA necessitated a June deadline for final State and City Council approval of the 40R zoning amendment.

6. Adjournment

Don Walters made a motion to adjourn. Sue Grolnic seconded and all members voted in favor.

The meeting adjourned at 9:20 PM.

Respectfully submitted -- Linda Guthrie