

**City of Newburyport
Planning Board
February 6, 2013
Minutes**

The meeting was called to order at 7:10 PM.

1. Roll Call

In attendance: Dan Bowie, Henry Coe, Sue Grolnic, Noah Luskin, Jim McCarthy, Bonnie Sontag, Don Walters and Cindy Zabriskie

Absent: Paul Dahn

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

2. General Business

The minutes of 01/16/2013 were approved as amended. Henry Coe made a motion to approve the minutes, Cindy Zabriskie seconded the motion and all members voted in favor, except Paul Dahn who was absent.

***115 Water Street
Approval Not Required***

Everett Chandler, Director of Survey, Design Consultants, Inc., Newburyport, explained that the Newburyport Water Department property would be divided and conveyed to three abutting property owners at 113, 117, and 119 Water Street. Mr. Chandler presented a map showing the location of each parcel. A member asked if this action enabled any lot to be used differently as a result and Director Port said no. Chairman Bowie said each lot was designated 'not buildable.'

Don Walters motioned to approve and Henry Coe seconded. The motion passed unanimously. (Dan Bowie, Henry Coe, Sue Grolnic, Noah Luskin, Jim McCarthy, Bonnie Sontag, Don Walters and Cindy Zabriskie voted in favor and Paul Dahn was absent)

3. New Business

***Newburyport School Department
74 Low Street
Minor Site Plan Review***

Danyul Cho, architect, Miller Dyer Spears, Inc., Boston, spoke on behalf of the Newburyport School Department and School Committee. Mr. Cho presented minor changes relating to handicap access to the exterior site plan and building. In addressing the board's concern about sidewalk safety along the tennis courts and playing fields, an area to be highlighted with painted stripes and markings, he proposed locating bollards along the area to create a safer zone. Mr. Cho said raising the walkway would create drainage issues on both sides.

A member asked why it would be difficult to address drainage along the walkway? Mr. Cho responded that drainage structures along the tennis courts would change the use of the court. The member said two or three pipes under the structure would make the water flow. Chairman Bowie said installing bollards was a good, reasonable compromise. He pointed out the frequency with which cars lined the walkway. Mr. Cho agreed to increase the number of bollards and would also address restriping the walkway on Johnson Street.

A member asked if lighting changes would be made; the area is very dark. Steve Bergholm, Chair of School Building Committee and Director of Facilities, Newburyport Public Schools, responded that a light pole has been missing. The new plans replace the missing pole in this location. Mr. Cho showed where the light was on the plans.

Chairman Bowie asked if the black top on the walkway would change to concrete? Mr. Cho said no. A member said a concrete walkway would stand out better because of more contrast. Another member asked if concrete would cost more? Mr. Cho replied yes; adding bollards accomplishes the same contrast at a lower cost. A member asked if there was a way for industrial-style bollards to look more appropriate for a school setting? Mr. Cho said he'd research more aesthetically pleasing bollards, maintaining the goal of high visibility. Director Port supported the use of bollards with the striping, though bollards were not needed every five feet.

Bonnie Sontag motioned to approve with an increase in three bollards and Henry Coe seconded. The motion passed unanimously. (Dan Bowie, Henry Coe, Sue Grolnic, Noah Luskin, Jim McCarthy, Bonnie Sontag, Don Walters and Cindy Zabriskie voted in favor and Paul Dahn was absent)

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.

***Chart House Development, LLC c/o Mark Griffin, Esq.
2 Mechanic's Court
Section VI-C Special Permit***

Chairman Bowie read the public notice. Mark Griffin, Esq., Newburyport, spoke on behalf of both Chart House Development, the prospective owner and applicant, and Robert Tuxbury, the trustee and current owner of the property. Steve Sawyer, civil engineer, Design Consultants, Inc., Somerville and Newburyport, and Scott Brown, architect, Newburyport, accompanied him. Mr. Griffin described the property off Merrimac Street as an unusually shaped, 23,000 square foot lot. Currently on the property is the Perry Murphy Construction office in an historic building, the only commercial structure, along with two sheds and a used car lot in the front. Zoned as a Waterfront Marine Dependent (WMD), the neighborhood has evolved from commercial to more residential; this development is part of that continuing evolution, although there are still a few small commercial businesses.

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Mr. Griffin proposed construction that included two buildings, housing five and four condominiums, and relocating the historic building to the front of the lot abutting the MBTA property. They have received a Zoning Board of Appeals special permit for the height, set back, lot area, open space and multi-family use for the two new buildings. They received approval from the Historical Commission to relocate the historic building and also proposed a preservation restriction for it. The next permit application would be for a major site plan review.

Mr. Brown said they are the second development team to look at this property. They tried but could not come up with an A-grade design for a single building scheme due to the odd shape of the lot, and placing the historic building in the left front corner of the lot didn't work. Breaking the residential units into two buildings made sense from a streetscape perspective. A beautiful granite retaining wall with a lot of growth hanging over it borders the Rail Trail side and there would be screening provided on the River's Edge Condominium side. Each unit has two stories of living space starting on the second floor, with a single car garage on the first floor. Unit sizes were 1,350 square feet, 1,450 square feet, and 1,550 square feet. The gambrel-styled roof was 36 feet to the ridge for the front building and 44 feet to the ridge for the rear building.

Mr. Sawyer described a two-way driveway access off Mechanics Court and confirmed that the city's department heads have no issues with the access for safety. The two-way entrance, according to traffic engineer reports, has an AM peak of six cars, a PM peak of seven cars, and a total trip volume per day of 68. He said ample utility services for the project include a sewer connection on Mechanics Court and a new water main on Merrimac Street.

Water flows to the rear of this compact site. Stormwater would not increase or go off to adjacent properties because rain gardens would be installed around the site (generic photos presented) to absorb excess water. Bituminous concrete would direct flow through different courses of gravel into the ground. Details would be on the site plan review.

Mr. Griffin went through the major points of the criteria for a special permit. Presenting a letter from Linda Smiley, chair, Newburyport Historical Commission, he said that the Section VI.C public benefit is historic preservation, as supported in the letter. The Historical Commission toured the early 1800s building and said it was the only known building on the waterfront where horse carriages were repaired. The applicant agreed to a long-term preservation restriction on the property if the Section VI.C application were approved.

The City of Newburyport department head letters included a request by the Fire Department for the building to be sprinkled and a fire lane marked-off on the property. The Police Department said the project would not create any undue safety hazard. The Department of Public Services said the project would not create an undue burden.

The 'by right' plan with one building could have been approved. Two buildings offer improved aesthetics and the historic building will be relocated where the public can see it and be preserved in perpetuity. One building is 25% subordinate to the other, exceeding the 10% subordination criteria. Adequate ways exist coming off Mechanics Court and the project complies with zoning as a result of the special permits accorded to them by the ZBA.

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The unattractive property needed sprucing up. This project brings something nice onto Merrimac Street. It does not impair the integrity of the district, meets all building code regulations, it does not create excess use of multi-family housing. It is in harmony with the Master Plan goals of preserving historical structures and creating a larger, more diverse housing stock. These are not giant condos and have a lower price point; they are the type of inventory the city needs.

Chairman Bowie asked Mr. Griffin to clarify the unit sizes for each of the two buildings. The front building's unit size is 1,350 square feet and the back building units 5-8 are 1,450 square feet and unit 9 is 1,550 square feet. Chairman Bowie asked about the intended use of the relocated building? Mr. Griffin explained it would remain offices for Perry Murphy as the only use. Chairman Bowie liked the plan for two buildings but questioned the public benefit of historic preservation because the interior features contain the historically interesting features and the intended use does not permit a high level of public traffic inside.

A member said the board looked at the property several years ago, when the Historical Commission claimed the beams were historically interesting. The historic value was underwhelming since most people would not exclaim over historic beams. Another member preferred affordable housing as a public benefit because the project would be big enough to accommodate it. Another member said the board generally reaches for affordable housing, but this was a welcome gateway change and more details about how the barn would be fixed-up as an historical building would be helpful, such as would there be a plaque and where? Another member said the city could have both historical preservation and affordable housing. The Towle Building had both; so did the Federal Street Overlay District, a large and comparably sized project. The board should consider the possibility of making one of the units affordable, even if it meant adjusting the size of all the other units to make it financially feasible.

Another member asked if there was a sketch of what was 'by right' with no permitting? Mr. Griffin said nine units would fit in one building. Being post-ZBA approval at this point, he would need to go back and amend the plan. He thought something was lost in the reading of the letter, and he re-read, "The historical significance of the building is not only its age, but also its connection to Newburyport's past. In addition, features in the building are unique."

A member asked about the width of the existing building and Mr. Griffin said it was 36 feet by 18 feet. The member concurred with the advantage of affordable housing, but felt the structure had significant historical value to the community and thought there could be a sign on the Rail Trail and a shadow box in the window showing what it used to look like. Another member agreed that the board should include both affordable housing and historic preservation in the plan.

Public comment opened.

Chairman Bowie reminded the audience that the only issue before the board tonight was the two-building, Section VI.C issue. Details on the buildings would come later in the process.

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Debra Darcy wanted clarification that the board would be discussing drainage at a later date. She didn't see where on the house it said it was historic and sees no public benefit in preservation here, whereas affordable housing would be a strong benefit to the community.

Richard Daly, 126 Merrimac Street, President of River's Edge Condominium Association, said this project would be a great improvement to an area that's a weedy parking lot right now. His association was concerned about the water table, whether there would be blasting that would affect other buildings, the continuation of the brick sidewalk along Merrimac Street, and how trash would be handled. The developers had assured him they would address the issues, but if they could be part of the written conditions, that would be great.

Ms. Darcy said there was no green on the property at all and that the drawings showing so much green were an illusion because there was only concrete. The buildings would have to be modified to add green space; otherwise there would be no room. Water level would be an issue also.

Paul Bevilacqua, 126 Merrimac Street, member of the River's Edge Condominium board, wanted to ensure items in their letter would be addressed at another point. He had heard the developer say at a ZBA meeting that the historical building was going to be used for storage, with a dumpster inside. He was concerned how the building was really going to be used.

Laurie Evans Daily, 126 Merrimac Street, said one of the advantages of where she lived was being able to walk downtown, but this lot was a public nuisance. Approving the project would eliminate this blight.

Doug Locy, 17 Alberta Avenue, watched gateway and water front projects. He believed the applicant had done a lot of background and prep work for relocating, renovating and restoring an element of significance to the city at considerable cost. Historical preservation didn't necessarily mean people have to walk through it. The details of the proposed structures were complimentary to the area. Trying to put in an affordable unit didn't always work, like at the Foundry, which reverted to market rate units because of mortgage criteria. The project will enhance a gateway to downtown plus it's the final piece of the puzzle for that area. He would like to see it approved.

Sarah White, 349 High Street, echoed what Mr. Locy said. She thought the project met all the criteria for Section VI.C. She agreed that just because a building was old did not mean it was historic. But, there was something special about this 1790 building: the age, the use, its adaptive reuse now and for the future, the exterior and the fact that we're losing a carriage house on High Street and a similar era house on Strong Street. The plaque is a great idea.

Public comment closed.

Chairman Bowie said Mr. Locy, as a former member and chair of the Planning Board for many years, had valuable comments, as did Sarah White, the chair of the LHD Study Committee. While the conversation was about preserving the building as it stands today, Chairman Bowie preferred affordable housing as a component of the application. He recognized the pressure put on the applicant and acknowledged the challenge of marketing the Foundry units, but the city

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falls below the 10% affordable housing threshold it was striving for and needed more affordable housing.

A member asked if there was a housing production plan in the works? Director Port said the Housing Trust would be scheduling a public meeting later this month to discuss their housing production plan. It's difficult to mobilize the resources to build and they would be interested in seeing an affordable unit with this project.

Another member said if Section VI.C requirements were not met because the historical litmus test wasn't satisfied, could there be two affordable units in the back building? If that met the criteria, the developer should have the option to do what he wants with the historical building. The board needed to think about what percentage of the new building would be equal to historical building? A member added that the board needed a rational process so they didn't start from scratch every time the public benefit was discussed. Chairman Bowie said the board would not find one mathematical formula that applied to all situations.

With Section VI.C, a member said, the board was always driven to whether the public benefit was sufficient. This was a favorable project. The master plan created a potential for Newburyport to become an outdoor shopping mall, with thousands of people getting off the highway to come here and then leave at the end of the day. The member supported this type of residential density and thought the board was discounting the historical value of a building. The Affordable Housing Trust should write a letter, as the Historical Commission did. Another member clarified that the board had said the public benefit relative to the size of the project was not sufficient.

Chairman Bowie said preserving the building would cost far more than we've ever seen as a contribution for affordable housing. A member wanted to know from the developer what it would take to make one of the units affordable. The board preferred a unit instead of a contribution because a contribution does not add to the housing stock. The board needed more concrete information. Another member wanted to know what the applicant what needed to make one of nine units affordable. The standard was to meet the Section VI.C criteria.

Chairman Bowie said the board would need to continue this hearing. Mr. Griffin said he would like some consensus on what information the board needed. Chairman Bowie said a split on the board between affordable housing and historical preservation would be helped with details on what would be done to the commercial building at what costs, and what costs are involved in making a unit affordable. Chairman Bowie continued the public hearing to next meeting on February 20th.

Jay Caswell
325, 323R and 329 High Street
Definitive Subdivision Application

Chairman Bowie explained subdivision rules and regulation basics, and outlined the application.

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Steve Sawyer, Design Consultants, Inc., Somerville and Newburyport, spoke on behalf of Jay Caswell, the applicant. He described how two parcels at 325 and 329 High Street combined with a landlocked parcel in the rear would be subdivided into five new lots that meet the subdivision regulations and zoning code. The home at 325 High Street would be demolished, along with the pool, but the building at 329 High Street would remain.

Both the roadway and lots meet all requirements, but Mr. Sawyer preferred a roadway with a lower environmental impact. He presented a design that required waivers to reduce the pavement for better aesthetics. Proposed was a 20-foot wide, instead of 24-foot wide, roadway without the large turnaround. Also proposed were different roundings at High Street with a 4-foot sidewalk on one side of road. Instead of routing all stormwater to the back with a large detention area, he preferred to construct multiple, smaller rain gardens for infiltration, running along the gutter line of the road and at the end of the road. The roof system runoff would go into the ground with Cultec Systems. There was no ponding of water at 323R High Street and no seasonal high ground water, making the property well suited for this design. Lot sizes ranged from 11,000 to 15,000 square feet and the area overall was about 2 acres.

Mr. Sawyer described proposed curb cuts at the High Street intersection as five-foot roundings running back to become perpendicular with the sidewalk and flush with the roadway. When driving down High Street there were a myriad of different curb cuts he observed. The detention areas would look like rock gardens or rain gardens rather than typical detention areas. There would be 18 inches of soil media under each detention area. The underground Cultec chambers would fill up with stormwater. The development wraps around from the entry and back of current Bresnahan School, by the backyards of Brooks Court and 321 High Street. Public water and sewer on High Street would serve the development and the homes would use a gravity system. The Fire Department was satisfied; the buildings would have sprinklers.

Director Port said Christiansen & Sergi were going through the checklist of subdivision regulations and that Mr. Sawyer received a fairly lengthy letter from the DPS. A member asked to hear about basic landscaping and screening. Mr. Sawyer described standard street trees, but said there was no screening detail as yet. The member said, given the closeness of abutters, screening would be very important. How many existing trees are going to stay, the member asked? Is it possible not to clear-cut in order to develop, despite the economics of clear cutting and adding trees later? The board wished to save as much of the existing trees and shrubs as was possible.

Mr. Sawyer said raising the roadway prevented saving any mature trees in the area, however, they could save trees at the perimeter. Mr. Caswell said they would do some selective cutting in one area, where there was a lot of downfall in order to maintain the healthy and mature screen line. The regulations required street trees on this plan. A member said maybe Mr. Caswell could improve the landscape in the cleared area.

Another member said if this was a 'by right' plan, the applicant must meet all of the criteria. Mr. Sawyer said there was no evidence of groundwater to 10 feet. A member asked why the sidewalk was put on the side with only two houses instead of the side with three houses? Mr. Sawyer said the green space at the entrance of the subdivision seemed better suited for a sidewalk. Another

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member asked if pervious pavement was used? Mr. Sawyer said no. Chairman Bowie asked Mr. Sawyer to review the waiver requests for the board.

The proposed right of way was 30 feet instead of 50 feet; the proposed cul-de-sac was a hammerhead turnaround instead of a 120-foot diameter turnaround; the proposed minimum curb radius at the intersection was none instead of 15 feet; the proposed sidewalk was 4-feet wide instead of 5-feet wide; and the proposed drainage easement was a privately-owned, 20-foot easement for infiltration areas only, with no underground systems. The road would be privately maintained and wouldn't be an issue for the DPS.

A member said the only landscaping he observed was street trees and wondered if the board could ask for landscaping? Chairman Bowie said subdivision regulations required a street tree every 35-50 feet and that the board couldn't deny the plan because of landscaping. The member said the plan needed help with the trees because it showed all the same kind of tree. What was at 321 High Street? Mr. Sawyer responded that it was a three-family condo. The member said the applicant had a chance at High Street to plant a big tree. Mr. Sawyer said they would meet with the Tree Committee. Chairman Bowie asked the applicant to submit a homeowner's association document for maintenance of the rain gardens and roadway.

Public comment opened.

Greg Gendron, 8 Brooks Court, said if the board agreed the project was a 'by right' subdivision and granted the waivers, most of the benefits would be benefits to the builder. Mr. Gendron suggested an additional public benefit of preserving as much land as possible in the parcels. Lot sizes would increase if the road size decreased. Houses could move closer to the road and further from the boundary line, preserving more of the woods. While still meeting the front yard set back requirements, siting houses closer to the road would lessen the impact to abutters.

Killeen Connolly, 10 Brooks Court, asked what the oblong green marks were on the rendering. Mr. Sawyer replied they were areas that prevent stormwater run off from going off site. Ms. Connolly asked about grading and Mr. Sawyer pointed to a low area around the detention pond, saying it would be filled about a foot and a half, but there was no grade change at the fence line. Ms. Connolly asked if a fence would go in and Mr. Sawyer said that would be the owner's decision. Ms. Connolly asked Chairman Bowie if the board was looking to approve subdividing the lot or this development plan? Chairman Bowie responded that it was the plan that was before the board tonight for approval. The applicant would be submitting stormwater review data and the plans would go before consultants Christiansen & Sergi.

A board member explained that when legal lots are developed and sold, buyers could build whatever they wanted. Mr. Sawyer added that a dwelling could go anywhere in a specific area and demonstrated an area on the plan, saying those buildings were typical of what could fit. Ms. Connolly considered the fence line heavily wooded with a berm that naturally separated the properties and stopped stormwater. If the trees went away, that changed the equation. The area had ponded before; when it came to drainage, they were fortunate to have the berm. A good deal depended on the presence of those trees. Chairman Bowie said the information she described would be captured in the stormwater review. Things could stay the same or improve.

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Dave Suuronen, 6 Brooks Court, wanted to know when the test pits were dug. Mr. Sawyer replied two weeks ago. Mr. Suuronen said spring was a better time because that's when his back yard was spongy. He was concerned about the depression area. He said one reason he bought his house was the quietness of the neighborhood. He had enjoyed the woods for 35 years and that's now going away. He saw an intention was to sell the lots with vegetation, but the homeowner may not want what was on the plan. The view from his home would change dramatically and the value of his property was affected. Brooks Court was 20 feet wide on a dead end. Cars that come down do not turn around in the driveways, they back-up. The worst scenario was when box trucks or SUVs towing a boat came down. With an alternative to a cul-de-sac, there was probably no traffic impact, but the problem was the people backing out into the road. Why make the same mistake again? Changes could be made to make it more successful.

Mr. Sawyer said a certified soil evaluator could test anytime of the year and still see staining from the spring water level in their test pits. Regarding the hammerhead area, Mr. Sawyer said it was not all a driveway, it was part of the private way, not part of a driveway. The driveway was at the end. He acknowledged the concerns about the trees, but said they would lose the tree line they cared about if a cul-de-sac were built.

Mr. Suuronen said it was all about trade-offs. Chairman Bowie said board members were not fans of large amounts of pavement. The board's primary concern was with the Fire Department. Mr. Suuronen said the biggest problem with a 20-foot wide street is the narrowness with snow banks.

Bruce Babylon, an abutter at 323 High Street, said unfortunately several people who wanted to speak tonight had to leave due to the late hour. There are no street drains, they are private systems, most of which are on two lots. Who was going to sweep and plow the road? Who would repair the road and who would maintain the gardens? The stormwater management report was 60-pages of boilerplate. It was not stamped; it was not signed at all. Mr. Sawyer said there was a stamped, signed copy in the Planning Office. Director Port said Mr. Babylon had an electronic copy. Mr. Babylon said there was no information about the test pits. Mr. Sawyer said it had been submitted; he was very familiar with the soil there. Mr. Babylon said when you get into the heart of this report, there were pages missing. There was a reference to appendix B, which was not there. The 100-year storm couldn't be accommodated with a half inch. Mr. Sawyer said there were multiple calculations; the half-inch is the sediment removal. Mr. Babylon said he didn't think anyone was paying attention to the information in a boilerplate that mentioned Port Nursing Home, which had nothing to do with this plan. In plan references, one referred to a Salem, MA plan and the other referred to a different subdivision here in town. He thought that was very unusual for an engineering plan.

Chairman Bowie said the project would be peer reviewed in detail and the board would get a multi-page document that detailed which regulations were complied with and which were not, especially stormwater, which was a separate report. Mr. Sawyer agreed earlier to work out a homeowner's agreement for maintenance of gardens and other common areas.

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Martha Strum, 323 High Street, 1st floor, said the proposed road went underneath her three windows. She was concerned about noise on top of the noise from High Street. Who would've thought a road could go in next to my condo, she asked? It will diminish the value of my property and I did not receive an abutter's letter. Director Port said they spoke on the phone previously, and the letter did go out. Everett Chandler, Design Consultants, spoke about the setback from the road at 323 High Street. The actual setback in the zoning requirements is respected. It's a 25-foot setback between the sidewalk to the corner of her building.

Sarah White, 349 High Street, asked the applicant what he meant when he asserted that modest-sized homes would be in this subdivision? Mr. Caswell said he had not got that far, yet. Ms. White asked how the street would be lit? Mr. Sawyer said they were not proposing any lighting. Ms. White asked what the required offset from existing roads to new roads was? Mr. Sawyer replied 150 feet. Director Port said there was a 300-foot offset requirement. He was not sure what the differences in understanding the numbers were, perhaps that could be provided to the board in the next meeting. A member asked if there was a draft of the homeownership plan? Mr. Sawyer said no.

Mary Pearson, 319 High Street, said there was a housing project behind her home in Los Angeles consisting of 52 homes. Issues were about drainage but the issue here was that everyone have a voice and be considered.

Public comment closed.

Chairman Bowie said a peer review was needed. Director Port said the peer review would be available by the next meeting, but that may not give the applicant adequate time to respond. Mr. Sawyer said he needed the time to respond to Christiansen & Sergi's comments. Chairman Bowie said the matter would be continued until March 6. There will be another opportunity for public comment at that time. A member said he wanted the 300-foot number clarified at the next meeting.

4. Planning Office/Subcommittees/Discussion

Updates

Director Port asked everyone to please come by and look at the plans for the waterfront and encourage others to do the same. Speak out in favor of the waterfront publically if you can.

6. Adjournment

Bonnie Sontag made a motion to adjourn and Henry Coe seconded the motion. The motion was approved unanimously and the meeting adjourned at 10:17 PM.

Respectfully submitted,
Linda Guthrie,
Note Taker