

**City of Newburyport
Joint Public Hearing
Planning Board and Planning & Development Subcommittee
March 4, 2015
Minutes**

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

1. Roll Call

In attendance for the Planning Board: Sue Grolnic, Doug Locy, Jim McCarthy, Bonnie Sontag, and Don Walters

Absent: Noah Luskin and Leah McGavern

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

Also present: Andrew Port, Director of Planning and Development, Bill Reyelt, Principal Planner, Smart Growth Programs, Massachusetts Department of Housing and Community Development (DHCD), and Elaine Wijnja, Principal Land Use Planner, Smart Growth Programs, Massachusetts Department of Housing and Community Development (DHCD)

2. Planning Board and Planning & Development Committee of the Council Joint Public Hearing on Proposed Zoning Amendments:

- a) Amend the Zoning Map referenced in the Newburyport Zoning Ordinance pursuant to Section III-D "Changes to Zoning Map" such that a portion of the R3 Zone between Route 1 and State Street (including Highland Cemetery and properties North of Highland Cemetery up to Pond Street) is changed to an R2 Zone.*
- b) Amend the Zoning Ordinance and the Zoning Map, to establish a new zoning overlay District entitled "Smart Growth District."*

Donna Holaday, Mayor, said 40R and affordable housing were important to her Administration. There were difficulties remaining a diverse community without them. She hoped the community would come together in recognizing the importance of a Smart Growth District.

Andrew Port, Director of Planning & Development, also supported a Smart Growth district. He announced that the Back Bay zoning change was moved to March 18th.

Councilor Ed Cameron, Chair, City Council Planning & Development Subcommittee, called the subcommittee to order. Councilor Barry Connell made a motion to move the Back Bay zoning change to March 18th. Councilor Jared Eigerman seconded and all members voted in favor.

Motion approved.

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James McCarthy, Chair, Newburyport Planning Board, called the Planning Board to order. Don Walters made a motion to move the Back Bay zoning change to March 18th. Doug Locy seconded and all members voted in favor.

Motion approved.

Chairman McCarthy read the notice. William Reyelt, Principal Planner, Smart Growth Programs, Massachusetts Department of Housing & Community Development (DHCD), had worked on 40R since 1980, the context of which was adopted by the state in 2004 to address rising housing costs and uncontrolled growth. A companion statute was adopted in 2005 and 40R was operational in 2006. The voluntary program controlled where growth occurred in exchange for financial benefits when communities met requirements for location, density, and affordable housing. There were incentive payments for the net number of developable units, a density bonus payment for units over and above what regular zoning allowed, and if development did not cover school costs, 40S paid the increase.

The three eligible 40R locations were: 1) within ½ mile of a train station, 2) areas of concentrated development, such as a city or town center, or commercial district, and 3) a desirable developed area with existing infrastructure. Communities could exempt small projects with less than 13 units, but the numbers had to be made up. Any development must meet a minimum of 20% affordability, or 25% for age-restricted development, encompass different unit types, and be spread across the district.

The process included a public hearing, drafting and submitting a zoning ordinance the DCHD would review, a letter of eligibility from the DCHD, community adoption of the 40R zoning, and a letter of approval by the DCHD, after which the community could collect the zoning payment and begin to review and permit projects.

Existing Smart Growth Districts were concentrated in the Boston metro area, with others in the Pioneer Valley and the Berkshires. Mr. Reyelt presented data on the number of units and payments made, including 40S payments. Districts could be small, such as in Belmont. He gave examples of sub districts within the Smart Growth District. Haverhill had two downtown districts; Lynnfield had a Lifestyle Center. Downtown Reading and Easton both received DHCD support to deny 40B developments in their 40R. Communities with 40R districts received bonus points in state grants. Natick received \$800,000 in additional in bonus points.

In reference to applying 40R zoning to underutilized land for a density bonus payment, a resident asked for the definition of underutilized. Mr. Reyelt said underutilized meant previously developed but vacant, significantly vacant, or underused.

Director Port's PowerPoint presentation of Newburyport's Proposed 40R "Smart Growth" District described the sprawl of large highways, suburban development, large shopping malls, with nothing walkable. Large housing lots contributed to sprawl and created large amounts of infrastructure that was difficult for the state to maintain. Newburyport, by example, had compact neighborhoods with sustainable infrastructure that was very efficient, reflective of 40R. The City viewed 40R as a strategy for conservation and development that could take advantage of the train

station. He showed a map of the proposed district boundaries, indicating how parcels in the area were underutilized, automobile dependent, visually uninviting with undesirable strip mall characteristics, and not representative of Newburyport. The 40R district could change that.

The MBTA put out an RFP to develop property for residential and mixed-use at 1 Boston Way. The developer of the property, right next to the train station, would be phase one of the 40R. His concept fit 40R requirements and the City was working with him on architectural renderings and design concepts that met the City's need for more apartments and affordable housing. Instead of a wasteland of parking there could be attractive buildings. The zoning would include high standards for development guidelines on site layout and building design. Developers would have by right use and the City would receive incentive payments.

Anticipated build-out was 500-550 units for an incentive payment of about \$600,000. With predominantly one- and two- bedroom units, large numbers of school-aged children were not anticipated, but the state provided an offset for school-aged children with 40S. Commercial uses on first floors would have greater ceiling heights than upper floors. Bicycle use in the district would be promoted. The City would require 25% of the units to be affordable, defined as 80% of the area median income. Affordability would be deed restricted for at least 30 years. At least 10% of the units would be three-bedroom to create diversity. If a large-scale 40B development proposal came along, the City could say no. The City's 7.6 % of subsidized affordable housing needed increasing to 10%. Units built as rentals in the 40R district would give Newburyport credit on the state subsidized housing requirement.

The district was 49.1 acres with 26.7 developable acres. The long-term vision of mixed-use residential would allow five stories within 250 feet of the train station and scaled down to three stories near neighborhood boundaries. The City would regulate architecture, site design, and energy efficiency. The maximum build-out could take several decades. There was enough capacity for City water, but water distribution questions related to the need for a sewer lift station upgrade. An analysis of traffic, the capacity for additional children in the school system, and expected property tax revenues would be done. After tonight's hearing, the City's 40R application would be submitted to DHCD, who would let the City know if requirements were met. The 40R Smart Growth zoning would go before the public in a continued hearing on May 6th. After the hearing was closed, City Council adoption would need to occur by June 1st.

Planning & Development Subcommittee Discussion

Councilor Eigerman said parking needed to be taken into consideration in the traffic analysis. District residents would have cars; reconciliation between what the consultant advised versus what a developer wanted would be necessary. Councilor Connell asked about local property values in adjacent districts, and specific ancillary benefits or detriments? Mr. Reyelt said a number of developments provided revitalization and a significant tax increase. He would gather data that addressed property values before May 6th. Councilor Cameron said the zoning had citywide and neighborhood-specific implications, given past issues with the wind turbine and train noise. If the City wanted open space and conservation, it needed Smart Growth to balance thoughtful development. He liked examples Mr. Reyelt presented, particularly Reading. The preliminary design for 1 Boston Way fit Newburyport. Local transit connections would be

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improved with 40R and would create new connections between downtown and the train station. Making an underutilized area residential could result in quieter trains. Mixed-use would encourage people to walk to places similar to the Black Duck or Richdale's at night. The City was not ethnically or racially diverse and 40R helped working families stay in town. If the area remained industrial and business, it was unlikely there would ever be residential development. Who currently owned properties, besides MINCO, developer of 1 Boston Way?

Director Port described the sub districts and agreed there was greater incentive for developers to clean up the area with a 40R overlay than if the City left zoning as it was now. MBTA and MINCO owned some parcels; other parcels were individually owned. Someone would have to assemble different parcels together, many of which have great potential for redevelopment.

Planning Board Discussion

Some may think five stories is high, but the board looked at the scale of everything. Moving out from the train station, there would be four stories, changing to three stories near district boundaries. The Merrimack Landing census had few school children; those statistics would help predict the level of burden on the schools. Mixed-use was still being defined, but retail development could reduce anticipated traffic leaving the area for dry cleaning type errands. Chairman McCarthy said this type of development was called for in the Master Plan and he supported the Master Plan. The housing efficiency that occurred with density was compelling. Mixed-use could encourage walking if executed correctly. Infrastructure costs such as road repair needed to be spread across more people in the city. A coffee shop at the MBTA station there proved unsustainable. If the whole area were activated, that would be healthier for the City. Under current zoning, there could be unwanted development.

Public comment opened.

Christina Bellinger, 3 Dexter Street, was concerned about protecting existing neighborhoods against infill and the character of the city today. The urban buildings had no trees. Did reusing old buildings count in the density bonus payment?

Mayor Holaday asked how changes could be made in the traffic circle when the state was broke? Mr. Reyelt said the DHCD had a good record recognizing 40R districts through the Mass Works grant program that provided funding for fixing things like the traffic circle. The 40R would give the City extra points when applying for Mass Works grant funds.

Rob Germinara, 2 Ashland Street, was supportive but concerned about the industrially zoned Parker Street area. Placing houses in an industrial zone could create problems.

Madeline Nash, 19 Arlington Street, Newburyport Affordable Housing Trust member, was supportive. The Trust's Housing Plan Report showed a loss of 400 rental units over 20 years. Many people could not put 20% down on a Newburyport house and seniors did not have any place to downsize. More rental housing was important; the location was great.

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Jeffrey Tomlinson, 21 Hill Street, said aesthetics were profoundly important. How would the trade-off between preserving green space and smart growth be addressed?

Director Port said the City was offered first right of refusal for a Colby Farm parcel. That and other parcels were being discussed as potential green space. The land being developed by MINCO would have landscaping improvements, such as a small green space and a public plaza, similar to a miniature version of Market Square. The design section of 40R had been reworked; development would be uniform and further improvements could occur over time. The developer would be responsible for greater articulation and smaller masses to create a more pedestrian feel. Mr. Tomlinson asked about procedure? Director Port said once the ordinance was adopted, the Planning Board became the plan approval authority. Projects in the district would go before the board for review and approval.

Ari Herzog, 15 Prospect, Councilor at Large, had three requests: 1) on behalf of a State Street constituent, pedestrian access should be built into any plan prior to approval, 2) developers should be encouraged to use creative construction over Route One, and 3) Westwood Station, started 15 years ago, halted when the recession came after destroying existing buildings. Could the City require that construction time start and end quicker to prevent that in Newburyport?

Barbara Oswald, 158 State Street, supported 25% affordable housing, but 500 units with 500 cars and the antiquated traffic circle was a concern.

Director Port said the City had a better chance of securing state support to reconfigure Route One and the traffic circle if 40R was in place. The sub district in the pink area as shown on the map already allowed three stories.

Mayor Holaday said constructing 500 units would not occur all at once. Phasing projects over time would give the City's infrastructure time to support the growth. The current project would take three years. Landscaping, traffic, and the rotary, would upgrade in stages.

Chairman McCarthy said walkability was a core strength of the City, a Master Plan priority. The Planning Board, in reviewing project designs, would emphasize walking over car use if there were a conflict. The City could use design standards to incent people to avoid using their cars.

Patty Spalding, 5 Bricher Street, said a developer partnered with the City in developing an ordinance in 2010, yet public parking remained an issue today. Mixed-use required customers; where would public parking be located? What about entertainment, clubs, and hotels? The business path to downtown was through the Hill Street neighborhood where sidewalks in bad shape should be considered as part of any upgrades. Where were the restrictions in the ordinance wording for allowable waivers?

Director Port said there an ordinance waiver provision that allowed the Planning Board to reduce requirements. If a desirable project met all but one standard, the board needed a way to approve it. All zoning ordinances started somewhere; the City could make adjustments to improve the ordinance over time, depending on how the landscape looked. Ms. Spalding said the City's noise ordinance was very limited. Was there any consideration to changing nighttime limits on noise?

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Councilor Cameron said noise issues had come to the subcommittee's attention. Councilor Eigerman said there was also motorcycle season noise. The City had a poor record on noise mitigation measures; there was no follow-up on roof top noise attenuation. Ms. Spalding said enforcement was lacking.

Andrew Morris, 23 Cherry Street, said his neighborhood did not feel heard. Was a plan in place to secure consistent input from adjacent neighbors for large issues? 'Phased timing' was vague; was there anything more specific? What happened if the City was wrong about numbers of school-aged children? He encouraged planning for the worst-case scenario and paying as much attention to what did not work as to what did work.

Councilor Eigerman said development was market driven. Underlying zoning was B1; 40R gave businesses an option to redevelop that they did not have now. There were many little parcels that someone would have to buy and piece together; that took time.

Director Port said the City involved the community by putting a notice in the paper. For tonight's hearing, the City went further and noticed Back Bay neighbors individually. The City could put information on the website, publish an article in the paper, and would entertain other ideas.

Joseph Devlin, 3 Dexter Lane, was supportive of improving the area and of MINCO. He asked if any thought was given to executing the proposal in pieces? The potential of 500 units equaled at least 1,000 people -- over 10 % of the current population.

Councilor Eigerman said phasing was considered. MINCO had a hard deadline with the MBTA to complete their project. The City was decades behind on Smart Growth and did not want to miss another cycle. If there were no answers on the various studies to be undertaken, such as how to pay for the lift station or handle increased traffic, the ordinance would reduce the area size. The district as outlined was the only place where Newburyport could grow, where more cars could park, but 500 units was not a magic number to get the \$600,000. The MINCO project was a high-end project for working people with middle class jobs and there was already strong demand for high quality rental units.

Councilor Connell said phase one was the 80-unit MINCO project. It could be several years before the City had another project. Councilor Eigerman said the MINCO site sold first because it was a large, level, and easily developable parcel. Chairman McCarthy said it would be a long time before someone could piece together the multiple parcels needed to create a decent project within in the 26 developable acres. Dominos and Subway did not have much lot depth because they bordered a lake. Nothing else compelled developers to create rental units in Newburyport.

Marion Spark, 126 Merrimac Street, Rivers Edge Condominiums, real estate agent, was supportive. People came to her business every day looking for rentals, but there were none. Renters eventually became buyers.

Benjamin Iacono, 4 Hallisey Drive, asked if there was enough time for the 40R to be submitted and approved by June 1st? Director Port said yes.

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Councilor Cronin asked what percentage of housing in Newburyport were rental units? Director Port would send the information and post it on the website.

David Hall, 75 Water Street offices, Hall & Moskow Real Estate Development, said if today a 45 miles per hour, four-lane highway with guardrails cutting through Newburyport was proposed, the City would say no. Could the 40R plan state an objective to shift the district focus to pedestrian and bicycle access to the rest of the city? At least three access points were needed to get people from the one side of the highway to the other: 1) the rail trail from Parker Street in Newbury, 2) immediately north of the traffic circle, and 3) near Low Street. Incentive payments from the 40R could be pledged to the design and implementation of pedestrian and bicycle modalities in that area. Reducing Route One to one travel lane, yet maintaining all the turning lanes, and slowing traffic, would create more than two acres of green space, reduce stormwater runoff, and make it easier to mesh the district with the rest of Newburyport. Living in rental units served a vital role in the process of arriving in a community and becoming more integrated.

Director McCarthy said pedestrians and bicyclists were a priority for the board; access was outlined in the 40R draft. Committing funds was up to the City Council and the mayor. The 40R project would definitely help to convert Route One into a parkway.

Mr. Germinara said it was important to be sensitive to the fact there were other meetings on March 18th. Rushing to meet a deadline affected the public. There was talk of eliminating the rotary 10-15 years ago.

Director Port said the rotary was not the City's highest priority right now, but with 40R in place there was a better chance of a Mass Works grant to address it. Mr. Germinara said to keep in mind there had been two 100-year floods in his life.

Chairman McCarthy encouraged viewing the 40R map on the City website. The Planning & Development Office worked for the public. If anything was not understood, ask the office staff.

Public hearing closed

Bonnie Sontag made a motion to continue the Smart Growth zoning amendment to May 6th. Don Walters seconded the motion and all members voted in favor.

Motion Approved.

Councilor Barry Connell made a motion to continue the public hearing for the Smart Growth zoning amendment to May 6th. Councilor Ed Cameron seconded the motion and all members voted in favor.

Motion Approved.

3. General Business

- a) The minutes of 2/18/2015 were approved as amended. Bonnie Sontag made a motion to approve the minutes. Jim McCarthy seconded the motion and five members voted in favor. Don Walters abstained.

b) Twomey Drive – Release of Security for Water Loop

Director Port said the release was related to providing the loop and connections as the City wanted. The road was private; the City held no funds for the road.

Sue Grolnic made a motion to Release the Twomey Drive Security. Don Walters 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.

c) ANR – 4 Brown Street

The parcel was privately owned by the cemetery Trust and part of the cemetery. A two-family in the R2 zone was planned.

Bonnie Sontag made a motion to approve the 4 Brown Street ANR. Doug Locy 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.

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