

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

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

1. Roll Call

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

Absent: Henry Coe

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

2. General Business

a) Approval of Minutes

The minutes of 02/20/2013 were approved. Don Walters made a motion to approve the minutes. Bonnie Sontag seconded the motion and all members voted in favor.

*b) Judy Tymon, Affordable Housing Trust
Housing Production Plan*

Judy Tymon, Chair, Affordable Housing Trust, gave an overview of the Housing Production Plan. The process that began in May 2011 had goals of determining what happened to affordable units in the city and what the needs were.

Only 7.8% of units are deemed affordable. Chair Tymon stressed her involvement over the past few years in Newburyport's affordable housing saying that it's been a silent issue. People who need affordable housing don't have time or the resources to attend committee meetings or build coalitions of support because they are working long hours to make ends meet. There are a staggering number of homeless people in Newburyport according to a recent YWCA study. Affordable housing is important to maintain a diverse and sustainable community. The Housing Production Plan contains facts and figures on demographics and needs as well as recommendations.

Strategies to address needs include possible zoning changes; more clarity around the Section VI.C special permit public benefits and making affordable housing more of a priority; changing the accessory/in-law apartment ordinance from housing only a family member; enabling processes to convert single-family homes to two-family residences; making partnerships with private developers, which to some degree we already do, a higher priority; supporting the creation of a 40R zone; including affordable units within any development on the waterfront; promoting mixed-use development in more locations; and allowing two-family structures in more residential districts.

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

Director Port read a letter of support for the plan that he drafted for the Planning Board. It seeks state approval for the plan that would help the city to create affordable housing and help the city steer clear of undesirable 40B development. Chair Tymon thanked the board for their support and looked forward to working together.

A member, noting the decline of affordable housing over just the last 10-15 years, asked what the implementation strategy was and if there was a forecast for how long it would take to get to 10% affordable housing. Chair Tymon said the Affordable Housing Trust had a five-year plan detailing a number of units per year in each housing category. Year 1 included Oleo Woods for home ownership and the YWCA's five new rental units. In Year 2, the plan is less specific. Upon meeting the goal each year, the NAHT could deny certain applications if they wished.

Another member asked what type of projects would deliver the most? Chair Tymon described a friendly 40B with rental units, where all units count toward the 10% goal. There has been a very severe loss of over 300 rental units since 2000. By definition, rental units were more affordable than single-family homes. The city produced less than a dozen rental units in the same amount of time. Affordable units can be spread throughout the community in smaller, 15-20 unit buildings.

Director Port said there was a lot of process involved meeting state requirements in order to qualify and it would be easier to do them all at once rather than having them in a variety of projects all over town. This was a guidance document to follow for how we work together and, by adopting it as a board, it is meant to help the board look longer range in their actions.

Bonnie Sontag moved to give full support to the Affordable Housing Trust's proposed Housing Production Plan and send a letter to DHCD. Don Walters seconded and all were in favor.

***c) 26 Toppans Lane
ANR***

Everett Chandler, Design Consultants, Somerville /Newburyport, represented Northbridge Communities, LLC in seeking to develop four lots from the Rindler Estate. Lot 1 was off Wallace Bashaw Way and would be congregate elderly housing called Avita Northbridge. Lot 4 was the homestead estate with Toppans Lane frontage. Lot 3 was designated as 'not buildable' and would be gifted to Anna Jaques Hospital for additional parking. Lot 2 had adequate frontage on Toppans Lane for development, although there were no current plans to do so. All of the proposed lots, with the exception of Lot 3, meet the lot size, frontage and access requirements for development. The Planning Office recommended endorsement of the plan.

Cindy Zabriskie made a motion to approve the Toppans Lane ANR. Don Walters seconded and all were in favor.

Chairman Bowie said the actual application had to be signed by the owner. Mr. Chandler said the owner will sign Friday and Chairman Bowie said the board would sign this evening.

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

3. Old Business

*a) Jay Caswell
325, 323R, and 329 High Street
Definitive Subdivision
Continued from February 6, 2013*

Chairman Bowie summarized the state subdivision control law. Everett Chandler, Design Consultants, discussed the no-waiver plan. One of the issues from the last meeting dealt with remnant language in the ordinance regarding topography. The rules and regulations state there were to be no new roads within 300 feet of the centerline offset. The new plan provided 303 feet from the centerline. Section 6.8.11 on intersections described how a new street intersects with an existing street. Jogs with less than 150 feet are not permitted. In the three lots there is a requirement to have 80 feet of frontage for an 8,000 square foot lot. That left 100 feet between lots in Zone R1 and 80 feet between lots in Zone R2. They created a design that meets all the requirements.

Steve Sawyer, civil engineer, Design Consultants, described details of the design changes. There was concern about the treed area along the eastern abutting properties of the subdivision. They proposed a 15-foot wide planting zone along the boundary. Mr. Sawyer pointed out the existing trees and how it would look filled out to 15 feet. The plan was embellished by Mike Hathaway, a certified arborist, with a mix of red maples, black tupelo, pin oak and Japanese lilac. Stormwater feedback from Jon-Eric White, city engineer, and peer reviewer Christiansen & Sergei, was addressed with a proposed radius inlet to direct water into drainage units. Mr. Sawyer deleted one rain garden and increased the size of the rain garden at the end of the road. There were erosion concerns in the inlet area and that was addressed by rolling in a rip rap embankment. The infiltration areas grew a little bit and the turnaround was extended on one side by 5 feet. Mr. White asked for a four-bay in the infiltration areas and proposed is a small fieldstone wall with a pea stone filter in between to further filter water before it flows into the Cultec chambers. Christiansen & Sergei recommended a 25-foot rounding at the entrance. Mr. Sawyer could not think of a single street on High Street that had anything other than a 5-15 foot rounding and proposed a 5-foot rounding. Although fire trucks would encroach on the opposite lane, anything over 5 feet did not fit with the character of High Street and fire trucks were infrequent.

Director Port said everything has been submitted to department heads with comments to come.

A member asked about the plan for vegetation at that entrance. Mr. Sawyer said a Princeton elm, set back for ample site distance, was proposed for one corner and there was an existing tree on the other side, between the sidewalk and the road, that would be taken down and replaced. Throughout were sugar maples, Japanese lilacs, tulip trees, black tupelo, eastern redbud, evergreen with 50% red maples, and the other species mixed in. There were some existing Norway maples that would be maintained.

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

Another member asked if an overview regarding how utilities tie into the street was performed. Mr. Sawyer had not brought the utility plan, but said the sewer ties into the manhole in the street. There was a utility pole on the street and utilities would be overhead, across the street, until going underground. The water tied into High Street. There was a comment from Department of Public Services to extend water to the future senior center site, and it would be stubbed at the end of the property line for the future connection. A member asked how the side rain gardens would be protected from the residents? Mr. Sawyer said the gardens were very shallow, only a foot deep, in a mulched, planted area. The member said the gardens were near resident's property lines. How did the Homeowner's Association play out? Attorney Rob Brennan, Newburyport, said it was set up as a trust maintained by the trustees.

Chairman Bowie asked the reason for choosing a trust instead of a Homeowners Association? Attorney Brennan said trustees carried responsibility in perpetuity; it was a good mechanism. Chairman Bowie asked Mr. Sawyer if the water line would serve the Senior Center? He noted there was a water line coming in from Myrtle Avenue that would be maintained. Mr. Sawyer said the two would connect to make a loop. Director Port added that it was a utility/repair issue and better for water quality because the water would always be moving.

A member asked if there was any way to save the house at 325 High? Mr. Sawyer said the house had been neglected and had numerous problems. Another member asked if the board received the actual comments from Christiansen & Sergei? Director Port said no. The member wanted to know if the board would have a chance to review the trust agreement? Director Port said yes. The member said there were abutter's concerns about water and drainage. He wanted to make sure abutters had recourse. Director Port said it was a good question. The city was unlikely to accept responsibility for a dead end street because it didn't connect to another street. Mr. Sawyer said he created language to address that concern that said if the Cultecs were holding water 36 hours after a rain event, they were to be replaced. If the Cultecs start to fail, the closest homeowners would realize it before any abutters because they would be the first ones affected. The member said Route 113 was a state road. Mr. Chandler said the state roadway ends at the Home for Aged Men.

Public comment opened.

Dave Suuromen, Brooks Court, thanked the applicant for addressing some of their comments. The subdivision regulations were interesting. It was 300 feet to Brooks Court, did that pose a problem to Highlawn Terrace on the other side? Mr. Sawyer said Highlawn Terrace was across from Jefferson Street and had 350 feet.

Erin Connelly, 10 Brooks Court, asked what the width of green space on the left side of the entrance was? Mr. Sawyer replied it was 100 feet tapering down to 25 feet. Ms. Connelly asked if there were any changes in drainage? Mr. Sawyer replied yes, the planting area was pulled forward and they would take out saplings and anything unhealthy.

Public comment closed.

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

A member asked if there was supposed to be a condition of approval for an easement for the turning of the fire truck for lot 4? Director Port said yes. But the right of way was restructured so there is now no need for this condition. Mr. Sawyer showed where the right of way ended, saying a fire truck didn't have to go into the private way.

Chairman Bowie said the only time the prohibition of streets within 300 feet of existing streets appears is in Section 6.7.3, a subsection of the basic street requirements that deals with topography. It was not even worded as a complete sentence. The Chairman was certain that, since he had been with the board, no previous subdivision application had ever considered it, that he was aware of. It had never been part of any Christiansen & Sergei review. The update of the board's regulations came in part from another community. He believed that the language was not intended to be included. Within the past 5 years, no court has commented on the 300 feet issue. CSI had reviewed the full plan, including the stormwater. There had been some back and forth and there remained comments on some changes. The board would like to have those issues finalized before a vote. We could continue March 20th. We need five members, and although two will be absent, everyone else will be present.

Chairman Bowie made a motion to continue the Definitive Subdivision application to March 20. Bonnie Sontag seconded the motion and all members voted in favor.

***b) Chart House Development, LLC c/o Mark Griffin, Esq.
2 Mechanics Court
Section VI.C Special Permit
Continued from February 20, 2013***

Craig Pessina, applicant, had met with the Newburyport Affordable Housing Trust and, taking the board's suggestions, created a two-bedroom affordable unit. Restoring the 1790 building and providing an affordable unit were the public benefits for the application. Chairman Bowie asked if the restoration plans would remain the same. Mr. Pessina would restore less overall, but include everything the Historical Commission asked for. Instead of a wood roof, he would use asphalt; instead of a pocket park, it would be a green space. Chairman Bowie received from Mr. Pessina confirmation the restoration would include what the Historical Commission requested in writing. A member asked if Mr. Pessina would use simulated divided-light windows? Mr. Pessina said he would use wood windows with true divided-light. Scott Brown said simulated was a high-end solution for divided lights with insulated glass, but they will conform with the spirit of the request. Mr. Pessina differed, saying he would use wood windows with true divided light.

A member asked if the rendering previously distributed accurately reflected the revised proposal? Mr. Pessina said, essentially, from the front, from the streetscape view. There would be a sign on the property about the historic building. Another member said the improvement to the gateway way the greatest public benefit. Another member thanked Mr. Pessina for finding a way to restore the building and provide an affordable unit in an attractive development.

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

Chairman Bowie sought to clarify if everything on the rendering would still go forward. Mr. Pessina confirmed a sidewalk; wooden, divided-light and double-hung windows; clapboard siding; and green space on the street side of the building.

Public comment opened.

Debra Mousley, River's Edge, asked if there would still be two buildings and if Director Port went over to see the flooding? Director Port did go but didn't see flooding as Ms. Mousley described. She asked where the green space would be for the rear building? Mr. Pessina said the stormwater run-off would be addressed by his engineers and wouldn't be worse than it was at present. Ms. Mousley said her concern was that she didn't know how it could be any worse than it already was.

Public comment closed.

Chairman Bowie thanked Mr. Pessina for his revised proposal, saying it was a great project in an area that would benefit from it and the outcome of his work with the Newburyport Affordable Housing Trust. A member asked if there were conditions the board wanted to consider? Director Port would cover the items for exterior renovation listed in the Historical Commission letter and secure clarification on the affordable unit itself. He read a draft list of conditions: preservation of the existing building to include contents of an email from Historical Commission on February 13 and the rendering on February 20, with the difference of an asphalt roof, 5/8s true divided-light, double-hung windows, and not necessarily a true public park, but green space on the street side of the building. Director Port said the conditions would also include language regarding an affordable unit.

Don Walters made a motion to approve the Section VI.C permit with the conditions. Jim McCarthy seconded the motion and all members voted in favor.

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) Northbridge Communities, LLC
26, 30, 32 Toppan Lane
Major Site Plan Review
Continued from February 20, 2013*

The board received a written request for continuance. The plan under review had generated comments from Christiansen & Sergei that the applicant needed more time to address.

Don Walters made a motion to continue the Major Site Plan Review to Mar 20. Cindy Zabriskie seconded the motion and all members voted in favor.

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

4. New Business

- a) 40 Merrimac Street, LLC
40 Merrimac Street
Major Site Plan Review Application Completeness Vote*

Chairman Bowie announced a conflict of interest and turned the meeting over to Vice Chairman, Jim McCarthy. The Vice Chairman said that he, Director Port and Kate Newhall-Smith reviewed the application. Revised plans were due because there were discrepancies in the requirements for a completeness vote. If materials were complete on March 20, the board could open the public hearing on April 3. Vice Chair McCarthy recommended withholding the completeness vote until materials were viewed on March 20. He did not want to waste the board's time reviewing materials with discrepancies. The applicant was fully aware of the list of discrepancies and missing items.

Paul Dahn moved to deem the Major SPR Application incomplete and continue to March 20. Cindy Zabriskie seconded the motion and all members voted in favor.

5. Planning Office/Subcommittees/Discussion

Updates

In the last meeting Director Port had recapped for the board some potential zoning changes that would be discussed next week with the City Council. Some communities were adopting a moratorium on medical marijuana. He thought Newburyport would want to consider that. The Planning Office needed more time to evaluate locations for the Council to consider in the coming weeks. The city may receive regulations in April and would need time to review them.

City Council would be looking at zoning housekeeping issues, one of which was minimal architectural design elements. The Planning Office would spend more time on additional zoning changes in the coming weeks.

6. Adjournment

Chairman Bowie made a motion to adjourn. Paul Dahn seconded the motion. The motion was approved unanimously and the meeting adjourned at 9:05 PM.

Respectfully submitted,

Linda Guthrie
Note Taker