

**City of Newburyport
Planning Board
April 16, 2014
Minutes**

The meeting was called to order at 7:05 PM.

1. Roll Call

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

Absent: Paul Dahn and Bonnie Sontag

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

2. General Business

- a) The minutes of 4/2/14 were approved as amended. Henry Coe made a motion to approve the minutes. Jim McCarthy seconded the motion and three members voted in favor. Noah Luskin and Don Walters abstained.

b) 5 Twomey Drive – ANR

Everett Chandler, Design Consultants, Inc., 68 Pleasant Street, Newburyport, spoke on behalf of applicant, Jay Caswell. The envisioned area was originally prepared as an easement. Potential purchasers of lot 6A preferred the area to be labeled “not buildable.” Proposed lot 6B would remain the responsibility of the Homeowner’s Association. A member asked if the change would affect access rights for the DPS? Director Port responded it would not.

Don Walters made a motion to approve the ANR. Henry Coe seconded and all voted in favor.

Motion Approved.

Mylars were signed.

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) Twomey Drive Covenant Release

Mr. Chandler requested a release from the covenants for the lots. The road was built as drafted. Minor variations did not affect the flow. The peer review engineer reported everything appeared in order. Steve Sawyer, Design Consultants, evaluated the drainage, which will function in the desired manner. Mr. Chandler was satisfied with the construction. The water loop had been

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installed as designed on the approved subdivision plans. A discrepancy in the minutes had been resolved. Patches of road heaved, were taken out, reinstalled, and approved by the DPS. All design elements presented to the board were in compliance.

Director Port said the abutting Senior Center had not begun construction yet and the new school was still under construction. Once the old school was demolished, the city would be ready for the water line. He wanted the water line gap closed at the end of the subdivision as a condition of approval. Under DPS review and through the Water Superintendent, the city held \$10,000 in escrow of which only \$8,000 was needed now. This was the only remaining issue.

Chairman Bowie could not recall why the board would request a connection to city property and expressed concern about whether the board agreed to require the connection and then did something else. A member recalled discussing the loop and wanted the applicant to be motivated connect the loop from the other side if the city wanted it. Another member asked who was responsible for making the connection? Chairman Bowie was unsure who held responsibility.

Director Port said the decision language gave responsibility to the developer if the water and sewer line was present. The city was two months away from upgrading water and sewer lines at the location. Once the line was installed, the gap would be closed. If the contractor for the Senior Center or the new school chose to close the gap, the city would release all escrow funds to the developer. A member asked if there was a reason why one of the alternatives couldn't be stated clearly in order to get the work done? Director Port could draft language tomorrow and put it on the record. The decision wording currently read "...make a complete loop rather than leaving stubs..." A member asked if the word 'existing' was in the decision? Director Port replied yes and the member said the wording implied that the line was already in place. Mr. Chandler agreed; otherwise, the work could not be done. The member suggested the wording needed to say 'the newly constructed or reconstructed line.'

Director Port said the board was clarifying for a certificate of vote tonight and not changing language in the decision. Chairman Bowie asked how the board could make the directive clear if there were three options for proceeding? He did not want to be grappling with three options later on if there was a preferred way of proceeding that could be figured out now. He also did not want the applicant doing more than necessary. Director Port said the distance would be less because the city was bringing stubs out. Mr. Caswell would do the work but needed clarification because his work was complete now. He would ask the contractor to complete the loop before receiving the escrowed funds. Director Port said as soon as the DPS approved the work, the city would release the funds.

A member suggested putting a considered date on the work. Director Port replied the latest work could be finished was late July or early August to coincide with the new school's opening. The member wanted a stopgap date. Director Port said the work should be done before September 1st and Mr. Caswell should have his funds sooner. A member asked if Mr. Caswell was requesting the option to put the line in himself? If the date were missed, the city would have to request the option to go in. Director Port said access for utility work was not an issue. If the line were not installed for any reason, Mr. Caswell would have waited the required time and should receive his money. The city would have to pay to have it done. An easement and city property were the

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same, basically. The member was unaware of a street there; it was a driveway. He asked about the road patch made when utility work was done and a resident's concern about the depression. Mr. Chandler said the depressed patch was done purposefully, to account for frost heaving, but the resident requested the depression be corrected. The DPS performed work to make it level and it became a speed bump. The member said the board just approved lots 6A and 6B, would it be better to have the lot lines on the one the board just approved? Mr. Chandler said it was a non-buildable lot. Director Port asked if it was on the subdivision plan set or the Assessor's map? Mr. Chandler said the ANRs he signed would have no effect until the deed was conveyed after peer reviewer Christiansen & Sergi, Inc., 160 Summer Street, Haverhill, MA, had reported back to the board? Director Port said yes.

Don Walters made a motion to hold \$8,000 in escrow funds until September 1st and for the full release of covenants on the lots. Henry Coe seconded and all voted in favor.

Motion approved.

Chairman Bowie said the board did not have a draft of the vote tonight. The Planning Office would draft the vote to make it available to the board tomorrow afternoon for signing.

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3. Old Business

- a) *Leonidas Theodorou*
190 State Street
Major Site Plan Review
Continued from April 2, 2014

The Planning Office received another request to continue due to ongoing efforts to address issues raised in the peer review. A member asked what the time limit was for the board to continue? Chairman Bowie said 90 days. Director Port said the Planning Office would let the board know if requested continuances would put the board in a position to deny the application.

Henry Coe made a motion to continue the Major Site Plan Review application to May 7th. Don Walters seconded and all voted in favor.

Motion Approved.

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4. New Business

- a) *New England Development*
Harbor Way (35-41 Water Street, 43 Water Street, Water Street Rear, 51R Water Street, 51 Water Street Rear Wharves, 63-65 Water Street, Stanley Wharf, and 49 Water Street)
Preliminary Subdivision Plan
- b) *New England Development*
Titcomb Terrace (1 Titcomb Street, 5-7 Titcomb Street, and 9 Titcomb Street)
Preliminary Subdivision Plan
- c) *New England Development*
Titcomb Way (90 Pleasant Street and 80 Merrimac Street)
Preliminary Subdivision Plan

The Planning Office learned today that the individual presenting on behalf of the applicant was unavailable this evening. A member said the meeting did not have to be held for the applications to be in process. Chairman Bowie said the filing of preliminary plans froze the zoning.

Director Port said the applicant did not show any buildings to be placed on the lots, but plans were sufficient to categorize the application as preliminary, as required for a subdivision. When the board opened the meeting for the preliminary plans, the plans would not appear clear enough, so the board would need to ask for greater clarification. The applicant would comply as a condition of approval. Zoning was frozen during that time and the applicant would be required to proceed to the definitive plan. The Planning Office did not think the situation would get to that point because the applicant did not intend to build what was represented on preliminary plans – the intent was simply to freeze the zoning. A member asked if a Preliminary Subdivision Plan did not have to say what the applicant planned to build? Director Port said no, the only requirement was to show the land could be divided conceptually, if they wanted. A Definitive Plan contained the details.

Don Walters motion to continue the application to May 7th. Henry Coe second and all voted in favor.

Motion Approved.

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d) *Tropic Star Development LLC*
75, 79, 70R, 81, and 83 Storey Avenue
SPR Application Completeness Vote

Chairman Bowie said the Planning Office found the SPR Application complete. A member asked if it would be a gas station? Director Port replied affirmatively. The application was basically the same concept the board saw many months ago, with the addition of assets on Low Street. Shifting the gas station down would be better for the street, preventing queuing for pumps and improving traffic. Curb cuts were moved away from the intersection. The member said the area would be wall-to-wall pavement. Director Port said there would be a condition for some land from the applicant if the project proceeded.

Don Walters made a motion to approve the Tropic Star Application Completeness. Henry Coe seconded and all voted in favor.

Motion Approved.

Chairman Bowie said this application would return also on May 7th. Would everyone be present? Director Port said the application would require considerable deliberation time.

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3. Planning Office/Subcommittees/Discussion

a) *Updates*

The zoning overhaul project was updated.
The Towle project was updated.

4. Adjournment

Don Walters made a motion to adjourn. Henry Coe seconded and all members voted in favor.

The meeting adjourned at 8:25 PM.

Respectfully submitted -- Linda Guthrie, Note Taker