

**Planning Board  
Newburyport City Hall**

The meeting was called to order at 7:00 P.M.

A quorum was present.

**1. Roll Call**

**In attendance:** Dan Bowie, Bonnie Sontag, Anne Gardner, Jim McCarthy, Don Walters, Henry Coe, Julia Godtfredsen, Paul Dahn

Absent: Sue Grolnic

Emily Wentworth and Andrew Port of the Planning Office were also present.

**2. General Business**

**a) Approval of the minutes**

**Minutes of May 4, 2011 Meeting**

Henry Coe made a motion to approve the minutes as submitted.

Julia Godtfredsen seconded the motion to approve amended minutes.

**Votes Cast:**

Dan Bowie: approve

Bonnie Sontag: approve

Paul Dahn: approve

Jim McCarthy: approve

Don Walters: approve

Henry Coe: approve

Julia Godtfredsen: approve

Anne Gardener: abstain

**b) Kimberley Realty Trust**

**43 Pine Hill Road**

**Approval Not Required Application**

This was represented as a fairly straightforward application creating a new Lot 2 from Lot 1. The lots have adequate frontage for the R1 Zoning District.

Bonnie Sontag made a motion to approve.

Henry Coe seconded the motion.

**Votes Cast:**

Dan Bowie: approve  
Bonnie Sontag: approve  
Paul Dahn: approve  
Jim McCarthy: approve  
Don Walters: approve  
Henry Coe: approve  
Julia Godtfredsen: approve  
Anne Gardener: approve

**During the course of discussion and consideration of this application, the 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.**

### **3. Old Business**

**a) James Bourque Construction  
William Griffin Way  
Performance Guarantee and Definitive Subdivision Endorsement**

James Bourque deposited \$35,000 into an account and is waiting for Performance Guarantee. The plan is ready for endorsement.

Henry Coe made a motion to approve.  
Anne Gardner seconded the motion.

**Votes Cast:**

Dan Bowie: approve  
Bonnie Sontag: approve  
Paul Dahn: approve  
Jim McCarthy: approve  
Don Walters: approve  
Henry Coe: approve  
Julia Godtfredsen: recuse  
Anne Gardener: approve

**During the course of discussion and consideration of this application, the 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.**

**b) Springwell Investments, LLC  
Oleo Woods Subdivision/Russell Terrace Extension  
OSRD Special Permit Modification**

## **Definitive Subdivision Modification**

Bill Sheehan, Attorney, representing Springwell Investments LLC., spoke reminding the Board that on April 20, 2011 he had provided a summary of changes to the plan. Most of the changes were fairly well-received. There had been a lot of discussion about building materials and he reminded the Board that Mr. Green had suggested Board members visit a subdivision in Seabrook, NH to get a better sense of the building materials.

There were 3 proposed changes that were discussed at the meeting on April 20, which have now been incorporated into the plan:

- Lot 18 changed from a duplex to 2 single family homes.
- Reconfiguration of lots 9 and 10 which makes Lot 10 a buildable lot.
- Removal of Parcel B from the subdivision

The focus of the discussion tonight was on Lot 10 and Lot B. Attorney Sheehan reviewed reasons why Lot 10 shouldn't be built as well as reasons why it should be built. He said the Board has the power to let the developer build on Lot 10.

### **Lot 10 Discussion**

Mr. Sheehan proposed that the major reason for not allowing Lot 10 to be a buildable lot would be the impact on the wetlands. The developer has been working with the Conservation Commission and the Conservation Commission approved an amended order of conditions. He referred to the Chairman of the Conservation Commission, Joe Teixeira, who was at this meeting to speak and answer questions. With input from the Conservation Commission they reconfigured Lot 10 from the last time they presented to the Planning Board. The driveway was too close to the wetlands, they moved it west away from the wetlands. There was concern about blowing snow – would it interfere with the wetlands? To address this, they plan to plant trees along the line of the wetlands. There will be trees, stonewall, bushes around the rain garden. The turn-out area now turns away from the wetlands. The Conservation Commission was satisfied that Lot 10 would not have a major impact on the wetlands. Mr. Sheehan noted that the home on Lot 10 will be in a wetlands buffer zone, similar to Lots 14 and 15.

Mr. Sheehan indicated that Lot 10 should be built because of the economic reality that makes it difficult to sell. Profit margins have to be cut in order to sell. The profit associated with Lot 10 will give the developers an incentive to build. There are currently major problems with the pump station that services Russell Terrace. DPS estimates it would cost \$400k to build a new pump. DPS has asked the developer to build a new pump and the developer is willing to do this. This new pump station will serve the development as well as the houses that are there now. This will save the City \$400k; the developer can build this for approximately \$200 - \$300k. Mr. Sheehan asked that the Board take this into account when determining whether to lift the restriction on Lot 10.

### **Questions, comments, and concerns about the proposal for Lot 10**

Chairman Bowie indicated that this was one of the first projects to come in under OSRD ordinance. There was a 2006 decision clearly stating that the Potentially Developable Area (PDA) line be in the southern portion of Lot 9. He was concerned that they are planning on

changing the PDA. The only difference between Lot 10 and the other lots is the small finger of wetlands. Why wasn't Lot 10 originally included in the PDA?

Mr. Sheehan indicated that they had a letter from Frank Todd, Landscape Architect, confirming that Lot 10 was very much like all the other lots, the major difference being the small finger of wetlands on Lot 10. He went on to say that this small finger of wetlands could be carved out from Lot 10.

There was a question about how Lot 10 related to the tax credit. Mr. Sheehan did not understand this. Board member Gotfredsen thought that when this was initially brought up with the Conservation Commission, Lot 10 was to be an open parcel for passive recreation for the neighborhood.

Chairman Bowie is still concerned about one plan that has a PDA line in one place and the new plan with a different PDA line. He wondered whether Mr. Todd's findings were related to the fact that there had been significant cutting on Lot 10. The condition of Lot 10 now may not be what the condition was prior to the cutting.

In the 2007 decision that dealt with cutting, it was determined that there would be significant plantings on lot 10: the Board asked where will all those trees go? Mr. Sheehan indicated that there had been so many trees designated for planting on Lot 10, that it wasn't clear it made sense for their survival. The current plans have taken all those trees, added 16 additional trees (15%) and have relocated them. He discussed the locations where they will be relocated.

Chairman Bowie remained very concerned. He doesn't understand how we can be considering this without giving attention to what was done before. He asked the Conservation Commission Chairman, Joe Teixeira, what he thought. Mr. Teixeira did not have a problem with the trees being spread out. He thought the survival of all these trees on Lot 10 was questionable. One Board member agreed that spreading the trees out seemed appropriate.

A question from the Board was asked about the snow removal on the driveway with a snow blower. How do you prevent potentially contaminated or a large quantity of snow from going into the wetlands? Conservation Commission Chairman, Joe Teixeira, indicated that snowblowing is not an issue, but there might be an issue if you were plowing it and consolidating the snow.

Another Board member asked if we should worry about the kids in the wetlands and in the rain gardens? Another Board member was less concerned about children but about preventing property owners from changing the wetlands. Mr. Sheehan indicated that the wetlands will be clearly identified. Each homeowner will be charged with not disturbing the wetlands. The Homeowners Association has the authority to enforce this as it is the holder of the conservation restriction. Essex County Greenbelt and the City of Newburyport also have the power to enforce.

A Board Member asked if we could take the wetland finger out of Lot 10. Others thought this was a good idea from an administrative point of view and could avoid a lot of potential

problems. By taking the wetland finger out, this lot would be more like the others. Mr. Sheehan agreed. A Board member requested a specific plan indicating which trees from Lot 10 were going to which specific new locations.

The Board indicated that from a planning perspective, if the developers want Lot 10 they have to show that what they are proposing will not have a negative effect: whatever is done has to provide the same functionality as the 2007 plans and the onus is on the applicant to show this.

One Board member asked if the developer had considered building any usable open space into the subdivision. Mr. Sheehan indicated that the site is very tight and it would have been difficult to do this. The Board member indicated that the development is dense; there are a lot of houses, possibly families and no place to congregate.

There was a lot of discussion about access to the open space. The developers had met with the Parker River Clean Water Association and indicated that one of their concerns was the trees along Route 95. Another Board member asked about building an easement between homes.

The developer spoke about the marketability of this subdivision. They are targeting “empty nesters”. During the 2006/2007 process, they may have been targeting families.

A question was asked about the storm water and related issues. The developer indicated that they will address these issues next time.

There was discussion about the aesthetics, the fact that the houses are lined up. The developer indicated that they are fairly restricted with the OSRD. The fact that houses are located above the roadway should help and landscaping should help.

The developer has met with DPS and DPS will review the new pump station plans. Mr. Sheehan mentioned that being able to build Lot 10 will help the developer with the costs associated with the new pump station.

Chairman Bowie asked if anyone on the Board shared his concern with the PDA line. There was general agreement that we need to find out why the line was drawn. Mr. Sheehan indicated the Conservation Commission has approved it, but they will work to address this issue. A Board member reiterated that the Planning Board is the ultimate decision making body that takes input from sources such as the Conservation Commission and DPS.

### **Lot B Discussion**

The attorney discussed what they are trying to do and how they plan to accomplish it. Timing is of concern. There are 2 alternatives for accomplishing their goal: 1: Take Parcel B and a sliver of Lot 18 from the subdivision before it becomes a subdivision or 2: Make a subdivision plan change and combine with 7 Russell Terrace.

Chairman Bowie asked if you can convey Lot B without violating the covenant. Mr. Sheehan indicated that on the older plan, sheet 4 notes need a change. There is a restriction in Note 5 that

none of these parcels gets conveyed until there is discontinuance. There isn't any guarantee of discontinuance. The developer would need relief from this restriction.

Chairman Bowie indicated that the note is minor; but he still doesn't understand how to get around the covenant. He suggested putting the road in ANR Lot B and add to Lot 7.

There needs to be recognition in the plan documents that they would be permitted to combine pieces of the subdivision with pieces that are not part of the sub-division at a later date. One board member asked if it is subject to being one of the house styles? Others were concerned that the house should be similar to the other houses. Mr. Sheehan said that this is a fair condition. The developer said the style wasn't an issue, but he had different dimensional requirements. He couldn't guarantee same footprint. The developer said there are different set-back requirements on the OSRD lot. Andrew Port indicated that the architectural style is what is important.

The Board agreed that the developer move forward with alternative 2: Put parcel B back in subdivision, with combination of Parcel B, 7 Russell Terrace w/ ANR plan.

#### **Building Materials Discussion**

Board members visited a site that this developer has completed and said it looked fine. Many were impressed. Previous concerns about the building materials seem to have been alleviated by the site visit. Board members impressed by the entire development, not just the building materials. The developer confirmed he would be using the same sub-contractors for the Newburyport development.

#### **Public Comment**

None

#### **Board Discussion**

The board provided additional thoughts on Lot 18. One Board member asked about the windows on the facing sides of the two homes. The contractor said he could put in windows, but would stagger them. Another board member made the comment that whatever is done in terms of windows would be good since there were no windows on those sides when it was originally a duplex.

Emily Wentworth notes that in the latest Christiansen and Sergi review there were site plan changes related to the easements: 2 easements had changed since the last approval. The Board agreed that this was a concern that needed to be addressed.

#### **Continuance until June 1**

The Oleo Woods/Subdivision/Russell Terrace Extension discussion will continue at the June 1 meeting

- The mitigation plan needs to be elaborated

- The revised PDA needs to be justified
- Parcel B needs to be put back into the subdivision

**c) 17 Graf Road Realty Trust**  
**17 Graf Road**  
**Major Site plan Review**

Per a request for a continuance from the applicant, the site plan review was moved to June 15, 2011.

Bonnie Sontag made the motion to accept the request.

Don Walters seconded the motion.

**Votes Cast:**

Dan Bowie: approve

Bonnie Sontag: approve

Paul Dahn: approve

Jim McCarthy: approve

Don Walters: approve

Henry Coe: approve

Julia Godtfredsen: approve

Anne Gardner: approve

**4. New Business**

**a) Port Associates Limited Partnership**

**4-6 Hale Street**

**Application Completeness Vote and Pre-Application Hearing**

Steve Sawyer indicated that the plan calls for a new 28,700 s.f., 123 bed nursing home to replace the existing Port HealthCare Center (100 beds). The new building is designed to bring the facility into compliance with current Department of Health standards. Port Healthcare will continue to operate from the existing building during construction of the new structure.

Following demolition of the current facility, the parking and storm water systems will be installed. The applicant has filed a notice of intent with the Conservation Commission. There is a site walk-thru on Tuesday evening (5/24/2011) where they will be staking the wetlands and the building corners. They have hired a landscape architect (Bob Uhlig). They are negotiating temporary parking during construction with the Hope Church. A traffic narrative was not submitted.

There was a question from a Board Member about the sequence of construction events. There were questions about the landscaping especially between the property and the abutter.

The Planning Office recommended that the application was complete.

Paul Dahn made the motion the application was complete.

May 18, 2011

Henry Coe seconded the motion.

**Votes Cast:**

Dan Bowie: approve

Bonnie Sontag: approve

Paul Dahn: approve

Jim McCarthy: approve

Don Walters: approve

Henry Coe: approve

Julia Godtfredsen: approve

Anne Gardener: approve

**During the course of discussion and consideration of this application, the 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**

There was general discussion about the City budget cuts proposed for FY 2012 in the Planning Department.

**6. Adjournment**

Motion made to adjourn.

Motion seconded.

Motion approved unanimously.

Meeting adjourned at 9:40 P.M.

**Respectfully submitted, Jennifer Lamarre – Note Taker.**