

Planning Board and Planning & Development Committee of the Council
May 4, 2017

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

1. Roll Call

In attendance for the Planning Board: James Brugger, Leah McGavern, Andrew Shapiro, Bonnie Sontag, and Mary Jo Verde

In attendance for the City Council: Ed Cameron, Barry Connell, Robert Cronin (recused at 7:04 PM), Gregory Earls, Jared Eigerman, and Charles Tontar

Also in attendance: Andrew Port, Director of Planning and Development, and Judy Tymon, Chair, Affordable Housing Trust

In attendance for NED: Attorneys John Twohig and Tim Sullivan, Goulston Storrs; Scott Kelley Vice President, and Michael Duffy, New England Development Boston office (NED); and Ricardo Dumont, partner/master planner, Dumont Janks.

2. Planning Board and the City Council Public Meeting
Hearing

a) New England Development (NED)
Presentation of Development Plans for
Waterfront West Overlay District (WWOD) area

Subcommittee Chair Leah McGavern officiated. The context for discussion would be the existing zoning and prior studies to gain a baseline understanding of the site. The site was comprised of three zoning layers: Waterfront Mixed Use (WMU), Waterfront West Overlay District (WWOD), from the 2003 Waterfront Strategic Plan, and the cumbersome base zoning to which adherence was not required. NED applied for Master Plan Zoning. The discussion would review local regulations and precedents; local and state constraints for flood restrictions, new FEMA restrictions, Chapter 91 restriction, and wetlands restrictions; and design possibilities.

Councilor Cameron called the Planning and Development Subcommittee meeting to order.

Director Port said NED was asking to change existing regulations. The WMU District was meant to encourage the use of marine, civic, and cultural development. The WWOD allowed a comprehensive development scheme for part of the area to implement some 2003 Waterfront Strategic Plan goals. The 2001 Master Plan intended to accomplish the architectural scale and character consistent with the historic downtown with reduced setback requirements; mandatory build-to lines; mixed-use buildings; a lively mixed-use waterfront district with public space, intimately scaled streets, public ways, and key views to the water from Merrimac Street; maintain and protect marine-dependent uses; discourage surface parking lots and encourage structured parking; encourage shared parking strategies in mixed-use projects; encourage pedestrian ways to the water using alleys, sidewalks, plazas and other public open spaces; preservation and adaptive re-use of existing historic structures; and encourage affordable housing

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with density consistent with the downtown. This WWOD overlay allows NED to apply to the board for a special permit for large scale re-development, with minimum open space, maximum building height, required parking all on site, required affordable housing, preservation restrictions, and permitted uses such as multi-family, congregate housing, and other types.

The 2003 Waterfront Strategic Plan stated that Newburyport no longer had the same relationship of City to harbor that existed in the early 1800s when Federal-style commercial blocks were built to the water's edge. The plan focused primarily on reconnecting City and harbor by means of parks, public streets, walkways, bike trails, architecture, and a vibrant mix of community uses, and addressed a much larger area of the waterfront than the NED development. The vision and goals are a framework for going forward to: 1) support the working waterfront and enhance facilities for recreational and commercial maritime uses, 2) reinforce and extend the historic downtown to the waterfront with a new mixed use neighborhood, 3) dramatically improve public access to the waterfront while linking the North and South Ends to the downtown, and 4) enhance and expand public parks and civic spaces along the harbor for relaxation and recreation. How does this program fit into that?

Ricardo Dumont, DJGR LLC, 120 Kingston Street, Boston, said the team agreed with many aspirations in the 2003 Plan as their primary guide. The regulatory environment had changed since 2003. He displayed an image of the five-to-six acre parcel of Waterfront West today. The proposal's four goals were to: 1) establish a system of public ways extending the historic street pattern to the water, 2) extend the scale and character of downtown to the waterfront by establishing a vibrant harbor side neighborhood; 3) improve the pedestrian character of Merrimac Street with trees, walks, and infill redevelopment from the North End to the downtown; and 4) support maritime activities in the WMU Zone and a healthy mix of uses set back from the shore.

Three zones of flood plain regulatory constraints affected the site. The VE Zone required the elevation of the lowest horizontal structural to be at least 5-6 ½ feet above the existing ground surface. That meant the first 6-8 feet of the first floor could not be occupied. The first of two AE Zones required the first floor elevation to be at least 4-5 ½ feet above the existing ground surface. The second AE Zone required the first floor to be at least 3-4 ½ feet above the existing ground surface. Additional restrictions related to three Chapter 91 Regulations. The Water Dependent Use Zone disallowed parking and new/expanded non-water dependent use buildings. The 100-Foot Mean High Water Setback disallowed private tenancy at ground level, required the ground level to be a Facility of Public Accommodation, which included parking. The Commonwealth Tidelands Zone disallowed surface parking.

An image was presented illustrated the development areas constrained by each regulation to demonstrate the challenge in addressing the 2003 Plan goals of providing continuous and general access along the water for passive enjoyment; ensuring active ground floor public uses front onto major streets, ensuring a healthy mix of uses that served the downtown community and supported a vibrant mix of activities year round; creating a framework of streets, walks and squares that are clearly public and controlled by the City; creating a fourth public space along the

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waterfront to an urban square marketplace facing the water and lined with active uses; and maintaining marina uses.

The proposal's three main streets extended to the water with three smaller, walkable public ways. There were two possible places for a public square. Hilton's and Windward Marinas and their boats would remain. Buildings were turned sideways to avoid blocking the ways. Mr. Dumont presented an image showing possible areas for dedicated open space. Phased development over 8-12 years, depending on the market, would commence from one side to the other.

A site design could be presented on June 5. Access and transportation, where the major issue was parking, could be presented on June 15. The process and fiscal aspects of rewriting of the zoning could be presented June 29. Utilities/stormwater and sustainability/floodplain could be presented July 13. Director Port said dates were not exact and meant to provide a rough idea of the timeline. The City would peer review all design, regulatory, legal, zoning, and traffic proposals. NED would put funds into an account to pay for the City's consultants.

Ms. McGavern said the 2003 Plan addressed the existing disconnect between the waterfront and downtown with development goals that would extend the downtown. Councilor Eigerman said the pattern of NED's development on the upland part of the site, with retail and restaurants next to the water, did not match the pattern of downtown in Market Square, on State Street, nor on Inn Street. What other uses could be on the ground floor? The developer put forth what was economically feasible. The City could not compel a developer, using private land, to meet a preferred sense of balance between retail and residential. Buildings on the 2003 Plan differed from the NED proposal because they were limited to 40 feet. Judy Tymon, Chair, Affordable Housing Trust, asked if there was a timeframe for peer reviews? Director Port said that initial feedback would arrive in a few weeks. Consultants would attend all meetings. Design was the focus of the first meeting. Tonight's presentation would be posted on website. Ms. Tymon said the Trust had a number of negotiable and non-negotiable issues that she was reluctant to discuss with the developer present. Would there be a developer's agreement? Director Port said a developer's agreement would be discussed to address issues that could not be addressed in zoning. Board members said it was important that the development did not feel like a private enclave. Garage doors should not face the ways. Streets' widths should not feel like alleys at night. Members agreed with Councilor Eigerman about giving more thought to ground floor uses, including retail that reflected the character of downtown. One building blocked off the parking lot, which hampered the site's east-west circulation. Better east-west access would improve the site overall. An upcoming consideration for a Complete Streets policy should be included in the NED review.

Councilor Cameron agreed with everything so far. There would be tradeoffs on parking. Access could include an in-town shuttle or other possibilities. Would it make sense to move people from Storey Avenue/Market Basket Plaza to downtown to the commuter rail? He supported more commercial, retail, and restaurant. Would other commercial activities help or cannibalize downtown businesses?

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Ms. McGavern said success depended on the physical design. If there was continuity and a seamless connection, the space could function like part of downtown. How do you make that connection with the disjoint existing today? A lively, above grade pedestrian walkway would have to be up to 6 feet above in some places. That was a lot of steps. Success was dependent on solving tricky issues like that. Where was the public space called Waterfront West and how would you know you had arrived? The board did not want a residential oasis.

Councilor Eigerman said the Planning Office staff could evaluate the proposal against the 2003 Plan and present an analysis. The City Council would need an attorney to analyze the project against existing zoning. He was unsure whether retail could be at the ground floor. Mr. Shapiro asked about building heights exceeding 35 feet? Ms. McGavern said the plan indicated buildings should be two-to-three stories. Councilor Eigerman said an historical pattern of larger buildings existed, such as the Glenn's Galley building. Other buildings were lower. There was a relationship between the width of the street and the height of buildings. Tall buildings on narrow ways differed from a tall building on Merrimac Street. Ms. Verde said the 2003 Plan protected water views, specifically for upper floor units. That contradicted the NED proposal.

Public comment open.

Attorney Lisa Mead, Mead, Talerman, and Costa LLC, 30 Green Street, on behalf of Horton's Yard, the closest abutters, said the City was not required to change the zoning. There should be benefits for the City in any large zoning change. The Master Development Plan was a useful tool, but it was disadvantageous to lose sight of important zoning details such as the distinction that the Master Development Plan was not a special permit district, whereas the WWOD was a special permit district. The Master Development Plan, once adopted, could change entirely without a public hearing process. That could affect access to the water. Horton's Yard Condominium residents had concerns about height and density. The ridge height was 58 feet at the back of Horton's Yard. The eave line was 49 feet. The WWOD had a 35-foot height and a setback for higher floors. Without sufficiently sized walkways the space would feel like a cave.

Rob Germinara, 2 Ashland Street, asked if there were existing ways the public did not know about that could be compromised? Attorney John Twohig, partner, Goulston Storrs, 400 Atlantic Avenue, Boston, said research showed some ways affected Michael's Harborside more than the rest of the property. Mr. Dumont said their guides were the utility ways. Councilor Cameron asked if the Master Development Plan's zoning was the exact area of the WWOD? Director Port said NED's area was smaller.

David Powell, 3 Salem Street, had questions about a 600-page traffic report. Would the consultants be dealing with documents currently on the website or documents not in the public domain? How did the plan filed in 2016 under existing zoning relate? One wharf on the site had no relationship to the development and was for sale. A zoning rewrite of this complexity that became a comprehensive planning document with no special permit process was giving NED a free hand. Director Port said the 2016 filing was a preliminary plan.

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Attorney Mead asked who the City consultants were? Director Port said design was Jeff Speck, Speck and Associates; traffic was Nancy Doherty, Tetra Tech, Inc.; the regulatory consultant was undetermined; and the financial consultant's availability was unconfirmed. Ms. McGavern said Mr. Speck was a world-renowned architect for walkable cities.

Jeanette Isabella, 1 Lime Street, asked if an NED zoning change would set a precedent for other developers? The City needed a hotel sooner than the planned last phase.

Linda Lambert, Horton's Yard, requested a model of the development to assess building heights relative to the width of ways.

Hazem Mahmoud, 52A Ferry Road, requested electronic car counts on the heaviest traffic days.

Public comment closed.

Ms. McGavern said design would be discussed June 5. Subsequent meetings were as yet unscheduled. Director Port said all meetings would be posted on the City Calendar website. Joint public planning sessions would continue.

4. Adjournment

Ed Cameron made a motion to adjourn the Planning & Development Subcommittee. Jared Eigerman seconded the motion and all members voted in favor.

James Brugger made a motion to adjourn the Planning Board Subcommittee. Leah McGavern seconded the motion and all members voted in favor.

The meeting adjourned at 8:46 PM.

Respectfully submitted -- Linda Guthrie