

**City of Newburyport
Planning Board
May 7, 2014
Minutes**

The meeting was called to order at 7:12 PM.

1. Roll Call

In attendance: Dan Bowie, Henry Coe, Paul Dahn, Sue Grolnic, Jim McCarthy, Bonnie Sontag, and Don Walters.

Noah Luskin arrived at 7:40 pm

Absent: none

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

2. General Business

- a) The minutes of 4/16/14 were approved as amended. Henry Coe made a motion to approve the minutes. Don Walters seconded the motion and two members voted in favor. Bonnie Sontag and Paul Dahn abstained.

3. Old Business

- a) *Leonidas Theodorou
190 State Street
Major Site Plan Review
Continued from April 16, 2014*

Mr. Chris Theodorou represented the applicant, his father, for the retail and office building with parking on the traffic circle.

Mr. Brian Murray, Millennium Engineering, Inc., 62 Elm Street, Salisbury, MA presented a rendering similar to what was presented during the informal process, showing a two story building with about 6,700 square feet including an indoor corridor. This 1.5-acre lot off the traffic circle, site of the former Birdwatcher Supply and Gift store, would have retail space on the first floor, offices on the second floor. Features included consolidated driveway openings, down to two openings with a right turn only for exiting, from four openings across the property. MA DOT has responsibility for the area and agreed to the layout of consolidated driveways. With a total of 39 parking spaces, 11 are in front, including 2 handicapped, and the rest in back. Mr. Murray pointed out the trash storage, lighting system for parking area, building lights, and storm water management system consisting of wetland and swales. He could not meet all the conditions for an infiltration system under the parking lot because clay soil would create infiltration problems. The project was originally submitted March 5 and continued twice for peer review and technical issues. Water and Sewer Department tests would not support the building needs. Most likely, they would upgrade the

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water main in the street from 6" to 8" in diameter pending a letter from the DPS, whom they met with two weeks ago. As yet, there was no response from peer reviewer Christiansen & Sergi on new technical aspects of the infiltration system. A new sidewalk was around the building. Utility meters for electricity, water, and gas would be located on the side of the building that was not seen easily.

Chip Nutter, Woodman Associates, architect, 20 Inn Street, Newburyport, addressed the feedback and resolution of most issues related to massing, changing the elevation, and modulating the facade. The steel and wood frame structure was sided with fiber cement clapboards. Aluminum glass storefront and asphalt roof with mechanicals are sited toward the back of the roof, hidden from view. Floor plans included five retail spaces on the ground floor with a hallway corridor pass through to the stairs and elevator. The flat roof is pitched on the front, back, and sides to give an impression of a New England roof.

Kimberly Turner, Landscape Architect, KDTurner Design, 27 High Street, Newburyport, addressed buffers and screening for abutters. The parking counts required three large trees placed toward the back of property. The area with invasives would be cleaned up, three red maples planted, with smaller ornamentals within the parking. The buffer consisted of junipers and arborvitae. Simple foundation plantings and low growing shrubs across the front would be below three feet in height. The detention basin would have a conservation wet mix of native species tolerant to conditions and that keep invasives at bay.

A quick review of how the location of the building had evolved from initial plans was requested by Chairman Bowie and addressed by Mr. Chris Theodorou. The building had moved toward the street to accommodate a change from two rows of parking in front originally, to predominantly rear parking. A new curb cut allows vehicles to re-enter the traffic circle and travel back north. Mr. Murray brought MA DOT to the site to review the access. MA DOT asked for drainage in front and an upgrade of existing catch basins.

Board members asked questions concerning drainage, traffic, curb cuts, parking, and pedestrian flow. How would water be dealt with given the removal of the infiltration basin? Mr. Murray said water would travel to the constructed wetland. Christiansen & Sergi said the wetland could handle the amount of water without the infiltration system. Addressing traffic from the neighboring property, Mr. Murray said access between the two properties was wide enough to be two-way. The second curb cut on the south boundary of Leo's had not been on the previous site plan and MA DOT was aware of the second cut. Concern was expressed for pedestrians crossing through cars coming in from Route 1, emerging from behind the building, and waiting for someone to back out. There was no dedicated pedestrian way and a likely increase in pedestrians around the area once the railroad property was developed. Mr. Chris Theodorou identified the island sidewalk that did not connect to anything. He said there was a lack of pedestrian flow without a crosswalk or bridge from the rotary or the train. He agreed if something was built, there might be future pedestrian flow. Chairman Bowie said the board wanted more pedestrian travel in that area and plans for the 40R development at the train station would be part of facilitating future pedestrian traffic. Mr. Chris Theodorou said the rear was the ideal place to connect with pedestrians, where the train station and rail trail were located. A sign identifying best parking in the rear was requested to encourage

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cars to avoid front parking. Could the sidewalk go toward the north of the property to connect to the store front through the green space rather than wrap around? Mr. Murray said a utility easement went across the front of the property, but he would check the language. The entrance was through an existing driveway access. Director Port said it would be a concrete path and Mr. Murray said the sidewalk needed to be ADA compliant. Another suggestion was to move traffic to the back to protect pedestrians and to avoid traffic backing onto Route 1 while cars waited for a front parking space. The rear of the building was a storefront with a lot of signage.

Member's questions continued on landscaping, viewsapes, fencing material, and DPS flow tests. Front plantings were deciduous Spirea, leaving six months with no screening. Side plantings were also deciduous. Ms. Turner said evergreens could be considered for the front and Juniper would work for the foundation plantings on the side where it was shady between two buildings. Mr. Nutter said viewsapes from Route 1, disembarking from the train, and the start of the Rail Trail would be provided in a section drawing from the other side, where the elevation was different. Mr. Chris Theodorou said the site was raised slightly and much higher than the wetlands in back. Material for rear fencing with two gates hiding the dumpster was not specified. Mr. Murray was considering a stockade fence rather than chain link. A maintenance plan for the low shrubbery was not needed because the cultivar selected would not get higher than three feet. Mr. Murray said flow tests coming from the DPS would determine the upgrades. The building could not be occupied until the sprinkler system was hooked up. The property's existing flow had water going to the detention basin on the abutting property. Mr. Murray said they had a drainage and landscaping easement there.

Public comment opened.
Public comment closed.

Chairman Bowie said the outstanding issues for resolution of the engineering issues required a continuance to the May 21st meeting.

b) 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
Continued from April 16, 2014***

c) New England Development

Titcomb Terrace (1 Titcomb Street, 5-7 Titcomb Street, and 9 Titcomb Street)

***Preliminary Subdivision Plan
Continued from April 16, 2014***

d) New England Development

Titcomb Way (90 Pleasant Street and 80 Merrimac Street)

Preliminary Subdivision Plan

Continued from April 16, 2014

Attorney Timothy Sullivan, Goulston & Storrs, 400 Atlantic Avenue, Boston, MA and Stephen Glowacki, R.J. O'Connell & Associates, Inc., Civil Engineers and Land Planners, 80 Montvale Avenue, Stoneham, MA represented New England Development (NED).

Chairman Bowie said a preliminary subdivision plan was required for subdividing land, but did not afford the applicant any rights and there would be no public comment. Mr. Sullivan said there were three different preliminary subdivision plans as part of the NED planning process for individual commercial lots. The preliminary subdivision plans did not preclude areas that had been part of previous proposals.

In a high level overview, first was the Harbor Way Plan, an east end site with four lots labeled 1, 2, 3, and 4. Titcomb was a 3-lot subdivision. On a driveway instead of a cul de sac, the proposal would use portions of each property to create the subdivision roadway for the site. Titcomb Way was another 4-lot subdivision and a subdivision cul de sac was shown. The waiver would be for the size of the cul de sac.

Chairman Bowie asked if the intention was to build according to the plans. Was the board looking at something to be thoroughly vetted? Mr. Sullivan said the plan was a multi-use site. Director Port asked if there were conversations about building a hotel on the site? A hotel project was previously contemplated and the proposed layout made no sense for downtown as presented. Mr. Sullivan said the hotel had been discussed as one of the development plans in one of the areas and the preliminary subdivision plan did not preclude that. In the multi-pronged approach for what NED would do with these areas, this was the first step.

A member asked when the plans were drawn up and Director Port said March 27. Another member read the traffic statement and asked the purpose and meaning of the word "significant" in "no significant traffic change." There was no response. Chairman Bowie asked whether or not the proposed way on Titcomb Terrace was on NED land? Mr. Sullivan said NED would have to coordinate with the city. Director Port asked if NED was suggesting adding land to both sides of the drive to make it wider, even though it was city-controlled, and Mr. Sullivan said yes.

Chairman Bowie did not see a need to continue the application in order to reach a decision. The choices were: 1) to approve the preliminary subdivision plan, 2) to approve with conditions, 3) to deny, or 4) to do nothing. His inclination was not to make any decision and wait for receipt of the definitive subdivision plan to hold more detailed discussions.

Don Walters moved that the board take no action on all three NED applications. Henry Coe seconded and all 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.

4. New Business

***a) Tropic Star Development LLC
75, 79, 70R, 81, and 83 Storey Avenue
Major Site Plan Review***

Chairman Bowie introduced the project of a pharmacy with a drive-through window and a gas station as a review of a permitted use. The question would be how to make the project fit with the neighborhood. He read the legal notice.

Jeff Roelofs, 30 Green Street, Newburyport, attorney for the applicant, said events leading up to the project configuration indicated this would not be a one-night hearing. Traffic would not be presented at this meeting. The Woodman property was a large parcel at the intersection of Story Avenue, which it fronted, Woodman Way, and Low Street. The Shell Station and two houses rezoned for business were part of the project site. The history that included earlier rezoning efforts and the tripartite agreement was relevant to explaining the project configuration. Tropic Star had a concept plan at the time of the first rezoning discussions that consisted of several hearings. Both the City Council and residents were involved in discussions that did not lead to rezoning at that time, but helped identify the issues for Tropic Star. The major issues were traffic, a dysfunctional intersection, and adding traffic to Story Avenue. Tropic Star wanted to add access from Low Street if property owners agreed on a mutual access, but efforts to contact abutters were unsuccessful and the rezoning efforts died.

Tropic Star now had an agreement with the gas station on the corner, having purchased the property. Relocating and rebuilding the gas station for an access to Low Street offered significant improvements for addressing traffic. The tripartite agreement between the Woodman Trust, the city, and Tropic Star related to a large parcel of the Woodman property with an agricultural lien. Comments about the agreement made in 2011, amended in 2012 to reflect the pharmacy project, and the configuration being contemplated, would be presented tonight. Binding commitments to the city by Tropic Star included granting 20 acres in the rear of the Woodman parcel to the city to be maintained as open space. Other contiguous open space abutted the land. Tropic Star would provide access, parking, and \$15,000 to the city for maintenance. A separate \$25,000 payment to city would be used for off-site improvements of any kind. Future owners would be prevented from using the parcel for fast food, auto repair, or multiples of existing business types. Traffic mitigation efforts would be tied to the project.

The project consisted of a pharmacy, a newly repositioned gas station away from the intersection, and traffic improvement measures, including reconfiguration of the driveway access to the Shell station. The gas station now has four access drives at the intersection including Low Street, two on the corner of Story Avenue, one with its own light, and a third on Story Avenue further away from the intersection. Proposed were two new access drives further from the intersection and a light-timing analysis to improve traffic flow. Tropic Star would return before the board in two weeks to present the traffic mitigation and improvement report that was under review at the Merrimack Valley Planning Commission. Comments were not back yet. The

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project complied with the city's Master Plan, Strategic Plan, Open Space Plan, and would be a huge improvement to the intersection and Storey Avenue.

Wayne Morrill, engineer, Jones and Beach, Inc., 85 Portsmouth Avenue, Stratham, NH, said the property totaled 28.59 acres, with seven acres in the commercial district consisting of 145 feet of frontage on Low Street. Four residential houses would be removed with a loss of 11 bedrooms and four driveways. Replacing multiple Low Street and Storey Avenue curb cuts with a single access on Storey Avenue for a dedicated turn in, and one on Low Street was considered a big improvement. The pharmacy was 14,600 square feet with 71 parking spaces. A convenience store would be 2,500 square feet with eight fueling positions for the gas station. A concrete sidewalk would travel the length of Storey Avenue tying into Atria, as well as around the corner extending to Low Street. Other features included park benches, cross walks, a bike rack at back of site where a gravel parking lot provided access to the open space. A masonry wall with a fence rail and light poles wrapped the entire front of the building, including around Low Street and acted as a visual barrier. The Low Street driveway was moved as far back as possible with an underground detention basin maintained by municipal services coming down the middle of the two buildings. Power came from the existing pole. Extensive landscaping plans included a large number of red maples, spruce, shrubs, and ground cover. They looked at putting the building against the street but encountered problems with the drive through for traffic flow and elevation differences. Benefits of moving driveways away from the intersection included giving full access off Storey Avenue and space for queuing away from the intersection. Positioning the building back from the road allowed a good flow for emergency and tractor-trailers, and proper flow around both buildings. The New England style structure had no flat roofs; the gas canopy was also a full roof. The wall would protect the entire site.

Attorney Roelofs said the gas station would be viewed as a new station and requiring other permit hearings. Two freestanding signs, one each for the gas station and the pharmacy, both required ZBA review. Attorney Roelofs asked the board to defer review of these to a future date because a state highway review of reconfigured curb cuts would take time. He was aware that larger planning processes were underway and wanted to coordinate the project to complement that process. The peer review that included traffic, drainage, and general compliance to site plan requirements was just received and had not been responded to as yet. No problematic comments were identified. The difference between the previous concept and the new concept, as relates to traffic, was that only two of the three businesses previously contemplated were included.

Member comments were as follows. A fair amount of paved area was seen with buildings pulled further from the intersection. The board needed to fully understand the landscaping for all seasons and should see the applicant's traffic study, as it might be more detailed than the one the city was preparing. Director Port said Complete Streets covered the full length of Storey Avenue and was a different area of coverage, but the traffic engineers were the same for both reports, and the board would have access to their feedback. Attorney Roelofs said the timing on the study was about six months. MA DOT was focused primarily on safety and the city had other issues in focus. Tropic Star would come back to the board if DOT wanted changes, but more likely, configuration changes would happen at the local level. A member wanted a copy of the tripartite agreement for review, particularly if elements had applicability to the site plan review. Attorney Roelofs said there was a third addendum that was not yet signed. The document was not final,

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but the components outlined tonight were commitments. Director Port said his office might be able to do MA DOT amendments.

Member comments continued. Was part of the land in Chapter 61A (agricultural use) and was it being taken out? Attorney Roelofs said the provision would not apply to the land going to the city; that was the process that led to the tripartite issue. Director Port said there had been internal discussions with the Open Space Committee and Conservation Commission about the 20 acres of open space. A site walk with Greenbelt was planned next week.

Members commented on the parking spaces. On what basis were 71 parking spaces derived? Mr. Morrill said the pharmacy required 44 (three per thousand feet of retail space); the convenience store required 12 more. The member said 71 seemed excessive. The pharmacy should be closer to the street. Was the drive through required by the pharmacy? Mr. Morrill said it was. How did you go from 44 to 71 parking spaces? Mr. Morrill said Tropic Star felt they were needed based on a parking analysis. Director Port said Panera had the same number. Members responded there was a big difference with Panera's parking mostly in the rear and only a few spaces in front.

Chairman Bowie liked moving the gas station off the corner and the reduced number of access points. His biggest concern was the location of the pharmacy. The city ordinance encouraged people to build at the street and he wanted to see that happen. If it could not happen, he wanted greater detail as to why.

A member asked if anything precluded that, in 20 years, the open space could be used as athletic fields? Director Port said there was a good amount of wetland. If it were possible to create a field or two, the drive to it would be cost prohibitive.

Member comments continued. If the building could move and still have access to Low Street where it was shown, that would be better. The project was part of a neighborhood, not a freeway. A design does not reflect the neighborhood when 90% of what directs the design is cars and trucks. The design should reflect its gateway to Newburyport status. There was a problem with the service station shining lights into Atria. The design seemed a huge iteration from what the board saw two years ago. There had been no informal meetings, something the board encouraged. There was discomfort with the gas station position. The streetscape mattered and surface parking for 50 cars on the corner was a problem. The I95 bike trail would end at the park and ride, and the design lacked compatibility with that fact. The car drove the fundamental building blocks and that was problematic. The plan presented three years ago made more sense.

Public comment opened.

Larry Guinta, 139 Crow Lane, asked if it was possible to take a left at one of the entrances? Mr. Jim Mitchell, Tropic Star, said yes. Mr. Guinta asked what and how much Atria would see? Mr. Mitchell said screening would prevent Atria from seeing anything. Mr. Guinta asked who would maintain and remove snow from the Story Avenue sidewalk? Mr. Mitchell did not know. Director Port said MA DOT was unable to keep up with that area; maintenance would be the applicant's responsibility.

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Jane Nociera, 25 Clipper Way, said she used the intersection 10 times a day on foot, on a bike, and by car and it was extremely dangerous. She agreed that 50 asphalt parking spaces at the entrance to the city was a problem and asked how many lumens would project into the community from the big signs?

Sandy Barnes, 19 Clipper Way, asked what the proposed hours of operation were? Mr. Mitchell said the pharmacy operated 24 hours a day to start, then would cut back to whatever was warranted. Whatever hours the gas station had now would be similar. Ms. Barnes asked if a 24-hour operation would increase traffic and safety issues at those times when residents don't normally have to deal with it? How would you prevent people from cutting through? Mr. Mitchell said the traffic engineer would address that issue.

Rick Taintor, 10 Dexter Street, agreed with moving the building closer to the street and thought the wall would make pedestrians uncomfortable. He wanted to look at the traffic report detail. In Portsmouth, Amesbury, and Salisbury, the pharmacies were built closer to street; perhaps Tropic Star was trying to do too much with the site.

Joy Buckley, 87 Storey Avenue said her house was never dark because the gas station across the street was open 24 hours a day. Which way did the pumps face? Mr. Morrill said the pumps faced Storey Avenue. Ms. Buckley said the view from her house was a parking lot, a building, and pumps, and it was not pretty. Walking was not safe. The area was already filthy and this would make it worse.

Rich Kaplan, Port Plaza, was concerned about traffic issues. He would return in two weeks to talk about that with the traffic analysts. The study needed to look at the interflow of the whole corridor, not just in front of the buildings. His area was already used as a cut through and he was concerned the project would increase the cut through traffic.

Chairman Bowie said traffic was a big issue. Both sides presenting in one meeting was the most efficient, which was why traffic was not addressed tonight.

Public comment closed.

A member was surprised a convenience store would be considered viable across from two other convenience stores. Mr. Mitchell said it was not convenient to cross the street. If you were already there getting gas, it was convenient to go in right where you were. He did not consider the other store as competition. Members asked how the board could avoid replication? All traffic studies had been done on this configuration. A member said if the buildings were rearranged within three curb cuts, there might not be any difference.

Chairman Bowie suggested continuing. Attorney Roelofs would be ready to present traffic on May 21st. Director Port hoped the study would be reviewed by then. Attorney Roelofs said the June 4th meeting would likely address issues as well.

Don Walters made a motion to continue the hearing to May 21. Henry Coe seconded and all 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.

3. Planning Office/Subcommittees/Discussion

a) Board Membership

i. Resignation of Cindy Zabriskie

Suggestions were made.

ii. Liaison/Representative to CPC

The Planning Board needs to designate a representative.

b) Updates

Housekeeping zoning amendments, Harbormaster project changes, and the Medical Marijuana Moratorium were discussed.

4. Adjournment

Bonnie Sontag made a motion to adjourn. Henry Coe seconded and all members voted in favor.

The meeting adjourned at 9:43 PM.

Respectfully submitted -- Linda Guthrie, Note Taker