

**City of Newburyport  
Planning Board  
June 18, 2014  
Minutes**

The meeting was called to order at 7:04 PM.

**1. Roll Call**

In attendance: Dan Bowie, Henry Coo, Sue Grolnic, Noah Luskin, and Bonnie Sontag  
Don Walters arrived at 7:11 pm.

Absent: Paul Dahn and Jim McCarthy

Planning Director Andrew Port was also present.

**2. General Business**

- a) The minutes of 6/4/2014 were approved. Henry Coo made a motion to approve the minutes. Bonnie Sontag seconded the motion and four members voted in favor.

**3. Old Business**

- a) *Tropic Star Development LLC  
75, 79, 70R, 81, and 83 Storey Avenue  
Major Site Plan Review  
Continued from June 4, 2014*

Attorney Jeffrey Roelofs, 30 Green Street, Newburyport, presented a revised configuration from Tropic Star on the third night of hearings for the project. Traffic would not be addressed before the new concept was approved. Over 100 alternative configurations were reviewed in a significant investment of time to remove parking from the front or near the intersection and place the building at the street. The new concept concentrated on access from Low Street. Three large curb cuts were removed by pulling that property into the project. The revised configuration reduced the building size and eliminated the right turn-only lane. The drive-through and loading area were not in an ideal location, but a stone wall with screening would hide the loading area unless a truck was present. A building sketch defined the corner without elaborating on architectural details. Bricks would match the Institution for Savings building. A broken-up roofline was consistent with the Provident Bank down the street. The Shell Station was relocated to the far side of the property where a concern for screening headlights could be addressed further through landscaping and fencing.

The applicant was willing to pursue resolutions for the obstacles inherent in the concept, specifically an approval needed from the pharmacy company for a reduced building size and negotiating with the Shell Station, that would be somewhat blocked from view, over their reduced visibility. The building was now 10 feet over the setback, requiring a variance from the ZBA. Otherwise there would have been safety issues with the drive through. Relocating the Shell

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Station required going to the ZBA anyway and the applicant would go sooner rather than later for the setback variance if the board liked the new concept. Next steps also included re-engineering the stormwater, landscaping, lighting, architecture, and building design.

Scott Mitchell, Tropic Star LLC, owned pharmacies in Salisbury, Amesbury, Epping, Portsmouth, Concord, and Derry. His community development experiences aligned his concerns for the streetscape and traffic with Newburyport's concerns. Moving the building to the street eliminated preferred actions for cars, including circulating the building and waiting at the drive through window. A car would be required to recirculate the entire site and return to the window. But given the feedback, he was willing to create a good project for Newburyport. He was a long-term landholder, hands-on with his projects, and had never had problems with a neighborhood.

Chairman Bowie asked whether access points on Storey Avenue and Low Street had moved? Wayne Morrill, Vice President, Jones & Beach Engineers, Inc., 85 Portsmouth Avenue, Stratham, NH said the Low Street access moved 20 feet further south. The Storey Avenue access was unchanged. Chairman Bowie asked how many square feet of building was in the set back? Mr. Morrill said about 1200 square feet. Chairman Bowie had concerns about the loading area's location. Mr. Mitchell said there was no other way to configure the project given the national pharmacy design parameters that dictated identical pharmacy design in every project. Mr. Mitchell could not change the national plan. He doubted the pharmacy would redesign a store for him. The option was to move parking to the corner. Chairman Bowie asked if there was any pharmacy anywhere that had a drive-through and loading on the same side of the building? Mr. Mitchell did not know of any; it was a trade-off. The loading area would be unrecognizable unless a truck was present; that would not occur during Storey Avenue's busy hours.

A member asked about the number of loading bays? Mr. Mitchell said a single and one door at loading dock. Director Port asked if the loading door was at grade level? Mr. Mitchell said yes. Director Port asked what the relationship of the inside of the building was to the drive through? Was it possible to move loading from the northeast corner to the southwest corner of the building? Mr. Mitchell said the architect, who regularly designed 20-30 pharmacies per year, could not make it work. Loading took 20-30 minutes with a wb-50 truck. Pharmacy storage was on the mezzanine level. He would bring an internal floor plan to the next meeting. Director Port said the floor plan would help the board understand why the loading area and the drive through could not go on the same side. Attorney Roelofs said every effort was made to place the drive through and loading on the same side. He considered it important to help the board understand why it could not be done. Mr. Mitchell said the fall back position was parking on the side. He would have liked the front door facing the intersection. He would have to finesse something to make the pharmacy look correct. A member asked if the concept was examined 'opposite hand.' Mr. Mitchell and Mr. Morrill both said their efforts at 'opposite hand' placed the drive through at the corner of Low Street and Storey Avenue and the pharmacy wanted the drive through lane to begin at the front of the building. Attorney Roelofs asked the board to assume the loading area could not be moved. The starting concept, with parking on the corner, was the back-up plan. Not moving the Shell Station eliminated any need to go before the ZBA. Mr. Mitchell said tonight's concept was not their preference. Unless it was absolutely necessary, Attorney Roelofs did not want to go back to the pharmacy and the Shell Station.

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Director Port acknowledged there were easier ways to design the project, but saw numerous benefits to placing the building at the corner. Peer review looked at alternative configurations also. He liked the benefits to traffic and circulation, as compared to having the Shell Station there. Director Port asked how the parking lot in the middle was not obvious from Storey Avenue? Attorney Roelofs said the sketch did not depict required landscaping. Mr. Mitchell said he had a hard time with his partners in order to build the large stone wall. A member asked why 71 parking spaces remained despite the building's reduced size. Removing some parking would help with screening and parking lot landscaping. Mr. Mitchell said 65-66 spaces were needed. The pharmacy business evolved into selling more items, requiring more parking than in the past. The building was smaller on the ground after moving the storage area to a mezzanine level, but maintained the same size storage area. The member said parking was not needed for storage. Mr. Mitchell said it depended on what town you were in. Another member said lopping off two spaces from each side of the last row closest to the street would allow for more screening and soften the corner of the building. Mr. Mitchell said no; he would lop off the furthest spaces if he were over parked, to allow customers to park closer to the entrance.

Public comment opened.

Rick Taintor, 10 Dexter Street, said the new concept was a great improvement. Was it possible for a delivery truck to enter in the opposite direction from the drive through? Mr. Mitchell said when he had asked the engineer on the Concord project that question, because trucks were backing up onto Loudon Road for deliveries, the engineer almost fell over, but he would go back to explore that option for Newburyport. The deliveries were between 10-11:00 AM.

Ann Jaronyk said the concept looked better. Did Salisbury and Amesbury pharmacies have drive throughs? Mr. Mitchell said they both had double drive throughs. She said the Salisbury pharmacy was a nightmare and the landscaping unattractive. Pulling out to make a left turn onto Beach Road was impossible, similar to what was discussed here. Did every pharmacy require a drive through and 24-hour operation? Mr. Mitchell said yes, after a period of analysis a decision is made whether to scale back business hours. Usually, stores were not 24-hours, but it would be an unknown. Salisbury combined the parking for both Town Hall and the church with pharmacy parking through an easement. More businesses exited the lot than was apparent.

Joy Buckley, 87 Storey Avenue, asked what the other two brown structures were? Attorney Roelofs said four pump bays and a convenience store. Director Port said the building was in the middle of the traffic area to protect Atria from the glare of headlights at night.

Amy Spaulding, 65 Clipper Way, said the whole location was wrong due to traffic hazards for cars exiting onto Low Street and Storey Avenue. The problem was traffic, not the design.

Public comment closed.

Chairman Bowie said the concept offered improvements beyond the pharmacy relocation, including a better traffic situation from eliminating both the right turn-only lane and the curb cuts for the existing gas station. He understood the loading dock issue and the fall back positions, but wanted a better understanding. Mr. Mitchell would bring the architect to the next meeting. A

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member agreed with the Chairman. Another member said a gasoline truck would be visible, as would numerous other trucks stopping at the convenience store. The loading dock door should look nicer than a typical gray, roll-up door because of visibility from Low Street. Another member said it was an improvement and asked if the Low Street exit could be a right turn-only exit? Attorney Roelofs said that would overload cars at the Storey Avenue exit. Another member recommended approval of the concept.

Attorney Roelofs requested a continuation to July 16th and asked residents to call the Planning Office before the meeting to double check the agenda in the event of another continuance. He would talk about traffic next time if the obstacles outlined earlier were surmounted.

#### **4. Planning Office/Subcommittees/Discussion**

##### ***a) 29-35 Storey Avenue***

Chairman Bowie said the applicant wanted to modify a 2007 site plan approval. The Planning Director, as decision maker, could consult with the board, but was not required to accept the board's recommendations. Because of the process, there would be no presentation, comments, or questions from the applicant. A good amount of information was at hand; Attorney Mead was thorough. Nothing in the process would prevent any issues or questions from being answered. A document was presented to Director Port today; experts and consultants were present. Director Port had not conversed with the board as yet. Chairman Bowie supported the Planning Department's position outlined in the Staff Report presented to the board and shared concerns about the building's location. First, the board and the city had a better appreciation and understanding of the Site Plan Review process as relates to relocating buildings closer to the street. Issues to the west and east are the same issues. Second, a chain retailer's default response was always 'that does not suit our model' because they want a one-size-fits-all design. Examples of communities who required changes to a chain retailer's design were everywhere and that was the reason the Chairman supported the Director's position.

Beginning with the elevation, Chairman Bowie said it was an improvement over the previous design. He was concerned with the blankness and lack of detail on building walls. Because the building would be below street grade, he wanted attention paid to rooftop units and screening from the Storey Avenue perspective. The rear elevation had an unimpressive 140-foot wall that would not be seen from the street. The Wendy's side elevation had compactor and cardboard enclosures that needed screening from pedestrian and vehicular travel westbound and from Wendy's. Sheet 100, Site Plan, had a traffic component. Traffic commentary should be up to date.

The Chairman encouraged Director Port to take necessary measures for evaluating material and information presented, including a traffic peer review. The proposed easterly exit was engineered to prevent a left-hand turn, something violated regularly at Wendy's. The Director should ensure the same violation would not be chronically repeated here. On Sheet 110, Grading Plan, the management of grading would be problematic from front to rear, per the engineer, and the Director should undertake the necessary consultations to determine whether grading issues would prevent relocating the building. On Sheet 120, Drainage, the Chairman assumed DPS had

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or would review for stormwater control compliance. On Sheet C130, Easement, the same comments applied as with the Drainage Plan. On Sheet 150, Demolition Plan, the Chairman appreciated that existing trees on the northeast corner were retained but wanted assurances there were no site line issues. On Sheet 180, Lighting Plan, other than compliance, the lighting on the schematic should be consistent and complimentary throughout the property. There were three sheets of construction detail; on C510, regarding signage and the use of typical U-bracketed steel poles, the Chairman wanted something more aesthetically appealing. On Sheet L100, Landscape Plan, the Chairman wanted adequate screening of the compactor for pedestrians and vehicles traveling westbound on Storey Avenue. He questioned whether the proposed shade and ornamental trees were sufficient screenage. Supplemental plantings may be needed; nothing appeared between the trees but mulch.

The Sheet for Pedestrian Access Exhibit concerned a new sidewalk that did not work, particularly for anyone traveling from east to west on foot. The initial plan had two access points. Chairman Bowie said the sidewalk needed reconfiguring. Concrete sidewalks for the front and the interior needed to be specified. There was no pedestrian access from the southwest corner of the property. The Chairman recalled a conversation regarding the same lack of access in 2007. There was no access to Port Plaza from the site. If grading issues prohibited the access, the Chairman wanted the Director to evaluate the situation more carefully.

A member, speaking about pedestrian access, said the developer knew how to allow for pedestrians throughout the Plaza and that supported access to Port Plaza. While there was not much parking, there was access to the Plaza parking. Walgreens would not be in the area, so there should be more parking provided. The rear and the Wendy's side elevations needed more articulation. The building was viewble from all sides, like a fishbowl. Articulation was better for the entire Plaza. The member reinforced everything Chairman Bowie stated. Another member said the mill-styled structure was appropriate. The bizarre pedestrian access would go away if the building was pushed forward, closer to the street; that would improve the streetscape. It was critical to push the building forward. The relationship and the access to Port Plaza should be made clear. Were there current drainage problems because the land dropped down off the street? Director Port said none that he was aware of. Another member said the entire project would benefit from a shift toward Storey Avenue. The south side would benefit from more detail.

A member supported Chairman Bowie's comments and the concerns about pedestrian access. Another member said the orientation and architecture of the building should be similar to what the board just saw with Tropic Star. The amount of glass did not resemble a mill building and something should be done to make it more typical of a mill building. The member encouraged the Planning Director to look at the traffic updates. The information conveyed to the Planning Office today should be sent to the board.

Director Port had not finished reviewing the lengthy package and there was no determination on whether it was necessary to meet with the applicant.

***b) Wright's Court Subdivision – Form of Surety***

Chairman Bowie said the Planning Office had been in conversation with the applicant. The issue was whether to approve a Passbook or a covenant on the property in an amount agreement

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subject to approval. Director Port said either method was acceptable for the performance guarantee, but having cash in place was easier. The board could authorize the Chair, the applicant could proceed, and the details worked out with the Chairman. A member suggested peer review of the estimate. If work were not completed for a year, cost inflation would occur. Chairman Bowie said the 10-15% contingency covered cost inflation. Director Port said the contingency amount was typical and took into account the two concerns. Chairman Bowie confirmed the contingency amount contemplated considered inflationary issues. Initially, the applicant wanted less and peer reviewer Phil Christiansen disagreed.

Bonnie Sontag made a motion to authorize the chair to approve the form of guarantee, either a passbook or a covenant. Don Walters 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.*

**c) Updates**

The July 2 Planning Board meeting would be a joint meeting with the City Council Planning and Development Committee to discuss proposed zoning amendments. Director Port would recommend adopting the FEMA map change in one reading because of a federal deadline. He stated his preference to have a regulation in place should a medical marijuana application come along. Zoning would be away from churches, schools, parks, and other places. It was not a by right use and subject to special permit from the ZBA. The board's criteria would concern traffic, use, security, wastewater, etc.

**5. Adjournment**

Don Walters made a motion to adjourn. Bonnie Sontag seconded and all members voted in favor.

The meeting adjourned at 8:59 PM.

Respectfully submitted -- Linda Guthrie, Note Taker