

**City of Newburyport  
Planning Board  
July 15, 2015  
Minutes**

The meeting was called to order at 7:03 PM.

**1. Roll Call**

In attendance: Sue Grolnic, Jim McCarthy, Leah McGavern, Doug Locy, Andrew Shapiro, and Bonnie Sontag

Absent: James Brugger, Noah Luskin, and Don Walters

Planning & Development Director Andrew Port was also present.

**2. General Business**

- a) The minutes of 7/1/2015 were approved as amended. Doug Locy made a motion to approve the minutes. Andrew Shapiro seconded the motion and all members voted in favor.

**b) 79, 81, and 83 Storey Avenue – ANR**

Everett Chandler, Design Consultants Inc., 68 Pleasant Street, on behalf of Tropic Star, LLC, proposed to adjust lot lines to create three parcels so that the City would see clear lot lines for the entire development. The adjustment was needed to construct the new gas station, whose construction must be completed before Tropic Star could purchase the old gas station. The plan incorporated the Woodman parcel and would facilitate financing and construction. All three parcels met the frontage and lot area requirements.

Doug Locy made a motion to approve the ANR. Sue Grolnic seconded the motion and all members 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) 9 Richardson Path – Request for Minor Modification**

Adam Forrest, owner, requested a minor modification to a Special Permit in order to replace his back deck with a four-season sun room and add to the eat-in kitchen area without modifying the existing foundation. The addition was on pilings and replicated one of two models in the Oleo Woods subdivision. His total square footage was in line with footprints in the subdivision.

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Chairman McCarthy said Oleo Woods, created under the OSRD, had smaller lots in exchange for open land. Director Port said the cluster development required owners to come to the board with subsequent structural changes. The Planning Office had no objection to the modification. The Special Permit had both setback and footprint standards. He recommended that the application be treated individually because changes that could occur on each lot could not all be codified. A hearing with notification to abutters would both inform neighbors of the legal protocol for making additions and when a modification would occur next to them.

Member comments. A precedent would be set. The OSRD was based on preserving open space and undisturbed areas. Ensuring areas within Special Permit followed regulations was important. Some conditions referred to specific lots and all conditions should be respected. Owners could not modify without approval from the board. Deeds only referenced documentation for dimensional standards. How could owners know their dimensional standards if they were not in the deed? Mr. Forest said two footprints were approved for the neighborhood, the larger of which included a bonus room that he wanted to add. His lot had more space than his neighbor who had the bonus room. Members said the opportunity for neighbors to comment on modifications was built into the process. Chairman McCarthy said the board might consider changing the Special Permit condition to avoid hearing all modifications. The proposed modification was on pilings due to the buffer zone for wetlands. The packet seemed complete. Director Port told Mr. Forest to contact the office for the next meeting date.

Sue Grolnic made a motion that the proposal was a Modification to a Special Permit. Doug Locy seconded and all members voted in favor.

**Motion Approved.**

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**3. Old Business**

- a) New England Development  
83 Merrimac Street and 90 Pleasant Street  
Definitive Subdivision (2014-DEF-02)  
Continued from 5/20/15***

Chairman McCarthy said a representative for the applicant was not present. A staff meeting concluded it was time for a member of the development team to come before the board. The board would accept anyone from the project, but earlier than September 16<sup>th</sup>. Director Port confirmed an approved continuation with the revised date of August 19<sup>th</sup>.

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Doug Locy made a motion to continue to August 19th and for the Planning Office to make a formal request for a representative to come before the board on August 19<sup>th</sup>. Andrew Shapiro seconded and all members voted in favor.

**Motion Approved.**

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**b) Berkeley Investments, Inc., c/o Lisa L. Mead, Esq.**  
**260, 268, 270, 274, and 276 Merrimac Street**  
**Special Permit Modification (2007-SP-03b)**  
**Site Plan Review Modification (2007-SPR-04b)**  
**Continued from 7/1/15**

Attorney Lisa Mead, Blatman, Bobrowski, Mead, and Talermin, LLC, 30 Green Street, said the last items on the list were accomplished. On Monday night, City Council repealed the 2008 gift of the barn and accepted the lavatories as proposed before further modifications by the Parks Commission were made. The documents reflected the new modifications. Accessible walkways to the building angled at the Parks Commission request. Turnkey construction included a wood-framed roof and CMW walls covered in clapboard with corner boards. Stubs for the water and sewer connections the project would install had not been located yet. Tuesday night the ZBA granted a Variance for the adaptive reuse of the barn. The parking design was modified. Updated civil and landscaping plans had been submitted. Sidewalks were narrower. A fire hydrant and a cluster of benches were added.

Landscape architect Tim Mackey, Richard Burck Associates, Inc., 7 Davis Square, Somerville, showed where the cluster of benches and the three-foot strip of native grasses were located, where trees were removed, and the maximum spread of the replaced trees.

Attorney Mead said Christiansen & Sergei's comments were received on civil plans. With one issue outstanding, she proposed a condition that required sign off on the issue prior to issuing a building permit. Taylor Turbide, Millennium Engineering, 62 Elm Street, Salisbury, said the addition of a fire hydrant near the entrance of the condo area created concerns that tidal water would affect the system. Tidal pipes out to the river would resolve the issue.

Architect Lawrence Cheng, Principal, Bruner/Cott & Associates, Inc., 130 Prospect Street, Cambridge, described garage trim details and light fixtures. A landscape treatment would screen the garages' backside from the parking lot.

Chairman McCarthy asked if the Merrimac Street sidewalk would be re-cemented? Mr. Mackey said the sidewalk was in fairly good condition and would not be changed. Eric Ekman, Berkeley Investments, 280 Congress Street, Boston, said pile driving would start in September. A member

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inquired if pile driving would occur every day for three weeks, from 7 am to 7 pm? Mr. Ekman said he would notify neighbors in advance of pile driving.

Chairman McCarthy referenced the list of potential conditions. Members added a condition that the historically significant materials would be saved and someone from the Preservation Trust would be notified. Director Port and Attorney Mead agreed. Chairman McCarthy read the conditions required for the building permit. Director Port read conditions for the bathroom facilities at Cashman Park, referencing the City Council decision to super cede the 2008 Order. Attorney Mead agreed and would compare the condition language to the actual decision. Chairman McCarthy said he appreciated the client's handling of the board's requests.

Sue Grolnic made a motion to approve the Site Plan Review modification. Andrew Shapiro seconded and all members voted in favor.

Doug Locy made a motion to approve the Special Permit modification. Bonnie Sontag seconded and all members voted in favor.

**Motion Approved.**

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**4. New Business**

**a) *Craig Pessina***  
***300R Merrimac Street***  
***Informal Discussion***

Chairman McCarthy recused himself from the discussion and Vice Chair Sontag officiated. Attorney Mark Griffin, 11 Market Street, represented Chart House Development, LLC. Copies of the design for Townhouses at the Newburyport Yacht Club (NYC) were distributed. Craig Pessina named the development team for an 11-unit townhouse project on a 1.3-acre upland portion of a 5.5-acre parcel adjacent to the NYC. His goal was to improve the long-term viability of waterfront use by integrating his development with the yacht club. The project would maintain the long-term marine dependent use and improve use of the yacht club. The design would fit with the neighborhood and he hoped to force some capital improvements.

A photo shown of the acreage depicted several boat storage buildings in use. Access from Merrimac Street was narrow. A second access would be added on the side, off Woodland Street. The total frontage was a preexisting, non-conforming 65 linear feet – the only nonconformance. A site plan of the projected footprint showed three building in the upland area. The project would create an access from Merrimac Street by removing boat storage rack buildings and opening view corridors for the public and the townhouse owners. Other improvements to existing conditions with potential public benefits would be made. The Merrimac Street sidewalk, in poor

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condition, could be improved by replacing it with brick. View corridors would open up by removing unsightly buildings. The deteriorating seawall could be improved through repairs. The marina would be enhanced and the townhouses would be marketed with 11 boat slips. One side of the lot was infested with detrimental phragmites that would be removed. A contribution could be made to the Affordable Housing Trust. A public access that ran in front of the project and across a little bridge to connect to the Rail Trail could be built. The project aligned with intent of a section of the WMD that encouraged access to the waterfront, and with another section that provided for multifamily uses by right if not more than 33% of the lot area was used. A density bonus could provide a couple more units. Mr. Pessina would seek a Section VI.C for public benefits, dimensional variances for frontage and, potentially, lot area from the ZBA, a Major Site Plan Review, and an Order of Conditions from the Conservation Commission.

Removing the 120-foot by 60-foot rack storage building for 96 boats would eliminate 96 potential customer visits into the site. The structure was unsightly and blocked the view. Mr. Pessina and the yacht club were discussing a walkway through their parking lot, which travelled in front of the condos and up to Merrimac Street, at which point the City could pick up the other section. The combined footprint of 11 units was similar to the footprint of buildings removed.

Member comments. Frontage of 65 square feet was very little. Not all members supported proposals that provided money to build affordable housing elsewhere. Members favored mixed neighborhoods over an enclave for the wealthy. What did 'access way removal' on the list of benefits mean? Mr. Pessina said he could create a space between the units to open a paper road currently closed off with concrete blocks. The board requested that existing homes on Merrimac Street be incorporated into the Site Plan as a reference for how everything integrated. Mr. Pessina said two-car parking would be behind each unit. Members wanted a better reference for the street trees on Merrimac Street to learn if additional trees were needed to fill open spaces. Was the Merrimac Street entry only a portion of the 65-foot frontage? Mr. Pessina said it was 20-40 feet and the main entry would be off of Woodland Street. Members thought more traffic, not less, would use the narrow entrance off Merrimac because people used their boats on weekends in the summer only. Plans showed a tree planted where cars would drive all the way through. Mr. Pessina would not plant that tree. He was receptive to a condition that the private way would remain open. Agreement language stipulated that condo owners could not build more structures on the property. The marina was phasing out industrial uses such as boat storage and wanted one integrated design for both properties that included a park at the seawall.

A member said an 8-12 unit project was too small for a unit of this nature to be affordable. A 40R was preferable for affordability. The intent of the Affordable Housing Act was not only to achieve 10% affordable housing but also to enable residents to afford a house. The contribution was in synch with what was needed without the affordable unit. Would all the boats in storage go away? Mr. Pessina said only 96 boats. The remaining boat storage would be reconfigured in order to do something nice with the rest of the property. Board members expressed a general concern about the amount of work occurring on the waterfront. If the ramp were gone, would boat storage at the river be needed? Mr. Pessina said the 96 boats could fit on the remaining marina lot. The board decided, with an opportunity for boat storage in the industrial park, not to be concerned with the economics of boat storage on the river. NED would redevelop boating areas as well. Would the noise of marina operations affect development residents? Mr. Pessina

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said, as boat owners, they would be okay with it. Members wanted to see the agreement with the yacht club regarding their lot lines and the development's lot lines. What improvements would be made to the club? Mr. Pessina said those improvements were all related to water views such as repairing the retaining wall, creating a park, and cleaning out the phragmites. A permit to clean out the phragmites was in hand and a licensed person would perform the work.

Members wanted to see a layout of the two properties to understand the relationship of things with the yacht club. Members expressed concern about whether the accessible waterfront section would be chipped away at once Mr. Pessina's lot was developed. Would the yacht club sell another section for development? Mr. Pessina said he would retain all the view easements. Attorney Griffin said it would be a landlocked lot and further development would require coming before the board. Each townhouse had a view easement to the river and the only thing allowed would be what already existed. Members said yacht club representation would be helpful at the next meeting. Attorney Griffin said the agreement for the boat slips would become more formalized. Members suggested that language stating that no structures could be built to block the view easement would be an additional guarantee when the lot was split.

Garages on the back, facing Merrimac Street, should be attractive, as neighbors would primarily see garage doors. The board requested a perspective view of how the development would look to neighbors. Mr. Pessina said neighbors' reaction to the project had been positive. Members also suggested an elevation showing the Merrimac Street properties and the grade change. Attorney Griffin said buildings would be 30 feet high compared to the boat storage building height of 40 feet. Members asked if signs or markers were planned for Merrimac Street? Mr. Pessina said only signage for public access, not for the units.

A member said an affordable unit was more useful to the City than a monetary contribution for affordable housing, even if that unit was not appropriate in this location. Would Mr. Pessina come back with ideas on how to get an affordable unit somewhere else? Attorney Griffin cited the example of the Affordable Housing Trust (AFT) contribution of \$50,000 for the affordable unit at Heritage Place as how someone else's contribution was useful in subsidizing a unit. Mr. Pessina wanted to provide funds to subsidize someone else's affordable unit. Some members preferred Mr. Pessina to subsidize his own unit somewhere else. Mr. Pessina countered; if he could make the AFT happy, would that satisfy the board? Members agreed but commented that there should be opportunities for affordable housing close to the water. A member asked if the property could be developed without a Section VI.C? Mr. Pessina wanted the view corridor and said three separate buildings was a better project. He preferred to keep the VI.C benefit, even if that meant he worked a little harder for it. A member said the benefits of removing the storage buildings and repairing the seawall and embayment area all contributed to the public. One member did not see the potential to open up the view corridor. Attorney Griffin concluded that the public benefit discussion had been helpful.

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

### ***a) 40R***

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The City was waiting for the letter to go to the state and the final traffic review. The 40R proposal would move out of committee on August 5<sup>th</sup>. Pedestrian and bicycle safety analysis would begin.

*b) Updates*

The arrival of \$5 million from the state enabled the design phase of the parking garage to begin. The Zoning Advisory meeting was moved to tomorrow. The multifamily amendment had passed.

**6. Adjournment**

Doug Locy made a motion to adjourn. Jim McCarthy seconded the motion and all members voted in favor.

The meeting adjourned at 9:00 PM.

Respectfully submitted -- Linda Guthrie