

**City of Newburyport  
Planning Board  
July 19, 2017**

The meeting was called to order at 7:02 PM.

**1. Roll Call**

In attendance for the Planning Board: James Brugger, Anne Gardner, Jim McCarthy, Leah McGavern, Bonnie Sontag, Andrew Shapiro, Mary Jo Verde, and Don Walters.  
Leah McGavern arrived at 7:16 PM. Joe Lamb participated by phone at 8:15 PM for one item.

Absent: Joe Lamb, except for 8:15-9:05 PM

In attendance for the Planning & Development Subcommittee and Committee of the Whole: Ed Cameron, Jared Eigerman, Bob Cronin, Charles Tontar, and Sharif Zeid

Absent: Barry Connell

Andrew Port, Director of Planning and Development, and Courtney Starling, zoning consultant, were also present

**2. Joint Public Hearing with the City Council's Planning & Development Subcommittee and Committee of the Whole**

***a) Review Final Draft of Master Plan Update***

Ed Cameron called the Planning & Development Subcommittee meeting to order.

Vice Chair Sontag said the Master Plan a policy guide authorized by the board on behalf of the City, rather than a law. The plan provided a framework of goals for decision-making and beneficially positioned the City for grants. Planning Office and zoning consultant edits eliminated the lengthy work plan appendix. Revisions were made to recommendations on the zoning ordinance on compatible development and infill, architectural standards and guidelines, particularly in zone R2, Planning and Zoning Board consultation with the historical commission, limiting expansion on Plum Island, public studies on water and sewer systems, and board training for dealing with complex projects. The plan also addressed developing an architectural pattern book unique to Newburyport, revising land uses on the scenic High Street corridor, creating a zoning enforcement officer position, housing rules for protecting moderately scaled historic housing, and regulating short-term rentals.

Councilor Eigerman said his edits sent today were primarily typographical or a change in emphasis. He detailed his edits and said the Planning Office was comfortable with most changes that included: 1) eliminating the controversial work plan, 2) replacing the language 'infill design criteria' and 'infill development' with 'creating design criteria' and 'compatible development,' 3) using water supply and sewer service studies to quantify use, capacity, and projections for the purpose of evaluating projects, 4) employed more powerful language in the land use section, 5) replacing the language 'maintain and enhance downtown standards' with 'enforce design

Planning Board  
July 19, 2017

standards and guidelines,’ 6) changing housing rules language in order to preserve historic moderately scaled housing as a form of affordable housing, as well as create new affordable housing, 7) protecting property and home values through regulation of short term rentals, 8), he disagreed with an action on the implementation plan to ‘streamline process for sign, windows, doors,’ because it was already streamlined for downtown and he gave an example, 9) striking ‘encourage marine fishing piers while promoting a mix of non-marine uses, 10) rewriting text to say ‘Protect and preserve Newburyport’s historic built environment for future generations,’ 11) rewriting to use more specific language in ‘zoning for national historic district’ and adding ‘fund a full-time zoning administrator,’ 12) rewriting to say “Enhance and promote Business Park/Route 1 Circle,’ 13) striking the action item on Three Roads to reduce pavement and improve gateway intersection, 14) replacing infrastructure actions ‘which will provide guidance’ with ‘to evaluate,’ 15) changing the water supply goal from yellow to green, 16) changing Complete Streets from green to yellow to slow it down as we learn more, 16) changing the traffic study from yellow to green, 17) changing housing supply language to ‘partner with local housing authorities’ and striking the special needs population, and 18) eliminating directive language on bicycle facilities, as there were six now.

Director Port said Councilor Eigerman’s changes spoke well to the objectives. Rather than rush the water and sewer analysis, he preferred to let the process already underway play out to ensure good data. He would take a careful look at the number of households needing housing vouchers and incorporate edits line-by-line before returning the Master Plan to the City Council. Infill and design standards would be addressed in zoning changes with the goal of approving only compatible projects.

Councilor Cameron complimented changes that set the stage for zoning revisions. He recommended using an educated guess for housing vouchers versus contacting 200 housing authorities to compile an exact number because vouchers were portable from other communities. He would take a careful look at short-term rental regulations. The concern that rental units were removed from the market for Airbnb rentals should be balanced with the opportunity for homeowners when they were travelling. Changed priorities were acceptable, particularly on Complete Streets. Green items took 1-3 years and yellow items took 4-5 years. Red was a timeframe further out, not a stop. Changes on additions were great for controlling homeowners building 1,000 square foot additions, but priced middle-income people out of the market.

Board member comments: A near term timeframe was preferred for fixing roadways, sidewalks, and bike lanes. The City had already agreed to become more walkable. Councilor Cameron suggested there were community groups with skills that could make quicker progress and help get the initiative off the ground. Director Port and Councilor Eigerman agreed on maintaining near term progress. Member said the Three Roads change inferred a desire to prevent MA DOT’s involvement. What was the risk of studying the issue? Councilor Eigerman said, as a priority issue, immediate action could result in signaling. Chairman McCarthy said the goal was to get the policy to catch up with other initiatives to preserve the village, particularly an overlay for High Street. He agreed that MA DOT was not preservation oriented. The rail trail was successful because it was separated from roads. The Storey Avenue bike lane fronting CVS made people uncomfortable and not used. Perhaps bike lanes should not be everywhere. Considerations were evolving for implementing Complete Streets. MA DOT used Complete Streets standards. Bike

Planning Board  
July 19, 2017

lanes were meant to calm traffic and cars were very enabled on Storey Avenue. A Complete Streets Committee could move things forward in a considered fashion. Some members preferred the existing verbiage on bikes. Agreement was needed. Councilor Eigerman said only Action 2 was too directive for the City Council. He cut only the words 'fund and construct' and replaced them with 'review and prioritize.' Members wanted bike lanes recommended. How, why, and who would enforce the pattern book? Would it discourage new design? There were volumes on the variety of patterns and forms. A Newburyport-specific book could be used for discussions on flexibility, compatibility, scale, and massing. Director Port said the intent was not enforcement but rather guidance to accompany the zoning ordinance; for example, streetscape proportions would be in the pattern book. Councilor Eigerman said contemporary styles were compatible.

Public comment open.

Rob Germinara, 2 Ashland Street, had concerns about changing uses in the Ashland Street neighborhood because a high-end office building would be inappropriate there.

Tom Kolterjahn, 64 Federal Street, co-president, Newburyport Preservation Trust, supported Councilor Eigerman's changes.

David Powell, 3 Salem Street, supported changes but had concerns about the nature, structure, and presentation of the Master Plan. There was no clear sense of what the City was committing to accomplish in the next 10 years in a publically digestible way. He pointed out several issues, including confusing color-coding because green was used differently elsewhere in the plan.

Lesley Eckholdt, 36 Warren Street, supported the pattern book as a helpful educational tool because Newburyport had a distinct architectural style.

Jeanette Isabella, 1 Lime Street, asked whether ongoing education would give the Planning Board zoning training? She did not understand how the plan addressed infill. She was opposed.

Councilor Cameron considered whether the MVPC's zoning instruction in Haverhill every other year could be brought to Newburyport specifically for all relevant board and commission members.

Kathleen Schoonmaker, 6 Independent Street, asked if the waterfront district's by right 35-foot height was eliminated? Vice Chair Sontag said the entire section was removed because it was overly detailed.

Public comment closed.

Vice Chair Sontag thanked the Planning and Development Subcommittee, particularly Councilor Eigerman, for their work.

Leah McGavern made a motion to adopt the Master Plan and recommend City Council approval incorporating the corrections made tonight. Andrew Shapiro seconded the motion and all members voted in favor.

Planning Board  
July 19, 2017

Jared Eigerman made a motion to recommend approval of the Master Plan Update. Ed Cameron seconded the motion and all members voted in favor.

Ed Cameron made a motion to adjourn the subcommittee meeting. Jared Eigerman seconded the motion and all members voted in favor.

**Motions 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. General Business**

- a) The minutes of 7/5/17 were approved as amended. James Brugger made a motion to approve the minutes. Don Walters seconded the motion and all members voted in favor.

**Motion Approved.**

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***b) Request for Minor Modification – 1 Market Square (2017-SP-02)***

Attorney Mark Griffin, Finneran and Nicholson, P.C., 30 Green Street, represented George Carey, Sea Level Restaurant. The board had requested the applicant obtain input from the Newburyport Historical Commission (NHC) regarding an exterior wall sign. The NHC provided a favorable review. He requested approval to install the sign.

Anne Gardner made a motion to approve the minor modification. Andrew Shapiro seconded the motion and all members voted in favor.

**Motion Approved.**

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***c) Approval Not Required – 158-160 State Street (2017-ANR-08)***

Planning Board  
July 19, 2017

Director Port said lot lines were adjusted to create a buildable lot. He showed the lot adjustments on a plan and said criteria for frontage and access were met with the ZBA variance.

James Brugger made a motion to endorse the ANR. Anne Gardner seconded the motion and all members voted in favor.

**Motion Approved.**

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**d) Release of Covenant – 2 Opportunity Way**

Director Port said the business park property had two covenants. One was a private restriction related to NAID, not the City. The other concerned the roadway constructed to reach the lots. Although required roadway improvements had been there for a long time, the road had not been released. The property was not restricted and all requirements for the original construction had been met. The vote was an administrative formality that allowed lots to be sold. Chairman McCarthy said the road to be released was built in 1984.

Mary Jo Verde made a motion to approve releasing the covenant. Don Walters seconded the motion and all members voted in favor.

**Motion Approved.**

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**4. Public Hearings**

**a) Six Perkins Way Nominee Trust  
Six Perkins Way  
Major Site Plan Review (2017-SPR-02)  
Continued from 7/5/17**

The applicant had requested a continuance to 8/16/17. Due to a full agenda on that date, board members agreed to place this item on the 9/16/17 agenda.

Don Walters made a motion to continue the Major Site Plan Review to September 6. James Brugger seconded the motion and all members voted in favor.

**Motion Approved.**

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**b) David Hamel and Karen Damon c/o Mark Griffin, Esq.**  
**496 Merrimac Street**  
**Special Permit Amendment (2016-SP-07a)**  
**Continued from 7/5/17**

Joe Lamb participated by phone 8:15 PM. Attorney Griffin said the VI.C permit amendment was a modification to Special Condition 10 that required a perpetual preservation restriction (PR) from the Massachusetts Historical Commission (MHC). The MHC PR was denied. The amendment requested approval of a NHC 30-year PR. There was no need for a restoration plan. He referenced the letter from Sarah White, chair, NHC.

Member comments: The state recommended a local PR because the number of modern alterations and chronology of owners and occupants of the property did not meet state standards. VI.C permits were not to be taken lightly. Some members thought the project was not a significant public benefit. Other members respected the MHC opinion. The Master Plan discussed preserving working class structures and affordable housing. The great variety of historic structures over the City's 400-year history was an important contribution. Chairman McCarthy said without a PR the house would almost certainly be torn down. He supported preserving the fabric of 'houses to the street' and the Master Plan goal of preserving workforce housing. Additions should be limited. Attorney Griffin said the original limit of 400 square feet for one-story or 800 square feet for two-story additions remained. There was a discussion about renovations as an opportunity to correct symmetrical issues in the front verses appropriate preservation.

Public comment open.

David Powell, 3 Salem Street, asked if fenestration is the same as pictured? What was the intent of PR? Chairman McCarthy said the house was the same as pictured. A public benefit was required to put two houses on one lot. The PR was the public benefit. Mr. Powell said the house did not contribute and was an improper use of a PR.

Tom Kolterjahn, 64 Federal Street, co-chair, NPT, disagreed with Mr. Powell. The MHC recommended the 30-year PR. The NHC and NPT walked the site and supported the NHC PR.

Malcolm Carnwath, 22 Strong Street, member, NHC, said the home was a historically significant extension of Newburyport's origin as an 18<sup>th</sup> century Seaport. The NHC did not want to see it become a mansion despite alterations.

Jeanette Isabella, 1 Lime Street, supported the PR.

Planning Board  
July 19, 2017

Public comment closed.

Chairman McCarthy asked if a mechanism to automate the PR renewal was in place? Director Port said no. The PR was recorded on the deed and the City would work on a tracking system. Attorney Griffin said a renewal notice had to be filed before the 30-year period lapsed. Chairman McCarthy wondered if the PR lapsed, whether the board could require the applicant/property owner to notify the City and go through the process again? Was language about the façade on the PR? Attorney Griffin said no.

Bonnie Sontag made a motion to amend the Special Permit relative to Condition 10 with the renewability clause executable by the City. Mary Jo Verde seconded the motion and six members voted in favor. Two members were not in favor. Leah McGavern abstained.

**Motion Approved.**

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The phone call with Joe Lamb ended.

- c) Newburyport Manager, LLC c/o New England Development  
Brown's Wharf, 58 McKay's Wharf, 72 Merrimac Street, 89-90 Merrimac Street, and  
92 Merrimac Street  
Definitive Subdivision (2017-DEF-02)**

NED had requested a continuance to 9/20/17.

Don Walters made a motion to continue the Definitive Subdivision to September 20. James Brugger seconded the motion and all members voted in favor.

**Motion Approved.**

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- d) Gorman Homes LLC  
32 Union Street  
Definitive Subdivision (2017-DEF-03)**

Andrew Shapiro read the notice. Chris York, Millennium Engineering, Inc., 62 Elm Street, Salisbury, said he had not included the needed special permit for Courts and Lanes. Chairman

Planning Board  
July 19, 2017

McCarthy preferred the special permit come with the application, along with elevations and architectural drawings. Members felt unprepared to address the special permit. Director Port recommended continuing and re-advertising the hearing. Members discussed the value of a limited review at this time so that the applicant would understand board concerns and interest in a Courts and Lanes special permit application. The applicant proceeded accordingly.

Mr. York described the accesses to the first lot from Beacon Avenue and to the second lot from Union Street. He discussed rooftop run off. Only one road would be opened up for water and sewer. Members asked about the orientation of structures and three car garages? Where was the proposed court? Mr. York said off Beacon Street. A member read the special permit language and purpose of Courts and Lanes as a common access driveway to more than one residential structure. Was there a common access driveway? John Gorman, owner, said only one house would be off each driveway. Chairman McCarthy was interested in how the house and garage presented to the street. A 3-car garage would dominate a street presentation whereas cars could be hidden off a common drive. No garage should face Union Street. Members said alternate views from the surrounding public areas should be considered as well.

Public comment open.

Jeffrey Roelofs, attorney, 266 Water Street, said the applicant knew about the Courts and Lanes special permit weeks ago. He distributed a letter to the board with an appendix detailing issues, including whether special permit criteria were met, the impact on the neighborhood, and whether the proposed court complied with street design standards. Since it was possible to present a plan that met requirements without relying on waiver requests and variances, the applicant should be required to do so. He requested a site visit from the board. The property was visible at different angles from public spaces. The waiver request for tree planting requirements was due to an existing, substantial hedge, but mature trees on Union Street performed a valuable function. The applicant had removed trees in an effort to jam two buildings onto the single-family lot. The two buildings should share a driveway from the existing curb cut on Beacon Avenue. A Union Street curb cut was to be avoided due to the amount of traffic and parking related to public park activity and the 15-16 foot street width that created a tight space for traversing cars.

Tuna Sava, 7 Beacon Avenue, thought the centerline offset requirement was not met.

Bruce Riedell, 33 Union Street, agreed with Mr. Roelofs. The Union Street traffic and parking was dominated by park activity. A driveway would eliminate three needed parking spots.

Public comment closed.

Board comments: Chairman McCarthy asked the applicant to return with a comprehensive design for the property that also addressed technical issues. He recommended using a professional who would meet with neighbors at least twice.

Mary Jo Verde made a motion to continue the Definitive Subdivision to September 6. Leah McGavern seconded the motion and all members voted in favor.



**Motion Approved.**

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

***a) Other Updates***

The zoning amendments public hearing and NED joint public meeting were discussed

**6. Adjournment**

Andrew Shapiro made a motion to adjourn. Mary Jo Verde seconded the motion and all members voted in favor.

The meeting adjourned at 9:54 PM.

Respectfully submitted -- Linda Guthrie