

August 17, 2011

**Planning Board  
Newburyport City Hall**

The meeting was called to order at 7:05 P.M.

A quorum was present.

**1. Roll Call**

**In attendance:** Dan Bowie, Sue Grolnic, Don Walters, Henry Coe, Julia Godtfredsen, Paul Dahn, Jim McCarthy, Bonnie Sontag

Absent: Anne Gardner

Andrew Port of the Planning Office was also present.

**2. General Business**

**a) Approval of the minutes**

**Minutes of July 20, 2011 Meeting**

Henry Coe made a motion to approve the amended minutes.

Don Walters seconded the motion to approve the amended minutes. Motion approved.

**Votes Cast:**

Dan Bowie: approve

Sue Grolnic: approve

Don Walters: approve

Henry Coe: approve

Jim McCarthy: abstain

Bonnie Sontag: abstain

Julia Godtfredsen: approve

Paul Dahn: approve

**b) Springwell Investments, LLC**

**Oleo Woods OSRD Subdivision/Russell Terrace Extension**

**Performance Guarantee Acceptance and Plan Endorsement**

Bonnie Sontag made a motion to approve the covenant.

Julia Godtfredson seconded the motion to approve the covenant. Motion approved.

**Votes Cast:**

Dan Bowie: abstain

Sue Grolnic: approve

Don Walters: approve

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Henry Coe: abstain  
Jim McCarthy: approve  
Bonnie Sontag: approve  
Julia Godtfredsen: approve  
Paul Dahn: approve

Six Members of the Board and the applicant signed the covenant. Chairman Bowie could not approve or sign the covenant as he was the notary.

**During the course of discussion and consideration of this application, the 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) Springwell Investments, LLC and Huntsman Investments, LLC  
Oleo Woods Parcel B and 7 Russell Terrace Extension  
Form A: Approval Not Required Application**

Chairman Bowie proposed a note be added to the Mylar. The applicant and the Planning Board agreed on the following language which was added: "Lot B shall not be considered a buildable lot until such time as access and utilities have been provided for Richardson Path in accordance with the approved covenant dated August 17, 2011."

Jim McCarthy made a motion to approve the ANR application.  
Paul Dahn seconded the motion to approve the ANR application. Motion approved.

**Votes Cast:**

Dan Bowie: approve  
Sue Grolnic: approve  
Don Walters: approve  
Henry Coe: approve  
Jim McCarthy: approve  
Bonnie Sontag: approve  
Julia Godtfredsen: approve  
Paul Dahn: approve

**During the course of discussion and consideration of this application, the 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.**

**d) Denny Wachlin and Janice Cudihy**  
**39 Goldsmith Drive (Plan Book 106 Plan 95 Lot 76)**  
**Lot Release**

This property was created as part of a 1966 subdivision and the endorsed plan includes a note that reads: "No lots to be transferred without written release by the Newburyport Planning Board. Said release will be granted upon satisfactory completion of the construction of the streets shown on the plan." The present owners hope to sell their home shortly, with a closing scheduled early next week. The buyer's attorney has not been able to locate the lot release for this particular property, Lot 76. Goldsmith Drive is an accepted city street.

Don Walters made a motion to issue the lot release.

Henry Coo seconded the motion to issue the lot release. Motion approved.

**Votes Cast:**

Dan Bowie: approve

Sue Grolnic: approve

Don Walters: approve

Henry Coo: approve

Jim McCarthy: approve

Bonnie Sontag: approve

Julia Godtfredsen: approve

Paul Dahn: approve

**During the course of discussion and consideration of this application, the 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. Old Business**

**a) Bradley Kutcher, Kimberly Realty Trust**  
**251 Merrimac Street**  
**Section VI-C Special Permit**  
*Continued from July 20, 2011*

The developer/applicant talked about 3 outstanding issues:

- 1) The applicant met with the tree warden to discuss the topic of the oak tree. The tree warden agreed the oak tree should be removed because the sidewalk cannot be made ADA compliant with the tree in place. However, the tree is not dead. So, they have to meet with Anthony Furnari, DPS Director, and the tree committee and advertise the fact that the tree is being proposed for removal.

- 2) The applicant has a template for the preservation restriction, but needs to change some language.
- 3) The applicant offered a donation of \$15,000 to the NBPT Affordable Housing Trust (AHT). He heard back from them at 3 pm yesterday and they indicated that a donation of \$25,000 would be more appropriate. He can't donate \$25,000 unless costs are removed from other areas of project (sidewalk, fencing, etc.).

Chairman Bowie noted that the Board is still looking for a couple of things: the draft preservation restriction was not received until about 2 pm this afternoon, so there was no time to review. Also there is no written recommendation about the tree removal from the Tree Committee.

Discussion from the Board included the larger donation being requested by the AHT. One Board Member was not clear that the AHT was aware of what the developer was doing. Another was concerned that the formula used by the AHT was only recently established. Some felt the Board should work with the developer to determine what could be taken out of the project to enable the developer to donate \$25,000 to the AHT.

A Board Member indicated that we cannot move forward without a draft preservation restriction. The applicant indicated that they are not in front of the board tonight looking for approval.

Chairman Bowie indicated he is glad to see AHT has developed a formula. He doesn't believe AHT is aware of the other benefits associated with this project (historic preservation, sidewalks, etc). He is leaning towards reasons to deviate from the AHT formula.

One Board Member said they would not be unhappy without the brick sidewalk. The applicant indicated that there is a significant savings with moving from a brick to a concrete sidewalk.

If the applicant were building "by-right", he would not be making improvements as benefits to the public (fence, sidewalks, and tree). The board discussed the fact that you can't compare the public benefits of different Section VI.C projects – each project is different.

A Board Member asked if the AHT formula is not used in this case, would it set precedent? Several Board Members indicated that they would like to see this continue as a Section VI.C. project.

#### Open for Public Comment

#### **Betty LaBaugh, 6 Walnut Street, Newburyport, Massachusetts**

Ms. Labaugh passed out an aerial view of the neighborhood to the Board. She is concerned with keeping the character of the neighborhood. Space is getting encroached on more and more in this neighborhood.

The applicant responded that he could do the Section VI.C or by-right. The lot coverage is the same with either. He has considered character of neighborhood. He has done his best to try and please the neighbors.

Ms. Labaugh also indicated that maintenance of the property is currently an issue. The yard is overgrown and windows are broken. The applicant responded that he thought the process would have been quicker. He will cut the grass.

Public Comment Closed

The Board continued to discuss possibilities to reduce cost on the project so that more money could be donated to the AHT. Items discussed included not doing the brick apron at the end of the driveway (the developer indicated this was only a small percentage of the total cost); doing concrete on the sidewalk instead of brick (there was a question about whether the Historical Commission or the Department of Public Services would care if the sidewalk were brick or not). There was discussion around the fact that the concrete sidewalk would cost less to build and require less maintenance. Some Board Members liked the idea of keeping the brick as it is in keeping with the house. Some Board Members indicated that they could support the project without the brick sidewalk.

Chairman Bowie indicated that the draft preservation restriction had to be signed by the time the Board gives approval.

This hearing will be continued until 9/7/2011. *(Note: the 9/7 meeting was cancelled - before these minutes could be approved and is therefore included - this hearing will be continued until 9/21/2011)*

**4. New Business**

**Attorney Lisa Mead for 3 Parker Street Nominee Trust**

**3 Parker Street**

**Informal Discussion**

**Re: Potential Section VI-C Special Permit and Site Plan Review Applications**

Attorney Lisa Mead met informally with the Board on behalf of Ken LaBrecque about a potential multifamily development at 1-3 Parker Street. The proposal included a second, 6- unit residential structure adjacent to an existing 4-unit building. The Conservation Commission had reviewed the proposal and issued an order of Conditions in 2007, which is still in effect. The project will require a special permit for multifamily use and front yard setback variance from the Zoning Board as well as Section VI.C special permit, major site plan review, ANR filings with the Planning Board.

Attorney Mead discussed general design issues and the proposed public benefit required by Section VI-C. She discussed what the benefit is to the community. The client will make a donation to the AHT of \$8,000. She said that anyone willing to develop housing is providing a benefit to the community. She wanted feedback from the Board. This is part of what has been classified as the "Little River Transit District".

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Chairman Bowie indicated that the Open Space is entirely wetlands. The donation of \$8,000 with or without the formula strikes him as low. He liked the proposed rental aspect associated with these units. He indicated that without some type of restriction there is no way to prevent the units from turning into condos. He would like to see some type of restriction to ensure they remain rental units.

One Board Member questioned whether it was 1 or 2 lots. Attorney Mead replied that there are currently 2 lots that are going to become 1. They already have order of conditions from the Conservation Commission indicating the wetlands line and the retention area. There is a 5-8 foot set-back from property line. A front yard setback variance would be needed. Attorney Mead indicated that the building can't be pushed back because of wetlands issues. Some Board Members indicated there should be a more generous donation to the AHT. One Board Member asked about the size of each unit. Attorney Mead responded that the units on the second floor would be 1500 sf each and the units on the first floor would be 800 sf each.

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

Presentation by Jim McCarthy: Signage at Newburyport Storey Ave. Gateway

The Project Goal is to beautify the Newburyport Storey Ave. Gateway resulting in an approach to downtown that is more in keeping with the historic nature of the City and thereby increasing property values, etc. Board Member McCarthy outlined a long-term plan to reduce the signage along Route 113/Storey Ave.

#### **6. Adjournment**

Motion made to adjourn.

Motion seconded.

Motion approved unanimously.

Meeting adjourned at 9:16 P.M.

**Respectfully submitted, Jennifer Lamarre – Note Taker.**