

**City of Newburyport  
Planning Board  
August 17, 2016  
Minutes**

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

**1. Roll Call**

In attendance: Sue Grolnic, Jim McCarthy, Leah McGavern, Andrew Shapiro, Bonnie Sontag, and Mary Jo Verde. Don Walters attended by phone.

Absent: James Brugger

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

**2. General Business**

- a) The minutes of 7/20/16 were approved as amended. Bonnie Sontag made a motion to approve the minutes. Andrew Shapiro seconded the motion and six members voted in favor. Leah McGavern abstained.

**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. Old Business**

- a) *Hillside Living, LLC c/o Lisa Mead, Esq.  
Hillside Avenue and Cottage Court  
Section VI.C Special Permit (2016-SP-01)  
Major Site Plan Review (2016-SPR-03)  
Continued from 5/18/16*
- b) *Hillside Living, LLC c/o Lisa Mead, Esq.  
12-14 Cottage Court  
Major Site Plan Review (2016-SPR-04)  
Continued from 5/18/16*
- c) *Hillside Living, LLC c/o Lisa Mead, Esq.  
18 Cottage Court  
Major Site Plan Review (2016-SPR-05)  
Continued from 5/18/16*

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Lisa Mead, attorney, BBMT, 30 Green Street, said the application had special permits for use and variances approved by the ZBA a month ago. Subsequent work with peer review engineers and neighbors resulted in changes.

David Hall, Hillside Living, LLC, 2 Federal Street, reviewed the changes. The YWCA building was pushed two and a half feet south to integrate the handicap ramp into the building's path. A small retaining wall added bordered the building and the site's ingress. A bulkhead was added to the building's southern edge. Two parking spaces along the egress were removed to avoid conflict with exiting cars. Vegetative swales replaced as much underground piping as possible for more absorption. The turning radius off Fireman's Drive softened and a retaining wall was added for snow storage. Snow would be deposited adjacent to Cottage Court, where the lot's pitch was changed slightly. Two handicap parking spaces replaced one space for one handicap unit. The central depression was modified to maximize the 100-year rainwater storage. Additional stormwater storage was added in two places. Two 30-inch retaining walls on Hillside Avenue stabilized the steep bank. Parking was created for a neighbor's two cars. A slight bend added to Hillside Avenue created a gentler entry onto the road for a neighbor's driveway. The Hillside Avenue sidewalk now abutted the street, moving the green space between porches and the sidewalk. Modified plantings at the request of neighbors included lower-growing trees with broader canopies to prevent blocking all views. A solar canopy added over eight parking spaces on the site's northern tip made up for the reduction on the southwest canopy that accommodated a vegetative swale. As close to 500 kW of solar capacity as possible was needed. A Cottage Court building's southern elevation was modified with a gable over the two-story wing. The same change was made to the Cottage Court Extension building. Storage access paths added to the northern elevation of the South Rise structures were for the additional units in those buildings. Signage was shown for Cottage Court. Details on colors and fencing were discussed.

Scott Morin, civil engineer and principal, The Morin-Cameron Group, Inc., 66 Elm Street, Danvers, performed soil and utility investigations, and engineered stormwater management and utility systems. Christiansen & Sergi, Inc. (CSI), had signed off with four comments: #4) he would perform a sewer system investigation and work on the connection with Jaime Tuccolo, Newburyport Collection System Superintendent, #5) snow storage was already addressed, #6) the Hillside Avenue curb would match the grade per plans; he would work with neighbors to provide a uniform six-inch curb, and #7) the City signed off on the entrance to Hillside Avenue pinch point of 17 feet as a traffic calming measure. The road grew in width to 20 and 24 feet.

Attorney Mead submitted Deputy Fire Chief Bradbury's sign off. Chairman McCarthy asked if Mr. Hall's comments were on the August 10<sup>th</sup> plan set? Attorney Mead said all but the tree planting modification, which would be delivered. Members asked if swales replacing the stormwater systems were protected or accessible? Mr. Morin said one swale was a walking path when not raining. Fencing would be installed where needed on other swales.

Public comment open.

Gregory Bowdoin, 3 Hillside Avenue, was concerned about adequate parking, hammerhead turnaround usability and safety, grade changes meant to benefit his driveway, and the safety of his 15-inch hardwood tree. He wanted to be present if his tree was pruned. He appreciated the

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parking lot grade change and the lower growing trees to preserve one view. Would dust control measures be used or houses power washed?

Mr. Cameron would employ the EPA dust control system. Attorney Mead said standard conditions included watering things down. The modified tree plantings would not exceed 12 feet high. The private property tree would be protected. The project exceeded parking requirements. Mr. Cameron said the hammerhead turnaround designed for a large dump truck would work safely for all vehicles.

Mr. Bowdoin did not want Hillside Avenue reduced to a small pass through lane as a result of parking on both sides. Attorney Mead said legal parking was delineated with designated spaces that included extra parking. The fire lane had to be kept open. Chairman McCarthy said residents with any issues on public streets should go to the City Council. Mr. Hall said monthly meetings with neighbors for the first year would ensure parking worked well.

Victoria Carr, 1 Hill Street, was supportive.

Nathaniel Coughlin, 22 Bromfield Street, Newburyport Affordable Housing, was supportive.

Nancy Pease, 53 Warren Street, supported the project and the vegetative swales.

Tom Joy, 51 Pond Street, asked if the project was affordable housing? Attorney Mead said only the lodging house was affordable.

Don Little, 6 Cottage Court, said 58 units was too many, creating noise in his front yard while his back yard experienced Route 1 noise. The 'no vehicle' roads might not work. He hoped for parking on both sides of Cottage Court. Where was the sewer connection? Attorney Mead said the connection would be resolved with DPS. Mr. Little said his property had a sewer easement. Why was stormwater directed toward existing houses and not the applicant's property?

Mr. Cameron said stormwater plans considered multiple factors. Grading the road toward the site increased the road's non-conformity. Redundant measures to control stormwater in the road included the super elevation, catch basins, a gutter created by the granite curb, and a driveway apron that slightly elevated properties from the road. A small tributary would course down the road. There were two additional catch basins. Handicap access, a significant part of the project, would be severely hampered if the road were graded differently. Attorney Mead said plans showed Cottage Court as one-way changing to two-way, as Mr. Little requested.

Pam Jones, 49 Pond Street, said she supported the project now, but every issue could not be thought of and planned for in advance. Attorney Mead said an onsite property manager would be available after construction. Mr. Hall said new issues could be addressed in monthly meetings the first year. Ms. Jones asked about the grade change on Cottage Court? Mr. Hall said the grade would be eight inches lower from the crest. Shaving the top of the hill aided handicap access.

Public comment closed.

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Attorney Mead listed the permits granted. There were adequate ways for access, structures complied with zoning regulations, and Section VI.C requirements were met with affordable housing and natural resources preservation. The project was environmentally sensitive using green construction, permaculture, and green energy. The applicant agreed to a deed restriction of 30 years on the affordable housing units. A by right plan was provided. Chairman McCarthy read the Special Conditions.

Andrew Shapiro made a motion to approve the Hillside Avenue and Cottage Court Section VI.C Special Permit. Leah McGavern seconded the motion and six members voted in favor. Mary Jo Verde abstained.

Bonnie Sontag made a motion to approve the Hillside Avenue and Cottage Court Major Site Plan Review. Andrew Shapiro seconded the motion and six members voted in favor. Mary Jo Verde abstained.

Leah McGavern made a motion to approve the 12-14 Cottage Court Major Site Plan Review. Sue Grolnic seconded the motion and six members voted in favor. Mary Jo Verde abstained.

Sue Grolnic made a motion to approve the 18 Cottage Court Major Site Plan Review. Leah McGavern seconded the motion and six members voted in favor. Mary Jo Verde abstained.

**Motions Approved.**

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**4. New Business**

- a) *Evergreen Commons LLC c/o Lisa Mead, Esq.  
18 Boyd Drive and 15 Laurel Road  
OSRD Special Permit (2016-SP-03)*

Chairman McCarthy said the board read all comments except a letter that arrived today had not been fully considered. Tonight would be a review of traffic, water resource protection, and stormwater controls. Andrew Shapiro read the public notice.

Attorney Lisa Mead presented Chip Hall and James Goodwin, development principals, Tom Bertolis, traffic engineer, and Kim Turner, landscape architect. The applicant, in recognition of the iterative process, would file a definitive plan at the end of discussions. The OSRD was concerned with quality of open space over streets and housing site alignment in the 36.42 acres in R1 zoning and Zone 2 water protection zone. The applicant also owned 15 Laurel Road. The project design limited disturbance of natural features. The 21.85 acres of permanently preserved trails and revitalized wetlands would be the largest OSRD in 20 years. The conventional yield

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plan was 44 houses. She acknowledged concerns about development next to the wellhead. The closest resident would be 720 feet from the wellhead and the project would treat Boyd Drive stormwater that was untreated today. Looping a water main at end of Boyd Drive improved water quality. The sewer pump station would be replaced. The mayor requested a condition to mill and overlay the last 1,000 feet of Boyd Drive roadway to the cul-de-sac and replace 1,400 feet of sidewalk. A Homeowner's Association would govern use of open space and require homeowners to use a designated contractor for organic lawn applications and snow plowing. The project met five Master Plan and Open Space goals.

Steve Sawyer, engineer, Design Consultants, Inc. (DCI), 120 Middlesex Avenue, Somerville, said the OSRD created 38 lots instead of 44, with two access points off Boyd Drive and two cul-de-sacs. He demonstrated on plans the open space between property lines and structures. Boyd Drive was longer than allowed by today's subdivision regulations. The road and structures would be outside the isolated wetland area's 25-foot 'no disturb' buffer. Excavation would create a functioning wetland. All 'through' streets conformed to regulations. Deputy Fire Chief Bradbury requested a 24-foot wide road except for the two 20-foot wide one-way roads. Boyd Drive now discharged stormwater into a series of ponds without treatment. A low impact stormwater wetland would handle large, impervious areas. Stormwater plans sectioned the neighborhood into smaller areas with two catch basin areas, an easement, and rain gardens in the open space rather than on lots. Groundwater was much lower for homes. Roof leaders would be tied into underground chambers treating one inch of Boyd Drive rainwater.

Attorney Mead reviewed criteria for the OSRD. Tom Bertulis, DCI Traffic Manager, said traffic study results met site line requirements. Differences were nine more trips in the AM, 12 more in the PM, and low level A or B delays at the intersection, and no degradation in the level of service. Chairman McCarthy said the board would enlist peer review experts to make sure the analysis was correct. Attorney Mead said OSRD criteria eliminated the ability to go all the way through. The project would comply with the tech review committee's request for two groundwater-monitoring stations near property lines and the City well. Development would be further from the wellhead than all other existing developments around the wellhead.

Kim Turner, landscape architect, KD Design, High Street, would oversee design standards regulated by the OSRD. She demonstrated on plans the wetland areas with a 100-foot buffer zone and a slightly sloped planted area along I95. Trees with a caliper greater than 20 inches would be preserved. She demonstrated the views in and out of the development and showed renderings of the first and second entrances. Lot sizes, in keeping with existing development, would reduce the view of I95. The streetscape would remain intact with over 60% of the land preserved. Open space amenities included a tot lot about the size of Perkins Playground, a picnic area, a skating pond on the enhanced wetland area, and a dense network of looping walking and biking trails connecting into the neighborhood. The central boulevard was a view relief. Attorney Mead said the applicant would work with DOT and the City on connecting to the multimodal path over the Merrimack River. Mr. Sawyer said the lot at end of Boyd Drive would be a green landscaped area in the middle of a cul-de-sac to buffer the view across an impervious area.

Scott Brown, architect, 29 Water Street, showed five designs of modestly scaled, 1¾-story homes with front porches and set back garages. The unique designs, in keeping with the

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neighborhood, were scaled to create a sense of community. Attorney Mead contrasted a conventional subdivision's use of all available land, more roads, and sprawling neighborhood to the OSRD's more flexible land use for compact development, efficient utilities and services construction, reduced land disturbance through permanent open space preservation, and neighborhoods more characteristic of Newburyport. No affordable housing was proposed.

Chairman McCarthy reviewed the origins of the OSRD as an alternative to conventional subdivision sprawl. The OSRD was a special permit that allowed the board to attach conditions and conduct a design review of houses. The City did not have such authority in a conventional subdivision. Director Port acknowledged historic concerns for well protection. Experts would be at the board's disposal. Technical review meetings on the project would be coordinated with other City departments on issues related to water, sewer, public services, engineering, health, and fire. Outside consultants would also be used, including peer reviews by professionals in engineering, water supply, and traffic. The board would not address historical issues of non-compliance. Maintaining two means of access to the site and developing a trailhead connector to the I95 bike trail would be explored. Oleo Woods, the most recent OSRD, was successful. The Planning Office would coordinate reviews by staff, boards, and consultants.

Public comment open.

Donald Rogers, 10 Brown Avenue, said any Laurel Road access required a traffic study to consider three handicapped kids and the absence of sidewalks. Neighborhood safety concerns were paramount. He fought the City and state for two years to get a sound barrier along the highway. Attorney Mead said the proposed OSRD did not go up through Laurel Road, or Brown or Briggs Avenues. Only the yield subdivision plan had a second access.

Peter Durning, 12 Arthur Welch Drive, was an attorney at Mackie Shea PC, 20 Park Plaza, Boston. He represented 11 Boyd Drive families whose key issues were wellhead protection and public safety. A previous board voted down residential development on this site that had a permanent cul-de-sac not reflected on the proposed plan. The extensive tech studies were absent. A proposal that looked at future wellhead needs was needed before hemming in and limiting the well. The notion that a homeowner's association could secure and manage proper practices on lawns was false. Adding 2,400 more feet of roadway to the 1,700-foot long Boyd Drive was not safe. Residents wanted a second access to the development.

Michele Barbaro-Rogers, 11 Boyd Drive, said traffic was a major concern. Multiplying 19 houses and 362 cars per day by a factor of three was over 1,000 cars. Traffic counts did not reflect the seasonality of the golf course. Current cul-de-sac site lines were difficult at 140 feet. Crash data, measured when the bridge was closed, should be measured after the bridge opened.

Audrey McCarthy, 13 Laurel Road, was supportive. The small Laurel Road/Briggs Avenue neighborhood had 45 homes and two cul-de-sacs backing up to the highway. The neighborhood recently lost vegetation, had increased noise and pollution, no sidewalks, water issues due to no drainage, and streets as narrow as 14 feet.

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Jeannine Blanchette, 23 Boyd Drive, was concerned for the safety of kids playing in the cul-de-sac. Three fire trucks came that could not see the kids until they approached 19 Boyd Drive. She wanted a second egress.

Dan McCarthy, 13 Laurel Road, supported the OSRD, but slicing into hundreds of thousands of dollars spent on noise mitigation to get into the golf course area would open up the sound. Property would have to be taken from homeowners to put in sidewalks. The development would also create more traffic on Daniel Lucy Way.

Peter Hatcher, 15 Boyd Drive, requested a check of the yield plan against buildings near ISLF boundaries and to consider the light pollution into homes when designing the road.

Alison MacDougal, 19 Boyd Drive, said Boyd Drive already experienced flooding. The impact on existing homes was not assessed. The traffic study excluded visitors to open space amenities.

Kevin Connors, 10 Laurel Road, asked which water line was discussed and if the berm would be broken? What process was used for to take a house at bottom of Laurel Road for a road? Attorney Mead said the board approved subdivision roads. She demonstrated where easements were for the water main loop. Mr. Sawyer said the OSRD plan would not take a house for a road.

Maureen Szurpicki, 13 Briggs Avenue, asked if the Laurel Road cul-de-sac would be safe? Attorney Mead said yes.

Peter Chu, 17 Boyd Drive, had read an engineer's review. A second egress was needed. Servicing 38 homes with a single street was not safe.

Pamela Lee, 1 Boyd Drive, said residents were informed that the cul-de-sac and golf course were permanent, never to be developed. Speeding cars had killed two dogs. Developers' promises had not been kept after 24 years. She had no confidence in the proposal.

David Marino, 7 Boyd Drive, said well #2 would need maintenance in time. The well discharged a lot of water. What would happen when water started to rise?

Robert Zirpolo, 14 Laurel Road, asked what water table elevations were before and after the OSRD? Attorney Mead said test pits were done in February/March. Mr. Sawyer said the existing grade was about 62. Mr. Zirpolo asked what the lowest elevation was? Mr. Sawyer said that detail was undetermined as yet. Mr. Zirpolo was concerned about the wellhead. Would loam be striped? Mr. Sawyer said yes. Mr. Zirpolo asked how often the well would be checked? Mr. Sawyer said 80% of stormwater had to be treated. All water was directed to the treatment areas.

Ann Marie Vega, 21 Boyd Drive, asked for another egress. Plans should address light pollution into homes. She recommended a site visit to assess the cul-de-sac site line. Kids were sent to there to play safely. The proposed development made the cul-de-sac unsafe. Rising ground water would cause more flooding. Her house flooded when 23 Boyd Drive was built.

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Mariana Lynch, 5 Briggs Avenue, asked for the timeline for permits and decisions. Director Port said the typical process could take several months. She was concerned about safety for her dog and children if the road opened. What about access from Woodman Way or through open space?

Attorney Mead said entering through Woodman Way would sacrifice the golf course. Another golf course would not be built in the City. Ms. Lynch requested a site visit.

Colleen Yavarow, 13 Boyd Drive, was concerned about traffic, the safety of her kids on bikes, headlights into her living room, and the disruption of threatened wildlife species spotted there.

Kenneth Groder, 4 Brown Avenue, believed that underlying clay caused water to stand. The two feet of loam was not everywhere. Another resident said his yard was all clay.

Laura Maas, 6 Boyd Drive, wanted a second egress.

Public comment closed.

Chairman McCarthy said the traffic study was challenged because all access points were unknown. Director Port suggested peer review look at both options in regard to counts, traffic flow, and trips. Issues existed with the golf course's seasonal nature as well as the cul-de-sac's site line disability and social aspect. Members agreed to a site visit. Attorney Mead said there would be a statute inconsistency if the City performed its own study. Chairman McCarthy asked for an updated study from Attorney Mead. Director Port thought it appropriate for the City to examine mitigation of any impact to Boyd Drive, but CSI could deal with the sound component, not traffic. Residents said sound information had been collected by the state; they did not want the sound mitigation work to be undone. Director Port suggested examining the traffic issue first to determine whether another access was necessary.

Chairman McCarthy summarized residents concerns. There had been no comments on house designs. Attorney Mead said house design comments were submitted. She asked about the scope of the AECOM request? Director Port said AECOM would determine the impact of proposed plans, if any, for \$15,000. Attorney Mead requested other bids. Chairman McCarthy asked Attorney Mead to consider the historical information in the Lally report. Attorney Mead said protections had not existed then and this type of development was not addressed. Stormwater designs were not done yet; there was nothing to review. Chairman McCarthy said the board would put everything on the City website forthwith. The next meeting would review traffic and groundwater reports. Residents had requested measuring traffic during the school year. The site visit would be at 2:00 PM, Friday, August 19<sup>th</sup>.

Leah McGavern made a motion to continue until September 21<sup>st</sup> in the auditorium. Andrew Shapiro seconded 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.*

- b) Lisa Mead, Esq. for Berkeley Investments, Inc.**  
**260-274 Merrimac Street**  
***Request for Minor Modification (2007-SP-03 and 2007-SPR-04)***

Attorney Mead showed the landscaping plan to demonstrate lights along the entrance that were not on the July 2015 approved plans. The insurance company had noted that the entrance lights did not cover certain open parking areas along the entrance. The modified plan used the same light fixture for which the board had cut sheets on single lights; some doubles would be used. Members asked if two entryway houses would be protected from the new lights? Attorney Mead said yes. The fixtures were down lit and spillover was slight. Members asked for a condition specifying the hour lights had to be turned off. Attorney Mead suggested 12:00 or 1:00 AM.

Andrew Shapiro made a motion to approve the Minor Modification. Leah McGavern seconded and all members voted in favor. Mary Joe Verde abstained.

**Motion Approved.**

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**6. Adjournment**

Andrew Shapiro made a motion to adjourn. Bonnie Sontag seconded the motion and all members voted in favor.

The meeting adjourned at 10:30 PM.

Respectfully submitted -- Linda Guthrie