

**City of Newburyport
Planning Board
August 5, 2015
Minutes**

The meeting was called to order at 7:05 PM.

1. Roll Call

In attendance for the Planning Board: James Brugger, Sue Grolnic, Jim McCarthy, Leah McGavern, Doug Locy, Andrew Shapiro, Bonnie Sontag and Don Walters

Absent: Noah Luskin

In attendance for the Planning & Development Subcommittee of the City Council: Ed Cameron, Jared Eigerman, and Barry Connell

Director Andrew Port was also present.

City Council members in the audience: Larry Guinta, Alison Heartquist, Meagan McKinsey, Charles Tontar, and Bruce Vogel

2. Planning Board and Planning & Development Committee of the Council Joint Public Hearing on proposed zoning amendment

- a) *Amend the Zoning Ordinance and the Zoning Map, to establish a new zoning overlay District entitled "Smart Growth District."
Continued from June 17th*

Director Port reviewed the rationale for a smart growth district. Newburyport's compact urban form was walkable with historic neighborhoods. Downtown represented the density and scale of the proposed district. The intent was to zone for that type of concentrated development near the train station. Development around the station had been discussed for over a decade. Beginning in 2004, development was discussed concurrent with economic development in the business park and preserving the Common Pasture. Increasing affordable housing did not necessarily mean low income. The goal was a more diversified housing stock. The City would establish high quality housing and architectural standards to ensure the 40R district, as well as Storey Avenue and downtown areas, represented Newburyport. The state wanted to ensure a fair and predictable permitting process within the 40R and provided incentive payments.

Director Port demonstrated area details on a map, including an area currently under consideration for a proposal. The land, already covered with buildings and parking lots, would be redeveloped by the 40R. Images of buildings that fit with Newburyport and were representative of what the City wanted to build throughout the 40R district were shown. One Boston Way, underutilized and being sold by the MBTA, was currently under consideration for such a building. MINCO Corporation had received approval from the MBTA to go through the permitting process with the City. A rendering of the proposed mixed-use MINCO building was shown. Mixed-use

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development was similar to downtown. The ordinance would be a new statute that super ceded the industrial zoned portion of the district to create an area where people would primarily use transportation other than cars. The income requirements of this affordable unit development were explained. Only 10% would be three-bedroom units because developers saw a greater market for one- and two-bedrooms. The project fulfilled the City's need for affordable units and helped create a walkable neighborhood. The 40R provided a defense against 40B development. The City wanted development in keeping with Newburyport standards. That could not be achieved with a 40B that super ceded all local zoning.

The potential maximum build-out for the entire district would be 520 units. More realistic were 440 units because of wetlands constraints. The permitting process for a full build out would take decades. The 1 Boston Way proposal alone would take two to three years. There was excess water and sewer capacity of 1.9 million and 1 million gallons a day, respectively. The Graf Road pump station was the one piece of infrastructure that required an upgrade to support the district. The pump station took wastewater from the entire area and pumped it over the hill to the Water Street plant. The upgrade must be done anyway and is required prior to any development.

A smart growth district around the station was good for the City's long-term economic development. It would sustain the tax base, encourage business park development, and temper tax escalation through increased City revenues. Tony Komornick, Transportation Manager, Merrimack Valley Planning Commission (MVPC), was on hand to answer questions about the traffic analysis, the scope of which was the predicted impact of 40R development on the rotary and nearby streets. Intersections currently worked at level A, with no delays in north and southbound traffic and some delays at Parker and State Streets. Route 1 should become more of a parkway that adhered to Complete Streets guidelines for accommodating pedestrians and bicycles. In 2035, at a future build out stage, service would be an acceptable level C. The MVPC has suggested that the traffic circle, originally designed for higher volumes at higher speeds, could shrink to a roundabout not as small as the other City roundabout, with an island that controlled where traffic was going. The offset intersection at Parker Street may require changes to accommodate pedestrians. The Superintendent identified no problems with adding two new students per classroom at full build out. The state would reimburse the City for the extra costs of school-aged children in the district. The 1 Boston Way development alone carried a reimbursement of \$120,000. A full build out reimbursement was \$600,000. Additional density bonus payments were \$3,000 per unit. The zoning amendment offered good income for the City.

The state had sent the City a letter of eligibility, signifying their approval. Two sentences in the ordinance required amending. Next steps were Planning Board and Planning & Development Subcommittee City Council recommendations and the City Council vote on the ordinance.

There were no comments from the board. Chairman McCarthy said that people would come to the City no matter what was done. The City was digging in neighborhoods, lot by lot, with the majority being high-end projects without any diversity.

There were no comments from the Planning & Development Subcommittee. Chairman Cameron asked if approved, and given the first development proposal at 1 Boston Way, what would the MBTA do for future parking and what about parking for MINCO's 80 residential units? How

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would the City ensure no spillover parking into nearby neighborhoods, as MBTA customers had done? Director Port said the MBTA lot was not fully utilized, but a deck over the lot was an option if needed. Residents wanting to be near the train were less car-oriented. They had underground and aboveground parking. A smart growth district was primarily for walking and public transit and less for cars. Developers would provide and justify adequate parking for their projects. The City did not expect the same parking demands as were needed for a single-family home neighborhood that was not transit oriented. No parking would occur on the other side of Route 1 in adjacent neighborhoods. A board member said previous transit-oriented projects had come before the board because the MBTA had found their parking to be in excess. In 2009, the MBTA asked the City to work with a developer. This was a continuation of that conversation.

Public comment open.

Victoria Carr, 1 Hill Street, a planner and developer, was supportive. A smart growth project in Boston without any parking was dominantly retirees and millennials. Units were always full. Newburyport needed affordable housing and had very little land to build on.

Peter Fitzsimmons, 7 Arlington Street, was supportive. The area was blighted and focused on cars exclusively. There were no usable sidewalks. Who would pay for the beautification? A connection to the bus station was needed also. Director Port said connectivity and beautification were part of the permitting process. Developers were required to put in sidewalks and make connectivity improvements in the surrounding area. Pedestrian friendly improvements were in accordance with the MA DOT Complete Streets policy that included bikes and pedestrians in road design processes. The board would determine the issues of each development and determine the cash value of improvements needed. Other issues would be addressed through coordination with the state. Traffic circle changes required several million dollars in funding from the MA Highway Department. That would take time. Chairman McCarthy said the traffic analysis highlighted that exact problem. Chairman Cameron said a shuttle could connect 40R residents to downtown, the Park & Ride, or to Plum Island.

Rick Taintor, 10 Dexter Street, Portsmouth Planning Director, was supportive. At inception, 40R was a way to finance the vision of Newburyport's Strategic Land Use Plan. Train station development had been a nearly 15-year process. 40R zoning work began eight years ago. The current draft had many improvements, was a nicer image for the area, and a good buffer for the industrial park.

Judith Grohe, 14 Strong Street, asked how the new rail trail would be impacted? Director Port said Senior Planner Geordie Vining had worked on a rail trail loop for over a decade. Phase 2 went from downtown to Parker Street. Phase 3 crossed Route 1. Making the traffic circle and Route 1 pedestrian friendly was not high on the DOT's priority list at present, but adopting a 40R would re-prioritize where funding was targeted. The Merrimack Valley Regional Transit Authority (MVRTA) planned more bus routes and a shared biking program was in the works.

Patty Spalding, 5 Britcher Street, asked about parking for residents from other parts of the City who shopped in the district? Was it realistic to think people would walk to an outdoor café, entertainment club, or hotel in that location? The City had no nighttime noise standards. Why set

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out to have all the problems? An engineer on the Little River Transit project had said if this area were built out, the City would not have adequate water supply. What had changed since then?

Christina Bellinger, 3 Dexter Street, asked about the effect of a two-lane highway entering a smaller rotary? Mr. Komornick, MVPC, said the analysis assumed a two-lane roundabout and slower approaching speeds on Route 1 to allow pedestrians to cross. It may be possible to eliminate the rotary and put in a signal to make it easier for pedestrians and bicyclists to cross.

Judy Tymon, 39 Lime Street, member of the Affordable Housing Trust, was involved in the Housing Production Plan. At present, the City was not creating affordable housing and experiencing a loss of rentals. The market was all high-end development that put pressure on development as a whole by driving up the cost of land. Housing diversity made a community more sustainable and prosperous. If the City wanted affordable housing, it had to pay for it.

Kim Gobbi, Chamber of Commerce Economic Development Committee, said the committee was supportive because smart growth districts spurred economic growth. The City needed to attract young people to live and work here. Other people would come anyway, and the City could control things with a 40R or relinquish control with a 40B.

Mary Anne Clancy, 16 Neptune Street, was supportive. She was mayor in 2004 when the Strategic Land Use plan was enacted. There were many successful smart growth districts throughout the state. The 40R could be done in the way that worked best for Newburyport, as other MA communities had done theirs in ways that worked best way for them. The City should do what is good for today and in the future. Developers will have to go through our process.

Marian Spark, 126 Merrimac Street, realtor, was supportive. Today, people wandered down Route 1 not knowing how to get downtown. People would come whether we wanted them or not. The City needed rental housing. MINCO would do a good job.

Diane Teed, 58 Spofford Street, was concerned about acting to avoid what developers might impose. It would not take decades for a full build out. She supported staggering development to implement good design. At the last meeting, Director Port had agreed there was a potential 10% population increase. She wanted to see infrastructure costs for a 10% population increase. The 40S reimbursement, as Councilor Connell pointed out, was subject to appropriation by legislature. Residents should have preferential treatment if they qualified for the affordable units.

Director Port addressed phasing. Interest was expressed in 1 Boston Way in 2010. MINCO had been involved for four years. Another example was the proposed pharmacy on Storey Avenue that had been in the works for almost five years and still had not broken ground. Buildings had to be relocated. Multi-million dollar projects take many years to get going. Chairman McCarthy added that when property was in use, a huge financial turnover was required to buy out a business and redevelop the property. An empty lot could develop more quickly, but it took a long time for current businesses to turn over and that was a built in throttle for the district.

Jeff Tomlinson, 21 Hill Street, questioned the method of integrating district sidewalks with the City on a development-by-development basis over decades. Sidewalks all needed to be built

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ahead of time so residents in the rest of the City could reach the new businesses as pedestrians. How could that approach be funded? Director Port said the initial \$600,000 could be used, as well as the \$3,000 per unit. Use of those funds was at the mayor's discretion. The City gained significant leverage for a \$3 million grant for upgrading the pump station because of adopting the 40R, another potential source of sidewalk funding.

James Shanley, 15 R Street, was supportive.

Andre Leroux, Executive Director of the MA Smart Growth Alliance, 264 Riverside Avenue, Medford, provided context from a national perspective. Demographic changes showed millennials, a larger generation than boomers, moving out of their parent's homes and boomers downsizing. Both generations wanted more walkable communities and looked for a place to live prior to looking for work. Car usage had declined and younger people were delaying getting drivers licenses. Vehicle miles travelled was down. A national 2013 study showed car ownership declining nationwide. Millennials used fewer cars than all others. The nation built as many large homes on large lots as it would need until 2030, while underbuilding smaller single-family homes and apartments in the last generation. Almost 90% of household growth was for singles. Even if population remained the same in MA, the state would need more housing options than currently existed. Andover had doubled and densified its town center and connected it to the commuter rail station. Winchester re-zoned to double the number of housing units in the town center in order to create more foot traffic to support businesses. Phasing the build out was not necessary because 40R was passed 11 years ago, yet less than 3,000 units had been built. The Alliance advocated expanding 40S and ensuring the funds remained available.

Bruce Vogel, 90 Bromfield Street, was supportive. The state would pay half the cost of the lift station upgrade. The other half may be bonded, but it needed to be done. The cost of the upgrade should be removed from the discussion because it had to be done, whether the state offered to pay for half or not. Director Port said the upgrade was part of the funding criteria for 40R, along with projects that demonstrated consistency with sustainable development.

David Strand, Strand Marketing, 10 Railroad Street, was supportive. He could not find young employees in the community for open positions in his company. The City had planned for train station development for 14 years. The community would have needs in 10-20 years that could not be predicted. The long-term need for revenue was the main issue. Millions of dollars could be lost in the future if the City did not pass the full district build out.

Rob Germinara, 2 Ashland Street, was not against it. Mr. Minicucci had integrity and could be trusted to do the development appropriately. In 2035, with Director Port's C rating, the City would be accelerating toward an F rating. What then? In 1998, when the train station was built, the MBTA decided to double the parking rates one day. Many people stopped using the train. Ridership went down. The City should insist that builders light the rail trail and that police monitor it since no one will be able to cross Route 1. Sending 1,000 people up through adjacent residential neighborhoods trying to find downtown was wrong. He wanted a guarantee from the state that the pedestrian ways would be done in a phased manner as Director Port described.

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Malcolm Carnwath, 22 Strong Street, was hesitant. The plan was not as good as it could be. The City had the greatest collection of 18th and 19th century buildings in the country and was under assault from developers. How could we add 540 new units and have City water and sewer usage go down? The assessor said when more units are added, taxes always go up.

Public comment closed.

Planning & Development Subcommittee comments. Chairman Cameron was supportive but wanted one more meeting to review details of the traffic analysis and water and sewer numbers. He would not seek an approval or disapproval of 40R tonight. He also wanted to determine how to meet with Back Bay residents without violating open meeting laws. Councilor Eigerman was supportive but not ready to vote. Tonight was the fourth meeting on 40R. Mr. Taintor's observations were good. Unlike other smart growth ordinances, Newburyport's design standards were detailed. If buildings were ugly, the district would fail. Nothing in the area at present was worth preserving. Any new buildings should be high quality and last a long time. There were many details to work out the goal was a larger district than the MINCO project. The superintendent had crunched figures for a full build out. The result at two new students per classroom was acceptable. In reference to the traffic circle and Route 1, it was unrealistic to build infrastructure first – that would be a controversial Redevelopment Authority model from the 1960s and the interest and federal monies for that approach no longer existed. The City needed to begin development first in order to direct MA DOT's attention to the issue. He was skeptical of the water and sewer data, however \$32 million in upgrades at the new plant could have changed the City's capacity. Noise was a problem, but most of it was an enforcement issue. The 40R was development in the best place to add 540 units. There was nowhere else for housing growth. A 40R was also the right form of development for the area. If the City did not build more housing, prices would continue rising. Councilor Connell was supportive. He said resident's questions had sharpened the subcommittee's view of what to be concerned about. Most questions had been answered. The design review was as detailed as it could be. Proponents were giving the Planning Board the power to influence development design. Parking was reasonably well addressed and there were public transportation options. The impact on schools was well addressed. The number of students was not overwhelming. There were fewer children per household in Newburyport than 50 years ago. The city could absorb the first 80 units easily. He could not see any reason to be concerned about the full build out. There was robust reserve capacity of water supply and a new water plant. The sewer plant had reserve capacity, but because of its sensitive location, he feared the increased flow would be blamed for the fact that the City had not resolved the odor problems. He wanted closer scrutiny of the water and sewer numbers. The City had made it difficult for people to move here and 40R could change that.

Barry Connell moved to close the public hearing for the Planning & Development Subcommittee of the City Council. Jared Eigerman seconded and all members voted in favor.

Doug Locy made a motion to close public hearing for the Planning Board. Don Walters seconded and all members voted in favor.

Motion Approved.

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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.

Planning Board comments. Chairman McCarthy said many hours of balanced testimony and good analysis were added to the City's efforts over 15-20 years to find the best approach for the area. The 40R district had been thoroughly vetted and the remaining issues were minor. The board was in a good position recommend the 40R smart growth district.

Don Walters made a motion to recommend adoption of the smart growth district. Doug Locy seconded and all members voted in favor.

Motion Approved.

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Jared Eigerman made a motion to adjourn the Planning & Development Subcommittee of the City Council. Barry Connell seconded and all members voted in favor.

Motion Approved.

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3. General Business

- a)* The minutes of 7/15/2015 were approved as amended. Bonnie Sontag made a motion to approve the minutes. Leah McGavern seconded the motion and six members voted in favor. Don Walters and James Brugger abstained.

b) 9 School Street (2015-ANR-06)

Everett Chandler, Design Consultants, Inc., 68 Pleasant Street, represented Maggie Shapiro. The ANR request followed the dimensional variances granted by the ZBA. Despite minor differences in the set back, the lots still conformed to zoning for area and frontage. The creation of two smaller lots with smaller frontage was part of the variance.

Doug Locy made a motion to approve the ANR. Sue Grolnic seconded the motion and all members voted in favor.

Motion Approved.

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a) 177 Storey Avenue (2015-ANR-07)

Ed Dixon, Northshore Survey Group, 18 Center Street, represented Nicky Lagasse, a veterinarian with a clinic in Haverhill, for building a vet clinic on Storey Avenue. A use variance was granted by the ZBA so that the vet did not have to live on the property. He proposed dividing the 7-acre property, with one lot for the clinic on the other lot for rental units. There were wetlands in back. A second hearing would be to increase building size to create income that supported the project. Improvements would be made to the site.

Bonnie Sontag made a motion to approve the ANR. James Brugger seconded the motion and all members voted in favor.

Motion Approved.

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4. Old Business

**a) Daniel Eyink and Jacqueline Carroll
3 New Pasture Road
Site Plan Review (2015-SPR-02)
Continued from 7/1/15**

Steve Sawyer, Design Consultants, Inc., 68 Pleasant Street, reviewed outstanding issues. A 13 foot long, building mounted sign, down lit by a fixture attached to building would not require a variance. Demarcation in the parking lot for pedestrians would be painted green with white striping. A textured surface was more expensive. A bike rack would be in the rear. A more detailed landscaping plan included three red maples of 2 ½ inch caliper, an extensive planting plan around the building that included shrubs and 12 smaller trees that were all native species, and additional trees in the flood compensation area. There was no final decision light fixture. He had final approval from peer review. The list of waivers included the waiving requirements for a registered landscape architect, from the parking set back (allowed if constricted by the site), and from a photometric plan due to being in the industrial park where there were no pedestrians or streetlights around. Mr. Sawyer showed a cut sheet for the lighting. Members preferred pole mounted over building-mounted lights because of glare, although it was not as appealing. Chairman McCarthy agreed to the Planning Office would approve the final lighting because

additional poles could be added. Members said all conditions had been covered. The pedestrian walkway and bike rack were on the plans.

James Brugger made a motion to approve the Site Plan Review. Andrew Shapiro seconded and seven members voted in favor. Don Walters abstained.

Motion Approved.

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5. New Business

***a) Adam and Lindsay Forrest
9 Richardson Path
Special Permit Amendment (2005-SP-10e)***

Adam Forrest, 9 Richardson Path, Oleo Woods requested a modification to his home in a Special Permit development. Chairman McCarthy said discussion would be particular to this request. Did Mr. Forrest's request violate the Special Permit? Members asked if the intent of the OSRD was to disallow expanding the footprint? Director Port said the language only said modifications could not be done without board approval. Members asked if the applicant's house had a porch on the plans? Was the board setting precedent? If other homeowners from Oleo Woods requested modifications, it would be hard to say no if the board agreed to this modification. A member agreed with looking at each modification request on its own merits. A member thought a design presentation showing the original house and all dimensional notations, including how far the room extended into the backyard would prepare the board for the next modification request.

Mr. Forrest said the addition was a family room that replaced the deck structure. A small bump out of the kitchen was for an eat-in area. He had a 12-foot set back on each side and the rear set back would change to 41 feet from 44 feet. The addition was only on the back.

Members preferred rules to have a sense of where modification limits were. Chairman McCarthy said the OSRD offered the board flexibility with all setbacks. Director Port said reviewing modifications case-by-case was best. The intent of the OSRD was to make a compact, walkable neighborhood. Members said the intent should be in writing. The board would ensure buffer zones were respected. The project could be approved because it did not infringe on the back buffer zone or the side set backs. Chairman McCarthy was inclined to approve because modifications were all in back. Members said no impervious surface was added and suggested downspouts from the roof directed to the back of the house and laying perforated pipe. Chairman McCarthy said the infiltration area was part of the design. A member noted the infiltration was probably only for the roofed area, not the deck area. Lot topography was a consideration. Mr. Forrest said his plans integrated the gutter system with the infiltration system. The board said

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there would be incremental run off for the system to handle. Chairman McCarthy suggested making that a condition.

For this property, conditions were not going to the sides or front, taking run off and sloped topography into consideration, and no encroachment on wetlands. The owner would address any issues with the system. The board needed assurance that neighbors knew the project was happening. Mr. Forrest said the Homeowners Association, abutters, and other neighbors were supportive.

Public comment open.

Evan Rimer, 2 Morin Road, said neighbors were fully aware of the project. He was supportive and said there were homes in Oleo Woods where this project could not occur.

Public comment closed.

Doug Locy made a motion to approve the Special Permit Amendment for the rear location only, not the side or the front, nor at ground level, noting the topography and runoff, that abutters had been notified and there were no known abutters concerns. Leah McGavern seconded and all members voted in favor.

Motion Approved.

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5. Planning Office/Subcommittees/Discussion

a) Updates

A member's disclosure statement to the state Ethics Commission was discussed.

6. Adjournment

Leah McGavern made a motion to adjourn. Don Walters seconded the motion and all members voted in favor.

The meeting adjourned at 10:17 PM.

Respectfully submitted -- Linda Guthrie