

**City of Newburyport
Planning Board
September 20, 2017**

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

1. Roll Call

In attendance for the Planning Board: James Brugger, Anne Gardner, Joe Lamb, Jim McCarthy, Leah McGavern, Bonnie Sontag, Andrew Shapiro, and Mary Jo Verde

Absent: Don Walters (patched in by phone at 7:35 PM for the Evergreen public hearing)

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

2. Public Hearings

- a) Atria Management Company LLC (2017-SPR-04)
77R, 85, & 85R Storey Avenue
Major Site Plan Review
Continued from 9/6/17*

Attorney Jeff Roelofs, 30 Green Street, said TEC, 65 Glen Street, Lawrence, did two rounds of test pits. City peer reviewer Phil Christiansen, CSI, was present for the second test. They were working with the Conservation Commission to provide continuous access around the building during construction. Three forms of relief were requested. Approval of a modification to the Major Site Plan Review would allow relocating the walking trail access to the City's land. There had been considerable back and forth on drainage.

Director Port said City departments and peer review had provided final sign off. The special conditions were minor. The Planning Office recommended approval with two conditions for maintaining the public access during construction and adequate signage for the public. Attorney Roelofs accepted a two-year construction deadline for substantial completion of the work, but did not want the approval to expire in two years. Instead, it should run with the property. Chairman McCarthy clarified there were two modifications and two conditions.

Public comment open.

Public comment closed.

Anne Gardner made a motion to approve of the Major Site Plan Review. Joe Lamb 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

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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) Newburyport Manager, LLC c/o New England Development
Brown's Wharf, 58 McKay's Wharf, 72 Merrimac Street, 86-90 Merrimac Street, and
92 Merrimac Street
Definitive Subdivision (2017-DEF-02)
Continued from 7/19/17***

Director Port explained the distinction between the Waterfront West development proposal and the Definitive Subdivision application, which allowed a roadway. Attorney Tim Sullivan, Goulston Storrs, 400 Atlantic Avenue, Boston, said the preliminary subdivision plan submitted last fall would clean up the multiple lots delineating the parcel. CSI issued a comment letter on the Definitive Subdivision. NED issued a revised set of plans that addressed drainage and other issues. CSI issued a final sign off this week. A lot was combined to provide a strip along the roadway. The plan made the lots conforming and locked in current zoning.

Director Port said the plan met regulations. Chairman McCarthy said the proposed had been stretched out for a long time. Was there a community impact analysis? Director Port said City departments had a long time to look at the plan. CSI recommended a guardrail at end of the cul-de-sac and a thrust valve along the water main, which could be incorporated into the decision. Members asked about the implication of approval? Director Port said the approval enabled the road. Chairman McCarthy said NED could also start dividing lots to be accessed from the new roadway. Director Port said the applicant would be able to build under current zoning and would come back to the board before building. Chairman McCarthy said the code afforded some things 'by right.' Attorney Sullivan said site plan approval was needed. Members asked if lots could be sold individually with a subdivision approval? Director Port said there was a waiver request from submitting a construction schedule because the project could take over 18 months. Chairman McCarthy asked about the Market Street offset issue? Members said normally the board had a better idea of a proposal before a subdivision approval, but there was uncertainty about the forthcoming development. Where were the details on how CSI's issues were resolved? A discussion on sidewalks was also needed. Director Port suggested continuing. Chairman McCarthy requested resending the entire package.

Public comment open.

Linda Lambert, 58 Merrimac Street, asked where the cul de sac was? Director Port the cul de sac on the other side of Michael's Harborside.

Public comment closed.

Leah McGavern made a motion to continue of the Definitive Subdivision to November 1. James Brugger seconded the motion and all members voted in favor.

Motion Approved.

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c) *Evergreen Commons, LLC*
18 Boyd Drive and 5 Brown Avenue
Definitive Subdivision (2017-DEF-01)
WRPD Special Permit (2017-SP-05)
Continued from 8/16/17

Don Walters joined the discussion by phone at 7:35 PM.

Attorney Mead, Mead, Talerman, & Costa, LLC, 30 Green Street, said AECOM identified a water reading in OB well #6 that looked askew compared to everything else as of the last meeting. Peer reviewer Phil Christiansen had not completed his review at that time. He went on site to dig his own deep hole test. The Horsley Whitten Group, 30 Green Street was subsequently retained by the Conservation Commission and performed another site visit with Mr. Christiansen. She expected Mr. Christiansen's final report this evening. He was not present.

Jay Billings, Northeast Geoscience, 97 Walnut Street, Clinton, showed on a map the two-foot deep B test wells the City had been monitoring, all constructed in the same sandy gravel aquifer. He pointed out the City's most recent test well and the applicant's monitoring wells on the golf course. Data from OB Well #6, on the boundary of the golf course and City property, showed strange water level trends with abnormally high readings in May 2006. The total fluctuation of about 14 feet was odd because high soil permeability should result in less seasonal fluctuation. The well was in highly permeable sand and gravel. He showed nearby USGS wells' data for comparison. A depression from a remnant kettle hole, located right over the property line on the City's property, and a couple of catch basins from Briggs Avenue that drained into the ILSF depression caused mounding. Mr. Billings said there was no external drainage once the pipe from Briggs Avenue discharged into the depression causing a large groundwater mound and a flow reversal back onto the golf course. He believed water flowed away in all directions. Well data was influenced by events outside the development.

Mr. Billings used data recording devices during the City's pump test on well #2 this summer to observe the water level response when they pumped at 200 gallons per minute. Monitoring Wells #3 and #6 both showed a groundwater mounding effect. He showed an image of the pumping test. The magnitude of water level change for the aquifer was as expected. Criteria for the WRPD special permit included demonstrating the project in no way affected the quality or quantity of water available on site for recharge. That would be addressed by eliminating irrigation withdrawals and the untreated stormwater discharge from Boyd Drive, a stormwater design for 90% TSS removal that promoted infiltration of treated stormwater, and by reducing the amount of managed turf from 23.8 acres of golf course to 9.1 acres of lawn. Special permit criteria also required that the development not substantially disturb the natural topography of the site. The whole stormwater control system on site provided the well protection. The analysis found broken down chemicals from DDT, not used since 1960.

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Steve Sawyer, DCI, 68 Pleasant Street, described the ILSF calculation. He investigated the potential for ground water elevations to be greater than 60 feet. Water had lapped against the well casing during the 2006 Mother's Day flood. The bedrock high would keep the water contained. He showed an image of original test pits and new test pits the applicant performed where high groundwater was found to be 54.8 feet. ILSF groundwater was consistent with other testing on the site, albeit slightly lower. The cause of fluctuating readings was not indicative of the site, which was designed for a seasonal high of 52 feet throughout. Neighbors, some of whom had lived in their homes since 1965, were asked whether their basements flooded. Flooding occurred in the 2006 Mother's Day flood, but at no other time. One resident drilled holes in his foundation and said water poured out through the holes, an indication that groundwater did not reach 60 feet. Surface water was up to 56 feet during the flood. Groundwater can be higher than ponding water. The lowest basement at 56.6 feet was lifted to 57.5 feet. Rain gardens were raised above 55 feet and would pond and spill over during an extreme event. It was standard to design for a seasonal high or 100-year event. The lowest building was 57.5 feet and the lowest rain garden was 55.2 feet, as submitted for review on August 23. He was confident the project would be resilient to flooding with the modifications.

Attorney Mead said Mr. Christiansen had seen everything. She learned Director Port had informed him that he did not need to attend this evening. She distributed materials and said Mr. Christiansen emailed Director Port that he could answer the five questions submitted by Chairman McCarthy following the August 20 site visit. She read a September 1 email from Mr. Christiansen to Chairman McCarthy. Also learned was that a senior AECOM employee lived on Boyd Drive. AECOM could do no further review. The board authorized Director Port to hire additional outside consultation at the August 16 meeting. Why should the applicant pay \$13,500 to Woodward and Curran if Mr. Christiansen could answer the five questions? The Curran proposal increased to \$17,000 with the addition of the groundwater elevation issue. A second proposal for \$11,500 came from Horsley Whitten, who was already retained by the Conservation Commission for the project. The peer review process had become convoluted. Chairman McCarthy said the board issued a 26-page special permit in the spring. This application came before the board on May 27 and July 5. Mr. Christiansen was asked five questions in July. He did not have answers at the August meeting. Finally, in September, he said he had answers. Attorney Mead said modifications based on the last meeting had gone to Mr. Christiansen.

Director Port said the applicant had a civil engineer and a hydro geologist, whereas the board had a civil engineer and now required a hydro geologist to replace AECOM. The Water and Sewer Department recommended Curran as more qualified than Horsley Whitten. Protecting the water supply was more important than the difference of a few thousand dollars. He read the email from Mr. Christiansen, which said that Woodward and Curran should answer the five questions. The board and the applicant would benefit from the additional review. The hydrological issues needed closure. Director Port's questions differed slightly from Chairman McCarthy's but there was overlap. Correspondence with CSI on the elevation issue had not resulted in a written statement for the board. Director Port read Mr. Christiansen's emails, which said he wanted more time to finalize his comments. Director Port did not see the benefit of his attending tonight if final comments were not ready. He told Mr. Christiansen they were looking at another firm, but he had not proceeded to hire a hydrologist because Attorney Mead had challenged whether the

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board authorized him to proceed. Attorney Mead said all City departments had 60 days to comment after the May 24 filing. This was their third meeting with the board. She was concerned that Woodward and Curran's letter indicated a particular mindset for the review and that the scope was still unclear. Curran would have to review everything again. Mr. Billings said Horsley Whitten, already working with the Conservation Commission on Evergreen, were familiar with the project. He was already interacting with them.

Chairman McCarthy did not have enough information from the City's peer review to make the two decisions without a formal, written statement from peer reviewers in response to his and Director Port's questions. Members were uncomfortable without the advice of the City's regular consultant. Where was Mr. Christiansen's report from three weeks ago? Chairman McCarthy said it was still unclear whether Mr. Christiansen would respond to his questions sent on July 20. Members agreed another consultant was needed. The project was over the City's water supply and CSI could not answer all the questions. Chairman McCarthy said Horsley Whitten had a hydrologist but that was not the firm's focus. They represented the Conservation Commission for the project and were a few thousand dollars less. Members leaned toward a compromise with Horsley Whitten. Attorney Mead distributed a document showing the board's scope overlap with Horsley Whitten's Conservation Commission scope. A board member was satisfied with the groundwater elevation issue. Other members said confirmation was a worth the expense.

Chairman McCarthy said setting the groundwater elevation was critical. Where was a written letter to the board saying stating 52 feet was good? Members said Mr. Christiansen agreed the board should hire a hydrologist at the last meeting. Director Port said the Horsley Whitten scope did not include the groundwater elevation issue. He was comfortable with CSI setting the groundwater elevation. The intent was for Mr. Christiansen to coordinate with the consultant. The board wanted Mr. Christiansen's written report and considered whether the groundwater issue should be added to the Horsley Whitten scope. Mr. Sawyer said the groundwater elevation affected the design and should be in the CSI report. Members asked if the aberrant well behavior would affect homes built closer to the well differently? Mr. Sawyer said the development was pulled away from the area in case another well would be needed. The seasonal high against that well was higher, at 54-55 feet, than the 53 feet in other parts of the site. Members asked if stormwater runoff from Briggs Avenue would remain the same? Mr. Sawyer said that was up to the City. Attorney Mead said the City was discharging untreated stormwater into zone 1. Members thought that was the worst fact learned throughout the public hearing.

Bonnie Sontag made a motion to ask for a consultant peer review from Horsley Whitten as outlined in the board's response of September 20 and with the addition of the groundwater elevation issue. Joe Lamb seconded the motion and all members voted in favor.

Motion Approved.

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Director Port would not be able to execute the contract until receiving a check from the applicant and meeting with Horsley Whitten. It could take until the middle of November to complete. Attorney Mead would issue a check tomorrow for the existing scope and issue a second check for the additional groundwater work. Director Port said the other work could prove to be a waste unless the groundwater elevation was settled first. Attorney Mead would take that chance. She wanted to see Mr. Christiansen's report and return to the board October 4.

Public comment open.

Peter Hatcher, 15 Boyd Drive, had requested water levels of all OB wells. There were over 150 readings. Five of the six wells had readings higher than 52 feet. He highly recommended a peer review of the groundwater elevation. Chairman McCarthy said CSI should have that information.

Jane Snow, 9 Coffin Street, said the City needed their own peer review to answer the ground water elevation question for the sake of residents.

Michelle Rogers, Boyd Drive, said chemicals found in the soils had been there for 50 years. Would the chemicals stay in the soil? Mr. Billings said the data was sent to a risk assessor who confirmed the concentrations were low enough that they did not pose a threat.

Public comment closed.

Members asked about disturbing the soils during construction? Mr. Billing said there was no concern with such low concentrations. Attorney Mead said AECOM had provided a letter about the risk assessment at the last meeting.

Bonnie Sontag made a motion to continue the Definitive Subdivision to October 4. Joe Lamb seconded the motion and all members voted in favor.

Bonnie Sontag made a motion to continue the WRPD Special Permit October 4. Joe Lamb seconded the motion and all members voted in favor.

Motions Approved.

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The call with Don Walters ended at 9:08 PM.

d) Gorman Homes LLC
32 Union Street
Definitive Subdivision (2017-DEF-03)
Continued from 9/6/17

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The applicant had requested to continue to October 4.

Joe Lamb made a motion to continue the Definitive Subdivision to October 4. Leah McGavern seconded the motion and all members voted in favor.

Motion Approved.

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- e) **Parker Realty Trust**
2 Parker Street and 151-155 State Street
Major Site Plan Review (2017-
Definitive Subdivision (2017-SPR-06)
VI.C Special Permit (2017-SP-07)

Andrew Shapiro read the notice. Chairman McCarthy said the 23-unit development requested three permits. Attorney Mead said a subdivision approval was needed for the road through an easement to the site. There would be more than one residential structure on the lot, requiring a major site plan review and a VI.C permit. There were 15 two-bedroom and eight three-bedroom units, overall. One three-bedroom and two two-bedroom units would have a deed restriction for affordable housing. A community and environmental impact report to look at school aged children was done. The buffer zone for a pond behind the site was on the property. Only 80% of the buffer could be disturbed. The City was not sure which side of the street the trail would be on when the tech review was done in the spring. The City recently decided the trail would be on the north side, requiring the front of the development to be changed. A hard culvert covered by the path would impact stormwater and open space. The applicant would construct that portion of the trail for the City, which satisfied the Conservation Commission. Condo unit prices were \$600,000 for two-bedroom units and \$650,000 for three bedrooms, attractive for retirees. Parking was underneath the units. She requested to continue to October 18.

Mary Jo Verde made a motion to continue the Definitive Subdivision to October 4. James Brugger seconded the motion and all members voted in favor.

Motion Approved.

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3. General Business

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- a) The minutes of 9/6/17 were approved. Leah McGavern made a motion to approve the minutes. Bonnie Sontag seconded the motion and eight members voted in favor.

Motion Approved.

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4. Planning Office/Subcommittees/Discussion

- a) The NED Subcommittee Joint Public Meeting minutes of 6/5/17 were approved as amended. Joe Lamb made a motion to approve the minutes. James Brugger seconded the motion and all members voted in favor.

Motion Approved.

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b) Other Updates

NED and a working group on recreational marijuana were discussed.

5. Adjournment

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

The meeting adjourned at 9:32 PM.

Respectfully submitted -- Linda Guthrie