

**City of Newburyport
Planning Board
January 5, 2022**

The online meeting was called to order at 7:00 PM.

1. Roll Call

Planning Board Attendance: Alden Clark, Beth DeLisle, Bob Koup, Heather Rogers, Bonnie Sontag, Rick Taintor

Absent: Don Walters

Planning Director Andy Port, Zoning Administrator Jennifer Blanchet, and note taker Linda Guthrie were also present.

2. Public Hearings

- a) *Turnpike Redevelopment, LLC
166-168 Route 1
Smart Growth Plan Approval (2021-SGD-01)
Continued from 12/15/21*

Scott Cameron, engineer, Morin Cameron Group, 66 Elm St., Danvers, demonstrated plan adjustments based on feedback. Peer reviewer Phil Christiansen had asked for erosion controls on Route 1, which are added to fit the limit of work that includes the Clipper City Rail Trail (CCRT). The pedestrian connection from the new Rail Trail parking area to the CCRT instead of bringing people down to a new sidewalk on Parker St. The configuration of parking coming in from Parker St. has 5 spaces instead of 4 and landscaped islands are added. The solid waste and recycling enclosure is relocated to the other side of this parking area to distance it from the main route to the CCRT. Removing some parking spaces and making other spaces compact opened the throat coming into the front entry turnaround where the 8 ft sidewalk is the primary connection between the Hill St. lighted crosswalk and the CCRT. It's handicap accessible with detectable pads. The diameter of the turnaround increased from 70 to 80 ft. Handicap parking in front of the building is adjusted. The front entry has a more accessible 10 x 30 ft drop off area.

Scott Cameron said the northerly parking area has parking for the commercial units. One landscaped area there was eliminated to make the entry into the parking lot easier. The retaining walls along this boundary are eliminated. A couple of tree wells are added to protect the root zones of existing trees. Work was pulled away from a defining mature existing tree. A 6 ft tree belt separating the 6 ft sidewalk from Route 1 is actually grass belt. The assumption is that MassDOT will not allow trees planted there because of the overhead wires. That issue will be finalized with MassDOT before the next design plan. The Route 1 side drop off area is removed but proposed is access for a firetruck to pull in off the highway (instead of blocking it) using a 20 ft wide emergency apparatus pull off and a curb reduction from 6 to 3 inches that a truck can mount. The grass strip, sidewalk, and planting area will be structurally reinforced with either thickened concrete for the sidewalk or a structural subbase below the loam and seed, so the

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firetruck has a staging area in front of the building. The surface parking is as minimal as possible, reducing the paved surface area about 30% from the original design. Parking spaces are down to 128 total, with 83 below the building and 45 on the surface. Close to 75% of surface spaces are compact. All garage spaces are full sized with a 70-30% split between compact and full size spaces. Full size parking spaces are 16 ft deep rather than the traditional 18-19 ft deep. People will pull in all the way forward to avoid being in the aisle.

Scott Cameron said collaboration with City engineer Jon Eric White and Mr. Christiansen addressed issues on the grading and drainage challenges. The old railway ditch, engineered to preserve drainage, incorporates area drains and a buried pipe. That allows the area to be filled in for a smooth, clean transition between the 2 properties with no walls, culverts, or ditch. It's an 80-100 ft wide open grassy landscaped area. The grade around the Alchemical Garden is not changing and an area drain is added there as a failsafe even though they do not expect any runoff there due to the sandy soil. A subtle swale going toward Parker St. is in an area that will be cleaned and landscaped to accommodate some trees. Overall, it's a more harmonious blending of the CCRT and the site.

Scott Cameron said most of Mr. Christiansen's comments were on drainage. As a result, a couple of infiltration systems were added. There were a couple of comments relating to some of the materials and features of the project.

Rick Taintor said there's a 14" tree outside the tree well at the north parking lot. The wall is aimed right at the tree.

Scott Cameron said there are no grading changes there. The tree is right at the high point. A full set of plans will show how the wall be built and taper down to nothing. He would look at sweeping the wall away from the tree a little bit. He wanted to protect the trees.

Rick Taintor asked about the connection between the property and the intersection of Route 1 and Hill St. He couldn't tell what the width of the sidewalk will be.

Scott Cameron said Mr. Minicucci met with the owner who is open to allowing him to extend the sidewalk across his property. He had high confidence that it would get done but did not have anything in writing yet and no owner permission to put it on the plan yet. They will continue the 6 ft wide sidewalk and grass belt on Route 1 to intersect with that area for a full connection.

Rick Taintor said the Parker St. driveway exit comes too close to the culvert. Would that be an issue?

Scott Cameron said it's a better situation to get this drainage underground and it will be far easier to maintain. Everything is H2O capable and some of the structures might go under the pavement.

Bob Koup asked for a summary of the parking numbers. If parking is all dedicated to residents, how is the flexibility built in for other users during the day? How do people who park in some of the more remote locations get to the building?

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Scott Cameron said from the Parker St. lot and the north lot, you walk up the aisle. Neither is a through way so there's not a lot of traffic. Assigned parking is below what is desirable, and 107 spaces are required and 128 are provided. Sixteen are double-stacked and go to tenants who have a need for 2 spaces. People going to work will open up spaces during the day and he thinks the sharing will be manageable for retail. Five spaces in the Parker St. lot are for public CCRT users. There are routes to the building from each lot and a northerly egress door in the building for people parking in the north lot.

Bob Koup asked if there would be a specific retail parking plan. Mr. Cameron said yes.

Beth DeLisle asked about the proximity of the Parker St. exit to the bike path and about visibility and safety with regard to the maintenance of vegetation and directional signage. She also asked about the first floor units' ability to be modified for commercial space and the location of permeable pavers.

Scott Cameron said visibility is addressed with flashers for that painted crosswalk when a pedestrian or cyclist nears, along with signage. Overgrown vegetation that hampers the sight line to the right will be cleaned up. The intersection will be designed to slow vehicles coming around that corner which will help with driver reaction time. One of the district requirements is that the 1st floor be higher should there be future demand for commercial space, so the flexibility is built in. Right now, it's all residential. Permeable pavers are on a lot of the walkways, including the entry circle, the courtyard at the southern end of the building, the seating areas.

Beth DeLisle suggested signage warning of pedestrians for the end of the driveway.

Heather Rogers asked if for an anticipated ratio of retail vs resident parking and when the ratio was that established. Because of Covid, not everyone will be commuting.

Scott Cameron said it was impossible to predict and will be handled by property management. There are flex spaces that are not for tenants in the Parker St. lot and in the north end lot. They are comfortable there will not be issues.

Lou Minicucci, MINCO, 231 Sutton St., North Andover, said survey results show 1.45 cars per unit at Boston Way. A 1.4 ratio is realistic for this building. About 40% of the cars tend to leave for the day. Spaces are monitored dawn to dusk. Retail parking at the north end would be from 7 AM to 5 or 6 PM, and open for visitors in the off hours.

Bonnie Sontag asked how a visitor would park if all the retail and CCRT parking was taken.

Lou Minicucci said spaces in the garage and to the north are all assigned, spaces at the southern end are open parking, and people will leave for weekends to open up other parking. That will be handled by property management. Visitors will have a harder time finding the north end parking lot. He addressed Mr. Taintor's question about the property's sidewalk connection at Route 1 and Hill St. The owner of Ashby Cross agrees to let a sidewalk be built there since that's less sidewalk they'll have to build in the future, but the owner will not give him anything in writing and it's not shown on the plan. He's 95% sure the sidewalk will get built.

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Director Port asked if written confirmation would be received before Board approval so that it could be incorporated into the plans.

Lou Minicucci said he would proceed with building the sidewalk rather than press the owner for confirmation because that might send him to a lawyer, and the sidewalk may not get done. He doesn't want the permit contingent upon written confirmation because he has no control over it.

Bonnie Sontag asked for the sidewalk to be on the site plan along with construction drawings.

Rick Taintor said this connection is a crucial part of the plan. It should not be left to a handshake. It's important for the City to be part of the discussions with MassDOT about what happens at that corner. Maybe the sidewalk happens within the MassDOT right of way rather than Ashby Cross land. It has to be in the plans before the Board acts.

Bonnie Sontag agreed.

Scott Cameron said there is space to make a 3 ft wide connection to the concrete. We don't have rights to propose anything on that property. Input from the City with MassDOT would help.

Scott Thornton, Vanesse Associates, Inc., 35 New England Business Drive, Andover, said the transportation study submitted last month is less of a study than the access. Counts were done in 3 locations in November, adjusted for seasonal conditions and the effect of the pandemic. This is not a large trip generator, with 33 peak hour morning trips and 42 peak hour evening hour trips between the Route 1 and Parker St. access. Traffic increases are 1.4 - 2 % during peak hour with no change in level of service. There is a 1-2 second delay at either Hill St. and Route 1, Parker St., and Route 1. MassDOT was interested in the project's impact on Hill St. and Route 1, which is minimal. The City is concerned about traffic turning from Route 1 onto Parker St. sometimes with great speed, and for visibility for the 3 driveways just west of Hill St. The proposal reduces the radius of the turn onto Parker St. with striping that further channelizes the turn making vehicles slow down and increasing the sight distance from the current driveway to Hill St. from 105 ft to 167 ft. Text on the pavement saying, "Slow, Driveway Ahead" will precede the 3 driveways to increase the visual awareness of the driveways for motorists. The vegetation to the west side of the driveway will be cleared as a condition of the project.

Scott Thornton said in initial conversations with MassDOT, they did not think the Route 1 access warranted a slowdown lane. He demonstrated on the concept plan to be presented to MassDOT a proposal that improved conditions for the traffic entering the site from Route 1. The City's concerns would be addressed by a deceleration lane with a 12 ft wide use of the shoulder to provide a bypass for traffic headed south on Route 1. There's over 650 ft of sight distance at this location and 500 vehicles per hour in 2 lanes. That's not a substantial amount of traffic. There is no traffic for extended periods. The traffic signal at Low St. also introduces a lot of gaps into the flow of cars. There will not be a lot of traffic on the Route 1 driveways, maybe 2-7 cars in the peak hour. MassDOT had asked the applicant to look at replacing the signaling equipment at the Hill St. and Route 1 intersection. They acknowledged that we did not have control over the property and expect us to do our best.

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Rick Taintor said reducing the radius will do a lot to slow down the traffic at the Hill st./Parker St. intersection. He didn't think painting the street would work and asked about using a cobbled, mountable apron an inch or two above the asphalt at Hill and Parker Streets. He shared Ms. DeLisle's concerns about the proximity of the crosswalk on Parker St. The driveway is moving 30 ft to the west, closer to the crosswalk and the end of the curve in the driveway is only 18 ft from the crosswalk. That's close. The cross walk crosses at an angle. The curb radius on the exiting driveway is 20 ft which is not necessary on a residential driveway. Tightening the radius would pull it further back from the crosswalk which is a major safety improvement. Anything that encourages cars to move rapidly out of the driveway is a safety hazard.

Scott Cameron said the striping was chosen for auditory reasons. Trucks and vehicles going over a cobbled surface produces an audible sound that will occur at odd hours of the night. We expect most traffic to be turning left out of the driveway, and drivers exiting to the right will be looking right at the bike path.

Alden Clark agreed with Mr. Taintor that paint wasn't enough. A fair number of people will be turning right to head for I-95. The 12-22 traffic impact assessment shows the Hill St. crosswalk on the wrong side, at the south side of Hill St., when it's actually on the north side.

Scott Cameron said a complete set of plans would be submitted for the next meeting.

Bonnie Sontag asked if there were any details regarding screening on the ground floor patios on the Route 1 side which had previously been requested. Would they consider replacing the Juliet balconies with full balconies on the Route 1 side. By the time you get to the 2nd floor, units are above the traffic, and it might make the units on the Route 1 side more attractive.

Joe Sirkovich, architect, Arrowstreet Architects, 10 Post Office Square, Boston, described low-walled masonry screening for the terraces on portions of the building with landscaping to enhance the privacy. He would look at the idea of full balconies to see where it made sense.

Lou Minicucci said there is a balcony on the 4th floor as a common area. At 1 Boston Way the majority of people gather in the community space and the firepit.

Bob Koup asked what the most probable connection was for people to take advantage of a coffee retailer located at the north end of the building. He had concerns about the specifics of the retail uses.

Joe Sirkovich discussed a number of retail possibilities but didn't know which one of them would be a destination place for people on the CCRT. He's not sure how it will all pan out. A resident would go from the central lobby and walk down the sidewalk or exit from the stair location and walk down the sidewalk.

Rick Taintor said Haley's was a destination retail business for CCRT users. Replacing that should be easy. There's an existing utility pole in the middle of the existing driveway at the

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Parker St. entrance. Presumably, you will create a new utility pole. What are the proposed stop line and stop sign listed on the utility plan?

Scott Cameron said that note got moved by mistake and should point to the driveway entrance.

Bonnie Sontag asked about the landscaping maintenance plan relative to the Parks Department request that the developer maintain the plants they install . Director Port said the Parks Department asked the developer to take care of the areas that are affected by the proposed plantings. He would coordinate any agreement between the developer and the Parks Department.

Bob Uhlig, Halvorson/Tighe & Bond, Landscape Architects, 25 Kingston Street, Boston, said his understanding is that the City will maintain the mowing of those areas between the CCRT and where the planting buffer is. Director Port said the Parks Department oversees the maintenance of that area and Lise Reid responded to that today. He defers to her perspective but understands that the Parks Department maintains the buffer along other sections of the CCRT.

Lou Minicucci said he will adopt those 2 areas and maintain these buffer areas because it's a significant investment and he wants to make sure everything grows.

Director Port said MINCO submitted an update on the waivers.

Bonnie Sontag asked about the 2 conditions for signage plan details that will be submitted prior to issuance of an occupancy permit. Director Port said the signage at 1 Boston Way was approved prior to occupancy. That made sense.

Public comment open.

Public comment closed.

Bonnie Sontag said the dimensional waivers need to be added to the list of waivers on which the Board will be voting.

Beth DeLisle made a motion to continue the Smart Growth Plan Approval Application for 166-168 Route 1 to January 19, 2022. Alden Clark seconded the motion, and all members present 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.

2. Other Business

a) Approval Not Required – 14 Pine Street (ANR-21-6)

Director Port said this application is to break off a Parcel A in the back and add it to 14 Pine St. It's in accordance with subdivision regulations.

Rick Taintor made a motion to endorse the ANR Plan for 14 Pine Street (ANR-21-6). Alden Clark seconded the motion, and all members present 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) Discussion of zoning for Short Term Rental Units (STRUs)

Bonnie Sontag said there's been a reconciliation of the proposed zoning and licensing amendments and significant changes in the zoning from what the Board presented a year ago in October. The hearing is February 2. The biggest change is that wherever STRUs are allowed, they are only allowed by SP issued by the ZBA because the City Councilors were uncomfortable with allowing it by right or permitted everywhere. They want to go slowly and carefully to have more control over what gets through zoning and is eligible for licensing. Secondly, parking is required on site, one space per rented bedroom. Third, if someone wants to offer a STRU for less than 14 days in the year, they do not need a license, but they do need a certificate from a STRU staff administrator who will handle all requests.

Bob Koup said a SP can be structured to be added to the deed to the property and granted in perpetuity. This SP is granted to the property owner for 3 years before renewal is required. Parking is off street, but on site for the STRU, one space per bedroom rented in addition to parking required for the property owner. That will be problematic for a number of properties. There are 2 types of STRUs where the owner is potentially present, and language added that the owner must be present overnight to supervise. Other language says there are no variances, no exceptions taken, and no diverting from the specific requirements of the ordinances. It covers just about everything this Board has discussed over the last few months.

Heather Rogers asked if there is also an annual license renewal and a 3 year SP. Director Port said yes. He expressed to City Council members that applicants and Board members will be spending a lot of time on the SPs.

Heather Rogers asked if the current language remains that way, was the idea to have this up and running by June? Director Port said yes.

Heather Rogers said June doesn't seem possible with those 2 hoops to jump through. Everybody can only own one STRU property in the City?

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Bonnie Sontag said, yes, because it's in or adjacent to your principle permanent residence.

Heather Rogers said that puts a lot in the pipeline for the licensing and the SP.

Rob Ciampitti, Chair, Zoning Board of Appeals, agreed with Ms. Rogers. Given the docket going forward and the ZBA's obligation to grant a yes or a no, or an application de facto approved, we're nowhere ready to have this up and running by June given the 158 identified STRUs that have to go through the ZBA and the Licensing Board. The process is a duplicative effort. There's no way we can get through more than one application per meeting. It's an onerous expectation. The ZBA also has 40A compliant work to get to. We could get through it by June of next year, but not June of this year. Neighbors and other folks may wish to speak. He asked the Planning Board to carry the ZBA's concerns forward. The expected timeline has to be more rational. Folks waiting in the application queue have to get through licensing after their ZBA hearing. Licensing will likely have a similar absorption issue. His concern is that this draft isn't quite ready because he found a few concerning discrepancies that look like inadvertent omissions. For example, in the proposed zoning ordinance, section V-G-3, starting with specific districts where permitted, it lists which districts are permitted. The Plum Island Overlay District (PIOD) is not listed. A reasonable interpretation is that the PIOD is excluded and the ZBA may not issue a permit in the PIOD. There's no due process or redress for PIOD residents. He hopes that's an unintended gap.

Bonnie Sontag said it's not left out, but it's not in the right place in section VII in the end. It's not listed in the use table and the section Chair Chiampetti identified.

Alden Clark asked if the 14-day STRU will be enforceable? There will still be illegal STRUs after this goes into effect such as someone who's renting out 2 bedrooms instead of just the one that's licensed. He's concerned about the people left out of the STRU process such as residents in the Conservation District at 205-269 Water St. and in the WMD along the Merrimack River by Cashman Park and further up the river that are left out. Lots of places in the south end don't have off street parking. Is it the same for new construction?

Bonnie Sontag said people without off street parking are grandfathered for their own parking on the street but that means they can't have an STRU. It the same for new construction. The 3rd party will monitor when it's the 14th or 15th day. If people complain and we need to revise the zoning districts, we will do that. Director Port said the vendor can identify what's online. The zoning administrator is the only enforcement. There is a workload concern about that. People who don't have off street parking are grandfathered for parking on the street

Rick Taintor said one of the City Councilors said if a property is non-conforming, they would only require parking for the tenants. The parking section is ambiguous and needs to be rewritten. The SP has bigger issues. He doesn't understand the need for both a licensing process and a SP. The 3 year time-line expiration doesn't make sense with the SP, and the 3-year de novo renewal doesn't make sense. The 1-year licensing renewal should be enough to protect the City without another round of public hearings every 3 years for the SP.

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Rob Ciampetti said the ZBA has a precedent for the expiration of in-law use. After 2 years a resident has to re-up by providing verification proving still meet the qualifications. It would be an endless cycle of re-upping STRUs if the process is not efficient. What's proposed is too process and paperwork intense.

Bonnie Sontag said the Planning Board is concerned about a lot of initial applications and about the public's concern that potential worries will be covered with the combination of zoning and licensing. The City Council was convinced that they should go the other route. The SP is onerous in her opinion for the administration, boards, and the applicant. She hoped to convince the City Council to choose by right over SP.

Bob Koup understood that the separation between SP and the licensing process was the separation of an initial review relative to the zoning and whether a particular property qualifies. That would be the SP process. The licensing process was a check the box, paperwork, and enforcement portion sort of like the operational aspect after the SP approval.

Jennifer Blanchet said whether it's herself or an additional STRU administration staff member, if the ordinance is well crafted, an administrator should be able to look at a property against the ordinance and determine whether or not it meets the criteria. If that is done successfully in advance the SP process would be superfluous. She's in favor of taking more time to craft a clear ordinance but removing the onerous process of the SP and relying on licensing.

Mark Moore, Vice Chair, ZBA, supported all the comments. His concern is that this is a big duplication of effort for requirements that are exactly the same. If the ordinance is crafted tightly, it should be easy to enforce and that would help the timeline for getting the process underway. Otherwise, it will collapse under its own weight. He knows a community that does this just by a license with no ZBA involvement.

Bonnie Sontag recommended, in preparation for the joint public hearing with the City Council that members be really specific about unclear language, loopholes, as well as the argument to reduce the burden on the ZBA and the applicant to eliminate the SP.

Director Port said advertising the February public hearing would begin Tuesday, after the Monday City Council meeting.

c) Approval of Minutes

Rick Taintor made a motion to approve the minutes of 11/3/21, 12/1/21, and 12/15/21 as amended. Alden Clark seconded the motion, and all members present voted in favor except for Beth DeLisle, who abstained for the 12/15/21 minutes.

Motion Approved.

d) Annual Election of Officers

Slate of officers:

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Bonnie Sontag - Chair
Rick Taintor – Vice Chair
Beth DeLisle – Secretary

Bob Koup made a motion to approve the slate of officers. Heather Rogers seconded the motion and all members voted in favor.

Motion Approved.

e) Other updates from the Chair or Planning Director

Director Port said the hearing on Brine State Street begins at the next meeting. He asked members to familiarize themselves with the material ahead of the meeting.

Rick Taintor asked if the Newburyport Historic Commission (NHC) had made recommendations on the design. Director Port said he would follow up with NHC Chair Glenn Richards to get the details of the NHC comments prepared for the ZBA hearing. The ZBA left the design review of the operable windows to the Planning Board.

3. Adjournment

Alden Clark made a motion to adjourn. Rick Taintor seconded the motion, and all members present voted in favor.

Motion Approved.

Meeting adjourned at 9:33 PM

Respectfully submitted -- Linda Guthrie