

**City of Newburyport
Planning Board
January 6, 2021
Approved Minutes**

The online meeting was called to order at 7:01 PM.

1. Roll Call

Attendance: Alden Clark, Beth DeLisle, Anne Gardner, Tania Hartford, Leah McGavern, Bonnie Sontag, Rick Taintor, MJ Verde, and Don Walters

Andrew Port, Director of Planning & Development, and Katelyn Sullivan, Planner, were also present.

2. Public Hearings

- a) *Institution for Savings in Newburyport, c/o Lisa Mead, Mead, Talerman & Costa, LLC
93 State Street
Site Plan Review (2020-SPR-02)
ITIF Special Permit (2020-SP-01)
DOD Special Permit (2020-SP-09)
Continued from 11/4/20*

The applicant requested a continuance.

Leah McGavern made a motion to continue the DOD Special Permit (2020-SP-05), ITIF Special Permit (2020-SP-01) and Site Plan Review (2020-SPR-02) for 93 State Street to January 20, 2021. 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.

3. Other Business

- a) *Approval of Minutes*

Alden Clark made a motion to approve the 12/16/20 minutes. Tania Hartford seconded the motion, and seven members present voted in favor. Anne Gardner and Rick Taintor abstained.

Motion Approved.

- b) *Annual Election of Officers*

Leah McGavern presented the slate of nominations: Bonnie Sontag as Chair, Rick Taintor as Vice Chair, and Beth DeLisle as Secretary.

Anne Gardner made a motion to approve the nominations as presented. MJ Verde seconded the motion, and all members present voted in favor.

Motion Approved.

c) Potential zoning amendments and open discussion 2021

Bonne Sontag said there are many unfinished planning issues on the table and asked for everyone's priorities.

Anne Gardner suggested:

- Re-writing our zoning should be the highest priority, whatever it takes in the way of funds or consultants. It's frustrating to do a little at a time. How can we move that along?
- Waterfront West. Does the City Council have to do a new overlay district?

Bonnie Sontag said we were looking at it ourselves so we could be prepared. Director Port said before Covid, the zoning was withdrawn from City Council because the proposal was not acceptable. We had decided to hire a consultant to create 3D modeling to facilitate deliberations about massing and spatial relationships in the development before writing any zoning language for the ordinance. That was derailed with Covid. It would make sense to wait until Covid has passed because of budget concerns about spending a couple thousand dollars right now.

Ann Gardner said \$2,000 should not be a budget breaker. This expense will put the City back in the driver's seat. Who would make that request?

Director Port recommended the chair write a letter to the City Council and the Mayor. Rick Taintor said being proactive rather than waiting for the applicant is a good idea. Leah McGavern said it is part of re-zoning and makes sense. Anne Gardner said it's the most important thing the City will do in a decade.

Rick Taintor suggested:

- The zoning re-write is important, most particularly in relation to climate change, which hardly appears in the Master Plan adopted 3 years ago. He is thinking specifically of the downtown, the riverfront, and the industrial park as areas that will be the most affected by sea level rise and climate change. We should review the Master Plan goals.

Director Port recommended curtailing Plum Island (PI) growth through a formal zoning change. He drafted something to address those issues. It could be in the second council packet for this month. It might be controversial regarding development rights versus the idea of no development.

Rick Taintor's other suggestions are:

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- Upgrading Site Plan Review Development Standards in terms landscaping, environmental protections, and stormwater management as they relate to low-impact development and environmentally conscious best management practices for stormwater and erosion
- Looking at our historic standards in the Downtown Overlay District
- Looking at our parking standards
- Higher development standards, encouraging mixed use development and better pedestrian circulation on Storey Avenue, which is called out in the Master Plan in a couple of places
- Waterfront West which circles back to looking at the whole zoning ordinance.

Rick Taintor asked how to locate the work the zoning consultant has done in the last couple of years? Director Port said it is posted on engagenewburyport.com. Office Coordinator Dianne Boisvert will migrate the information back to the City's website because the subscription for the platform will not be renewed.

Tania Hartford suggested:

- Looking at the Master Plan goals for our priorities.
- The zoning re-write is important. She also does not like looking at zoning changes as they come up.
- Looking at our own policies and procedures for how we operate and review applications. It takes some projects a long time to come through the process. That's expensive for applicants. We shouldn't put things on the agenda that are not ready to go. How the staff handles applications when they come in could use a review.
- Better coordination with other departments.

Alden Clark suggested:

- Review of the zoning ordinances
- Waterfront West zoning

MJ Verde suggested:

- The zoning re-write needs to move forward to get new zoning adopted. Piecemeal zoning takes up a lot of time. It seems wasteful to do it in that manner.

Don Walters suggested:

- Affordable housing should be considered by the Planning Board, in conjunction with the Planning & Development Committee and the Affordable Housing Trust (AHT) to build a base of understanding for what we want to do.

Leah McGavern suggested:

- Be more supportive of resiliency and the environment in our zoning. She would like more leverage in raising the stakes for any special permit from an environmental perspective. So often projects come through and we ask them to consider solar panels or other things, and we know that in the end they don't take it seriously.
- She supported all the previous suggestions, especially Mr. Taintor's list, which included similar concerns about zoning and the environment.

Beth DeLisle suggested:

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- Waterfront West
- Addressing sea level rise and more environmental protection in the zoning
- A better process for traffic and public safety issues so we don't end up with a situation like what's happened on Colby Farm Lane and Low Street.

Bonnie Sontag said we can look at where we have blind spots, not assume things will happen where we have raised issues, be more self-aware and more willing to stop the process if we don't have the information needed to make it a successful project. The zoning re-write is the big issue and hardest issue to tackle. Director Port has laid out initial steps to do that. Is there a way we can help move the process along?

Director Port said the pandemic has made it harder for the office staff, with limited time and limited funds sometimes, when we don't get everything we request. A lot of our time is spent on bureaucratic processes, required by state statute. That leaves little time for proactive things like the zoning re-write. We split the workload because we didn't have the funds to do it all at the same time several years ago. Newburyport's ordinance is complicated with all the cross referencing. That became obvious when we wanted to bring forward the entire ordinance as one package, as the consultant strongly recommended. It makes more sense to bring forward zoning changes, as appropriate, in communications from the Planning Office and the Planning Board rather than moving at the discretion of City Councilors. Although their rules require a sponsor, when we can't secure one, we should bring zoning changes forward in manageable chunks. Waterfront West needs a 3D model and more analysis for reaching agreement on size and massing before language can be crafted.

Anne Gardner asked if more money for the consulting firm could be found, would that relieve the staff burden and allow the zoning re-write to move forward. Director Port said yes. Ms. Gardner told Councilor Eigerman she was sometimes confounded by legal opinions when it seemed clear the City did not want to spend money on outside things. He said if you need money for something, come to us. She knows the zoning re-write is important to Councilor Eigerman. If staff can't handle the re-write and we are confident a consulting firm will move it ahead, why don't we see what the financial requirements are and open a conversation with Councilor Eigerman? Director Port would be happy to do that.

Bonnie Sontag asked Director Port to identify what pieces from the zoning re-write are ready to move forward and what outstanding pieces need further work that requires additional funding. If those two 2 categories, encompassing the entire re-write are identified the board would know what we can tackle.

Director Port said he could do that. A couple of months ago, as the pandemic was extending, there was agreement by City Council to go forward with zoning items again, although STRUs are still in deliberation. Councilor Eigerman, Jennifer Blanchet, and he discussed the zoning re-write and bringing forward language changes in the administrative section, such as definitions, as well as some housekeeping things, at the second City Council meeting in January. They also put together a package with Zoning Uses, Dimension Requirements, and the parking section to bring forward in February. The PI re-zoning is drafted and may go in February. After that we would move forward with signage, performance standards, and things like that, before getting to more

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progressive issues like sustainability that would come after cleaning up the overall structure of the ordinance. Councilor Eigerman did not feel comfortable with one aspect of the re-write. Originally, they had cleaned up the structure of the ordinance to make it more logical and easier to find information. Councilor Eigerman, after a conversation with the City Clerk's office, had concerns about the cost for the consultant to transfer all of that into Municode online and send us a new hardcopy. Councilor Eigerman's preference was to set that aside and focus on other aspects in each section and he also wanted to set aside the Dimensional Table developed by the ZAC because it wasn't a burning issue at present. As a result, 2-3 months ago there was no consensus on what to bring forward. Director Port hopes to bring things forward, ready to go in draft form, with or without sponsorship. He would appreciate more consultant services to work on specific sections to spread the workload but acknowledged the difficulty in coordinating all those sections at a single point in time for the City Council to adopt given the overlapping changes that would occur simultaneously. It seems more likely to proceed in chunks that would be brought forward in stages.

Anne Gardner asked Director Port to identify the chunks. She was impressed with the zoning consultant, who pushed things along, has worked all over the Commonwealth, brought refreshing ideas about what other communities were doing, and knew how to run a meeting. She was talented. Ms. Gardner did not want another year to slip by dealing with piecemeal zoning again.

Rick Taintor said originally the project was a re-codification. Now it sounds like a revision of the sections within the existing code. Director Port agreed that the structure will stay as it is because of the executive decision that restructuring to, for example, put overlays all in one place and eliminate roman numerals, isn't the best use of funds during a pandemic. Director Port is re-numbering it to put it back into the current ordinance structure, with additional edits for things that have been discovered and cleaning up archaic or unclear language.

Rick Taintor asked if everything on the engagenewburyport.com site would be renumbered and revert to the structure of the existing ordinance. Director Port said yes, including cleaning up unclear language that Ms. Blanchet discovered while dealing with enforcement issues and getting rid of sections we don't need. Those are the chunks we are bringing forward prior to signage, updating, parking and landscape standards, more expansive design standards for the residential district for infill, and Waterfront West. He's also interested in addressing a zoning shift for Storey Avenue, away from an auto-centric development pattern to a gateway that's more reflective of Newburyport, as well as addressing the issues caused by routine erosion on PI.

Rick Taintor said it would be helpful to know when you expect to give them to the City Council because some will take multiple public hearings.

Director Port said after the two packages in January and February, the substantial changes in the Use Table that ZAC worked on with the assumption that we were adopting one new ordinance where everything was cross referenced correctly, needs further discussion because the Council sponsor had some hesitation about it a couple of months ago. Now that we're going back to the original structure, we'll bring forward a package every two months after February. STRUs has been kicking around without a policy level agreement on what the content should be. That is what's needed before we write the zoning.

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Rick Taintor said it would be helpful to know how much time is already budgeted for public hearings in order to be realistic about what can be accomplished. The board has a list of things they want to do, but if we're in the middle of hearings on other sections, we won't have time to do them. A sense of timing will help us know if we have time to do anything on our list.

Bonnie Sontag agreed and asked how the Planning Board could help Director Port. It looks like the pieces of the re-write you are bringing forward don't need our input until the joint public hearing. That's different from the Waterfront West Overlay District where the board is actively involved in bringing it forward, starting with a request for funds for 3D modeling. If there are projects on your agenda or on our list that we can work on as a board and offline in committees, she would put aside a Planning Board meeting where no applications are on the agenda to work on open issues to assist you.

Director Port said funds for modeling Waterfront West, where the major obstacles are massing and size, would be significant in facilitating agreement on those issues so that writing the ordinance will be easier. Also, for a couple of years he's coordinated with Water Division to get their feedback on updating the standards within the Water Resource Protection District (WRPD) to reflect best practices in protecting the City's water supply in that overlay. In terms of sustainability, although the business park was mentioned, PI is the area most in jeopardy. If the board wanted to address long-term thinking on land use regulations and development patterns, and advocate for change, that would be in the City's best interest. In the Downtown Overlay District (DOD), the ordinance makes strong reference to the Secretary of the Interior Standards. We need to work with the Newburyport Historic Commission and others, to better understand how those standards apply. That might be more of a workshop. He recommends a planning meeting devoted to that to get more familiar with those provisions. Funds for consulting services would be helpful with updating Storey Avenue design and development standards so that when properties are redeveloped, we can bring them up to the streetscape because consultants know what's going on in other communities and what the best practices are. The 40R District's design and development standards could also be updated to reflect best practices.

Bonnie Sontag sees the possibility of taking direction from the Master Plan goals and reviewing those with one or two members to see how the goals relate to the topics brought up tonight. We should find something discrete we can sink our teeth into. A lot of what Director Port mentioned are amendments he will bring to the City Council where the board would participate in a public review. She did not hear a specific area where the board has the expertise to work with other stakeholders other than Waterfront West. It's possible we could work on Storey Avenue, but you say you're going to hire a consultant which limits what we could do.

Rick Taintor, Alden Clark, and Anne Gardner would be interested reviewing Master Plan goals with the Chair, relative to the topics brought up tonight.

Rick Taintor said in his experience, people are more likely to volunteer to help if they see discrete tasks on a defined time-line that match their skills. There are smart people in Newburyport with a lot of special skills, like environmental scientists and landscape architects, who could not make an open-ended commitment like we do but who could be invited to work on

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a specific task force for 6 months. An example of a discrete task is more environmentally sustainable parking lot requirements. We can tap into the expertise of the Resiliency Committee.

Bonnie Sontag asked Director Port for some sort of a chart that demonstrated his sense of timing of when certain chunks of zoning re-writes and proposals coming forward would occur to see where other Planning Board priorities might fit in. Would the open meeting law allow for 4 members to meet to go over the Master Plan?

Director Port said the Planning Office is in the process of updating the Master Plan on the progress that's been made in the Action Plan. Office staff can help out by reaching out to other departments about what still needs to be done. If you are formally established as a subcommittee that should be treated as transparent and public as the board meetings.

Bonnie Sontag said that means Director Port would have to run the meeting because it's a public meeting. Director Port said he and Planner Katelyn Sullivan can both host public meetings. If necessary, he can make sure that one or two other folks on staff could also host meetings, to comply with the open meeting law if he and Ms. Sullivan are not available. He did not mind scheduling and hosting additional meetings.

Bonnie Sontag that's helpful, particularly when we're talking about Master Plan goals and you can update us at that point or let us know if department heads are going in a different direction. We can do our homework first and then come together in a meeting. Regarding policies and procedures and the staff role in reviewing applications and scheduling, if we identified problems and worked through them it could make our lives easier. That's something we could tackle right away. A small group could solicit concerns from everyone and bring back recommendations for changes in procedure. She asked Tania Hartford and Beth DeLisle to work on that.

Tania Hartford said she is interested and has worked on things like that but can't take on anything new for a couple of months. She feels it's important to think about policies and procedures as part of our goals because it's something that will save the board and staff time.

Chair Sontag asked if the board should schedule a planning meeting. If it's on the calendar, applicants know in advance that date is not available to them. She said Mr. Taintor saw that work in other communities. We have lots of experience with overloaded and empty agendas.

Don Walters said the items we discussed are not goals or goal setting. The basic tenets of goals are that they are discrete, measurable and there's accountability. We need to keep that in mind so the planning meetings can move toward accomplishment and not drag on.

Bonnie Sontag said it's to our benefit to be precise about outcomes and timetables, and that supports Mr. Taintor's recommendation to identify discrete projects and time frames to which we could invite others with specific expertise to participate.

Don Walters agreed with Director Port on Waterfront West. If he had to pick one item that can impact Newburyport's character in the next 5 or more years, it's Waterfront West. It's participative because it requires community input. It's critical for City Council to allocate funds

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for that model. The general public needs to see a picture, which will be worth more than a thousand words in this case. We're concerned with height and volume on the Institution for Savings hearings also. Models can help with that.

Bonnie Sontag would draft a letter to City Council requesting funding on the board's behalf for 3D modelling of Water West options. In the planning-only meetings, the board will really work the issues, aside from the agenda item Potential Zoning Amendments that is part of every meeting. MJ Verde said one planning meeting every six months is doable.

Anne Gardner would want to make sure a planning meeting is structured and the issues and the people addressing them are identified beforehand. Chair Sontag said any projects we decide to work on will have people working on them in subcommittees who will bring their recommendations back to the board, such as policy issues for Waterfront West or language for a new zoning ordinance. The agenda would be set around the topics that need to be worked on.

Rick Taintor said he had seen it in action in other communities. We're not inventing something new. It's time we carve out time to think about things. Alden Clark said it sounded reasonable. Chair Sontag suggested the last meeting in June for the first planning meeting.

d) Other Updates from the Chair or Planning Director

Director Port said the board would be getting a progress report on the Master Plan update. The crossing of Route 1 at the rotary is being discussed in City Council. We're trying to get MA DOT to participate in a local meeting to review their plans that need more vetting with the public. Phase 3 of the Rail Trail at the intersection of Parker and State Streets depends on that crossing. MA DOT will roll the new crossing into a Route 1 repaving project in the next year or two. There is continuing erosion on PI between the jetty and the north point. Recently placed blocks and sandbags are blown over and a foundation with piping has been exposed. He expects the Evergreen Commons Port Place developer and residents to ask the City Council for public acceptance of their neighborhood roads. He remains concerned, as during initial permitting, that developing over the City's public water supply is potentially problematic. Trees planted in the middle open space are substandard. It's worth looking at. Another place to look at is Storey Avenue. In terms of design and permitting, it is the most strip mall-like area of the City. He would like to get parking behind buildings and buildings up to the street.

4. Adjournment

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

Motion Approved.

The meeting adjourned at 8:27 PM.

Respectfully submitted -- Linda Guthrie