

**City of Newburyport  
Planning Board  
February 2, 2022  
APPROVED Minutes**

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

**1. Roll Call**

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

Planning Director Andy Port 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 1/19/22*

Joe Sirkovich, architect, Arrowstreet Architects, 10 Post Office Square, Boston, reviewed changes that better meet the Smart Growth District (SGD) goals and improve connectivity. He demonstrated on the 1<sup>st</sup> floor plan moving the gym from near the lobby stairs to the north end of the building, increasing the amount of open facade on both elevations to better view the gym activity, and creating a center hallway through the building that exits through the gym at the north end. The gym is regularly active and relocating it will help the retail as well as present a good opportunity for leasing the gym out for classes. Three work/live units are positioned at the north end. Two face the Rail Trail and one faces Route 1. The orientation of the retail building is adjusted to create better plaza spaces on all 4 sides. The plazas extend around both corners to the 3 live/work units and to the lobby area.

Bob Uhlig, Halvorson/Tighe & Bond, Landscape Architects, 25 Kingston Street, Boston, said the changes reduce the ability to differentiate the outdoor residential space and the public space. In the 360 degree space around the retail building high top stools provide public seating near the building on one side. Public seating is expanded to include settees and lounges around a firepit on the Route 1 side. In front of the gym there are tables for 3 with space left for a potential juice bar. The Rail Trail side seating includes public picnic tables, chaise lounges, another firepit with seating, and a barbeque grill. In front of the live/work units a shared table and chairs allows activity to extend outside. Paving at the north end Rail Trail connection is trimmed back to keep the trail's bituminous surface. Seating and a bike rack are adjacent to the trail. A more contemplative table and seating space is located outside the residential units near the garage ramp. More bike racks are to the right of the entrance. The transformer at the southeast corner of the site toward Hill St., is eliminated and replaced by 2 transformers: a smaller one in the Parker St. entrance drive next to the Rail Trail parking area, and a larger one at the north end of the site.

Joe Sirkovich displayed renderings of the retail building's adjusted orientation with concept signage on the Route 1 side and improved plaza areas as viewed from the Rail Trail and Route 1.

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Alden Clark said the re-orientation of the retail building and the clustering of the commercial activity were improvements.

Rick Taintor agreed with improvements in the building's public interface. He confirmed that the pathway from the plaza to the trail is flanked on both sides by low shrubs for visibility into the sight. Improvements that make the public and private space indistinguishable is working.

Bob Koup agreed. The progress is good, but why wouldn't you put the work/live unit from Route 1 in line with the other two work/live units to extend the commercial space all the way to the ramp? It makes sense to gather the 3 work/live units around this public space facing the Rail Trail. Secondly, the amenity space between the ramp and the building has a difficult juxtaposition with the residential units at grade because it's more accessible to residents than the public. It's an odd connection. Lastly, update all plans with the location of the live/work units which currently differs across plans. He echoed Mr. Taintor's comments about maximizing the visibility from the Rail Trail into the public space. Is there a way to treat the area between the Rail Trail and this public space in a way that is more consistent with the public space?

Director Port said more of a plaza set-up could come about through working with the Parks Department.

Bob Koup said creating the appearance of the Rail Trail growing into the plaza would make a better transition into the public space.

Lou Minicucci, MINCO, 231 Sutton St., North Andover, welcomed an opportunity to collaborate with the Parks Department on opening the public space to the Rail Trail. There's an advantage for a work/live space to have the visibility on Route 1 through the use of a blade sign, similar to the blade signs installed next to the work/live units at 1 & 3 Boston Way. Referencing the public space between the parking garage ramp and the building, he feels the residents have plenty of space to use, whereas the public doesn't have any semi-private space away from the noise.

Bonnie Sontag clarified that the 3 work/live units are in addition to 2 work/live units on the south end of the building. Mr. Sirkovich confirmed there are 5 live/work units in total.

Bob Koup would try to separate the public plaza from the private residential area with landscaping. Can people who park in the north lot get in the north end door, walk through the gym, and into the building?

Lou Minicucci said yes, with a key fob. The entrance is for residents who park in the north lot.

Heather Rogers likes the commercial concentrated north parking lot, but now there's a reliance on this area more to support the free standing commercial which causes concern over conflicts in the north parking lot, including from the north lot tenants who are not leaving for work and whose cars have an extended stay in this lot. Do work/live tenants have assigned space the garage to prevent conflicts in the north parking lot?

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Lou Minicucci said he found the live/work unit tenants prefer the parking garage. There are compact spaces along the Rail Trail and those would be the last spaces assigned to individuals.

Bonnie Sontag said the north lot needs more than 4 spaces allocated to standard sized spaces to accommodate standard sized cars coming in during the day to park temporarily, even if it results in losing a space or any aesthetic, non-required landscaping. How will signage be managed so people will know where they can park?

Lou Minicucci said the north lot parking spaces will be assigned, but not to the live/work units. Although many people work at home, about 50% of the cars will leave every day. He could add another 5 standard sized parking spaces by getting closer to the transformer and eliminating some landscaping and a compact space. There is a difference of 1.5 ft between a 9 ft standard space and a 7.5 ft compact space.

Bob Uhlig said the challenge is protecting the trees at the property line along the Rail Trail, which is why the edge of the north lot was pulled back away from them.

Don Walters supported more parking and less tree screening from the Rail Trail if it's not possible to have both.

Rick Taintor said the island offers beneficial shade for the north lot and could be kept if the island shifted to the right to provide 4-5 standard spaces on the right of it, closest to the plaza for backing in and out, and compact spaces to the left of it. You might lose one space, but the Board is concerned about the traffic impacts in the northerly end of the north lot. It's likely you'll need to continue tweaking things there after the plan approval.

Scott Cameron, engineer, Morin Cameron Group, 66 Elm St., Danvers, said adding 4-5 parking spaces in the north lot sounded doable. Parking lot and transportation designers can often trick drivers to do what they want them to do, for example, shorter spaces result in a more efficiently parked lot because cars pull all the way up so their bumpers don't hang out.

Beth DeLisle said her issues were addressed.

Bonnie Sontag said firepits and grills don't really seem like they're for the public. Would it be off putting for residents to be having a barbeque while people are using the retail space?

Lou Minicucci considered the firepit on Route 1 an asset for bringing people into the retail area. The open space operates from dawn to dusk every day and is open to everyone.

Bob Uhlig said there is an operating firepit at 1 Boston Way that is publicly accessible.

Lou Minicucci said tenants have remote controls to turn the firepits on and off. There is an emergency shut off at the firepit. The Fire Department has not had problem with this. The public cannot turn the firepits on, but they are welcome to sit at them. Often, the firepits are on for aesthetics.

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Public comment open.

Public comment closed.

Bonnie Sontag suggested reviewing the findings by exception only and there were none. The waivers were all previously discussed.

Rick Taintor said, in regard to the maximum footprint building area, it seems more logical to say, “Waivers requested to increase the footprint size to 28,500 sf due to the difficulty of fitting the proposed number of dwelling units on this unusually shaped property” instead of “In order to maximize open space due to this unusually shaped property.”

Bonnie Sontag agreed. She asked whether standard conditions #27, DHCD Approval of Affordable Housing Units, had the right deadline. Director Port said in the case of 1 Boston Way the deadline was a little too early prior to issuing building permits. The Department of Housing and Community Development (DHCD) review takes time, and they work everything out directly with the applicant. It makes sense to give the applicant more time to prepare their documents since there will be no occupancy until DHCD approval. That’s the change we worked out for 3 Boston Way and what the Office proposes for Newburyport Crossing.

Rick Taintor said standard conditions #27, #28 and #29 duplicate special conditions #9, #10, and #12.

Bonnie Sontag recommended leaving them in special conditions and removing them from the findings. Director Port agreed.

Rick Taintor questioned Special Condition #1 language that says, “Exhibit A consists of photographs taken at the public hearing.”

Bonnie Sontag said, “shown at the public hearing” is accurate. Director Port would make the change. Chair Sontag asked about Special Condition #2 language, “Approval of additional signage.” What does “additional” refer to when there’s no reference to a signage plan. Should it say, “Approval of signage plan” instead? Director Port agreed. Chair Sontag said there’s no deadline for signage approval and installation. Director Port drafted the language to give the applicant leeway but would change language to “approval and installation prior to occupancy.”

Rick Taintor said Special Condition #3 misspells “Maintenance” and the 3<sup>rd</sup> line says, “owned by the City of Newburyport.” Is it owned by the MBTA and leased to the City? Director Port recommended, “under control by the City” instead and Mr. Taintor agreed. Special Condition #4 should acknowledge that the path to the Rail Trail from Route 1 is intended for public access across the site. The Board decided against an easement here because of the financing issues. Acknowledgment of public access across the site is important. Director Port agreed.

Bonnie Sontag suggested replacing the word “pedestrian” with “public.” Director Port agreed.

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Director Port said Special Condition #5 addresses the plan sheet that still shows the telephone pole not relocated. National Grid may not provide closure on relocating the pole prior to approval. This condition requires a plan to be submitted for review that shows sight lines and where the pole will be located. Upon plan submission, he'll consult with the City engineer to verify that cars leaving the site onto Parker St. will have adequate sight lines. Special condition #6 addresses the 6 ft northern Rail Trail connection, despite an 8 ft standard walkway width. The walkway should be no less than 8 ft to match the southern Rail Trail connection.

Rick Taintor asked about the discussion to extend the plaza on the Rail Trail side, which Mr. Minicucci liked. Director Port suggested adding to the condition an allowance for the applicant to work with the Parks Department on expanding the plaza area onto City property. Mr. Taintor suggested something like, "The applicant, working with the Parks Department, has the option to expand this to be more than a simple pathway." He said most things could be handled with conditions rather than another set of plans.

Bob Uhlig said if it shows as a 6 ft path, it is an error. One of the challenges of expanding the plaza is the grading and the low point. The plaza starts dropping off in grade. Expansion would require significant grade changes again. Director Port said typically the Parks Commission would be involved for a review that is more than plantings and that might affect the timeline.

Bonnie Sontag said the condition should have better wording about a reasonable agreement as to how expanding the plaza could work out.

Rick Taintor did not want language that would tie the applicant's hands and prevent such an agreement from happening. He didn't want to require the applicant to come back before the Board if the design of the area could be modified subject to approval by the Planning Director. On the plan, it looks like the sign is in the 6 ft sidewalk.

Scott Cameron said an 8 ft sidewalk fits. The commercial building has to be altered anyway. The handicap sign has to be in that area for the parking.

Rick Taintor suggested the language, "providing flexibility for what to do in that area for what Director Port has outlined."

Don Walters said it was unclear in discussions about the north parking lot whether it would be easier to have that plan revised by the applicant. Director Port said he agreed with Chair Sontag that the condition could be eliminated for a revised set of plans.

Beth DeLisle said there should be more clarity about what the Board is asking the applicant to do. It sounds too vague. Is it reducing some plantings or is it pavers down to the sidewalk?

Lou Minicucci said it would be nice to open that area up to more seating. He would like to collaborate with the Parks Department, but if we don't see eye-to-eye, then he wouldn't do anything. Director Port said it's clear if you allow the applicant the ability to modify the area subject to the Parks Department approval, that can easily be addressed by the Parks Department with a Planning Office review.

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Bob Koup said the idea starts with a more generous connection to the Rail Trail, and one idea is expanding the plaza and breaking it up with more plantings. Extending the character of the public space into the Rail Trail gives the public freer visibility and access to the space rather than one semi-circular gateway to the space with a sidewalk. He preferred it not to look like 2 different spaces.

Bonnie Sontag agreed.

Beth DeLisle is concerned about too much hardscape and hopes a balance can be reached.

Bob Koup said a more structured landscape environment is needed, similar to what a more urban setting has, and that will contrast with the more natural environment of the Rail Trail.

Rick Taintor suggested eliminating the first phrase in special condition #12, and beginning with, "The applicant shall include..." instead. Referencing special condition #19, he asked how compact parking will be managed. Director Port said the primary concern is not to have residents parking there and assigning the fewest number of spaces possible there to residents.

Bonnie Sontag said it's not going to be just compact parking anymore. The residential daytime parking will be shared spaces. Director Port agreed with Mr. Taintor. The island is a clear differentiation between compact and standard parking. He would rewrite the condition prior to the next meeting so it speaks to the assigned spots.

Lou Minicucci said the 4 spaces for retail parking now, plus the 4 new spaces, are all designated shared use for retail customers and live/work residents during the day. He's not clear on the retail hours, maybe 7-5 or 6 PM at night, later in the summer. Live/work residents have perhaps 1-2 visitors a week for about 30 minutes or so. Compact spaces would be assigned, and half of those spaces will be empty all day if 1 Boston Way is an example.

Bonnie Sontag asked about signage depicting a designated resident number. How are visitors going to know spaces are shared during the day?

Scott Cameron liked the idea of shifting the island down and using it to break up the compact and standard parking. Signs can take away the aesthetics. It's a property management and familiarity issue. Many parking lots downtown don't have signs, but over time everyone gets familiar. When someone parks incorrectly, it's usually not a big deal.

Lou Minicucci agreed not to assign any standard parking spaces to residents during business hours and would make that clear through signage. Tenants will use the spaces after hours, but the 8 parking spaces will not be assigned. He agreed to think about discreetly numbering the spaces toward the curb end. Any open space is available for business use during business hours.

Don Walters asked about City engineer Jon Eric White's comments on special condition #13, the Hill St./Parker St. intersection, and whether the plans would be modified. Director Port said it's standard procedure to ask for a revised schematic plan to incorporate into the decision, so the

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Board knows the general layout of the curb radius, tactile treatment, etc. The City engineer may want to alter the grading for storm management details. The applicant would also be required to get Mr. White's approval on that aspect of those plans, post approval of the project here.

Bonnie Sontag agreed with Mr. Walters.

Rick Taintor suggested, "The applicant shall complete the proposed Hill St. and Parker St. intersection improvements generally as shown on the Vanesse and Associates, Inc. drawing," and, "The applicant shall obtain written approval from the City engineer for final design and approval of such improvements." Director Port asked if the Board would give the City engineer latitude to alter the design at the intersection in the interest of safety and traffic management. If so, the condition should reference both construction and stormwater management, and also the ability to change the design further.

Rick Taintor thought Mr. White would do an excellent job. Director Port agreed.

Don Walters said plans show the stop sign at the entrance, but where is the reference detail for how the sign ties into the flashing Rail Trail sign? Director Port said it's addressed in a special condition for better clarification than plan notes could convey. Mr. Walters said that special condition #14 says the applicant has agreed to an additional \$30,000, but the obligation is to design the intersection or pay \$30,000. Without control of the lot that's needed for the design, the applicant has no responsibility for operation and maintenance of the intersection. Director Port said that's correct. Traffic consultant Scott Thornton submitted 2 traffic details today with 2 options, the worst case scenario with a 4 ft sidewalk, and the 8 ft sidewalk. Special condition #14 assumes the City will acquire the strip of land needed if the applicant can't close that loop.

Don Walters said the City will be responsible for clearing that small section of sidewalk. Director Port agreed and said that language could be added. Mr. Walters said there is no need.

Lou Minicucci said because he is volunteering to do a sidewalk not on his property, that asking him to maintain it in perpetuity didn't seem fair. A condition requires him to keep the sidewalks clear of snow the full 8 ft width. That's his intent, but in a heavy snowstorm that's not possible. He sees many City sidewalks, even the City parking garage entrance, not cleared edge-to-edge. He would like to add "feasible" or "what's commercially reasonable." If someone slipped and fell it could create a problem, were he required to keep it cleared edge-to-edge.

Bonnie Sontag agreed.

Lou Minicucci asked about standard condition #25. Project consultants have an open checkbook for review fees. Costs run up quickly. The project is controlled construction with architects who have Errors and Omissions policies. The City's building permit fee of \$275,000 covers the cost of City inspections. The bank also sends out a 3<sup>rd</sup> party inspector. The addition of a 4<sup>th</sup> inspector is a burden and an added cost that should be covered by the building permit fee. Director Port said the Planning Department does not control fees coming into the Building Department. An on call engineer if the City engineer is not available when there's an inspection or an issue with utilities or water resolves issues expeditiously. It's normally most useful with subdivisions.

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Lou Minicucci said subdivisions do not pay such hefty fees. Director Port wanted to keep the provision but would tweak the language to clarify that the scope is limited.

Scott Cameron said engineering reports include as built. During the process it's rare that he's not in constant communication with DPS and the City engineer. He doesn't typically submit reports because DPS is on hand. Construction controls include compaction reports. He reviews shop drawings throughout the process. There is a lot of oversight in a project like this.

Lou Minicucci said language that ensures reviews are not open ended would help control costs.

Bonnie Sontag asked for the draft decision changes be highlighted for an easier review of the final version. The Board would review the changes on 2/16/22. Director Port agreed.

Don Walters made a motion to continue the Smart Growth Plan Approval Application for 166-168 Route 1 to February 16, 2022. Alden Clark seconded the motion, and all members present voted in favor.

Discussion ensued regarding eligibility of Planning members to vote on this application.

Don Walters made a motion to reconsider continuing the Smart Growth Plan Approval Application for 166-168 Route 1 to February 16, 2022. Alden Clark seconded the motion and all members voted in favor.

Alden Clark made a motion to continue the Smart Growth Plan Approval Application for 166-168 Route 1 to March 2, 2022. Beth DeLisle seconded the motion and all members voted in favor.

### **Motions 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) Request for minor modification – Hillside Center (2016-SP-01, 2016-SPR-03, 2016-SPR-04, and 2016-SPR-05)***

David Hall, Hall & Moskow, 2 Federal Street, demonstrated on the site layout areas that are substantially complete with the exception of plantings. The benefit of observing 10 families in residence for over a year highlighted several things they could do better, including the hydrology of the site because of the clay and enormous berm of glacial till, sand, and gravel surrounding the site. He wanted to get things right before the last 2 buildings were built. The South Rise building



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is the only building on an east-west axis. The Hillside Ave. building is the tallest building set into the hillside. After the project's approvals he noticed that survey work for the southern boundary slope was incomplete. A more detailed gradient analysis was done to get things right. As a result, the first modification concerns a 3,000 sf reduction in the South Rise building to set the building into the hill without penetrating the strata to the degree originally planned. The building is twisted clockwise to pull it away from the cemetery. The footprint is slightly longer with the addition of another unit. The smaller units have fewer bedrooms. The driveway performs the same way except it's wider at the curve at the Fire Department's request.

Dave Hall said the second modification concerns the Common Area space and building and converting the dead end into a loop. Originally Cottage Way dead ended into the greenhouse and building entryway. Special access pick up and drop off for folks after surgeries is improved. Cottage Way now arcs into the former rectilinear parking area. The deputy fire chief said this is a big safety advantage. Cottage Way sits about 5 ft off the building now instead of right up against the HA building. The Common Space on level 1 now has a farmer's porch wrapping all the way around it. Levels 2 & 3 above the Common Space now share the same architectural language as the rest of the site. All the work is to Passive House standards. The architectural changes were strategic for design and performance.

David Hall said the 3<sup>rd</sup> modification concerns the foundation line change for the Hillside Ave. building to ensure water doesn't penetrate. The below grade change can't be seen from Hillside Ave. The porch configuration shifted to accommodate the neighbors' request to eliminate parallel parking in front of HA-1N, HA-2N, etc. Neighbors' driveways are steep coming onto Hillside Ave. When it's slippery their cars could slide into parked cars. The modification shifts the top lines so that water will collect on the west side of the street instead of the east side. Tipping the east side of the road up makes the driveway less steep coming onto the road. Five new driveways on the east side each hold 2 cars. The 8 parking parallel spaces on Hillside Ave. are replaced by 10 spaces in driveways. The Hillside Ave. travel width previously tapered from 24 ft to 19 ft to the south. The modified travel lane is a consistent 24 ft.

David Hall said he is pursuing the use of clamshells laid over a base of crushed stone in the new driveways because they control the PH in runoff and will significantly reduce the amount of permeable pavement. A permaculture berm of edibles will obscure all but the tops of the solar canopies and dampen the noise of Route 1. A planting plan will be detailed in 2 months. A knob block covered with a white trellis in some areas serves as a retaining wall to get the berm to proper height. A portion of non-critical berm areas will use Locust and Norway maples removed from the hillside for the South Rise building. Construction dumpsters are between canopies #3 and #4 and will be screened. The abutters are happy dumpsters will not be in the barn. The new access is practical. The composters and recycling and trash sorting containers will be in this location.

Rick Taintor asked if there was a change in the number of units in the South Rise building.

David Hall said the bedroom count is down from 103 bedrooms to 97 and the unit count is down by 3 with no increase over the 48 units approved.

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Bonnie Sontag asked if the clamshells would be on a main road? She is concerned about clam shells migrating.

David Hall said no. Clamshells are on the back of Cottage Way and on Fireman's Drive where there is specialty access, not a main road.

Heather Rogers asked about snow removal on the roads where there are clamshells?

David Hall said there will be spring clean-up. Permeable concrete and concrete don't offer the same user experience during the rest of the year. It's worth the hassle of the clean-up.

Bob Koup complimented Mr. Hall on the sophistication, thoughtfulness, and level plan detail.

David Hall said he would proceed to the ZBA with the changes.

Bob Koup made a motion to deem the request minor and approve the minor modification request for Hillside Center. Rick Taintor 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) Proposed fee increases***

Director Port presented the new fee increases.

Bonnie Sontag asked whether fees were analyzed in terms of expenses. Director Port said yes. The increases are modest. No increases have been made since 2007. He recommended a simple fee schedule with a sliding scale for the larger projects. He'll coordinate with the City Council and the Finance Department.

Rick Taintor said \$500 doesn't cover the staff time on the current MINCO project. A sliding scale could be based on unit count or square footage.

Director Port would work with Mr. Taintor to make the needed adjustments.

***c) Approval of Minutes***

Alden Clark made a motion to approve the minutes of 1/19/22 as amended. Heather Rogers seconded the motion, and all members present voted in favor.

**Motion Approved.**

*d) Other updates from the Chair or Planning Director*

Bonnie Sontag presented a draft of 2022 Planning Board Priorities for review. The first priority, 40R/Smart Growth Transit-oriented Development District, is driven by a new state law and draft guidelines regarding zoning in communities served by the MBTA.

Rick Taintor said any community with MBTA transit service will have to revise their zoning in a couple of years to remain eligible for significant grant resources. Final guidelines will come out in this summer after which the City would need to revise its zoning.

Other priorities are Waterfront West, zoning ordinance re-write, reducing Planning Board membership and term length, Storey Avenue, design standards, and Inclusionary Zoning revisions.

Don Walters raised the possibility of providing a 5G antenna ordinance because it may affect the line of sight at street corners. The Energy Advisory Committee (EAC) asked him to bring this concern to the Board.

Alden Clark and Rick Taintor are interested in working on the 40R/SGD. Bob Koup, Heather Roger, and Beth DeLisle are interested in working on Waterfront West. Bonnie Sontag is interested in working on the zoning ordinance re-write. Don Walters would like to follow up on a potential 5G ordinance. Director Port will draft an amendment regarding Planning Board membership.

Bonnie Sontag said that these expressions of interest are informal at this time and do not require compliance with the open meeting law. If these working groups are formally designated by the Board, the open meeting law will be followed. Those who have indicated their interest in these topics will bring their information back to the Board for consideration.

**3. Adjournment**

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

**Motion Approved.**

Meeting adjourned at 10:10 PM

Respectfully submitted -- Linda Guthrie