

**City of Newburyport
Planning Board
April 7, 2021
APPROVED Minutes**

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

1. Roll Call

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

Leah McGavern arrived at 7:20 PM

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

2. Public Hearings

- a) *21-25 & 27 Hancock Street
Definitive Subdivision (2021-01)
Courts and Lanes Special Permit (2021-01 and 2021-02)*

Alden Clark is recused.

Bonnie Sontag requested a brief overview of the Courts and Lanes Special Permit application without an engineering presentation because the application is incomplete. A peer review of the updated stormwater plan is not complete, there are outstanding issues regarding an application before the ZBA, and a possible additional special permit application for the Demolition Control Overlay District (DCOD) ordinance.

Attorney Lisa Mead, Mead, Talerman & Costa LLC, 30 Green Street, requested repeating the members present because attendees are not let into the Zoom meeting at the same time, and she didn't hear the roll call. There will be public comments on the stormwater treatment because the public heard continuously that the ZBA does not review stormwater. She thought it would be unfair to those abutters not to hear what's happening on the site. Chair Sontag agreed.

Attorney Lisa Mead said the applicant was before the ZBA in 2 hearings for special permits for two-family use for 21-25 and 27 Hancock Street, and a special permit for non-conformities for 27 Hancock Street. Originally, the zoning code enforcement officer advised the applicant that they did not need a DCOD Special Permit. But after the second ZBA hearing, the city solicitor ruled that the current design for 27 Hancock Street would need a DCOD Special Permit in addition to special permit for non-conformities and for use. The ZBA has said, but not voted, that they would support the two-family use on both lots. The Planning Office was present at the hearing and indicated their support for the two-family use if the Board voted affirmatively on the Courts and Lanes Special Permit. If the Planning Board were not to approve a Courts and Lanes Special Permit or the subdivision, the ZBA could not approve the two-family use because of insufficient frontage. The applicant is stuck in the middle with neither board wanting to go first.

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The revised stormwater report was issued late today for which there are no peer review comments yet. She hoped to answer questions and get a sense from the Board whether the ZBA would be able to act on their requirements for 21-25 Hancock Street, and potentially on 27 Hancock Street as to use, but not necessarily for non-conformities.

Attorney Lisa Mead demonstrated on plans the Caswell Development proposal to construct Leavitt Court, which has existed since the 1916 layout but was never formally accepted as a street or properly laid out under the subdivision control law to use as frontage. The applicant is here for the Courts and Lanes Special Permit and the subdivision approval. Existing conditions at 21-25 Hancock Street include a pre-existing non-conforming use and a 1929 structure used for industrial services. The structure, listed as an intrusion in the district on the district data sheets, is hard to miss from the Rail Trail because 21 Hancock Street abuts the trail. The overgrown property and worn structure are out of place in the South End residential area. There is no formal drainage on either address. The applicant's proposal to remove the structure entirely and construct 2 two-family homes meets all dimensional requirements. The 16, 220 sf lot at 21 Hancock includes 267.28 ft of frontage on Hancock Street and Leavitt Court. Without that, it includes 96.52 ft of frontage on Hancock Street. Existing conditions at 27 Hancock Street include a single family home toward the middle of the 16,400 sf lot. The proposal to construct a two-family home meets dimensional requirements. The pre-existing setback for the existing structure on Leavitt Court, which will be improved in some way, is an issue. There is 267.40 ft of frontage on Hancock Street and Leavitt Court and 95.96 ft of frontage on Hancock Street itself. Both lots meet the requirements, and more than meet the requirement for a by-right construction of single family homes on each lot, with or without the approval of Leavitt Court. The applicant has incorporated all the City's requests for extensive improvements on City property along the Rail Trail. A few minor issues remain to close out Phil Christiansen's peer review report. She demonstrated on the original layout plan from the Registry of Deeds that Leavitt Court was laid out as a subdivision but never constructed.

Steve Sawyer, DCI, Inc., 120 Middlesex Avenue, Somerville, demonstrated on the existing conditions plan the large, paved area, a commercial building at the lot rear, and a driveway at 27 Hancock Street that is 43% impervious. Today, stormwater flows from Hancock Street to the rear left toward the Rail Trail. A small portion of water flows to a low area in the back right corner. He demonstrated the proposed layout that includes a 20 ft wide paved Leavitt Court with 3 driveways and with a detached garage on the left lot. Access for the right-hand front unit would be a side-loaded garage off Hancock Street. The left lot complies with front, side, and rear zoning setbacks. The right lot complies because there's no increase in the side or rear setbacks. The front setback on Leavitt Court is slightly greater than exists. It's basically a non-increasing non-conformity. There's an enhanced driveway cut and an improved brick sidewalk on Hancock Street. There would be a new waterline, and a sewer main for the 4 units would run under Leavitt Court and connect to Hancock Street with a doghouse manhole.

Steve Sawyer said the grading plan shows the entire site flowing to the rear with a 4% reduction of 1,500 sf in impervious area that, alone, meets stormwater regulations in runoff volume and rate reduction. Additional mitigation on the right side of the property comes from the crowned roadway that slopes toward the rear rain garden with a standpipe that overtops into an infiltration gallery underneath. Stormwater is directed to the left, away from the rear properties and toward

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the Rail Trail, if the rain garden is inundated. Some existing water goes across the back property line first but we are maintaining all flow directly to the low area. Runoff reductions are 50% for the 2-year storm and 10% for the 100-year storm. A pipe in the left edge of the headwall takes any excess stormwater to the Rail Trail drainage system during extreme events. The amount of water directed to that pipe is reduced from between 10-50% for all storms. On the left side of the property, water flows down the new driveway to a small drywell at the back corner. There is one set of infiltration galleries tied to the roof and a second design point off to the back right, reducing stormwater from 10-50% again. The modest to substantial stormwater reductions will benefit the surrounding lots.

Steve Sawyer said peer review comments were minor in nature and related to the semantics of the input to the AutoCAD model for modelling the infiltration galley underneath the rain garden. The maximum outflow of that gallery is de minimis at .02 CFS. Fixing the model will not change the design or outcome of the model.

Attorney Lisa Mead demonstrated on a plan all existing imperious surface on the site as compared to the proposed site plan to illustrate the reductions. The applicant is removing 2 significant dead trees which the neighborhood is happy about. The Hancock Street sidewalks were cement replacements, but the neighbors asked for brick. Street trees will be on the applicant's property because there's no space on City property to plant properly. The applicant coordinated with the Parks Department, Parks Commission Chair, Parks Commission manager, Rail Trail project manager, peer review engineer, and the Tree Commission in creating the landscape plan.

Eileen Graf, Graf Architects, 2 Liberty Street, demonstrated on the landscape plan where two Norway Maples will be removed in front of 27 Hancock Street and replaced with 5 trees on the applicant's property to allow for a more successful root environment and avoid destruction of the brick sidewalks. Granite curbs will be reset for the brick sidewalk installation. Along the Rail Trail side and around the corner from 21-25 Hancock Street are 3 Norway spruce on the upper northern corner of the lot as well as maple, yellowwood, and a double layer of Rhododendron, winterberry, and viburnum. The design works around the existing trees noted on the plan. On the southeastern side abutting 29 Hancock Street, arborvitae are along the fence line with lilacs and a larger Katsura for privacy and shade. Boxwood and holly along the property line separate the adjacent driveways.

Eileen Graf demonstrated on an elevation for 27 Hancock a duplex that incorporates the existing structure and would require a visit to NHC for the proposed attachment to the contributing structure. The structure's curious orientation away from Hancock Street and toward the court was the launching point for the design of the structures. The architecture is a collection of similar gables with various dormers to break up the massing on the one and a half story upper level that is similar in scale to other structures on the block. Horizontal boarding and board and batten with deep overhangs and brackets contribute to creating depth and dimension on the building. The windows are a high-level clad, mostly double-hung with some awnings and casements as well. Standing seam metal roofs provide contrast and texture. The duplex at 21 and 25 Hancock Street are similar in design aesthetics to 27 Hancock Street but shorter in length due to the detached garage. She displayed designs from different viewpoints to show how the development and

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plantings fill a void that currently exists on the block and improves the experience from Hancock Street and the Rail Trail.

Attorney Lisa Mead said they are seeking some waivers as well as the subdivision approval and Courts and Lanes Special Permit. She cited the criteria and aspects of compliance. The court will serve 3 of the 4 units, and one unit will be serviced from Hancock Street. Access is over the frontage of 21-25 Hancock Street. Both deeds show the right to use Leavitt Court since 1916. The applicant is proposing the court or lane to be a private street and maintained as part of a joint condominium association responsibility for 21-25 and 27 Hancock Street. She proposed a covenant with the owners and developers in a form acceptable to the City to prohibit the issuance of any occupancy permits until the court or lane has been properly improved according to plans. She detailed the applicant's agreement to comply with special permit criteria in Section X.H.7. The existing house at 27 Hancock Street currently uses a court to access the house, a condition that will not change for the units at 27 Hancock Street except one will be accessed from Hancock Street. The removal of the non-conforming use and building at 21-25 Hancock Street is desirable. It is desirable to improve the existing court to supply proper access to the lots given that it abuts the City Rail Trail. The formal improvement of Leavitt Court will improve the pedestrian and traffic situation because it currently services commercial and industrial vehicles that are inconsistent with the residential neighborhood fabric. Improvements are consistent with the density and the neighborhood. The Rail Trail is less than 150 ft away from the property and immediately adjacent to 21-25 Hancock Street. The proper construction of Leavitt Court will improve stormwater runoff in the area and the reduced stormwater will be properly drained and treated onsite. There are no special regulations for use.

Attorney Lisa Mead said the formalization of Leavitt Court and the removal of the non-conforming industrial use and reclamation of the property at 21-25 Hancock Street is consistent with the zoning district. Hancock Street currently includes a mixture of single, two- and multi-family homes. The addition of a two-family structure to the neighborhood is consistent with the surrounding uses, integrity, and character of the neighborhood and R2 district. The proposed use is in harmony with the purpose and intent of the ordinance, allowing the formalization of Leavitt Court by special permit. This will be one of the least dense lots in the neighborhood, even with the two-family use, and likely the only set of lots that meets the dimensional requirements of the ordinance in the neighborhood. In Attorney Mead's review of 11 surrounding lots, the lot areas range from 1,600 sf to 8,980 sf. The use of the Courts and Lane Special Permit is consistent with the purpose and intent of the ordinance, but for the various waivers requested, and enhances public safety by reducing the number of curb cuts on Hancock Street by 2. The proposal removes all discarded boats and storage of industrial supply from view on the Rail Trail and replaces it with a properly drained and maintained stormwater system, including lawn areas and vegetation appropriate for the use of the adjacent Rail Trail. Regarding the subdivision approval, Leavitt Court was not constructed under the subdivision control law. While the creation of the road by recorded plan in 1916 would be sufficient for an ANR if it were improved, we would have to do that. The applicant seeks to construct the road using the Courts and Lanes Special Permit and under the lane provisions of the subdivision rules and regulations.

Attorney Lisa Mead said Fire Deputy Chief Bradbury assented to the proposed plans given the length of the road as well as the fact that both sets of homes would be sprinkled. The Board's

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peer review engineer and the City engineer have essentially agreed with the plan but for the minor issues detailed by Mr. Sawyer. The waiver requests are for: a) the 40 ft minimum right-of-way width because Leavitt Court is an existing 25 ft private way to be improved; b) no cul-de-sac or T-turnaround because the Fire Department doesn't believe one is necessary and the total roadway length is only 150 ft; c) the required curb radius of 25 ft at the intersection because the existing curb at the intersection with Hancock Street is 12 ft; d) no 6-inch vertical granite because the only curbing provided is at the intersection and is unnecessary within the site; and e) sidewalks are required along one side of the road and no sidewalks are proposed given the length of the road, the proposed layout, and the fact that the applicant is improving the sidewalks on Hancock Street.

Public comment open.

Rob Jorgenson, 70 Purchase Street, abutter, said all the abutters on Purchase Street submitted a letter dated 3/19/21. Speaking for himself, the drainage plan appears to be adequate 9 months of the year when water would flow but things are different in the winter. In a classic winter storm, it rains on frozen ground and there is no permeability, thereby blocking drainage to the rain garden. It would be helpful to understand the maintenance burden for the rain garden in perpetuity and the condo association's responsibility. What provisions will keep the rain garden cleared when snow is pushed down Leavitt Court? With snow pushed on top of the rain garden, it would no longer work. He questioned the final topography change. On sheet C-1, the sewer main tie-ins appear to be around 27 ½ ft elevation. On sheet C-2, the new proposed grade, mid-site, is about 30 ft or less. How much soil is required to safely cover sewer lines to prevent freezing? That would dictate the required slope. He wanted assurances that the plan anticipates that situation correctly. Other issues of concern are harm to abutters' trees and green space during and post-construction and the hazardous waste potential on the former bus garage site.

Public comment closed.

Attorney Lisa Mead said trees and green space on the neighbors' property will be protected by construction of a fence along the rear of the property. The applicant cannot trespass on neighbors' property. This is a typical condition required by the Board. All soil moving will occur in conformance with the applicable rules if there should be hazardous materials. The applicant performed a transactional screening or 21E on the site and will follow the Building Department's required demolition regulations. There will be an Operations and Maintenance plan (O&M) for the rain garden and all stormwater facilities. The Board can require this rain garden not be blocked by snow, as part of the O& M plan and it can be reflected in the condominium documents as part of the special permit.

Steve Sawyer addressed winter stormwater runoff. The roof and drywell on 27 Hancock Street are to be piped directly into the ground to subsurface features below the frost line. These systems function regardless of a frozen surface. If the rain garden overtops, there is a standpipe that directs runoff down below the frost layer 3 feet below grade. This is a vast improvement to the existing conditions. The runoff toward the Rail Trail will meet a headwall pipe that also directs the water underground. He took the consideration of freezing systems into account with his stormwater design. He designed a similar system on Twomey Drive 5 years ago and it's doing

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great. A similar system he designed at Avita over 10 years ago operates the same today as when it was installed. The longevity of the systems should not be an issue with proper maintenance. The private sewer system is dictated by Title V which requires only 9 inches of cover. They are gravity systems that drain dry, unlike a water pipe that has standing water.

Bonnie Sontag said this special permit does not deal with architectural design and details. Comments should pertain to the Courts and Lanes Special Permit and Subdivision approval.

Rick Taintor said the Courts and Lanes Special Permit waivers make sense in terms of minimizing the impact of this small development. How much of the Subdivision Plan and Courts and Lanes Special Permit plan is subject to Planning Board approval? For example, if the Courts and Lanes Special Permit is approved, does that automatically mean this Board has approved the specific building layout for the Subdivision Plan?

Director Port said the ZBA is reviewing the architecture (and commented on reducing the massing), landscaping, and whether the DCOD compels the applicant to have another hearing related to 27 Hancock Street. The Courts and Lanes Special Permit review for the Planning Board relates to lot access (essentially the shared driveway between the homes), stormwater infrastructure (the Office has yet to hear from peer reviewer), sidewalk connections, and curbing. If there is an application for other special permits, such as a VI-C, those would have a different area of review.

Rick Taintor asked if the Board were to approve a plan like this, and the ZBA approved something different, would the applicant have to return to the Planning Board with an amended plan? Do the buildings shown on the plan not constitute part of the Planning Board's approval?

Director Port said if changes are not attached to the driveway, the applicant might not have to come back. The Office is trying to work in parallel so that the same set of plans is approved by both boards, even though the ZBA is looking at a different area of jurisdiction. He recommended continuing for a couple of weeks given the possibility of substantive building layout changes because that accommodated the stormwater peer review timing as well.

Rick Taintor spoke to the neighbor's concerns about ice and snow causing stormwater to cross the property line. Is there a consideration to shift the rain garden off center to the left and to superelevate it, that is, to eliminate the crown at the end of the road so that water is directed away from the rain garden before it can hit the property line? He also noticed that most references on plan sheet C-2 to the detail plan on D-1 are off by one number. That plan should be in conformance.

Steve Sawyer said superelevating the road and directing water to the gutter line isn't a bad idea. He would look at that. To date, there's been no issue with snow maintenance on Twomey Drive. There would have to be an easement in the back corner.

Rick Taintor asked whether an easement is needed for the swale, anyway.

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Steve Sawyer said the swale is subtle and will look like grass lawn. There will be an easement to maintain that grading, but it's a good point and he will look into it.

Bonnie Sontag said plans specify Leavitt Court is a 20-ft wide paved road, but the waiver is for 25 feet. She heard Mr. Sawyer talk about 20 ft and plan sheet C-1 says 20 ft.

Steve Sawyer said the actual right-of-way is 25 ft and 20 ft is the pavement width.

Leah McGavern said she's not a direct abutter but lives on the corner of Madison and Hancock Streets currently and is familiar with this property. She has no objections to the plan but there are very few private streets in the neighborhood. If kids' play happens to take them down this street they can be asked to leave. That's unneighborly in the South End and an issue for her.

Anne Gardner finds the project favorable and likes the idea of two-family homes in this neighborhood.

MJ Verde commended the developer for adding 4 homes in a nice way to the neighborhood. It's impossible to control what a snowplow does at 4 AM as to snow at the end of the driveway and on the abutters' properties. She would like to see Mr. Sawyer try to resolve that issue. These houses are set back from Hancock Street with a suburban-style lawn that differs from any surrounding houses. In that sense, the plan does not fit into the South End.

Attorney Lisa Mead agreed. These properties have 2 front yards each on Leavitt Court and Hancock Street. The exception for moving the frontage closer to Hancock Street doesn't apply here because of the setbacks on either side. This is worth considering when zoning is re-written.

Tania Hartford agreed with Ms. Verde, although she appreciated that the layout followed the zoning ordinance. If anything can be done to avoid snow piling up, that would be good.

Beth DeLisle also had concerns about the snow and suggested something in the condo agreement describing where the snow can go. She asked which way the water flows behind 27 Hancock Street toward Purchase Street. She's not clear on the grading. Is the environmental review available to the City and the neighbors? Could the Board hear a summary, given the property's industrial history?

Attorney Lisa Mead said it is a private document between the owner and the seller and she did not have it. The applicant will conform with whatever the requirements are.

Steve Sawyer said it's very flat in the backyard of 27 Hancock Street and the grading around that perimeter is not changing. There is a stormwater design point behind the concrete building and a second design point in the back right corner at the southeasterly property line. Water from the building and the backyard of 27 Hancock Street will continue to flow in that manner. The location of the flow is not changing, but we are reducing the rate and volume of water by 50% for a 2-year event and 10% for a 100-year event. Behind the concrete building, all water flows to the low point along the Rail Trail instead of flowing toward the Purchase Street neighbors.

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Don Walters is generally satisfied with what the project will look like from the Rail Trail. It's a shame that a dimensional variance was not requested to move the houses closer to Hancock Street. He appreciates the conformity with zoning but with all the bituminous pavement in a new subdivision, he would appreciate some brick or pavers.

Bonnie Sontag said the Board receives push back when asking for pervious pavers because they are not conducive to snowplowing and northeast conditions. Are there any improvements in surface treatments so that there is a way to make the paved areas less impervious?

Steve Sawyer said the problem with pavers is that you can't lock them in because they need to be on a permeable sub-base. Longevity is an issue since it's a roadway. Sand and sediment will clog the gaps between the pavers. Pavers work well for patios, and maybe for a driveway that's snow blown. He has used permeable bituminous which is a proven but expensive material that is not aesthetically pleasing and comes with maintenance issues. The proposal is more effective for stormwater and longevity.

Bonnie Sontag asked about using pavers for the driveway at 27 Hancock Street to help with stormwater.

Steve Sawyer would check with the client.

Attorney Lisa Mead said the two-family will be re-designed or they would need a DCOD Special Permit. The proposal is compliant with regulations. Requesting pavers on an entire driveway should be tied to special permit requests or bonuses when relief is requested because the cost of that goes into the home.

Bonnie Sontag said the request addresses issues raised about stormwater runoff. Reducing the amount of impervious surface on the project area would go a long way. The special permit allows the Board to consider such things, and this is unrelated to a relief issue. She is not trying to overly burden the applicant. Pavers should be considered for the single family use driveway.

Attorney Mead said the applicant is improving the stormwater on site and exceeding the requirements for the construction.

Bonnie Sontag said she wanted confirmation that the landscaping addresses Geordie Vining's and others' issues. She read a public comment that the abutter at 29 Hancock had talked to the developer about screening on their side and wants to make sure that's on the plan.

Attorney Lisa Mead said the Board received affirmations from all City boards regarding the landscaping. Ms. Graf addressed Mr. Vining's latest comments about more trees planted along the Rail Trail in this plan. There are about 6 emails that say, "Thank you, that's exactly what we wanted." The requests by the next door neighbor, are also addressed in this plan with the back fence, the plantings along the back fence, the low boxwoods in the front, and the tree in the middle of the lawn.

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Rick Taintor suggested that if the idea of shifting the rain garden didn't work, it might make sense to put a 24 ft section of split rail fence in front of the rain garden to help ensure snow isn't plowed into the rain garden. He didn't understand why the established front yard setback exemption wouldn't work for these parcels. The properties on either side are closer to the street.

Attorney Lisa Mead said the longest stretch of frontage is considered the front yard. That's on Leavitt Court. Even though the requirements call for a front yard setback on Hancock Street, it doesn't count as the front yard. The applicant would be happy not to have a 25 ft setback on Hancock Street, but that's not what the ordinance says.

Steve Sawyer said a split rail fence could be placed in front of the rain garden. The homeowners will be hiring a snow removal company and will therefore have more control of where the snow goes than they would on a City street.

Bonnie Sontag said, in principle, the Board is amenable to approving the project. There could be some major modifications and she would leave the public hearing open.

Attorney Lisa Mead said if the Planning Board Chair would authorize Director Port to let the ZBA know this Board's opinion with the changes noted, that would be helpful for the ZBA to close out their use issues. Currently, VI-C is up in the air. Nobody can apply because it may change, and it may not change. If VI-C changes, a VI-C permit would not be good without reapplying for it. This is a perfect site for a VI-C, and she would like to know if the City Council decides to change the VI-C ordinance in the near future. The Massachusetts Historical Commission would not be able to hold a preservation restriction on this house because it's not significant nor is it downtown. Would the Board be interested in a VI-C on this site if the changes to the ordinance occurred such as to make this possible?

Anne Gardner asked how VI-C would change the project as presented.

Attorney Lisa Mead there would be two individual single-family homes on each side for 4 homes total in a condo association instead of two duplexes. The homes would still be serviced from Leavitt Court because the ordinance requires frontage to be on the longest road.

Leah McGavern and Rick Taintor would support a VI-C.

MJ Verde asked whether the frontage would be Hancock Street or Leavitt Court.

Attorney Mead said the frontage would still be Leavitt Court because it's the longest stretch of road, but the home's narrower ends would face Hancock Street. The homes cannot go closer than 25 ft to Hancock Street.

Bonnie Sontag said the second house on each lot would have to be 10% smaller because the new VI-C ordinance draft kept that requirement.

Don Walters would support a VI-C because there is some benefit to the City.

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Tania Hartford would consider VI-C but would want to see a plan before making any comments to know if whether it's 4 expensive single family homes or something more affordable.

Anne Gardner likes the two-family that fits nicely on Hancock Street because the cost structure for the owners would be less than for single family homes. She would have to see the proposed public benefit. But she would be willing to look at it.

Bonnie Sontag would be interested in VI-C. She would consider the trade-offs compared to this proposal and what the City and potential buyers would gain from a VI-C.

Rick Taintor made a motion to continue the Special Permit application and Definitive Subdivision Approval application for 21-27 Hancock Street (2021-01 and 2021-02) to 4/21/21. Anne Gardner seconded the motion, and 8 members present voted in favor. Alden Clark is recused.

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) *John O'Rourke*
22-24 Auburn Street
Approval Not Required (ANR-2021-1)

Rich Williams, engineer, Williams & Sparages, 189 North Main Street, Middleton, said the 24,000 sf parcel is an existing single family lot at the corner of Auburn Street and the Newburyport Turnpike. The proposal divides the parcel into 2 building lots. Lot 1 is sized for a single family lot and meets frontage, area, and shape requirements. Lot 2 is big enough to be a 2-family lot and that's what the applicant is considering, although it could also be a single family lot that also meets requirements. A special permit is needed if a two-family is built on Lot 2. The plan does not require subdivision approval.

Director Port showed a ground level photo of the property. The Office has every reason to believe the plan meets subdivision control provisions for granting an ANR. No new roadway is needed, and the Office recommends endorsement.

Alden Clark asked if the frontage for the new lots meets the two-family requirement if just the Auburn Street frontage is counted or does the back street frontage need to be added.

Rich Williams said Auburn Street meets the frontage on its own.

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Bonnie Sontag asked if the plan is posted because she could not find it earlier today.

Alden Clark said it was there a week and a half ago, but when he looked today it wasn't there.

Director Port demonstrated how to locate the plan online with the new automated system.

Don Walters made a motion to endorse the ANR Plan for 22-24 Auburn Street (ANR-2021-1). MJ Verde 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) Approval of minutes

- 3/25/21

Rick Taintor made a motion to approve the minutes as amended. He reviewed the corrections he sent in previously.

Tania Hartford said the 2nd paragraph on page 4 was not representative what she intended to say. She meant that sometimes VI-C takes away a two-family that would often have a second unit that is more affordable than 2 single family houses.

Alden Clark seconded the motion and six members present voted in favor. Beth DeLisle, Anne Gardner, and MJ Verde abstained.

Motion approved.

c) Review draft decisions

- 93 State Street

Beth DeLisle read the draft decision history and findings for the Special Permit.

Tania Hartford said she voted in favor of the project and disagreed with the findings. Should she vote against the findings or should she abstain? Director Port said she could abstain.

Don Walters said the first finding under the DOD Specific Special Permit Criteria and Findings talks about requiring the submission of a Conditions Report prepared by a historic preservation specialist, and a Historic Report submitted by the Newburyport Historic Commission (NHC) in the 3rd paragraph. The 4th paragraph says, "Based on its review of the application and on the Historical Reports submitted by the NHC, the Planning Board was unable to find that the proposed project complies with the aforementioned standards and criteria." The Historic Report

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in the 3rd paragraph is a specific report because it's capitalized. Does the term Historical Reports in the plural context in the 4th paragraph refer to the Historic Report submitted by the NHC as well as a conditions report prepared for the NHC and subsequently transmitted to the Planning Board?

Bonnie Sontag said the plural refers to the multiple reports the Board received over the course of the review so that any comments referred to here that the Board concurs with would come from more than one report.

Don Walters said it does not say, in the following paragraph, that the Board considered the findings in the Conditions Report. It only says based on the review of the application and historical report submitted. Why did the Board not consider the Conditions Report?

Bonnie Sontag said we did not have our own historic preservation specialist prepare a conditions report. She referenced Ms. Gardner's question to Attorney Eichman, who in turn recommended that an additional expert's report was not likely to add value to the Board's deliberation because it would be a matter of dueling experts. We do not have a conditions report provided by a specialist other than what the applicant provided. That's why it's not referenced.

Rick Taintor interprets the word "application" as including the conditions reports provided by the applicant.

Bonnie Sontag said the Board is not referencing the applicant's condition reports here other than that the Board disagreed with them.

Director Port said a conditions report deals with an existing structure. The Board did not hire a consultant to look at those specific issues.

Elizabeth DeLisle said the sentence about requiring the submission of a Conditions Report is not accurate.

Director Port said the ordinance requires that language when the Board calls for a conditions report. In this case, the Board did not request a peer review consulting fee from the applicant.

Don Walters said he's not sure why the language is there. He would add a conditional phrase that says, "if required..." or "was not required by the Planning Board." Otherwise, it makes a statement of fact that did not occur.

Director Port agreed and made the changes.

Beth DeLisle suggested minor edits in the name of the applicant.

Bonnie Sontag suggested a changing "...the proposed addition at approximately 250% the size of the historic structure," in the first finding to "approximately twice the size of the historic structure." The NHC did not get all the figures they needed for their calculations and twice the size is an approximation that is closer to the 2.1 ratio referred on a later page.

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Beth DeLisle read the General Special Permit Findings.

Bonnie Sontag suggested changing language in #6 from “approximately 250% greater” to “approximately two times greater” to conform to the earlier change.

Beth DeLisle suggested changing #8 to include “the proposed” addition.

Rick Taintor refined the language in #6 to read “...is approximately twice that [volume] of the historic structure.”

Beth DeLisle read sections of the Site Plan Review Decision Procedural History.

Rick Taintor asked whether the reference to Section 9 was correct. Director Port would check.

Beth DeLisle read the Site Plan Review Findings.

Rick Taintor suggested a paragraph break and called attention to the use of “Section XXVI” when it should be “Section XXVII.”

Beth DeLisle suggested adding “size” to the phrase “scale and massing.”

Beth DeLisle resumed reading, beginning with Traffic, Parking, and Public Access.

Rick Taintor asked if the Board received a final reply on the section reference for the Site Plan Review Decision. Director Port would make that adjustment after he referenced the ordinance and would change the section reference before filing it with the City Clerk.

Rick Taintor made a motion to approve the draft decisions for the denial of the 93 State Street Site Plan Review Application and the Downtown Overlay District Special Permit Application, in accordance with the draft decisions provided to the Board and reviewed and amended this evening. Anne Gardner seconded the motion and 6 members present voted in favor and 3 members abstained (Alden Clark, Tania Hartford, and Don Walters).

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.

d) Other updates from the Chair or Planning Director

- *Update on Newbury-Plum Island MVP Project “Exploring Fiscal Implications of Sea Level Rise”*

Bonnie Sontag said the VI-C will be discussed at the next meeting of the City Council on Monday. An outstanding issue is the fee for affordable housing. They have not approved the first reading yet.

Director Port said the wetlands and zoning ordinance amendments for Plum Island went to the City Council and were moved off the docket but may come up again. He said there would be 2 public meetings on the Town of Newbury’s Municipal Vulnerability Planning project, one possibly on 4/29/21 and another in late May. The maps and financial data will be interesting. The visualizations of the extent of flooding on the maps are showing that the whole island is a hazard prone area that will worsen in the future. He would provide a link to the meetings because they specifically relate to the policy level questions in the zoning amendment that was recently set aside by the City Council.

4. Adjournment

MJ Verde made a motion to adjourn the Planning Board meeting. Beth DeLisle seconded the motion and all members present voted in favor.

Motion Approved.

The meeting adjourned at 9:50 PM.

Respectfully submitted -- Linda Guthrie