

**City of Newburyport
Planning Board
April 19, 2023**

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

1. Roll Call

Planning Board Attendance: Alden Clark, Beth DeLisle, Bob Koup, Jamie Pennington, Heather Rogers and Rick Taintor

Absent: Don Walters and Richard Yeager

Planning Director Andy Port and note taker Caitlyn Marshall were also present.

2. Joint Public Hearing with the Planning & Development Committee and Committee of the Whole

a) ODNC00141_02_27_2023 Zoning Amendment Short Term Rental Units

City Council Planning & Development Committee Attendance: Ed Cameron (chair) and Connie Preston

Other City Council Attendance: Sharif Zeid, Jennie Donahue, Jim McCauley, Mark Wright

Councillor Sharif Zeid began by giving background information on short-term rental units in Newburyport. The STRU zoning effort began in 2016. Ordinance 46 was proposed in 2020 and did not pass. The City issued letters to operators. The new ordinance was proposed in 2023. Councillor Zeid stated that he is the proposer of this amendment. This amendment would create a legal zoning framework and structure for STRUs that balances competing interests. The intent is to create predictability for all property owners and to create enforceability for all. There is a licensing ordinance for day-to-day issues. Councillor Zeid then went over the pros and cons of STRUs. He stated STRUs are in between business and residential. He discussed the R-3 district as an example. R-3 is a multi-family district and allows multiple uses. Councillor Zeid tried to get rid of confusion with this amendment. He proposed three classifications: owner occupied primary residence, investor units, and Plum Island STRU consistent with historic use. All are contingent upon a valid license and zoning review if permit is opened. There would be a renewal every three years. He then went over the restrictions in different zoning areas. He ended with facts and questions in his presentation.

Alden Clark stated that an operator is not required to be at the unit, but they have to prove bedroom.

Councillor Zeid stated there doesn't have to be a space for the operator.

Alden Clark stated the presenter mentioned WMD and WMU zones as not being allowed and that the Ag/Con zone was also not allowed and those homeowners were being penalized by being excluded from the ordinance. He then asked if anyone looked at the number of units on the state registry that are outside the zones?

Councillor Zeid stated there are some homes that are in Ag/Con. That is more of a policy question. Jennifer Blanchet has done some analysis. He doesn't have the numbers to present at the time. Also, not everyone registers.

Bob Koup stated there were a couple of fundamentals that needs to underpin the entire amendment. He stated he was curious about allowing an owner occupant to be absent for up to 120 days per year. This would let the owner be absent all of the weekends in a year. That is a lot of empty houses occupied by strangers on weekends. That's not protecting our neighbors. Owner occupied then looks like an investor unit. He stated he is also concerned about parking. He concluded that it may not be good.

Councillor Zeid stated he kept the 120 days to be absent for the owners because it was a good compromise. "Snowbirds" are gone for four months out of the year. Even if they are not there on the weekends those are their neighborhoods. They have to answer to their neighbors Monday through Friday. Licensing steps in if it is a partying issue. He then stated having too strict parking restrictions then creates a ban. He stated he is trying to find a middle of the road. For many properties it will be hard to show that extra space for parking.

Bob Koup brought up immediate concerns. Who do you talk to right then? There needs to be a presence in R1 and R2 neighborhoods. There needs to be oversight on the owners' part.

Heather Rogers asked, regarding the registered units in the state, is the City taking in tax dollars? Are we benefitting? Are we using those in budgets?

Councillor Zeid responded yes.

Heather Rogers stated, so we would have a loss of revenue by restricting STRUs?

Councillor Zeid responded possibly. It could result in a reduction.

Bob Koup stated if there is tax revenue, can we use it for a third party to dedicate that money to them to oversee STRUs.

Councillor Zeid stated generally yes.

Beth DeLisle asked about the rationale in restricting STRUs in the smart growth district. She also noted that section three in the table mentions 120 days per year.

Councillor Zeid stated the smart growth district provision is a holdover from previous amendment. There are concerns over affordable housing. STRUs are not allowed in the 40R district. 25% of the units in a 40R smart growth project must be affordable housing.

Rick Taintor stated in the definition it talks about a STRU as more than 14 cumulative days a year. He then asked if someone who rents seven weekends is not a STRU?

Councillor Zeid stated that is the definition and it is state law. If you rented for three weekends it is not a STRU. Therefore, they would not require registration with the state.

Rick Taintor stated that it explicitly says up to 14 days is not a STRU and is allowed as of right. Also renewal is needed every three years.

Councillor Zeid stated it is good for three years in all cases. If the owner pulls a permit to modify their property then they need to renew.

Rick Taintor asked if each bedroom could be rented separately and how that would affect parking.

Councillor Zeid stated that the number of cars could be different in each situation.

Rick Taintor asked about specific standards for different types of permits. Would they be defaulting to general special permit standards? Should there be some special standards with this?

Councillor Zeid stated yes. He stated investor versus owner occupied is a difficult standard. For special permit, the benefit is the process. It is a big ask and it requires a lot. R3

Councillor Jennie Donahue asked if any kind of cap was considered or limitation?

Councillor Zeid said that was considered, but a challenge to who gets the permits. There is more of a limit to how many STRU an individual can operate.

Public Comment opened.

Kevin Bannigan of 43 Middle Street stated that verification of property was never mentioned. Enforcement of the issues was also not mentioned. He stated there needs to be a process of verification and an enforcement program or it will fall apart. He stated they have over 50 resident vehicles in his neighborhood. They also have nine STRUs within one hundred yards from his front door. He stated the City's enforcement criteria has never worked and it will not work. How are you going to know who has a registered property? He stated the make up of the neighborhood has changed. On his street there are three investor STRUs. They are not managed and investors are in it for money. From Middle Street Foods to Fair Street there are fifty cars. How are we going to know who

the STRU tenants are? STRU have friends come. This is abuse to the parking issues. He then stated that anyone who has a STRU needs to be registered. He stated that the City needs to hire a part time employee to do the homework on STRUs.

Kathleen Dunham of 21 Otis Place stated there is a duplex at 6 Garden Street listed as a VRBO for \$575 a night. It is rented almost every weekend. Parking is terrible on that street. The owner doesn't live there. 8 Garden Street is privately owned. This has been going on for years. She then stated it is hard to get over Garden Street due to the parking issue.

Bob Currier of 3 Summit Place stated he is on the Affordable Housing Trust in Newburyport. He stated he feels the City of Newburyport should provide tax revenue on short-term rentals. 6% tax could be used to develop affordable housing. STRU is an option since there are no hotels in the area. Money could be used as funding to provide equitable housing. He stated he is not discounting STRUs.

Michael Underwood of 21 Beck Street stated he encourages this ordinance as it stands. There are some issues that need to be addressed with enforcement. He then asked how would the ordinance now change enforcement? He knows of a STRU has been told not to operate and continues to operate. He suggested starting with the amendment, but figure out enforcement.

Judy Tymon of 39 Lime Street stated she agrees with Bob Koup about the owner being absent for up to 120 days. She stated she also agrees with Mr. Underwood about enforcement. The enforcement officer writes the letter but the City needs to take action. In regards to parking, STRU reviews online say visitors love that they can walk everywhere. She suggested tenants use the City's parking garage for their cars.

Jack Santos of 10 Spring Street suggested STRU use the parking garage. He stated he was unaware of enforcement issues. He was also surprised at the R3 district allowing investor owned STRUs. He stated there are one hundred seventy registered STRUs in Newburyport. Fifty of those registered STRUs are on Plum Island. There are no hotels or inns in the R3 district. He also agrees 120 days is too many days away.

Ken Swanton of 10 Tremont Street stated he was glad to see the proposal. He stated there needs to be some clarity. He stated he is the Vice Chair on the Zoning Board of Appeals. He stated they will not see a lot of STRUs in the R3 district that will make it through the screening.

Pam Kipp of 11 Tremont Street stated this is going to have a negative impact on the neighborhood. She asked why investors would be put over neighborhood peace. She stated there would be different people every weekend. 120 days is too many days away for owners. She stated they need to deal with "snowbirds" separately. She suggested they keep neighborhoods filled with people who care about issues.

Tim Smith of 53 Marlboro Street stated he owns an investment unit. He stated his

neighbors like the renters. He resides three minutes from property. He agrees with the licensing in the amendment. He stated he does not allow parties at his STRU.

Lela Wright of 55 Reservation Terrace stated she lives on Plum Island. She stated STRU helps restaurants and retail shops. She stated Newburyport doesn't have a hotel. There are less than one hundred rooms with the inns. Tourists are spending time and money in Newburyport and a lot of people end up moving here. There is revenue from STRU. She suggested to continue moving forward with the amendment.

Theresa DiPiro of 53 Marlboro Street stated she is concerned about STRUs in Newburyport. She also owns a STRU and it is classified as investor owned. She then asked - What is the main objective? The answer is to allow STRUs in the city in a limited capacity so we don't disrupt quality of life. She then brought up some issues and concerns people have – noise, overcrowding, prostitution, illegal drugs, disturbance of the peace, and excess trash. She stated the three classifications are pulled from an ordinance in Boston. She stated that all STRUs need to be licensed.

Kelly Gray of 230 High Street stated the ordinance needs to balance the needs of homeowners. She then stated neighbors are saying they are having issues. She stated these things can be figured out after the ordinance gets passed. She stated the 120 days is only for owner occupied and is more for the snow bird situation.

Reginald Bacon of 21 Strong Street stated that he is strongly opposed to the ordinance. Absentee investor owned rentals are not good. He then stated however the ordinance evolves, there needs to be robust permitting and enforcement.

Steve French of 164 Water Street stated he has been a resident since 2004. He hosts STRU that are regular working families and good neighbors. He reinvests in his property from the income. The STRU visitors frequent shops in Newburyport.

Matthew Ainsworth of 77 Curzon Mill Road stated he was representing two others residents. He then stated STRU need registration and controls. He is an owner of a STRU. He feels as though parking issues will not be solved. He stated he gives his parking to his neighbor and his renters park in public spaces. STRU should remain registered.

Adrian Shimora of 1 Bromfield Street stated that owners of properties being present would solve STRU issues. The tenants will respond to owners of property.

Sean Bakhtiari stated he is a STRU owner out of town. He then addressed a misconception, that investors are buying Newburyport. He stated true investors are buying outside of Newburyport. He stated affordable housing will be solved and that housing is expensive because it is desirable. If STRU are restricted they will still rent out. There are a lot of unregistered STRU in Newburyport. You have to have registration with Airbnb and VRBO. There is a 5.7% state tax and a 6% local tax.

Public Comment closed.

Planning & Development chair Ed Cameron stated he wanted Planning Board input. He then stated the discussion could be continued at the Planning and Development Committee meeting. He also said they could continue public input. He stated ZBA input is also important. He liked the idea of the owner being there at the STRU. Owner not being present went from 90 days to 120 days in a one-year period. He also addressed the issue of if everything is going to be shut down in ZBA then why would that be allowed? He stated getting data on current numbers of STRU would be helpful. There is a lot to consider.

Councillor Connie Preston stated this is about striking a balance. She stated she would like to find a balance to have enough STRUs to serve the community. Tourists and residents utilize STRUs. She would like to mitigate the impact on the neighborhoods. There is a strong licensing component to this. She plans to propose some amendments to this.

Rick Taintor asked if Councillor Zeid plans on coming back with a revised draft?

Councillor Zeid stated he would like to avoid many drafts outstanding. There are three things he would like to focus on; input on R3 district about investor units, special permit aspect, and number of days for owner occupied but not present. He then stated enforcement will be licensing issues.

Director Port stated it would be beneficial to close this public hearing and then allow the Planning Board to give comment. He stated to go to Council through Planning and Development and then decide what to do from there. The STRU dialogue has gone on for years.

Councillor Jim McCauley stated if they close tonight the ninety day clock starts. Do we have space on legislative calendar? He then suggested keeping the discussion open until the second meeting in May.

Councillor Cameron stated they would keep the Planning Board hearing open and then the ninety days starts when they close.

Rick Taintor stated the Planning Board hearing would remain open. Planning and Development would close and not have to come back.

Director Port asked how dialogue be shared.

Councillor Mark Wright made a motion to close the City Council portion of the joint hearing. Councillor Preston seconded the motion. All members voted in favor.

Bob Koup made a motion to continue the Planning Board's public hearing to the first meeting in May. Alden Clark seconded the motion. All members voted in favor.

Motion Approved.

3. General Business

a) Pre-application conference – 49-57 Merrimac Street

Nick Cracknell stated he was representing Rene Bernard, the owner. He stated he wanted to reintroduce the project, which was previously presented to the Board in 2019. The project needs four special permits. He stated the parking is different from 2019. The location is the former gas station and is located in the B2 district. The change from 2019 layout is that all the parking is at grade. The location supports retail or office space on the first floor and divided up between three users. There are accessible doorways on Merrimac Street. The back of the building has 12 parking spaces. There is no basement. There are sixteen units in top floors. The commercial parking would need to utilize the ITIF fund. Eight parking spaces are needed. The building is 28,000 square feet and four stories. The second floor has six residential units - 1 and 2 bedrooms. The third floor is the same. There are four units on the top floor with private roof decks. There is shared deck space for lower floors. They stated they were looking for feedback.

Bob Koup asked how they anticipate providing service to retail for deliveries.

Nick Cracknell stated he was not sure and they will have to figure that out.

Bob Koup stated dumpster location may affect those twelve parking spaces.

Jamie Pennington stated an observation he had made, there is a difference between the drawing and rendering.

Alden Clark stated three parking spaces would be designated commercial. Will they be labeled?

Nick Cracknell stated yes those spots would be labeled. He stated they could have less parking with the dumpster.

Jennifer Blanchet brought up ADA requirements. The parking spaces and where they are located. She stated there needs to be an accessible path for residential and commercial and a path of egress in and out.

Rick Taintor stated he agreed with Jamie Pennington. He preferred the concept drawing with filling in glazing between columns compared to punched windows. The color drawing had a lot of variety and detail and that got lost in the dimensioned elevation. He stated he looked at 44 Merrimac Street across the street. He liked varying the spaces between the first and second floors and between the second and third floors. He also stated he was sorry they lost the large first floors. He suggested they try to gain some

additional height in the building.

Nick Cracknell stated the height is forty six feet.

Bob Koup brought up the retail step ground floor slab for door locations. He suggested if they plan on multiple doorways the slab step down with the sidewalk.

Director Port stated that the Planning Board is the special permit granting authority rather than the ZBA because the property is in the Downtown Overlay District. He stated the top rendering felt more organic. He also stated the roof space is less clear in rendering. 2-6 Market is higher than the ones behind it.

Rick Taintor asked if the building material is brick.

Nick Cracknell stated yes.

b) CPC representative

Director Port stated they need a new Community Preservation Committee representative. The representative has to be approved by City Council. This person would be a liaison to the CPC. The representative would review applications next spring. This is not an urgent issue.

Rick Taintor stated this could be carried over to the next meeting. He asked Director Port to come up with a brief summary and distribute to the board.

Director Port stated the representative job is a light lift and stated the person would grant funds, review online applications. There are typically ten to fifteen applications in the spring. There are typically two to three meetings.

c) Approval of minutes

- *4/5/2023*

Alden Clark made a motion to accept the minutes. Jamie Pennington seconded the motion. Five members voted in favor. One member abstained.

d) Other updates from the Chair or Planning Director

Director Port stated there are no other updates at this time.

Rick Taintor stated on May 4th there is a boards and commission open house organized by the Mayor. All boards will be represented.

Beginning on the second meeting in May, the board will go down to seven members. He stated they are looking for two associate members.

4. Adjournment

Alden Clark made a motion to adjourn. Jamie Pennington seconded the motion. All members voted in favor.

Motion Approved.

Meeting adjourned at 9:30 PM

Respectfully submitted – Caitlyn Marshall