

**City of Newburyport  
Planning Board  
October 20, 2021  
Draft Minutes**

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

**1. Roll Call**

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

Beth DeLisle left at 8:33 PM.

Planning & Development Committee : Jared Eigerman, Heather Shand, Christine Wallace, and Jim McCauley, Bruce Vogel, Barry Connell, Afroz Khan, Charlie Tontar.

Andrew Port, Director of Planning & Development, Jennifer Blanchet, Zoning Administrator, and Linda Guthrie, note taker, were also present. And Craig Holt, licensing commission chair,

Chair Bonnie Sontag opened the Planning Board meeting.

Chair Heather Shand opened the Planning & Development Committee meeting.

**2. Joint Public Hearing with the Planning & Development Committee and Committee as a Whole**

- a) Amend “Dimensional Controls” Sections VI-A (General regulations) and VI-B (Lot areas) to further clarify applicable dimensional requirements, and the effect of “public purpose takings” (e.g., eminent domain) on compliance with such requirements*

Director Port said the proposal originated with discussion about the west end and Cutters Fire Station when it became apparent that there was no ordinance provision to deal with what happens to lots that become non-conforming as a result of a “public purpose taking” or eminent domain. KP Law has suggested language and Councilor Eigerman agreed to sponsor it. Staff recommends adoption.

Councilor Eigerman said many communities have closed this ambiguity with a specific provision. The City doesn’t want to put landowners into a position of noncompliance due to a public taking. The language clarifies that. City Council asked about other ordinance language that didn’t relate to the taking and the Zoning Advisory Committee (ZAC) wanted to fix so the amendment in places. The amendment addresses all the language issues that required clarifying. The only substantive change relates to a taking not putting you into noncompliance for lot size.

Public comment open.

Public comment closed.

Rick Taintor made a motion to recommend approval by the City Councilor to amend “Dimensional Controls” Sections VI-A (General regulations) and VI-B (Lot areas) to further clarify applicable dimensional requirements, and the effect of “public purpose takings” (e.g., eminent domain) on compliance with such requirements. MJ Verde seconded the motion and all members voted in favor.

**Motion Approved.**

Jared Eigerman made a motion to recommend approval by the City Council to amend “Dimensional Controls” Sections VI-A (General regulations) and VI-B (Lot areas) to further clarify applicable dimensional requirements, and the effect of “public purpose takings” (e.g., eminent domain) on compliance with such requirements. Christine Wallace seconded the motion and all members voted in favor.

**Motion Approved.**

- b) Add to the Newburyport Zoning Ordinance a new residential use category referred to as “Short Term Rental Units,” defined as “a Residential Unit made available by its Operator, in exchange for payment or other consideration, for residential occupancy by others for any period of less than thirty-two (32) consecutive days,” and specify additional requirements and/or restrictions applicable to such use, including the requirement for “a valid license issued by the Licensing Commission” pursuant to a related non-zoning Ordinance amendment also under consideration.*

Councilor McCauley, amendment sponsor, said the 2020 amendment has been updated for 2021. with input from KP Law and others, including this Board. The goal is a binary process for STRUs. Step 1 is a yes or no: Are you in the approved zone and are you in the approved category? If yes, you can go on to licensing. That’s the intent rather than a more detailed enforceable zoning. Most enforcement is in the licensing and the general ordinance.

Councilor McCauley read 3 stated purposes: To define and regulate STRUs, to incorporate responsibly the growth of STRUs in Newburyport’s existing neighborhoods by striking a fair balance between preserving permanent housing and the flexibility required for residents to benefit from STRUs, and to ensure the potential negative impacts of STRUs are mitigated. The biggest change is in definitions. A home share STRU is an operator’s primary residence who is not physically present during the rental. A limited share STRU is an operator’s primary residence and is rented while the operator is physically present overnight. An owner adjacent STRU is not the operator’s primary residence but is located on the same lot as the primary residence.

Councilor McCauley said the latest ordinance version from Licensing & Permits still needs slight modifications in wording and sentence structure. Specific questions went to KP Law a couple of days ago about application approval and denial and enforcement. KP Law had no problem with any of the detail, definitions, number of days, with the application itself and the registration process. KP Law asked for specific examples to cite on complaints and enforcement for consistency throughout the document. We’re expecting responses momentarily.

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Planning Board Comments:

Alden Clark asked about the definition of operator and the requirement of the primary resident, where it says the owner can be an LLC or a corporation. Is the director of the corporation the primary resident for that unit? Councilor McCauley said yes. The head of the LLC cannot live in Methuen and say the Newburyport unit is their primary residence.

Alden Clark asked if a corporation who owned multiple houses could have different people in the corporation as the designated operators for each unit. Councilor McCauley said if they could get that through licensing, yes.

Alden Clark asked if there's a need to define bedroom since it is listed as one of the qualifications. Councilor McCauley said if the Board recommended the committee take that under advisement, they would.

Alden Clark asked about an owner sleeping on a cot in the dining room to rent out bedrooms. Councilor McCauley said they would have to get that through the building inspection for the license. If they had 3 bedrooms and slept in one bedroom, they could legally rent 2 bedrooms and the couch.

Bob Koup said the language makes clear the fundamental spirit is really direct owner involvement in the properties. In limited share and owner adjacent units you would want to have the owner present during the rental to carry forward the responsibility to the neighborhood. But 183 days of residency qualifies the owner occupant of an adjacent unit, but they are allowed to rent their adjacent unit any time of the year, including the 6 months the owner might not be in residence. He recommended language to require owner to be present when the adjacent unit is rented the same as in the limited share rental because that's the spirit of proposal's overall language. Councilor McCauley would close that loophole.

City Councilor Comments:

Councilor Khan asked if the primary residence of 183 days is MGL. Councilor McCauley said yes.

Councilor Kahn asked if the owner of record is not present but someone else responsible is present can the information that someone is operating under the owner's instructions be captured. Councilor McCauley said in the general ordinance that is the owner's agent and it's defined. There are some limitations, but he understands the potential gap from a zoning perspective.

Bonnie Sontag said the Planning Board is particularly interested in hearing where the public wants to see STRUS in the City, where not, and why, as well as concerns or recommendations on the definitions of STRUs. The proposed ordinance was going to make STRUs by right, but she heard Councilor McCauley say there might be SPs for some districts in the City. Councilor McCauley said that is suggested as an option. The committee is open to more critical thought on those areas.

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Public comment open.

Jane Snow, 9 Coffin St., was still concerned about STRUs in R2. It's complex with all the definitions. Unless there is great enforcement, STRUs will become a difficulty for people who want only neighborhood homes in a neighborhood.

Craig Holt, Licensing Commission Chair, addressed Mr. Clark's concern about the definition of a bedroom in the case of a 3-bedroom house that rents out all 3 bedrooms with the owner sleeping on a couch somewhere in house. That's not allowed. The field card indicates the number of beds in the house. That determines how many bedrooms can be let out to how many people. One of the bedrooms is for the homeowner. If an accident in the house should involve insurance, the City doesn't want to be brought into litigation because a license was allowed and improperly used.

Jenny Donahue, 18 Cherry St., said the amendment is well thought out. Something needs to be in place.

Public comment closed.

Planning Board Discussion:

Bonnie Sontag said the Board's preference on specific districts is either permitted or not permitted, with no special permits (SPs). The Board has discussed this and realized it would be difficult to issue SPs without parameters. More detailed consideration is needed before a proposal with SPs could be approved. She was interested in why a SP was suggested by Councilor McCauley for R2 and R3. Councilor McCauley said a SP would give residential abutters more visibility when an STRU is seeking a license. The committee prefers to have it permitted and is open to the City Council issuing the permit.

Bob Koup said the licensing process runs parallel with what might have been an SP review. Individual review occurs in licensing, so the issue is already addressed in a way.

Rick Taintor said two concerns have to do with noise and parking congestion. Why are we allowing STRUs in the two most densely settled parts of R2 and R3 and not in R1 where larger lots and wider streets would result in less impact. If STRUs are okay for R2, they should be even better for R1. Unrelated is the conflict in the regulations between STRUs and B&Bs. A sentence added to the definition of residential unit says it shall not include any other use in the zoning ordinance. If someone proposes a B&B in a B1 district where it's allowed by SP, that same kind of use would otherwise be allowed for a STRU. It can be resolved by language. Councilor McCauley said R2 and R3 are where the STRUs are today. There's only one STRU in R1 because it's not within walking distance of downtown.

Alden Clark supported Mr. Taintor on not penalizing the people in R1 just because they are not close to downtown. Why is Boston Way in B1 excluded? The High Street sections are also not allowed. Why is KP Law not recommending the R1? Councilor McCauley said there is no demand for STRUs in R1. The market dictates where things are. He'll take the comment as a

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recommendation. B1 is excluded in an attempt to preserve the City's long-term rental housing stock by not allowing everyone to take their units off the market for STRUs.

Bonnie Sontag said she is in favor of allowing STRUs in R1.

Councilor Tontar supported Councilor McCauley but said the R1 advice is good to have. We could allow limited share for 1 Boston Way rental units, but we want to keep those as rental units.

Jennifer Blanchet said the Boston Way development is not entirely in B1, but just outside it in an overlay. It would be helpful to talk about the other B1 areas around the traffic circle and the Market Basket and Shaw's plazas without confusing them with Boston Way, which is already deed restricted and do not allow STRUs.

Rick Taintor said without looking at the housing stock along State Street, for example, that's the area with the most interest in STRUs. It's surrounded by districts where STRUs are allowed. Mr. Clark made a good point.

Councilor Eigerman sees the logic in keeping everything permitted or not permitted because what would be the basis of a SP in R2? There's a whole licensing ordinance procedure. However, explicit parking regulations are needed. He could support allowing STRUs by right in R2 if zoning had parking restrictions. He supports Board members in allowing STRUs by right in R1 and High Street if a unit has enough parking and can follow the rules. He's not concerned about preserving High Street housing stock. The Smart Growth District (SGD) goal is at least 20% affordable housing. We can forbid STRUs in the SGD.

Councilor Wallace said a lot of the decisions are policy questions and City Councilors will bring their own experience to the table. It's not what's right and what's wrong. At the start, it was stricter, and it seems like there's been a shift to allowing STRUs everywhere. She's surprised to hear R1 is being considered.

Councilor McCauley said the proposal is looser on zoning and stricter on licensing than when we first started. He heard more balance was needed, so the zoning regulations have tightened up quite a bit. R1 is a policy decision. We can allow it in R1 and regulate it in step 2, but these commercial units impact a neighborhood. If we allow our rentals to turn into hotel rooms, then we don't have that mix of residential and rental anymore.

Councilor Wallace asked about the City's capacity to enforce the proposal.

Councilor McCauley said the enforcement administration is through a 3<sup>rd</sup> party who does this work in cities similar to Newburyport. The first call, text, or video from residents will be sent to the emergency contact to be resolved within 30 minutes or it goes to the police. That's an important step. The 3<sup>rd</sup> party proactively scans the websites and pulls out the rentals identified within the community and matches it up with the database we are creating of licensed STRUs. They can tell us how many times it's being rented. That will supplement the work of the boards involved.

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Councilor Eigerman said High Street had problems with weddings and other events on the bigger properties. STRUs on High Street may open the door to de facto wedding events. He can see the argument for not allowing it there.

Councilor Wallace agreed. There is currently an issue with that on Merrimac Street.

Councilor Khan asked if the concerns about High Street and R1 could be resolved through licensing to loosen the zoning by having them permitted. The two amendments working together are meant to resolve everything.

Councilor McCauley said yes. The committee is trying to simplify it for a roll out. The committee will be open to a recommendation to loosen it up. The second step can be a critical factor in controlling things. It's all the same to enforce – not easier or harder.

Rick Taintor suggested allowing STRUs in any district where single family homes are allowed by right or by SP. There is a conflict built into the proposed amendment and there doesn't seem to be a reason for it. He recommended saying that STRU trumps B&B, or the least restrictive regulation applies, or even the most restrictive applies, whenever there's a conflict. You have to address the conflicts one way or the other.

Councilor McCauley said a B&B, or a lodging house is not somebody's permanent house. We are open to saying a STRU is not a lodging house or B&B or whatever the Board recommends.

Councilor Eigerman agreed. If those definitions are meant to be mutually exclusive, the ordinance should say so. There are situations where the zoning administrator or building inspector decides what category a use is in. It's not up to the applicant. He doesn't agree a B&B and a STRU are all the same because they have different impacts and implications on the housing stock. He wouldn't change anything about B&B. It's allowed in all the correct zones. Wedding events along the Merrimack River in the Waterfront zone can be by SP and you can do a wedding at a B&B.

Councilor Eigerman said the safer course for legal reasons is to make sure we have the parking regulation in the zoning rather than kick all the parking regulations to the general ordinance. He cited a legal case where parking regulations were required to be done under zoning. There's a good bit of variety in R2. It may be easier to park in the north end than on Fair or Fruit Streets. He wants the parking regulations in the zoning before he can vote for a by right STRU use.

Bonnie Sontag asked if it is sufficient to say that a B&B is not a STRU.

Rick Taintor said the B&B definition overlaps with the limited share STRU definition – renting out a room in an owner occupied house. He has not figured out how to define them so one excludes the other. That's his concern. We talked about separate lines in the use table for home share, limited share, and owner adjacent, with different regulations. Now that they are all grouped together, we need only to say something about it in the ordinance. He suggested two alternatives. One, "Where a short term rental use would also conform to the description of a

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lodging house or a B&B the provisions of the table of use regulations for STRUs would apply.” That says STRU governs. That would make it more restrictive for some uses than it is right now for B&Bs. Alternatively, whatever is the least restrictive would apply. Either option would be acceptable. Councilor McCauley asked if the language would go into section 5, where ineligible rental units are listed?

Rick Taintor recommended section 3 under the table list of use regulations with a footnote saying, “where there is an overlap the least or most restrictive applies. It only affects limited share rental units. The other two types of STRUs are not affected.”

Bonnie Sontag said the Board is concerned about parking. The wording has errors and could be tightened with another sentence.

Beth DeLisle said, regarding using the least restrictive regulation for the distinction between STRUs, B&Bs, and lodging houses, the STRU maximum of 3 bedrooms and 6 guests is a lower cap than a what is allowed for B&B. If we define them, can the owner identify through the licensing process how they are identified?

Councilor Eigerman said there is no by right B&B. It is a SP or not permitted. A lawyer would fit it into a STRU because it’s going to be cheaper. So long as the STRU regulations say what we want them to say, we are okay. There are hundreds of conceivable uses and the zoning administrator, and the building inspector decide what use it is and those regulations apply.

Jennifer Blanchet clarified that the applicant is going to look for the path of least resistance. If it qualifies as a STRU as the least restrictive definition, that’s how it will go.

Bonnie Sontag asked about linking parking to the number of bedrooms.

Councilor Eigerman said a hotel or inn has one space per guest bedroom. That seems good for a STRU if they are essentially the same thing. A B&B has 2 spaces plus one space per bedroom. We don’t need to do that because they already went through zoning to determine their parking. There is no such thing as a by right lodging house which also requires one space per guest bedroom. If you’re in a tight area, there is an alternative way of complying for parking downtown by identifying public parking, paying a fee, or leasing a space from a neighbor. Parking will be a limitation in the south end. A five bedroom house will not have 5 parking spaces. Unfortunately, the car dominates everything. He proposed a space per guest bedroom.

MJ Verde agreed with Councilor Eigerman on one space per bedroom. She is concerned about parking in the dense part of the south end.

Bonnie Sontag said we’re assuming what’s written will be complied with when they have their license. Councilor McCauley said the applicant has to provide a plan for their parking. The plan is nebulous and purposely not defined because parking is a zoning issue. He is okay with one space per bedroom if that’s what is recommended.

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Bob Koup supported one space per bedroom but is concerned about enforcement. If I'm a renter, I'm still going to park in front of where I'm renting. This falls on the neighbors and the owner. When a property requires offsite parking, how do you enforce that?

Councilor Eigerman said the only part of the City that allows offsite parking, except by variance, is the Downtown Overlay District (DOD) when you're within 300 ft of a municipal lot. Liberalizing that distance failed at City Council. Offsite parking is allowed only in a limited part of the City.

Rick Taintor said with one space per guest bedroom combined with renting out 3 limited share bedrooms that includes parking spaces for the owner and the rental units, you could end up with congestion. It will be tough to find properties that have all those parking spaces.

Bob Koup said that's why the offsite scenario makes sense, but enforcement is a question.

Alden Clark said that would apply to owner adjacent units as well. We wouldn't assume 2 separate driveways for an owner adjacent.

Heather Rogers asked if you had a 3-bedroom home but only 1 parking spot, will the license say you can only rent out 1 bedroom? Councilor McCauley said they wouldn't get a license if they couldn't provide adequate parking.

Heather Rogers said she and her 3 children would use multiple bedrooms, but all arrive in one vehicle. That's a problem.

Councilor Eigerman said you have to have sufficient parking for the number of rooms being offered. What if the next weekend you had 3 college kids with 3 cars. The zoning is always written for the worst case in that situation. A residential use can only be use 101, 102, or 103. It doesn't wipe out the parking requirement for those uses when you make part or all of it a STRU. You are not forgiven the parking requirement for the underlying use. Many houses don't have off street parking which is lawful because it was before zoning was in place. It's not fair to make them also require parking for themselves.

Bonnie Sontag asked if the resolution is through the parking plan required by licensing. Won't the licensing process look at your 3 bedrooms with no additional parking available onsite and therefore you would have to buy a permit for parking in a facility, or otherwise show where renters will park? Does the licensing parking plan allow us to put this one parking space, however it's identified, per guest room?

Councilor Eigerman said it has to go into zoning because of the case he cited in Barnstable. He suggested adding to 7-B, the parking requirement table, this new use, whereby one STRU unit requires one space in addition to parking required for the residential unit. The R2 can't support it unless there is sufficient parking. There will be constant complaints about parking.

Don Walters asked if everyone feels the definition of offsite is explicitly clear in the zoning ordinance. We can agree on a certain distance, but they're still going to park on the street,



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whether it's an agreement with someone else or some other plan. He's leery of putting it in licensing unless it can be more restrictive on the distance for offsite parking.

Councilor Eigerman said the zoning law amended in 2020 clarified Section 9 by saying you can allow reduced parking spaces by SP for residential unit space requirements. The Board could allow offsite parking by SP, but he can't vote for by right STRUs where offsite parking is more liberal than what the City has for the downtown. Otherwise, it creates a neighborhood conflict. If someone has a deal with a friend 1,000 ft away, the renter will still park on the street and not use that space. Ward councilors and the City parking clerk will be forced to deal with it.

Councilor McCauley said one space per bedroom is realistic. He's lost between onsite and offsite parking. Many people without onsite parking regularly use on street parking. We've consistently said you have to find an alternative to on street parking for STRUs. Is there a problem with asking folks to produce a plan for parking? If zoning says one parking space per bedroom, then it is left to the applicant to prove whether they can meet that requirement or not.

Councilor Eigerman said hundreds of housing units have no parking at all. That's lawful and this doesn't change that. We don't have offsite parking anywhere except downtown. It would be revolutionary to allow STRUS to have a more liberal parking regulation than full time, year round residents have.

Councilor McCauley said City Council just approved an overnight parking permit for inns to park in the garage. Would this be a way to increase revenue in our parking fund by expanding that into our parking garage?

Councilor Eigerman had no dispute with offsite parking in the parking garage, but he's not talking about downtown. Spring St. is an example where there is no parking garage. We don't allow any type of use to park around the corner on another street, not even full time residents.

Don Walters asked if STRUs are not allowed in the DOD, could everyone agree to strike offsite parking? Is it impossible to allow any offsite parking for an STRU application on Federal St.? Councilor Eigerman said that's the way it is today for every other use. You need a variance.

Bonnie Sontag said did not understand or agree with Councilor Eigerman. STRU parking is an exception worth considering. The owners are already grandfathered, but the STRU is a new use that should be allowed to have off street arrangements as part of their licensing.

Don Walters did not trust the owner/operators to enforce that and that only one out of 100 would follow the rules.

Bonnie Sontag agreed it would be an enforcement issue. Initial calls will come from neighbors if there are problems. If the STRU license says where these people are to park, they would be in violation of their license. How can we offer STRUs in R2 if we can't allow offsite parking?

Bob Koup agrees with Mr. Walters. If we go down the path of offsite parking, it's an enforcement issue for the neighbors. Those 3 cars for those 3 bedrooms are most of the time

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going to be on the street in front of those units because out of town people do what they want to do and will park in front of where they are renting whenever they can.

Bonnie Sontag did not hear any support for offsite parking from Board members.

Councilor Eigerman said the loophole Mr. Koup pointed out about owner adjacent units is not intentional. The language from limited share units could be tacked onto owner adjacent units. Ms. Niketic pointed out that in subsection 5, ineligible units, we may be changing the definition of the in-law apartment. We can legislate for that to say, “no unit for which an in-law apartment SP has been issued or similar unit under section XII-a or its successor provision.” If the in-law apartment is changed to accessory we’re covered. You could add, “no unit located within the smart growth district will be used as an STRU.”

Alden Clark wanted more information on the restriction for home shares in section IV-h-2 which restricts the total number of days not to exceed 90 days. Is the concern about turnovers when the owner is not there?

Councilor McCauley said no. Many people use a cleaning service or property manager. The feeling is 90 days is that this timeframe, although not necessarily consecutive, is enough.

Councilor Tontar noted that the general law ordinance has a section that disallows in-law apartments or any kind of secondary dwelling units to be used as STRUs. That could be in the licensing ordinance.

Councilor Eigerman said it’s more easily repealed if it’s not in the zoning ordinance.

Bonnie Sontag said the Affordable Housing Trust want to keep that in there. She wants to repeat the definition in section V-C, under a), where it should say city and not town. She listed the Board’s recommendations: In the use table, STRUs are allowed by permit in R1, and allowed in B1 but forbidden in the Smart Growth District (SGD). We did not agree to permit STRUs in the High Street residential area and let enforcement take care of the large events problems.

Rick Taintor recommended allowing STRUs in High Street residential district, as well as R1. If not, we’re allowing it on one side of High St. and not the other side. We’ve had a B&B on the north side of the street with no impacts on the neighborhood. We suggested allowing STRUs in the Conservation District. Farm vacations are attractive and there are few properties to consider.

Alden Clark supported including High Street. Licensing would take care of the potential problems. There are residential areas on Water Street that are marked Conservation.

Heather Rogers supported allowing STRUs on High Street.

Bonnie Sontag would add High Street residential A & B and the Conservation District to be permitted. The Board agreed that the definition of a STRU did not include a B&B or a lodging house. The zoning administrator or building commissioner will make the decision on whether it’s a STRU, B&B or lodging house. The STRU definition has to be added. There’s no agreement on

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parking. She heard that one space per guest bedroom and offsite parking are not enforceable options.

Rick Taintor agreed with Councilor Eigerman about putting a parking requirement in the zoning. One space per bedroom will eliminate STRUs in the south end. The offsite requirement is probably untenable. If we're going to require parking, we need to require it onsite. Should we be as strict as one space per rented room? We could be less strict. That will be the single thing that limits STRUS in the R2 and R3 districts.

Don Walters said he thought there was agreement on one parking spot per bedroom. He appreciates the uniformity for other uses. Offsite parking is irrelevant unless you're in the DOD.

Bob Koup suggested clarifying the language that offsite parking relates only to the DOD. The owner adjacent requirement requires the owner to be in residence on the property during the rental.

Don Walters made a motion to recommend approval to the City Council to add to the Newburyport Zoning Ordinance a new residential use category referred to as "Short Term Rental Units," defined as "a Residential Unit made available by its Operator, in exchange for payment or other consideration, for residential occupancy by others for any period of less than thirty-two (32) consecutive days," and specify additional requirements and/or restrictions applicable to such use, including the requirement for "a valid license issued by the Licensing Commission" pursuant to a related non-zoning Ordinance amendment also under consideration, with the additions: 1) allow STRUs in Conservation, R1, B1 with a footnote that STRUs are not allowed in the SGD, and the High Street residential districts A & B; 2) add to the definition that a STRU is not a B&B or lodging house; 3) parking shall be one space per guest bedroom; and 4) add to the definition of owner adjacent that it requires the owner to be within the property residence while the unit is being rented. Alden Clark seconded the motion, and all members present voted in favor

Beth DeLisle left at 8:33 PM.

**Motion Approved.**

Jared Eigerman closed the public hearing and would keep the amendment in committee to review the changes. Christine Wallace seconded the motion, and all members present voted in favor.

**Motion Approved.**

Jared Eigerman made a motion to adjourn. Christine Wallace seconded the motion, and all members present voted in favor.

**Motion Approved**

**3. Other Business**

**a) Request for waivers (2021-SGD-01)**

Bonnie Sontag said the 166-168 Route 1 request is for submittal waivers whose issues will be addressed later in the permitting process. The purpose is to get the Board's consideration for their application as soon as possible.

Director Port said this request initiates the hearing on 11/3/21. The engineer said the stormwater management report will get to us for consultant Phil Christiansen and city engineer Jon Eric White to review by the date of the hearing. The first meeting will cover site layout and building design. Staff sees no problem with holding off on the report for a couple of weeks because of its dependency on the site layout. There were a number of good working meetings with MINCO to work out the technical issues and plan revisions. The Office had no problem granting the waiver at this point in the process.

Rick Taintor said the waivers enable the applicant to submit an application. He assumed it would be submitted tomorrow and that starts the hearing process. Is that the effect of these waivers? Director Port said the application materials submitted are sufficient to start the process with the exception of this waiver. With the granting of the waiver, the hearing can be advertised on what they've submitted already and that starts the clock.

Rick Taintor confirmed that this vote starts the clock. Director Port concurred.

MJ Verde made a motion to grant the requested waiver of initial submittal requirements for the Smart Growth District Plan Approval Application at 166-168 Route 1 and to schedule the required public hearing for this project for 11/3/21 on the explicit condition that said materials must be provided to the Planning Board and city officials for review and further revision to the project, if necessary, prior to the approval of the project. 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) Approval of Minutes**

The minutes of 9/15/21 are recommended to be approved as amended. Don Walters made a motion to approve the minutes. Alden Clark seconded the motion, and five members voted in favor. Heather Rogers and Bonnie Sontag abstained.

**Motion Approved.**

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The minutes of 10/6/21 are recommended to be approved as amended. Don Walters made a motion to approve the minutes. Alden Clark seconded the motion, and six members present voted in favor.

**Motion Approved.**

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

Bonnie Sontag said several members have the idea of reducing membership from 9 to 7 with one or two alternates who attend all meetings but do not participate unless they are called to fill in for someone missing or recused. They don't constitute part of the quorum unless they are needed.

Rick Taintor supported the idea especially because it provided a farm team that starts with less responsibility. Alternates are typically used if someone has to recuse themselves for a particular application rather than fill in for someone missing. He suggested reducing the term from 5 to 3 years, like many boards, because it could help attract people who are not quite sure. Heather Rogers supported the idea of 3 years because 5 years is a long time.

Bonnie Sontag said the board has had 9 members for at least the 19 years she has been on the Board. You need a larger quorum with 9 members. Although there are no active candidates for 2 current open Board slots, any change should be for the right reasons.

Rick Taintor said most towns have 5 member Planning Boards elected with 3 year terms. Nine-member Planning Boards are not prevalent. Amesbury has 7. Salisbury has 5.

Don Walters supported 7 members and looking at the statistics in other communities.

Bonnie Sontag supported a 3 year term and wondered if there would be more frequent turnover.

Bob Koup said 3 year terms are more appealing than 5 year terms.

Heather Rogers said continuing to a 2<sup>nd</sup> term would be 6 years instead of 10 years.

Director Port said he would be bringing forward another packet with changed or added standards. He would like to create resiliency standards by which the Board would review a project. He looked forward to suggestions on that.

Bonnie Sontag asked if a zoning discussion was coming up for Waterfront West prior to any application?

Director Port said it would most likely be initiated by the City Council as part of a policy agreement. He would like the Board integrated with that discussion.

Bonnie Sontag suggested that Director Port ask a couple of Board members to participate informally in any working group prior to a proposal. Director Port agreed.

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Bob Koup asked about status on the Waterfront Park. Director Port said nothing new has occurred since the initial presentation.

**5. Adjournment**

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

**Motion Approved.**

Meeting adjourned at 9:44 PM

Respectfully submitted -- Linda Guthrie