

**City of Newburyport
Planning Board
December 1, 2021
APPROVED Minutes**

The online meeting was called to order at 7:02 PM.

1. Roll Call

Planning Board Attendance: Alden Clark, Bob Koup, Heather Rogers, Bonnie Sontag, Rick Taintor

Beth DeLisle arrived at 7:04 PM

Absent: Don Walters

Planning Director Andy Port and note taker Linda Guthrie were also present.

2. General Business

a) Evergreen Commons – Final Approved Conservation Restriction, Release of last Certificate of Occupancy, and Release of Tri-Partite Agreement

Attorney Lisa Mead, Mead, Talerman and Costa, LLC, 30 Green Street said they hoped to close out the project from a Planning Board perspective by releasing the Tripartite Agreement and to get approval of the Conservation Restriction (CR), which has been approved by the Commonwealth, the Conservation Commission, and City Council, and which allows them to request the final certificate of occupancy in exchange for security.

Attorney Lisa Mead demonstrated on the final O&M Plan the preserved open space and table of maintenance. She and the Conservation Commission observed the remarkable ecological transformation as a result of the improvements in a site walk. The last submission included all as built of the infrastructure, the stormwater O&M plan, plans by lot and overall, with a table for the impervious area on each lot. Tony Furnari, DPS Director, and Jamie Tuccolo, DPS Deputy Director, went to the site this morning. The infrastructure is complete. A release from the Tripartite Agreement was provided in exchange for releasing the last lot. The CR includes a monitoring plan, which has had its first submission for a baseline. She expects the CR to be signed by the Conservation Commission and the mayor Tuesday next week and it will be sent to the Office of Energy and Environmental Affairs (EEA) for their signature, which could take a couple of weeks. The goal is to transfer the last house prior to receiving the CR back from the EEA. The security for the last certificate of occupancy is \$50,000 to guarantee the CR will be recorded.

Rick Taintor asked if the multi-use trail easement had been recorded.

Attorney Lisa Mead said the trail is part of the open space that's open to the public, so no easement is needed. The construction easement for the path up to the highway and deed to the Water Department land are pending in City Council.

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Rick Taintor asked if the draft motion would include the request to release the Tripartite Agreement. Director Port would add it. He received a confirmation from DPS that the outstanding paving work is done.

Bonnie Sontag did not see any wording in the draft motion about approving the CR.

Alden Clarke made a motion, as discussed, that the Board approve the proposed Conservation Restriction (CR) and allow the release of the last occupancy permit in exchange for a \$50,000 escrow being deposited with the City to be released at the recording of said Conservation Restriction and proof of same being provided to the Planning Director. This release and holding of escrow serves to replace and satisfy the requirement for the Conservation Restriction to be recorded ahead of issuance of the 33rd (final) occupancy permit. This release of the remaining occupancy permit does not preclude additional review for compliance with, and enforcement thereof, permits issued in relation to the 18 Boyd Drive and 5 Brown Ave development project. Additionally, the Board hereby approves and authorizes release of the outstanding Tripartite Agreement and related financial security in recognition of the completion of remaining roadway paving per confirmation from the Department of Public Services (DPU). Rick Taintor seconded the motion and all members 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 Not Required -- 33 & 35 Toppans Lane (ANR-21-3)

Everett Chandler, engineer, PFS Land Surveying, Inc., 20 Balch Ave., Groveland, representing Peter and Molly Ettenborough, said a small triangular portion of the Baltiches' lot will be added to the Ettenboroughs' lot to meet the required frontage of 90 ft for each of the 2 lots to be created and for the shapes of each of the 2 new lots to meet the required 80% boxes. The Baltiches', who still have more than sufficient frontage, will have a minor change to their setback on their rear lot line because of the orientation of the triangle but it's still more than 60 ft of setback where 25 ft is required. The Ettenboroughs' 2 new lots will have the required frontage, area, and shape. The setback on the right side of the Ettenboroughs' house will be 14 ft where 10 ft is required.

Rick Taintor made a motion to endorse the ANR Plan for 33 & 35 Toppans Lane (ANR-21-3). Heather Rogers 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.

c) Correspondence

- *Comments re: IFS settlement (Renda 11/3/21)*
- *Comments re: IFS settlement (Mackin 11/4/21)*
- *Comments re: IFS settlement (Karelis 11/8/21)*
- *Citizen Comments re: IFS settlement (Mackin 11/3/21)*

Bonnie Sontag acknowledged the correspondence.

d) Approval of Minutes

The minutes of 10/20/21 and 11/3/21 are postponed to the next meeting.

e) Other updates from the Chair or Planning Director

Bonnie Sontag said the MINCO project on Route 1 is continued to December 15. MJ Verde has left after staying on for 3 extra months. A new candidate is going through the process. There's still one Board position open.

Director Port said he would work with the chair and vice chair to put together information for the new administration to provide adequate continuity.

3. Adjournment

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

Motion Approved.

Meeting adjourned at 7:27 PM

Respectfully submitted -- Linda Guthrie