

Planning Board
April 2, 2008

The meeting was called to order at 7:12 P.M.
A quorum was present.

1. Roll Call

In Attendance: Daniel Bowie, Bonnie Sontag, Ann Gardner, Jim McCarthy, Sue Grolnic, Henry Coe, and Don Walter

Absent: Jeff Roelofs and Brian Tierney

Emily McCourt from the Planning Office was present.

2. Correspondence

3. General Business

a) Approval of Minutes

Minutes of the March 19, 2008 meeting.

Motion to approve the minutes.

Motion seconded.

Motion to approve the minutes as amended passed unanimously. There was one abstention.

**b) Newburyport Medical Center
Performance Guarantee**

At the last meeting, the board approved an amendment to a covenant. The covenant has since been recorded. The applicant is proposing a tri-partite agreement with Beverly Bank and is asking the board to approve the agreement. When the agreement is completed by all parties, then the covenant would be discharged. The agreement was compared with the Brown Street agreement and the city solicitor says that they are the same in content.

Chairman Bowie would like to review the Brown Street tri-partite agreement first. Emily McCourt provided a copy of the Brown Street agreement. The board discussed differences in the language of each agreement and reviewed the proposed tri-partite agreement.

Jim McCarthy made a motion to approve the tri-partite agreement as amended with the intent to replace the covenant and have the tri-partite agreement agreed to and executed.

Bonnie Sontag seconded the motion.

Motion passed unanimously.

Votes Cast:

Dan Bowie – approve

Sue Grolnic – approve

Jim McCarthy – approve

Bonnie Sontag – approve

Don Walters – approve

Anne Gardner – approve

Henry Coe - approve

**c) Charles Nutter for Strem Realty Corp.
7 Mulliken Way
Minor Site Plan Review Completeness Review**

The applicant intends to add a 4400 square foot addition to the existing building to be used for manufacturing and storage. This plan will displace some parking which will have to be moved to another location on the lot. The applicant needs to know if what they have for a landscape plan is sufficient and would like to request a waiver from the registered landscape stamp. There is the option for a peer review but at this time it does not appear to the Planning Office that it will be needed.

The board discussed waiving the landscape architect and agreed to grant the waiver.

The board discussed whether a peer review would be necessary and decided that it would not be necessary.

Motion to accept as complete.

Motion seconded. Motion approved unanimously.

4. Old Business

**a) Joint Public Hearing of the Planning Board and the Council Planning & Development Subcommittee
81-83 Storey Avenue
Proposed Rezoning from R-2 to B-1**

Ed Cameron and Katie Ives from the City Council's Planning and Development subcommittee were also present.

Emily McCourt summarized the proposal and the history of the hearing. The hearing was opened on October 3, 2007. The plan proposes to take two lots (with a house on each lot) on Storey Avenue that are zoned residential and to rezone them to commercial and put businesses there. The applicant has studied the traffic issues in the area and has met with the Merrimack Valley Transportation Authority numerous times. There was also a subcommittee meeting with the MVTA. The Planning Board had reviewed the proposal and wanted the applicant to provide a more solid definition of what would be happening on the two lots.

The applicant, Paul Dahn, presented pictures of the current condition of the two properties and summarized the history of the lot ownership. Mr. Dahn stated that it has been difficult to rent the homes on the properties because of the strong lighting from the property next door. The homes are also dilapidated and in need of repair. Area businesses have renovated and/or improved their signage and the applicant's rationale for rezoning is to improve the gateway to the city. He is proposing to construct buildings that speak to Newburyport's historic architectural style, and that will have a village-type concept. Through a development agreement, the city and the applicant can control how this property is developed. Mr. Dahn wants to make it a green site, from a storm

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water standpoint and the buildings themselves. He proposes to do this by using solar power when possible, and biodegradable materials. He would like to have aesthetically pleasing buildings but have them work in a low impact way.

Mr. Dahn noted that the tax revenue that the two homes currently generate is about \$8000 annually and the homes have gone down in value. The proposed buildings would generate \$45,000 – 60,000 annually in tax revenue for the city and there would be no further burden on the school system.

Mr. Dahn stated that in addressing the massing of the buildings the design team tried to create a landscape and keep the buildings low and small enough, with different roof angles, to create a buffer between what is residential on one side and what is clearly commercial on the other sides of the property.

Mr. Dahn would like to connect the proposed sidewalk with the abutting property (Atria) and will also raise up the sidewalks wherever they cross a drive aisle as it is in other areas of sidewalk on Storey Avenue.

Mr. Dahn has spoken to all necessary agencies, including Mass Highway, regarding traffic and the proposed curb cuts and has gotten a lot of feedback. A shared curb cut with Atria (assisted living facility) was one solution. This was seen to be challenging because there would be a loss of parking spaces for Atria and it combines Atria's tenants traffic with commercial traffic from the applicant's property. Mr. Dahn is looking to collaborate with the city, Mass Highway, and the Merrimack Valley Transportation Authority to come up with a solution.

BM stated that the board has a letter from the Merrimack Valley Planning Commission about traffic concerns with two curb cuts. The focus was going to be on securing a single entrance with Atria. There is still no common access on the plans. BM wants to know the specifics of Mr. Dahn's discussion with Atria. **Mr. Dahn stated that he contacted Atria to ask if they would be open to a shared entrance and did not get any response from them. Emily McCourt then reached out to Atria on behalf of the Planning Office and still got no response. Mr. Dahn then went to the MVPC and that is how the proposed plan got started. They have since met with Atria and they voiced concerns about the loss of and combining residential and commercial traffic. Mass Highway did a site visit and said that they see a shared entrance with Atria as problematic because it would combine two different uses; assisted living and commercial traffic as well as the congestion that would occur at that spot.**

BM noted that the issue is due to the Planning Board's desire to have the buildings pulled up toward the street as opposed to back further on the lot. If they were pushed back further on the lot than traffic would be able to take a left and enter the applicant's property without a problem. The shared entrance would not be necessary.

The applicant's engineer presented two concepts for the building design and layout on the site. A main focus of both concepts was on pedestrian circulation through the site and connected to Storey Avenue.

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BM asked if the left hand drive depicted on Concept A was both an entrance and exit. **Yes.** BM noted that this scenario could create more accidents with cars turning out of both Atria and the applicant's property.

BM asked who would own the development agreement. **The City Council would hold the development agreement.**

BM noted that the focus of the hearing should be on whether the Planning Board wants to see this property go from residential to commercial use.

Emily McCourt agreed and said that it would be good to have the board give the applicant an idea as to whether they would like to see the zoning change and whether they like the proposals conceptually. She reviewed the board and city council subcommittee's options for continuing the process.

BM noted that the development agreement needs to be flexible enough to allow for changes to the plan. Emily McCourt stated that the development agreement has to be in place before the zoning change goes before the City Council. If there is not a development agreement in place then the city loses a lot of control over the development.

Mr. Dahn stated that MVTA took traffic counts from all of the curb cuts in the area and a traffic model since Storey Avenue's traffic lanes have been re-striped. Mr. Dahn wants to get MVTA and Mass Highway together to share this data and come up with a solution. The applicant reviewed the main points of the traffic study. Further discussion of traffic situation on Storey Avenue.

Councilman Cameron stated that this area is a residential oasis that has been over run, over time, with commercial businesses. The traffic study makes it sound as though there are not any issues on Storey Avenue. Mr. Cameron is also curious about the potential tenants. He is concerned that if people are going to be visiting a bank on the property that it will create a lot of cutting across traffic on Storey Avenue. Mr. Dahn stated that the banks that he has spoken to are attracted to the site because it's on the PM side of the road. Professional offices will probably be the bulk of tenants, and perhaps some retail. Mr. Dahn assumes the development agreement will fine tune who the tenants will be.

Councilman Cameron asked if the city has ever looked at dividing the street. **It's a state road and Mass Highway has control over any changes. Mass Highway has not seen it to be necessary based on traffic studies done in the past.**

Mr. Dahn stated that the traffic study noted that the businesses should not create much new traffic on Storey Avenue. It would be the same people that already use the road.

BM does not feel comfortable with the plan at this point. If rezoning is going to make the traffic worse then he has a problem with it and cannot support the plan right now. The applicant needs to document a safe traffic pattern and that a single access cannot work.

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BM noted that the board has to determine whether they agree with the concept of rezoning to commercial or not.

BM asked if the applicant has studies/data that show that there is a demand for more commercial buildings on Storey Avenue. **The applicant feels strongly that there is a market for retail and professional use.**

Chairman Bowie opened up the hearing to public comment.

Josh Bradshaw, Broad Street: He is in favor of the application. The tax advantages are considerable. That area would be cleaned up cosmetically and a nice addition to the gateway to the city.

Art Currier, 1 Marshview Way: In 1999, the city's master plan had the whole area at a totally different place than it actually is now and this is a step in this direction. It should be part of the evolution of the Storey Avenue commercial district.

Sheila Mullins, 7 Parsons Street: Ms. Mullins asked how different is the current proposal than the plan that was turned down last year by the board. **BM stated that the Planning Board did not turn down a plan, there was a pre-application conference and the Planning Board told the applicant that until there was rezoning that plan should have to wait.** Ms. Mullins stated that there would be a net gain to taxes but an additional stress on water and sewerage. The traffic study did not count the traffic that will be generated once people move back into the rebuilt Woodman Way apartment building. She needs to see a detailed proposal that would nullify or improve the traffic before she agrees with the project.

Joy Buckley, 87 Storey Avenue: She lives on the other side of the assisted living facility. Traffic is horrendous in that area. In the summer, there is one accident every Saturday and Sunday. This proposal will make her property decrease in value. She can not be convinced that there will be any safe traffic pattern. She believes this project was denied a zoning variance. Emily McCourt stated that the variance was not approved because the use variance was not the right tool but that rezoning would be.

Jerry Swofford, 81-83 Storey Avenue: Mr. Swofford read from the zoning ordinance and noted that the city has filled in this residential area with an assisted living facility that does not conform to the zoning ordinance.

Mr. Dahn sees the development agreement as the key to controlling what happens to this property. The only other thing that can go there is high density housing. This would be a collaborative way to develop this area.

Chairman Bowie closed this meeting's public comment portion of the hearing.

The board discussed the application. Traffic flow and volume are the major concern.

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BM stated that the board needs to assess this project as opposed to what else the applicant could develop on this site. BM would like to see Mr. Dahn pursue this concept and find ways to overcome the traffic issue. He thinks that the traffic generated from the proposed use would be far less than the traffic that high density housing would create.

Councilwoman Ives noted that there is an issue with the amount of time that has gone by since the hearing was opened. A lot of members of the public may not know where the hearing stands.

Councilman Cameron stated that the process should be as public as possible because it is an area of the city that many people use.

Motion to close the hearing and the PB will not make a recommendation to the City Council. It will then go to the City Council with the understanding that the applicant would work on traffic issues, and then the hearing would be re-noticed and anyone else interested can become involved.

Motion seconded.

Motion passed unanimously.

City Council subcommittee member made a motion to close subcommittee meeting.

Motion seconded.

Motion approved unanimously.

5. New Business

a) Laura Goldberg and Gary Gastman 16R Woodland Street Section VI.C Special Permit Amendment

Bonnie Sontag read the notice of public hearing aloud for the public record.

The applicants purchased the property at Phase 2 of the project, which is construction of the home. They are building the home for themselves so they would like to make some changes to the approved plans.

Mr. Gastman noted that he appreciates all of the time and effort that the board has put into this application already.

The applicants would like to take advantage of natural lighting and will use a variety of energy efficient systems and materials. They need to make changes to the plans to make the home more air tight and energy efficient.

The changes to the approved plans include a farmer's porch, wood burning fireplace instead of a gas fireplace, eliminate three dormers in front of home that would shade the proposed solar panels, and squaring off all of the dormers in the back at the bump out and remove windows on the side of the home.

BM asked where water collection tank is going. **It will be located in the back right corner of the lot and will be submerged and underground.** BM wants to make sure that it will make zero difference to the neighbors.

BM asked if the solar cells will be flush with the roof. BM is concerned about aesthetics. **You will be able to see that they are solar panels and they will sit on top of the roof. However, the roof is already angled so that the panels will not have to be raised or attached at an angle. The neighbors will be able to see that there are solar panels instead of shingles.**

BM noted that the approved house design was a quaint Cape style house. His only concern is that this changes the facade of the house which was integral to the approval of the original permit. **The applicant does not think that the neighbors will be able to see the proposed farmer's porch. They just want to have a deck or porch like all of the neighbors in the area have.**

Chairman Bowie opened hearing up to public comment.

Jeff Hyer, 291 Merrimac Street: He lives on the abutting property and stated that rain water runoff and mitigation was a main issue in the special permit. Dry wells were engineered to handle the amount of runoff . He wants to know if there is a design to come up with a 2,000 gallon plus capacity. **The applicants are working on it with a company from Waltham right now. They want to bring all rain from the gutters into the tank, if it's not too expensive.** Mr. Hyer asked what the backup design would be. **A dry well.** Mr. Hyer is fine with that being the backup plan. Mr. Hyer asked where the applicants are going to put the fields for the geothermal heating and how disruptive will it be. **It is a one day job. Mr. Gastman showed where the fields will be located.** Mr. Hyer was satisfied with their location.

Dave Menetti, 289 Merrimac Street: His only concern is the drainage and the applicant has answered those questions. His understanding is that the water tank will be used to collect water but there will also be dry wells to handle water that the tank cannot. Mr. Menetti asked about the proposed change to the garage. **The applicant is proposing a double door to access 456 square feet of storage space in the basement of the garage. Because the ground slopes out, it creates an eight foot ceiling height in the basement of the garage. The original proposal had no access to this area. The deck that is there is the same one that was originally designed.**

Chris Cronin, 16 Woodland Street: He is here in support of their efforts and thinks they are highly commendable. He would have the highest impact from the front facade and has no issue with the proposed changes.

Chairman Bowie closed the public comment portion of the hearing.

The board reviewed and amended a draft of the special permit amendment with the proposed changes.

Motion to approve amendment of special permit as read and amended.

Motion seconded. Motion approved unanimously.

Votes Cast:

Dan Bowie – approve
Sue Grolnic – approve
Jim McCarthy – approve
Bonnie Sontag – approve

Don Walters – approve
Anne Gardner – approve
Henry Coe – approve

6. Planning Office

Municipal Housing Trust Fund

Chairman Bowie wanted the board members to be aware of a draft of a proposed ordinance to create the municipal housing trust fund. The proposal will create a board that will be able to receive funds to buy homes for affordable housing. It has not been submitted to the City Council yet.

Motion to request that the board will draft a letter of support for the municipal housing trust fund.

Motion seconded. Motion approved unanimously.

7. Adjournment

Motion made to adjourn.

Motion seconded.

Motion approved unanimously.

Meeting adjourned at 9:45 P.M.

Respectfully submitted, Jennifer Stone - Note Taker.