

Meeting Minutes
Planning Board

Wednesday, February 3, 2021
Virtual Meeting via Zoom

APPROVED

Members Present: Peter Paicos, Chair; Leslie Matthews; Woody Knight; Larry Murphy; George Morse; Mary Stohn (Associate Member)
Staff Present: Martha Taylor, Town Planner; Emily Noble, Planning Board Administrator

P. Paicos opened the Planning Board meeting at 7:00 p.m. and verified that all members and persons expected to be present were in attendance.

He then announced that this February 3, 2021 Open Meeting of the Newbury Planning Board was being conducted remotely consistent with Governor Baker's Executive Order of March 12, 2020, suspending certain provisions of the Open Meeting Law due to the current State of Emergency in the Commonwealth due to the outbreak of the "COVID-19 Virus." He stated that the Planning Board was convening by video conference via Zoom, as posted on the Planning Board's agenda, and provided information on how people could view and join the Zoom meeting and participate when public comment was invited. He concluded by stating that each vote taken in the meeting would be conducted by roll call vote.

Following the opening remarks, P. Paicos turned to the first item on the agenda:

A. Tom Zahoruiko, Manager, Zendko, LLC – Submission of OSRD Special Permit and Definitive Subdivision Plan Applications for 7-lot OSRD at 15 Coleman Road, Map R02, Lots 12 & 13; Owner/Applicant: Zendko, LLC, Tom Zahoruiko, Manager

Tom Zahoruiko, Zendko LLC, said that he is submitting the OSRD Special Permit and Definitive Subdivision Applications pursuant to their pre-application conference and site visit and noted that there have been no modifications.

Motion: A motion was made by L. Murphy and seconded by W. Knight to accept the Submission of the OSRD Special Permit and Definitive Subdivision Plan Applications for a 7-lot OSRD at 15 Coleman Road, Map R02, Lots 12 & 13; Owner/Applicant: Zendko, LLC, Tom Zahoruiko, Manager. A roll call vote was taken. L. Murphy, yes; G. Morse, yes; L. Matthews, yes; W. Knight, yes; P. Paicos, yes.

Motion: A motion was made by G. Morse and seconded by L. Matthews to schedule the opening of the Public Hearings for the OSRD Special Permit and Definitive Subdivision Plan Applications for a 7-lot OSRD at 15 Coleman Road, Map R02, Lots 12 & 13; Owner/Applicant: Zendko, LLC, Tom Zahoruiko, Manager on March 3, 2021 at 7:15 p.m. A roll call vote was taken. L. Murphy, yes; G. Morse, yes; L. Matthews, yes; W. Knight, yes; P. Paicos, yes.

B. Douglas Deschenes, Deschenes & Farrell, P.C. – Submission of Definitive Subdivision Plan Application for 217/221 High Road, Map R27, Lots 51, 53, 54, & 56; Applicant: Gadsden Lane, LLC, Adam True, Manager; Owners: MDM Nominee Trust, Dale B. Batchelder and Carl A. Brown, Trustees (Lots 51 & 53) and Carl Brown & Margaret B. Brown (Estate of Margaret Brown) (Lots 54 & 56)

Douglas Deschenes, representing Gadsden Lane LLC, said he is here to submit their Definitive Subdivision plan for a six-lot subdivision at 217/221 High Road. He noted that a Preliminary Plan for this subdivision had previously been approved by the Board.

Motion: A motion was made by L. Murphy and seconded by W. Knight to accept the Submission of a Definitive Subdivision Plan Application for 217/221 High Road, Map R27, Lots 51, 53, 54, & 56; Applicant: Gadsden Lane, LLC, Adam True, Manager; Owners: MDM Nominee Trust, Dale B. Batchelder and Carl A. Brown, Trustees (Lots 51 & 53) and Carl Brown & Margaret B. Brown (Estate of Margaret Brown) (Lots 54 & 56). A roll call vote was taken. L. Murphy, yes; G. Morse, yes; L. Matthews, yes; W. Knight, yes; P. Paicos, yes.

Motion: A motion was made by L. Matthews and seconded by W. Knight to schedule the opening of the Public Hearing for the Definitive Subdivision Plan Application for 217/221 High Road, Map R27, Lots 51, 53, 54, & 56; Applicant: Gadsden Lane, LLC, Adam True, Manager; Owners: MDM Nominee Trust, Dale B. Batchelder and Carl A. Brown, Trustees (Lots 51 & 53) and Carl Brown & Margaret B. Brown (Estate of Margaret Brown) (Lots 54 & 56) on March 3, 2021 at 7:15 p.m. A roll call vote was taken. L. Murphy, yes; G. Morse, yes; L. Matthews, yes; W. Knight, yes; P. Paicos, yes.

C. Public Hearing (New) – Site Plan Review Application, 2 and 8R Old Point Road, Map U02, Lots 154 & 153; Owner/Applicant: The Cottages Commercial, LLC, Vincent Godin, Manager

P. Paicos opened the public hearing. L. Matthews read the legal notice published in the Newburyport Daily News on January 18 and January 25, 2021.

Vincent Godin introduced himself as one of the owners of this property. He said he thought it would make sense first to talk about the history of the site. He said in the 1800s and early 1900s it was the site of two large hotels. They were replaced with another hotel until the 1920s, when a fire burned it down. V. Godin showed pictures of the hotels. He said in the 1950s the corner was redeveloped into a service station and gas station. The site was also utilized and licensed to sell used cars as well as operate an auto mechanic school. He said those were the approved uses when they purchased the property and the 12 surrounding homes

He said in purchasing the property, they always envisioned a restaurant as the best use of the site. They started the process of obtaining Zoning Board of Appeals (ZBA) approval three years ago for a large three story restaurant. He said as a part of that process they gathered almost 200 petitions from residents in support of a restaurant on that site. He said they thought it was important to get feedback from the community so they rented out Pita Hall and had an open house where they discussed the proposal as well as solicited feedback. He said that proposal was approved by the ZBA in the summer of 2019, but unfortunately with the onset of COVID-19 plans for developing that restaurant were put on hold. During that time they rethought their original design and decided that a project that incorporated more outdoor dining, something that they feel the Island lacks, would not only be more desirable but also would make more sense financially given the impacts of COVID-19 on the restaurant industry.

He said they have felt from the beginning that the right restaurant operator would not be a national chain, but someone who has local ties, and that for years they have loved the food, atmosphere, and people at the Paddle Inn in downtown Newburyport. They always felt the Paddle Inn management would be an ideal match to help them bring something special to Plum Island. He said they are proud to say that the Paddle Inn team will be running this restaurant and noted that the owner Beau Sturm and partner Josh Childs were on this call to answer any restaurant-related questions.

Steve Sawyer, Design Consultants Inc., then shared his screen. He first showed existing conditions plans of the site. He pointed out where Angie's Service station is and the single family home. He said those two structures are to be demolished. He said the existing barn will be renovated into an inside bar and restaurant, the area of which will be a fraction of the outdoor area. A mobile kitchen will be located next to the barn, as shown on the plan.

He said right now this site is covered with a fair amount of pavement. They plan to remove the pavement where the outdoor seating will be located, but would like to keep some paved parking where the site is already paved and keep the remainder as gravel. He said they will be providing paved parking to meet ADA requirements.

S. Sawyer said they are proposing a one way circulation through the property, entering off of Plum Island Boulevard and exiting onto Old Point Road. He said that they have ample parking for the project and that it meets the Zoning Regulations for the demand.

S. Sawyer said that where this is a commercial project, they are subject to the DEP Stormwater Regulations, but because the project involves redevelopment of an existing developed site, they do not need to meet the requirements for new development. He pointed out the two areas on the site where they will install rain gardens for stormwater treatment. He said they have filed an NOI with the Conservation Commission and he believes they will be heard before the next Planning Board meeting, so they will have some input from Con Comm.

As far as utilities are concerned, he said that they have had discussions with Newburyport DPS, which has said there is ample capacity for sewer – the one requirement will be installation of a grease trap for the restaurant use. He said there is a current water connection that he thinks they will maintain and tie into.

Joe Stromer, the project's Architect, then shared his screen. He said the extent of building construction on the site will be renovation of the existing barn; there will be no new permanent structures. The interior of the barn will be retrofitted to include some indoor seating and a bar. He said the only real modification to the exterior of the barn will be the addition of some new windows for a walk up bar. The majority of seating will be outdoors. In addition to the barn, there is an existing shed that will remain. Food will be prepared in a moveable kitchen with a walk-up window to be located on the east side of the barn. The kitchen will be able to be disconnected and moved off site in the off season or during a major flood event. The movable kitchen will be outfitted with a commercial kitchen hood and all fire suppression required for a commercial kitchen.

Mike DeAngelo, Landscape Architect, said that the goal on this site is to be low impact with whatever they do. He said they have designed mostly sand areas where there is to be seating. There will be some loose-laid boardwalk, laid directly on the sand and tied together with ropes. In the center there will be a gas fire pit. There is some area with permeable pavers to meet ADA access requirements. At the perimeter of the site, to provide both interest and privacy, they are adding sand dunes that are about two and a half feet tall. He said they will make sure they are not creating any sight line issues. The dunes will be planted with American Beach Grass and some other native plants. He said there will be a raised seating area for some interest, surrounded by mounded up sand planted with American Beach Grass. There will be a fence around the parking area that is around six feet high and along the road there will be dune fencing that is three feet tall.

Regarding lighting, M. DeAngelo said the goal is to provide lighting in the parking lot that will not cast any glare off-site onto the surrounding area. They will be installing wall packs on the fencing in the parking lot. Low level bollard lighting and string lights will be installed in the covered seating area and wall packs will be installed on the restaurant barn. He showed the cut sheets for the different fixtures.

S. Sawyer said they had recently received the Engineering Peer Review comments from Joe Serwatka. One of the comments was regarding the proposed design for the corner of Old Point Road and Plum Island Boulevard which appears to extend into the roadway right-of-way. S. Sawyer said that they are proposing to create a vegetative buffer, which will run out into the Right of Way a little bit. The Plans show a four inch solid white line around the corner delineating a pedestrian way. He said at that location there are currently no sidewalks or curbing and that what they are proposing here matches what was done across the street. He said unless working in the right of way is a big issue, they would like to proceed in this manner. He said one of the other items is that there is an existing catch basin that they are going to maintain.

M. Taylor asked if they have anything in writing yet from Newburyport DPS (Department of Public Services) regarding the water and sewer connections. S. Sawyer said not yet, just emails back and forth.

M. Taylor said she believes the site is in the MS4 and asked if that been taken into account in the stormwater management design. S. Sawyer said they have provided full stormwater calculations and that this is considered a redevelopment, so stormwater treatment is needed only to the greatest extent practicable. He said the rain gardens will provide water quality treatment for half an inch of rainfall over the impervious surfaces. He said he did get comments back from J. Serwatka regarding their Stormwater calculations and will be working through those with him.

M. Taylor asked what the utility connections are for the movable kitchen, if it is going to be moved off site. S. Sawyer said there will be a quick disconnect coupler.

V. Godin said that when they originally got approval from the ZBA for a larger structure that would require more water, they received a letter from Newburyport DPS stating that there wouldn't be any issues, but they will get a revised letter for the new project.

L. Murphy said it looks like they are considering being open from March to November with the possibility of keeping the inside open year round and asked what the anticipated hours of operation would be.

V. Godin said right now it is not planned to be year round, but if it is there are just 30 or so seats inside. He said the intention is not to be a late night operation, but that the hours of operation have not yet been determined. He said maybe the folks from the Paddle Inn have more comments on that. He said they wouldn't be looking for any seasonal restrictions

L. Murphy asked if it was all self-serve. V. Godin said actually what is being planned is there will be food runners, taking orders and running food out to tables. Customers won't walk up to the kitchen to get their food. All food will be prepared on site in a full kitchen inside a shipping container, which is being built out in Colorado. He said they use a third party inspection firm that is licensed to inspect in Massachusetts to inspect the buildout process. He said they have already spoken with the Newbury Building Inspector, Peter Binette, who has signed off that he is comfortable with the third party conducting the inspection. Once it is on site, the owners will get a permit for the plumbing and utility hook up through P. Binette.

G. Morse asked if there was adequate soil testing where the gas station was. V. Godin said when the Machiros Family removed the tanks in the late 1990s and early 2000s, there were numerous reports done. He said he believes in the late 90s they did find something when they took out the tanks, but when they retested in 2004, they found the soil was in great condition. He said later on there was someone a mile up the street who had some issues and thought they might be related to the former gas station use, but they retested again and found nothing. When he bought the property, it was clean as well.

L. Matthews asked if the portable kitchen was going to be a propane hook up or a natural gas hook up. V. Godin said it will be propane.

L. Matthews asked if there will be restrooms inside and if they will be available to outdoor guests. He said yes there will be two ADA accessible restrooms inside the barn and in the busy season they will bring in temporary restrooms that can accommodate the additional capacity. V. Godin said there will be a wash sink available, but the exact fixture they will get has not been determined.

M. Stohn had a concern about how the portable toilets will look and noted that a hand-washing sink will be very important in this day and age. V. Godin said there will be shielding around the portable toilets and that there will definitely be sinks.

P. Paicos asked if the restaurant's space inside the barn will be open year round. V. Godin said as of now they are contemplating closing November through March but that is something that will be revisited as they start operations. They are asking for it to be able to be open in the winter.

P. Paicos asked where the propane tank will be stored. V. Godin said the kitchen is going to be shifted to the left a bit and that will open up the space where the propane tanks can be stored.

P. Paicos asked where designated snow storage would be in the winter time if they do decide to stay open. S. Sawyer pointed out the snow storage area. V. Godin said the capacity will be much lower in the winter so the parking lot to the right can be used for snow storage.

P. Paicos asked if the kitchen would be brought in by truck. V. Godin said yes. He said the plan is that it will remain there unless there is an event that causes enough concern to move it. In that case it takes about 20 minutes to disconnect and then a truck can come in and relocate it. The area up the driveway about 100 feet is out of the flood zone.

P. Paicos said they know that this intersection has issues with flooding and asked if any special considerations had been put into place with this design. S. Sawyer replied there isn't a whole lot you can do. He said they have lifted up the middle of the outdoor seating space so there wouldn't be any ponding.

P. Paicos asked if they were concerned with the sand dunes washing out with a flooding scenario. S. Sawyer said flooding in that location would be more of a static ponding, no velocity. He said if there is a catastrophic event then there would be damage. P. Paicos said he defers to M. Taylor and the Peer Review.

P. Paicos asked for confirmation that the lighting will be downward deflecting. M. DeAngelo said yes, the fixtures are dark sky compliant and there is no light spill over the property line.

S. Sawyer added that they are providing bike parking.

P. Paicos asked M. Taylor what had been received for Engineering review and Departmental review. M. Taylor noted that so far they have received the first engineering review letter from J. Serwatka. With respect to Departmental review, she said James Sarette, DPW Director, had no issues and the Fire Department had comments related to the mobile kitchen. She said they had received written comments from two members of the public, Susan Mitchell and Steve Mangion.

P. Paicos asked M. Taylor what considerations the DPW might have for the work in the ROW. M. Taylor said she will have a conversation with the DPW Director and then set something up with S. Sawyer.

P. Paicos opened the meeting up for public comment.

Steve Mangion, 14th Street, said that he noticed the fire pit on the plans and that his understanding is that open fires on Plum Island are not allowed. He said there is a big problem with fire pits and he could easily imagine if there was an exception made for this fire pit, other fire pits would be coming up as well. He said he is not sure if that is under the purview of the Planning Board.

He said in general he is not in support of this project, in part because of the impacts of traffic and people on an area of critical environmental concern. He said he knows this has been before the ZBA, but from what he is hearing, the project that is before the Board now is different from what the ZBA approved. He said there needs to be some

clarification about whether this is the project the ZBA approved and, if it is different, he thinks they need to go back to the ZBA for approval. V. Godin said he hadn't mentioned it, but they did go back to the ZBA and did get the approval for this revised plan.

S. Mangion noted the proposed construction of sand dunes along parts of the roadway and said that no matter how stabilized the dunes are by dune grass, in that location he would be concerned about sand moving into the roadway.

He said he presumes the parking plan has been approved and meets code. In reference to the bike racks, he asked, as a person who is concerned about how many people are able to access the Island, how many bike racks are they talking about and whether it would be a large number that would exceed the capacity of the restaurant. He said he thinks there needs to be some balances.

He asked if the restaurant will only be open March through November, what will happen after November and asked if they were going to allow private parking as a separate business? He said he is aware that the building Inspector is trying to regulate the amount of commercial parking that is happening on the Island. If parking is going to be allowed after November, it sounds like another commercial interest, which will result in more and more people having easy access to the Island.

S. Mangion said he would like to make a general comment about odors. He noted that was an issue with Bob Lobster when that applicant was extending their hours. He said odors and the frequency with which the grease traps or fire pits are cleaned can be an issue for the neighborhood.

He said snow removal and snow storage is important. He said he has seen instances along Sunset Drive where snow seems to be pushed into the marsh, which is not allowed.

Denise Maloney, 3 32nd Street, said that when she spoke to the Fire Chief in Newbury just a bit ago before purchasing a Christmas gift for someone, he said gas fire pits are allowed, but regular wood burning ones are not. She said she was speaking in favor of the project. Everything they have done at the Cottage and the Surf Shop and the Creamery has been above and beyond. They have striven to be people-friendly and very responsive. She said she can only say that she is in favor of the restaurant and what they are doing.

Jeremiah Murphy, 81 Southern Boulevard, said he was glad to see a reduced proposal. He asked if the plans show where the outhouses are going to be and where the tank for the grease from the fryolater is going to be.

V. Godin pulled up the landscape plan. He pointed out where the outhouses will be and said there will be screening all around them. He said the kitchen itself will have a grease trap in it. He said they would have a contracted service for someone to come and clean it out, as needed.

J. Murphy said his main concern is for traffic during the summer time. That intersection has become a bottleneck. He said he thinks the statement that 50% of traffic will be local foot traffic is far-fetched if this is a popular restaurant. He said if there is a large amount of foot traffic, the sidewalks coming down to this area are pretty inadequate. He asked if

there was consideration of putting a traffic light up at this intersection. He asked if the catch basin needed to be changed over to an oil-water catch basin separator.

Aimee Pike Aruda, whose family has a home on Northern Boulevard, said currently an empty lot and empty building are serving as the entrance to their island. She said it is a well thought out plan and a welcome addition to improve the entrance to the Island. She said it already is an apex there and she thinks it is a good location for a resource for both residents and visitors alike.

Janice Forrest, 72 Old Point Road, said she has a couple of questions. One would be traffic – she said she sees what has happened on Sunset with the Plum Island Grille and she said she doesn't want to see it on her Road. She said it is going to be congested if they are all dumping out onto Old Point. She said she is a little concerned about visibility with the extension of greenery into the right of way. She said other than that it looks like it would be a nice relaxing atmosphere and it is certainly not something that is blocking off views or changing wind patterns.

S. Sawyer said they can provide a quick sight line diagram to make sure they are not infringing on any sight lines. He also said, unlike the Plum Island Grille, they are providing required parking for the amount of seats they have, so their parking lot will handle all of the parking and there would be no need for parking on Old Point Road.

S. Mangion said he had asked a question about outdoor alcohol consumption in his letter to the Planning Board. He said he would be concerned that might be an issue.

Alison Pike, 122 Northern Boulevard, said in her opinion these guys have put together a fantastic plan. She said she grew up on the island and returned six years ago. She said while some of the concerns are valid, knowing the crew from the Cottage, they have addressed every need and concern and have been very mindful of what they as residents need and want, because they know the Island, they've lived here, been here, worked here. She said she is thrilled with the respect they have shown the Island.

Lynne Petty, 11 Basin Street, said that A. Pike said everything she would have said. She thinks the landscape, lighting, and increased outdoor space are great. She too can't wait until they open.

Rochelle Joseph, Southern Boulevard, said she has gotten to see what this family has done with the Cottage, Surf Shop, and Creamery. She thinks they have been thoughtful and will address all the issues. She said she thinks it will beautify that welcoming spot. She said she just wanted to lend her support as well.

L. Murphy said he thinks it is a very interesting project and looks forward to their response to Peer Review and getting some more input from the Town.

L. Matthews said she thinks it is very well put together.

M. Stohn said this is a well thought out proposal and she believes the team is very responsive.

P. Paicos thanked the Applicant for their presentation. He asked about setting up a site walk, the Board members agreed. There was discussion about when everyone could attend, they settled on Monday February 22 at 2:00 p.m.

Motion: a motion was made by G. Morse and seconded by L. Murphy to continue the Public Hearing – Site Plan Review Application, 2 and 8R Old Point Road, Map U02, Lots 154 & 153; Owner/Applicant: The Cottages Commercial, LLC, Vincent Godin, Manager to March 3 at 6:45 p.m. A roll call vote was taken. L. Murphy, yes; G. Morse, yes; L. Matthews, yes; W. Knight, yes; P. Paicos, yes; M. Stohn, yes.

D. Public Hearing (Continuance) – Site Plan Review Application, 3 Newburyport Turnpike, Map R47, Lots 38 & 39; Owner/Applicant: Bavaro Family Realty Two, LLC (continued from January 12, 2021)

P. Paicos opened the public hearing.

TJ Melvin, Millennium Engineering Inc, said he was here on behalf of the applicant for the project at 3 Newburyport Turnpike. He shared the plans on his screen and said they have not changed since their last meeting. He said they have received the third round of peer review from J. Serwatka. He believes there is one editing error and he had suggested that they perform a test pit prior to construction in the bioretention area.

Since the last time that they met, he said they have received approval from the Conservation Commission. The third party review that was being performed through the Newburyport Planning Board for The Water and Sewer Department has been completed. The Peer Reviewer did not really find any issues with their Licensed Site Professional's (LSP) determination regarding the groundwater contamination and didn't flag any of the utility connections as being a potential contamination or issue. They did suggest some minor modifications that they wrap the trench in filter fabric and provide clean material around the pipes. They are anticipating that Water and Sewer will be signing off at the next Newburyport Planning Board meeting on February 17.

TJ Melvin asked if M. Taylor had heard from the Fire Department. She said she hadn't. He said that they did do a turning analysis to show that the vehicle could make it through the site. He said he could forward it to M. Taylor to distribute to the Board.

P. Paicos then moved on to review their Site Plan Review Criteria.

M. Taylor pulled this up on her screen from Chapter 97-9 of the bylaw.

- (6) Decision Criteria: The Planning Board shall approve an application for site plan review if it finds that the Applicant has submitted sufficient information from which it can determine that the proposed project will:
 - (a) Minimize:
 - 01) The volume of cut and fill;
 - 02) The number of removed trees 6" caliper or larger;
 - 03) The area of wetland vegetation displaced;
 - 04) Soil erosion;
 - 05) The threat of air and water pollution; and

- 06) Traffic congestion.
- (b) Avoid removal of existing stone walls or, where removal is required, minimize length of removal;
- (c) Provide adequate stormwater management and other utilities consistent with the requirements of Newbury's Stormwater By-Law and the Planning Board's Subdivision Rules and Regulations;
- (d) Maximize safety for pedestrians and vehicles both on the site and entering onto and egressing from it;
- (e) Provide adequate access to each structure for fire and emergency service equipment;
- (f) Minimize obstruction of scenic views from publicly accessible locations;
- (g) Minimize visual intrusion by controlling the visibility of parking, storage, or other outdoor service areas viewed from public ways or premises residentially used or zoned;
- (h) Minimize intrusion of glare from headlights and site lighting on surrounding properties;
- (i) Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places;
- (j) Prevent contamination of groundwater from any source;
- (k) Enhance the appearance of the property to the greatest degree possible by means of landscaping and other site amenities;
- (l) Minimize impacts of the use on adjacent properties through regulation of hours of operation, deliveries, noise, rubbish removal, and on-site storage;
- (m) Ensure compliance with the provisions of Newbury's Zoning By-Law, including parking and signs.

Notwithstanding the above, regulation of uses and structures referred to in G.L. c. 40A, § 3 (exemptions from zoning) shall be limited to the extent allowed under said section of the General Laws.

L. Murphy said he has a question regarding the January 23rd Peer Review Letter from J. Serwatka, who seems to be suggesting the need for additional test pits. He asked if someone could speak to that.

TJ Melvin said one of J. Serwatka's initial concerns was that the area for the stormwater basin consisted of fill due to the fact that hazardous material has been removed and fill brought in. In the test pits they did in that area, they found a foot or two of fill then a B layer of subsoil and then sand down to about five or six feet. They believe that the sand is naturally occurring and J. Serwatka was just looking for more clarification that it isn't all fill.

L. Murphy asked if he feels that they can satisfy Mr. Serwatka's concerns on that. TJ Melvin said yes, they will do a test pit before construction. L. Murphy said that would be a condition of approval. M. Taylor said that was the intention.

P. Paicos asked if they could talk about the building design wanted to know if the units are condos or apartments.

TJ Melvin said the intention is to set everything up as condos. They don't have a decision yet if they will be rentals or condos, but they will be set up as condos.

P. Paicos asked if parking is all outside now. TJ Melvin confirmed that all parking will be outside. He said half of the ground floor will be retail, the other half may be storage for the residents or possibly a gym.

P. Paicos asked if TJ Melvin is attached to the design of the building. He suggested that they think about what is out there right now. TJ Melvin said the building is a little different from what is out there right now, it is unique. P. Paicos commented on how big it is. TJ Melvin said he believes the height is just under 35 feet. P. Paicos asked if the intention was to make it look like a barn and said what he is getting at is that per the Site Plan Review criteria, the building is supposed to fit with the character of the area. TJ Melvin said he can relay any concerns the Board has about the design to the architect and they can work on revising or changing some of the aspects of the building to make it more aesthetically pleasing.

P. Paicos asked if any of the other Board members had comments or concerns. There were none. M. Taylor commented that the drawings are a bit misleading, in that the building is not going to be out in a green field, but is located at the end of the traffic circle. She said the current design is essentially a box with decorative roofs on it. She said in terms of the criteria that the building fit into its context, it falls a little short. She said instead of adding roofs, the design might be more successful if there was some modulation to the exterior, which she recognized might be a more expensive solution. She said the current design seems to relate to nothing in the area.

P. Paicos said everything in that area is industrial looking. M. Taylor said that they don't want it to look like that either, but a red barn with a bunch of false roofs is not the desired appearance either.

L. Murphy asked M. Taylor to explain the term modulation. M. Taylor said that the architect has added roofs to break up the façades rather than doing something where the walls step in or step out, which would give some form to the structure instead of adding things to it. M. Taylor wondered if the third level could be dormered to make the building look less massive, but said she understands that this would affect square footage.

W. Knight asked if that would affect the height of the building. M. Taylor said that may not affect the height but it might affect the appearance of the bulk of the building.

TJ Melvin asked for confirmation that in a mixed use residential, they cannot have residential units on the first floor. M. Taylor said that is correct.

P. Paicos asked if there was anything else from J. Serwatka. M. Taylor said the only outstanding item was the recommendation for another test pit.

M. Taylor then said the one other thing the Board hasn't really discussed is the lighting and photometric plan. TJ Melvin brought up the lighting plan and noted also that they haven't really gone over the landscape plan.

TJ Melvin said all the lights they are proposing are dark sky compliant. They are proposing a few poles, but the majority of the lights will be wall mounted. P. Paicos asked how high the poles would be. TJ Melvin replied 12-14 feet. P. Paicos asked M. Taylor if she was able to take a look at the fixture configuration. M. Taylor said there is some light trespass off of the site.

TJ Melvin pulled up the cut sheets and scrolled through.

P. Paicos asked about the color temperature of the lights. TJ Melvin said he can check with the lighting consultant.

M. Taylor asked if there were any decorative lighting sconces. TJ Melvin said that would be something he would have to talk to the architect about, but nothing is shown right now.

P. Paicos asked if they need any signage. TJ Melvin said yes. He showed the location of the sign on the site and then also showed the location on the building. He said they have not designed the sign yet.

P. Paicos said it looks like they still have a few things to work on with lighting, signage, and maybe design of building.

P. Paicos asked if there was any indication of lettering on the signs. TJ Melvin said no. He said there are strict sign requirements in the bylaw that they would adhere to.

P. Paicos asked if they were at a point where the Board would like M. Taylor to start to draft a decision on this. M. Taylor said it seems like there are still a few outstanding issues.

P. Paicos said they are looking for some more information and should look for a date to continue to.

Motion: A motion was made by L. Murphy and seconded by W. Knight to continue the Public Hearing – Site Plan Review Application, 3 Newburyport Turnpike, Map R47, Lots 38 & 39; Owner/Applicant: Bavaro Family Realty Two, LLC to March 17 at 7:15 p.m. A roll call vote was taken. L. Murphy, yes; G. Morse, yes; L. Matthews, yes; W. Knight, yes; P. Paicos, yes; M. Stohn, yes.

E. Definitive Subdivision Plan – Performance Guarantee and Endorsement: 68 Green Street; Applicant/Owner: 68 Green Street Realty Trust, Eva Jackman, Trustee

P. Paicos opened the discussion. M. Taylor reported that the appeal period has ended. The Jackmans would like to put a Performance Covenant on the property, which means that no properties can be sold individually until streets and ways are installed. She said she has had conversations with Town Counsel and the Applicant's Counsel. She said there was one paragraph that was added that is a little out of the normal, which is to allow them to convey parcel Y, which is not buildable, to an abutter. There is already an agreement in place to do that. She said the covenant as drafted provides for that.

M. Taylor said the one remaining question is the date by when the project will be complete. The project has to be started within 2 years but there needs to be a completion date on the Covenant, which can be extended if there is good cause. One thing that may need to be addressed is whether they are going to be doing the work themselves or whether the property as a whole will be conveyed to somebody else who will be doing the work.

Eva Jackman said they will not be doing the work themselves, but plan to sell it as a permitted project.

There was some discussion about whether that would change anything and the answer was no.

All members were comfortable and had no comments on the Performance Covenant document.

The Board asked the applicant when they would like the project's completion date to be. March 1, 2023 was decided on.

Motion: A motion was made by L. Murphy and seconded by G. Morse to approve the Performance Covenant for 68 Green Street; Applicant/Owner: 68 Green Street Realty Trust, Eva Jackman, Trustee as drafted and presented. A roll call vote was taken. L. Murphy, yes; G. Morse, yes; L. Matthews, yes; W. Knight, yes; P. Paicos, yes; M. Stohn, yes.

Motion: A motion was made by L. Murphy and seconded by G. Morse to authorize the Chair to endorse the Definitive Plan and sign the Performance Covenant for 68 Green Street; Applicant/Owner: 68 Green Street Realty Trust, Eva Jackman, Trustee on behalf of the Board. A roll call vote was taken. L. Murphy, yes; G. Morse, yes; L. Matthews, yes; W. Knight, yes; P. Paicos, yes; M. Stohn, yes.

**F. Definitive Subdivision Plans – Performance Guarantee and Endorsement: 23
Shandel Drive Extension; Applicant/Owner: Patricia & Scott Kinter**

P. Paicos opened the discussion and whether the Applicant was proposing a bond or cash as the form of Performance Guarantee. M. Taylor said the original proposal was to provide cash in the amount of \$35,112, but Scott Kinter has decided that a bond in the same amount would be preferable.

S. Kinter said he could do either, but a bond is preferable if it is ok with the Board. He said he has received the Bond by email and it would be effective by the fifth of February. He would just need to pay the premium.

P. Paicos asked if there is any preference as far as the Town is concerned. M. Taylor said there is a surety form that she sent out to the Board as a template.

L. Murphy said it is the developer's choice, noted that there is a little bit of a contingency in the amount, and he is fine with it. No members had any issues.

The Board asked S. Kinter for a date of completion. S. Kinter said April 20, 2022.

Motion: A motion was made by L. Murphy and seconded by G. Morse to approve the Performance Guarantee for 23 Shandel Drive Extension; Applicant/Owner: Patricia & Scott Kinter with a completion date of April 30, 2022 as a surety. A roll call vote was taken. L. Murphy, yes; G. Morse, yes; L. Matthews, yes; W. Knight, yes; P. Paicos, yes; M. Stohn, yes.

Motion: A motion was made by L. Murphy and seconded by G. Morse to authorize the Chair to sign both the Definitive Plan and Performance Guarantee for 23 Shandel Drive Extension; Applicant/Owner: Patricia & Scott Kinter on behalf of the Board. A roll call vote was taken. L. Murphy, yes; G. Morse, yes; L. Matthews, yes; W. Knight, yes; P. Paicos, yes; M. Stohn, yes.

G. Proposed Zoning Amendments for Spring 2021 ATM:

M. Taylor pulled up the draft language for the proposed zoning amendment regarding “Special Permit Regulations.” She highlighted the language in paragraph 3, which says that Special Permits will be granted by the SPGA only upon written “determination that the adverse effects of the proposed use will not outweigh its beneficial impacts to the Town or the neighborhood, in view of the particular characteristics of the site, and of the proposal in relation to that site.” The Board discussed changing the term “social structures” in 3.d, which the Board found ambiguous, to “community character,” and adding a 3.e. “Impacts on adjacent properties, neighborhoods, and zoning districts.”

L. Murphy said that language there says it all. All members agreed with the edits that M. Taylor presented.

There was some discussion of the language in paragraph 1, but no changes were made.

M. Taylor said the next thing to do is to vote to refer the proposed amendment to the Select Board to have them refer it back to the Planning Board for public hearing.

Motion: A motion was made by L. Murphy and seconded by W. Knight to refer the proposed zoning amendment regarding Special Permit Regulations to the Select Board. A roll call vote was taken. L. Murphy, yes; G. Morse, yes; L. Matthews, yes; W. Knight, yes; P. Paicos, yes; M. Stohn, yes.

M. Taylor said she had not made any progress on the Regulations for Lot Dimensions.

Regarding public hearing date, M. Taylor said that the Board can hold the public hearing up to the day before Town Meeting.

P. Paicos then suggested talking about submission deadlines and rules and regulations. M. Taylor said she talked to Town Counsel and was told that the Board does not need to hold a public hearing to adopt rules and regulations, but adoption does need to be done at a regular meeting. M. Taylor noted that the Newburyport ZBA has some language that might be a good template – she will modify that and send it out to the Board members for review and discussion at the next meeting.

H. January Financial Report

P. Paicos read the January Financial Report.

I. Planning Director's Report

M. Taylor said they had a Managers meeting today and the Town Hall staff will be going back to working in the building as of February 16.

J. Liaison Reports

L. Matthews reported that the majority of the Select Board discussion was about changing the proposed emergency access for Plum Island, possibly from 14th Street to 12th Street; they will schedule a site walk to compare the routes. M. Taylor reported that the Zoning Board of Appeals meeting included the continued public hearing on the Village at Cricket Lane; the hearing was continued and a draft Decision is being written by Town Counsel. The other item on the agenda was a project on Plum Island. P. Paicos reported on the Conservation Commission meeting, noting that it was a long meeting and discussion included doing work in the ROW which came up tonight. M. Taylor reported that the MVPC Planners Meeting had included a presentation regarding a new Floodplain Bylaw Amendment.

A motion was made by M. Stohn and seconded by L. Matthews to adjourn the Planning Board meeting at 9:42 p.m. A roll call vote was taken L. Murphy, yes; G. Morse, yes; L. Matthews, yes; W. Knight, yes; M. Stohn, yes; P. Paicos, yes.

Respectfully Submitted,

Emily Noble
Planning Board Administrator