



January 26, 2017

Kate Newhall-Smith, Planner
City of Newburyport
BY EMAIL

Suggestions and Comments on the Draft Master Plan

Dear Kate and Members of the Master Plan Steering Committee:

We are concerned that good statements about the importance of Newburyport's historic character, and the prevailing public interest in preserving it, are contradicted by the details and priorities of the draft Master Plan.

Suggestions

- Remove language and color coding targeting established residential areas for infill and redevelopment (Chapter 4 – Land Use, Future Land Use Options). Or, re-identify these areas as being “at risk” and include high priority actions to mitigate the risk. It is misleading for a map printed in the Master Plan to reflect current zoning, instead of the future envisioned under the Master Plan, which expressly notes pending zoning changes. If lot subdivision is not encouraged by policy in these areas, the Master Plan should say so.

Add as high priorities in the Implementation and Work Plan:

- Modify dimensional controls in order to discourage infill in historic neighborhoods, including consideration of FAR (floor area ratio) limits and a significant increase in minimum lot size on High Street. This has been discussed since before adoption of the Master Plan of 2001.
- Implement the following recommendations from the “Zoning Ordinance Recodification” March 31, 2015 Formative Diagnostics Report: 1) “Adjust policy for the granting of variances so they are rarely sought and even more rarely granted,” and 2) “Remove subsection D2 from the Zoning Ordinance as it conflicts with statutory requirements that a hardship is a unique condition to the lot.” (Non-conformance of abutting properties is the major justification – not supported by state law – for controversial infill projects.)
- Implement binding Architectural Design Standards and Review in the Newburyport Historic District and other historic neighborhoods.



- Examine current Downtown Overlay District and Demolition Control District guidelines to determine if they adequately protect individual historic buildings and collective historic character. (Currently only a low priority.)
- Do not relax Accessory Apartment regulations until zoning restrictions on Hotel/Inn and Bed & Breakfast uses in residential districts are enforced; account for the reality of VRBO and similar accommodation websites.
- Hire and fund in the city budget a full-time Zoning Code Enforcement Officer working within and reporting to the Planning Office, not the Building Department.

Comments

Preservation of Historic Neighborhoods. The draft Master Plan gives lip service to preservation of our historic neighborhoods while doing nothing concrete to relieve the stress of overdevelopment and near-constant degradation of those neighborhoods. Preserving Newburyport's historic character will take proactive measures by the city.

Infill. The most disturbing part of the draft plan is its emphasis on infill and “redevelopment” as opportunities in established residential areas. Infill anywhere can have undesirable impacts. In the older neighborhoods of Newburyport, which are among the densest in Essex County, one of these is the loss of historic character. Whether it is oversized additions to existing buildings or the construction of entirely new buildings, infill reduces the value of historic streetscapes and surrounding properties, and has already eliminated modest housing in the city. In the 2001 Master Plan, reducing infill is a major topic, with actions listed to examine dimensional controls and establish design standards to preserve existing neighborhoods. In 15 years there has been no progress on these actions. In the new draft plan, they are not even addressed as high priorities.

Beyond harm to historic character, infill reduces green space and increases infrastructure burdens, traffic, and on-street parking.

Looking at the “Generalized Future Land Use Map” in Chapter 4, we cannot imagine what “infill potential” there might be from Winter Street to Kent Street, an already full neighborhood. Most parcels on High Street are not “vacant” lots, as suggested in the LU-3 “Newburyport’s Developable Parcels” narrative. But they are expansive lots. In Chapter 8 of the draft plan, they are cited in the “Inventory of Lands of Conservation & Recreation Interest:”

Historic Gardens and Lawns of High Street – Extensive and historic gardens and backyards along the High Street ridge represent an important heritage landscape that reflects a significant period in Newburyport’s history.



To infill High Street is to destroy this landscape, a large part of our “Tree City” canopy, and a section of the Essex Coastal Scenic Byway. Added driveways and subdivision roads will introduce new traffic congestion and hazards, and could finally lead to what our community successfully fought 20 years ago: the widening and straightening of our most iconic roadway.

We advocate for dimensional controls and permitting processes to, as the draft Master Plan Executive Summary says, “ensure that the City does not lose the very assets that have made it thrive as a desirable place to live, work and visit.”

Architectural Design Standards and Review. Design Standards and Review – a frequent but still unanswered recommendation in the 2001 Master Plan – could help to mitigate the impact of “development and redevelopment” in the Newburyport Historic District and other areas. But in the draft plan, it is only called out as a high priority for major projects requiring Site Plan Review downtown (*Work Plan Action LU-1.2:1*); in the Storey Avenue area (*Work Plan Action ED-6.3:1*); and on land adjacent to the waterfront (*Work Plan Action LU-2.2:2*).

Binding Architectural Design Standards and Review throughout the North and South ends, including the High Street, Water Street and Merrimac Street corridors, should also be a top priority in zoning revision.

Affordable Housing. We support affordable housing. With a small “a,” Newburyport’s existing modest housing has been under attack through “redevelopment” for at least two decades. In the past year alone, we advocated before local boards against permitting demolition or oversized addition to six modest historic homes. Newburyport’s modest historic housing stock is inextricably linked to affordable housing. If the city is serious about affordable housing, the protection of existing modest homes should be prioritized formally, and our zoning amended accordingly.

Newburyport is chasing its tail on Affordable, with a capital “A,” housing. By state law, Affordable housing units must have permanent or long-term restrictions to sell or rent to households earning less than 80% of regional median income. Ten percent (10%) of the city’s housing stock is supposed to meet this standard. We do not meet the standard now, and for every 10 new non-Affordable (even if modest) housing units created, our deficit increases by one Affordable unit.

Chapter 4 of the draft plan says all “developable parcels” identified in residential districts could accommodate up to 128 new units of single-family housing. “Because the City’s housing needs exceed 128 single-family homes, as determined by its 2013 Housing Production Plan, more efficient housing development and infill redevelopment will be necessary in upcoming years.” The 2013 Housing Production Plan is concerned with Affordable housing. The likelihood that any of 128 single-family homes in a full build-out of existing neighborhoods will be Affordable is low to nil. What this build-out would do, instead, is burden infrastructure, neighborhood character and create the need for 12.8 more Affordable housing units. Where would they go?



The draft plan acknowledges that housing density is already greatest in the North and South ends, where most two- and multi-family homes are located. This is also the area with many remaining modest (affordable) homes.

Mixed-use housing development -- with more than 10% of units being Affordable -- outside of traditional neighborhoods, and a reduction in market-rate development in traditional neighborhoods, might begin to solve the problem. Another, more logical location where the city can produce more state-recognized Affordable Housing is the city's Chapter 40R zoning district, where 25% of units must be so designated.

Accessory Apartments. In the context of affordable housing, the draft plan puts a high priority on relaxing current zoning regulations on accessory apartments. We understand the goal, but do not think it can be reached without enforcement of current zoning restrictions on hotel/inn uses in residential districts. Currently, entire apartments and houses in mainland Newburyport are rented for temporary accommodation through companies such as "Homeaway" and "Airbnb." Why rent a 1-bedroom apartment to a resident when you can get \$143-\$171 a night (3-night minimum) from transient visitors? We fear current non-enforcement coupled with relaxed regulations will increase zoning abuses and spur infill, while failing to improve affordable housing.

Also, Newburyport's street system, developed over centuries, can only accommodate so many parked cars. The addition of accessory apartments must be tempered by the reality of car ownership. The use of single-occupancy automobiles is predominant in Newburyport. Unlike in communities well served by public transit, every additional dwelling unit in Newburyport most likely implies at least one additional car. The Master Plan does not link the two together, as it should.

Zoning Enforcement Officer. In 2016, the city issued 900 building permits for work valued at more than \$70 million, resulting in fee revenue of \$713,090. We have two inspectors, including the Building Commissioner, responsible for enforcing both the Building Code and the Zoning Code. Not only is the Building Department too busy to enforce zoning, this dual role can often present awkward internal conflicts. Lapses in zoning enforcement in Newburyport are well enough known to not require further explanation, here.

A full-time Zoning Enforcement Officer in the Planning Office would remove the burden of zoning enforcement on the Building Department, eliminate the conflict of interest, and could also:

- Review and ensure the completeness of applications to the ZBA, Planning Board and NHC.
- Represent the Planning Office at ZBA, Planning Board and NHC meetings.
- Assist with the recordkeeping and building permit/certificate review requirements of zoning.
- Track Preservation Restrictions held by the city, and monitor their enforcement.



If the Zoning Enforcement Officer also has historic preservation knowledge, she or he can provide guidance to the ZBA and the Planning Board when related (DOD, DCOD) applications are considered. (We agree with *Work Plan Action CR-5.1:2* that a member with historic preservation expertise on each of these boards would be useful, but because these are volunteer positions, this seems difficult to implement.)

A Zoning Enforcement Officer in the Planning Office could free the time of existing staff to “meet growing demand for project management, grant writing, and business development related to economic development activities.” (*Work Plan Action ED-1.1:1*)

We think zoning enforcement is the city’s highest hiring priority in this period of growing building and economic development. Master Plan policies, and also our laws, are meaningless without teeth.

Newburyport, through its laws, their application and enforcement, should become known for its protection of the city’s historic value. Today, the absolute opposite is true. Our city retains some of its historic character almost in spite of itself. The historic preservation policies of the 2001 Master Plan were largely a dead letter, and they will be again in this update for 2017, without honest attention to implementation.

Thank you for considering our comments.

Respectfully,

Newburyport Preservation Trust, Inc.

On behalf of its Board of Directors:

Tom Kolterjahn, Co-President

Linda Miller, Co-President

cc: Mayor Donna Holaday, Newburyport City Council

APPENDIX: We have attached an Appendix with details of the draft plan relevant to our commentary. This includes excerpts of the original text of the draft Master Plan, provided as a convenience for Newburyport Preservation Trust members and others who may not have read the entire document on the city’s website.



Appendix – Related Details of Concern in the Draft Master Plan

High Priorities for Development, With No Matching Actions To Protect Historic Character

In the Implementation and Work Plan sections, there are high priority (within 0-3 years) objectives and actions which, without concurrent attention to historic preservation, can result in loss or damage to historic buildings, streetscapes and landscapes.

In **Residential** districts, **High** priorities, all tied to a “Zoning Revision currently in process,” are:

- Allow R-3 use in the North End including the High Street and Merrimac Street corridors and in the South End including the High Street and Water Street corridors. (*Work Plan, Objective LU-4.1*)
- Identify zoning districts and/or geographic areas in which the City may modify current zoning regulations to allow for the development and redevelopment of a variety of housing types. (*Work Plan, Objective H-1:1*)
- Allow for by-right two-family residential development in the City’s R2 district. (*Work Plan, Objective H-1.1:1*)
- Examine current Accessory Apartment ordinance and determine appropriateness in relaxing the regulations applying to non-family related occupants. (*Work Plan, Action H-1.2:1*)
- Consider including incentives (ie. density bonuses, dimensional relieve, parking relief, etc.) to private developers that create permanently affordable housing. (*Work Plan, Action H-2.1:1*)
- Modify Zoning Ordinance section VI-C so that affordable unit(s) are included within a proposed development and/or a cash-in-lieu of the affordable unit(s) is based on a formula that will result in a meaningful contribution to the Affordable Housing Trust. (*Work Plan, Action H-2.1:2*)

(This last priority, if it seeks to make affordable units/cash-in-lieu *mandatory* in all VI-C applications, could practically eliminate the historic preservation and conservation options available under VI-C. Would applicants be *required* to propose two public benefits, if one of the others would also be appropriate?)

In the historic **Downtown** and **Waterfront** districts, **High** priorities tied to the “Zoning Revision currently in process” include:

- Streamline permitting processes for signs, façade alterations, as well as new development established in the Zoning Ordinance. (*Chapter 14, Goal 1, Objective 1, Strategy 1, Action 3*)
- Review the Zoning Ordinance to encourage mixed-use development downtown, including consideration of greater height and density and more flexible parking requirements. (*Work Plan, Action LU-1.1:1*)



- Encourage limited, mixed-use development in the WMU and WMD districts through allowing a by-right height in the WMU and WMD of 35'. (*Work Plan, Action LU-4.1:1*)

Very Few Historic Preservation Objectives. And None Have High Priority

The few goals to improve the protection of historic buildings and neighborhoods all have a **Medium** (within 4-6 years) or **Low** (within 7-10 years) priority:

- Protect the character of Downtown and the Waterfront, while accommodating change and new development. (*Chapter 14, Goal 1, Objective 1, Strategy 2*) – Medium
- Promote and support an increased level of preservation efforts to protect Newburyport's historic built environment for future generations. (*Chapter 14, Goal 1, Objective 2, all strategies*) – Medium
- Protect the historic character of commercial buildings in use and ensure that new development is complementary to the architectural character of the city and promotes sustainable site design. (*Chapter 14, Goal 2, Objective 1, Strategy 2, Action 3*) – Medium
- Examine current Downtown Overlay District guidelines to determine if they adequately protect individual historic buildings and collective historic character. (*Work Plan, Action LU-1.2:4*) – **Low**
- [Once an inventory of historic structures is complete,] establish and implement design review procedures to evaluate proposed development and redevelopment in the neighborhoods that preserve historic characteristics of the inventoried structures. (*Work Plan, Action H-3.1:2*) – **Low**

Alarming Language and Graphics in Chapter 4 – Land Use

Sections of Chapter 4 – Land Use which cause alarm are excerpted here:

Section E: Future Land Use Options

A build-out analysis is a land use planning tool used to help a community understand the impacts of developing available land to the capacity allowed under current zoning. While build-out studies are useful, they cannot predict whether or exactly how full build-out will occur. The City may never reach full build-out of vacant and under-developed land, as this depends on many factors, such as the macroeconomic climate and environmental conditions that are generally outside a community's control. A build-out analysis can help a community to identify changes that are needed in its Master Plan, Zoning Ordinance and other development policies and regulations. In its simplest form, a build-out analysis looks at land area that is currently developed, developable land area and vacant land area that is subject to absolute development constraints, such as open water, wetlands, or parcels of dedicated or permanently protected open space.



Applying the dimensional regulations of the current Zoning Ordinance, according to Newburyport’s Assessor’s Office and listed in **Table LU-3**, there are 64 developable parcels for a total of approximately 65 acres of developable land. The Assessor’s Office, in consultation with the Building Department and the Planning Office, determines that a parcel is “developable” if it meets applicable zoning requirements for land area and minimum street frontage. There are vacant parcels within the City that are not included in **Table LU-3**, but this does not necessarily preclude them from being developed in the future; special permits and/or variances granting dimensional relief could convert an undevelopable parcel to a developable one.

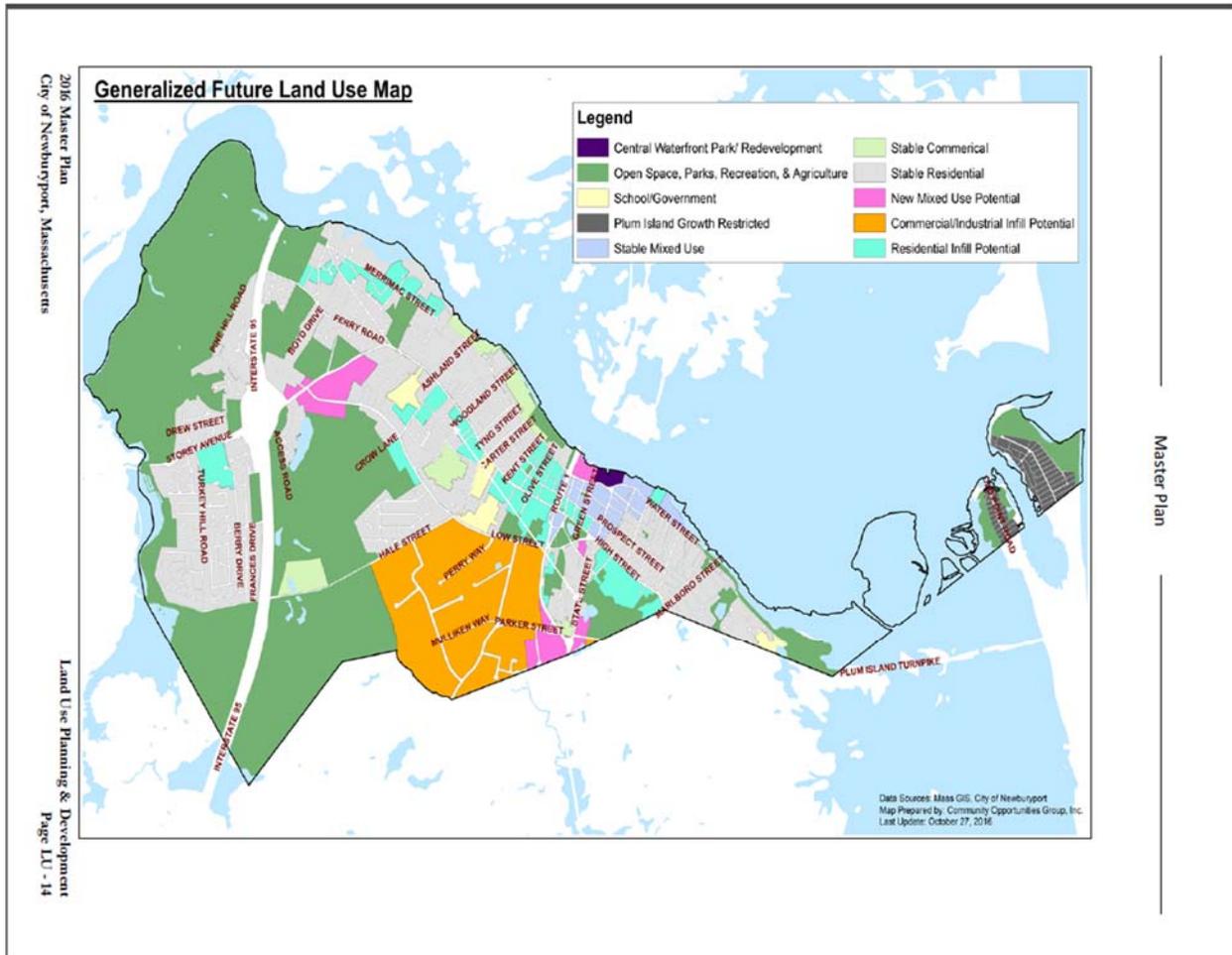
Table LU-3: Newburyport’s Developable Parcels

Source: City of Newburyport’s Assessor’s Database/GIS

| Zoning District | # of Parcels | Acres |
|-----------------------------|--------------|--------------|
| Business 1 | 3 | 1.54 |
| Business 2 | 1 | 1.36 |
| Industrial 1 | 4 | 17.95 |
| Industrial 1B | 3 | 8.89 |
| Residential 1 | 11 | 9.47 |
| Residential 2 | 20 | 15.67 |
| Residential 3 | 16 | 7.19 |
| Waterfront Marine Dependent | 4 | 2.93 |
| Waterfront Mixed Use | 2 | 0.45 |
| Total: | 64 | 65.44 |

Based on existing zoning, the City’s residential districts (R1, R2, and R3) could accommodate up to 128 new units of single-family housing, not factoring in environmental limitations such as the presence of wetlands or unfavorable topographical or soil conditions. Because the City’s housing needs exceed 128 single-family homes, as determined by its 2013 Housing Production Plan, more efficient housing development and infill redevelopment will be necessary in upcoming years to meet the needs of the community, and maintain some semblance of housing affordability – a necessity for a healthy local and regional economy.

The **Generalized Future Land Use Map** (shown on page LU-14) shows how future growth may be accommodated in Newburyport. Areas marked as “stable” are those that are not anticipated to see significant change but are likely to still experience minor amounts of growth due to redevelopment or periodic infill development where those opportunities remain. Areas marked as having residential infill potential are generally those areas that have a cluster of lots that are currently used as single-family homes but are large enough (per current zoning) to be converted to two-family homes, and so create some new residential units.



END EXCERPTS