

**City of Newburyport
Planning Board
May 17, 2017**

The meeting was called to order at 7:05 PM.

1. Roll Call

In attendance for the Planning Board: James Brugger, Anne Gardner, Joe Lamb, Jim McCarthy, Leah McGavern, Bonnie Sontag, Andrew Shapiro, Mary Jo Verde, and Don Walters

In attendance for the Historical Commission: Sarah White and Mark Bilodeau. Malcolm Carnwath arrived at 7:15 PM

Mayor Holaday, City Councilors Robert Cronin, Charles Tontar, and Greg Earls, and Andrew Port, and Director of Planning and Development were also present

2. Joint Public Hearing/Meeting with the Historical Commission

- a) City of Newburyport
83 Merrimac Street and 90 Pleasant Street
Major Site Plan Review (2017-SPR-01)
DOD Special Permit (20017-SP-03)
Special Permit for Use (2017-SP-04)*

Andrew Shapiro read the notice. Director Port was seeking approvals from the board and Newburyport Historical Commission (NHC) for the parking garage building façade. The intermodal regional transit facility that served transit buses was scheduled to come back to the board with revisions on June 21 to be ready for construction in the fall.

Sarah White, Chairman, opened the NHC meeting at 7:15 PM.

Director Port presented design changes based on earlier feedback from the NHC, the Newburyport Preservation Trust, and abutters. He illustrated on a plan in the rectangular property the City would acquire from NED for the garage in the context of neighboring buildings and streets and showed the building's footprint on the lot comprised of two different parcels. The Fitness Factory building would be demolished. He presented the Merrimac Street façade and a view of the building from the corner of Merrimac and Titcomb Streets that showed the building's entrances on both streets positioned between six-over-six windows consistent with windows downtown. Exact building signage would be addressed at the next meeting.

The first level had the terminal office and was three-quarters parking, unconnected to upper floor parking and accessible only through the Titcomb Street entrance. Window grates visually screened parking and met open-air requirements. Buses collecting and discharging riders were stored elsewhere overnight. The cornice line and window-like openings were atypical for parking garages. A rear view of the building showed the window-like openings and the stair and elevator tower. Alternative lighting to roof top light poles had been researched. The height of light fixtures would be minimized and LED lights used. A vine trellis of stainless steel cables to

support greenery on the building's side could be eliminated, based on abutter's input. The submitted plan set included elevations. Abutters had requested that spaces along the side and back of the building be inaccessible to the public. The space could be additional parking behind a closed gate. Street level bump outs would shrink to provide a better pedestrian experience. Abutters also requested removing the Merrimac Street crosswalk to avoid traffic hold ups from cars using the garage. Titcomb Street also had a crosswalk. The radius of both entrances had increased. NED requested a curb cut for their remaining lot.

Chairman White said the NHC was conducting a Section 106 review to determine if removal of the Fitness Factory building would negatively affect the historic nature of the National Register area, but was amendable to the demolition and with the overall design. She preferred a darker window screening color than white. Deborah Fennick, Fennick McCredie Architecture, 70 Franklin Street, Boston, said white screening gave the building an appropriate scale to its location and screened lighting and cars. A darker color would disappear during the day, opening a view inside. Exterior screening was eliminated and only faux muntins that added depth remained. Chairman White asked if an attempt was made to match the simulated storefront to downtown storefronts? Director Port said yes. Ms. Fennick said the aluminum storefront system was more durable than wood and could be painted with any finish the City chose. The taller base simulated a building rather than a garage. Visitor information would generate activity supported by a changing window display. The columns and cornice were clad in cast stone. Chairman McCarthy said the wider garage opening was the least pedestrian friendly aspect of the building. Ms. Fennick would try to reduce the opening, which widened two feet. Chairman McCarthy and members asked about alternatives to aluminum that had relief? Ms. Fennick would look into durable alternative material. Board members asked if windows and grills were similar to downtown? Ms. Fennick said they were larger, scaled to match the wall size with proportions derived from two- and three-story buildings on State Street.

Chairman White said a two-over-two window at the bottom right on the Titcomb Street elevation stood out and did not match the rhythm of the other windows. Ms. Fennick said the real window matched the stair tower and placed on the building for variety. Board members asked if grills were meant to be floor to ceiling? Ms. Fennick said yes, for safety. Chairman White asked about other means of egress and a less intrusive alternative to highway style light poles? Director Port demonstrated egress locations on a floor plan and said light alternatives hadn't worked out. Lights embedded in outside walls did not reach the travel areas. Chairman McCarthy thought the design was appropriate for a structure this size in the DOD.

Board member comments: What were lintel and the sill materials? Ms. Fennick said they were part of the concrete structure and precast with a bit of color. Aluminum poles were painted white. Members discussed darker and lighter color muntins. Some openings were not logically placed above other openings. Normally, over a large opening, a granite lintel would be grounded by granite columns all the way down. Chairman McCarthy asked to see the brick color choice and samples of all materials at the next meeting. Wesley Wilson, Desman Associates, 18 Tremont Street, Boston, said cars could not be seen from the pedestrian level. Members expressed concern that the office would be dead. Director Port said the MVRTA terminal and office, with a waiting space and one restroom, were required. Chairman McCarthy asked if the Use Permit was appropriate? Members asked if the number of buses would be different from buses already

traversing through town? Director Port said initially no, but increased ridership could occur. Members wanted diesel engines shut off while buses were waiting, due to smell and noise. Director Port said that could be done.

Mayor Holaday said commuters waiting in the dirt lot for the Boston bus could be moved to the terminal. She was looking at commuter behavior and the best ways to utilize the facility. Director Port said there would be two traffic studies. Phase I studied intersections surrounding the facility. Backups and intersection mitigation were not expected. Changing Green Street to two-way was under consideration. Phase II was a larger study to address overall future growth downtown. Nancy Doherty, Tetra Tech Inc., 100 Nickerson Road, Marlborough, said projections from NED and the Ale House would be used for the future growth study due out the end of the summer. The garage would pick up traffic already coming downtown to park at the waterfront rather than generate new traffic.

Chairman McCarthy said the garage was in a good place. Could traffic exiting Route 1 for the garage be quantified? Ms. Doherty said removing the waterfront lot diverted cars to the garage in a redistribution of existing traffic. Members countered with a description of heavy traffic from the Route 1 side going back to the Chain Bridge and the other streets approaching the waterfront lots. Cars heading down Federal Street redirected to the garage constituted additional traffic. Backups and flow problems due to pedestrians crossing occurred all over town. Blinking pedestrian crossings could be needed all through town, not just at the garage. Chairman McCarthy said a solution was needed for 200 cars leaving the garage at the same time. Members concurred on the traffic mess at Route 1 and Merrimac Street. Ms. Doherty said NED offered a 100% re-design with signaling for that intersection. Members asked if the NED traffic study would be incorporated into the garage traffic study? Ms. Doherty said the NED project trips would be used but not their counts and analysis. Members said the board had not approved the NED traffic study. Information required independent validation. Director Port said Ms. Doherty would peer review the NED traffic analysis. Members said cars always bypassed a parking garage to find free on-street parking. Did the study assume all on-street parking would be metered? Ms. Doherty said bike and pedestrian traffic would be accounted for. Members said higher curbs and curb plantings in Boston made it more difficult for people to cross anywhere but the crosswalk. Director Port said that idea was outside the scope but worth considering. A board member disagreed that traffic would be redistributed if all on-street parking remained unmetered. Nancy said almost 100 spaces lost from the waterfront would be replicated in the garage. Members asked for confirmation that the Phase II study would look at the Route 1-Merrimack Street intersection and beyond? Ms. Doherty said that was removed from the original scope because it was being studied by the MVRTA. Director Port said the issue was part of the discussions with NED. Chairman McCarthy requested mitigation for the top ten festival days. Members agreed and said the traffic study would have no credibility without including the Route 1-Merrimac Street intersection. Ms. Doherty said there would be a good report from NED.

Public comment open.

Chris Ferraiolo, 102 Pleasant Street, said pedestrians should walk straight across the street on Merrimac and Titcomb Streets instead of coming to a corner when exiting the garage. Why not put an exit on Pleasant Street instead? Director Port said NED asked for the access on Pleasant

Street. Mr. Ferraiolo did not want the structure holding the cables to be white. What was the height of the garage building? Mr. Wilson said 35.3 inches at the tower, 31 feet at the corner.

Mal Yakes, 13 Market Street, asked how people approaching from I95 would be directed to the garage and back to I95? Ms. Doherty said approximately 45% of traffic comes from the west, Market and Merrimac Streets. Director Port said signage placement would be a future discussion, but signs would start somewhere around the Bartlett Mall. Ms. Yakes asked if all exiting traffic would be directed down Merrimac Street? Director Port said most people would go that way.

Mr. Ferraiolo asked what stopped cars from taking a right up Titcomb Street, a right down Pleasant Street, and a right down Market Street to escape the Merrimac Street traffic jam?

Councilor Bob Cronin, chair of Public Safety, said the City was a regional destination for neighboring communities that were familiar with the streets. Those cars would pass the garage and go to the South End to park. It was problematic that Route 1 was not included in this scope. Traffic backed up past Kent Street when the drawbridge was up. It was important to look at downtown from Kent Street to at least the Custom House before moving forward. He agreed in theory the garage was not a trip generator, but in reality, people would be channeled there if the job was done correctly, adding an extra 100-200 turning movements and creating conflict.

Pam Ketchum, 15 Washington Street, said the initial study reported there was no effect, yet cars coming in from all directions would slow upon turning into the garage, impacting traffic. More pedestrians exiting and entering the garage would slow traffic. More cars looking for free parking would impact residents without off-street parking.

Councilor Joe Devlin spoke for Gayle Craig, who wanted an eight foot brick wall as a buffer along the back of the three properties and around the corner, as well as the wooden stockade fence removed, resident-only sticker parking, Pleasant Street repaved, and garage lighting directed away from residential units. Residents wanted an alternative to pole lighting. He submitted a diagram with notes to Chairman McCarthy. As a Councilor, he said diverting traffic changed traffic patterns. Cars avoiding Merrimac Street traffic would use side streets, affecting residents. If all traffic areas were not studied up front, he would not support the project.

Linda Lambert, Horton's Yard, asked where spaces were eliminated? Director Port demonstrated the location of four spaces - two down from Horton's Yard were removed for turning radius and two in front of Horton's Yard were removed for visibility.

Councilor Jared Eigerman, on behalf of his ward, said traffic distribution needed further study to determine whether to change Green Street to two-way or reverse direction on Pleasant Street. What would it cost to put the long-standing problem of the Route 1 intersection into the scope? Citywide parking arrangements may not be in the budget for the garage, but he wanted assurance there would be a plan to upgrade on-street parking. State Street needed better parking control.

Public comment closed.

Chairman McCarthy said recommendations for special permit conditions would include traffic management during peak periods. The Route 1 intersection and neighborhood sticker parking were also issues. Director Port said discussions with John Burke, Parking, Traffic and Downtown Development Consultant, were underway. Chairman McCarthy said stickered parking could be needed within 300 feet of the garage. Director Port said the condition could specify working with the consultant to figure that out. Chairman McCarthy said the comprehensiveness of the Phase I study was an issue. Many cars would be concentrated in an area that did not currently experience that volume of cars. The board would need a subcommittee structure to process everything by June 21. He requested the lowest height usable for light poles and a photometric plan. Members said other private and public buses that come downtown should be able to use the garage. Lining an area with planters that forced people to cross at designated places might be a condition. The bump outs were not raised. Should they be eliminated? Crosswalks should be well marked. Chairman McCarthy said space should be defined to work for the pedestrian, not the car.

The board needed design changes on a semi-final plan, the pedestrian issues resolved, and plans for the lighting, landscaping, and stormwater. That was too much for one meeting without prior feedback and too much to be conditional. Director Port hoped stormwater management could be submitted conditionally given there would be less asphalt. Members said the pedestrian issues were problematic. Director Port said it was a one-bid package that would be unmanageable if final requirements kept changing. Mr. Wilson said the architectural model on view differed from the plans. He needed to understand the deliverables. Director Port said to return with façade adjustments and the other site plan adjustments. A member said site lines for entering the garage could be impacted by the street trees. Trees closest to the entrance on Merrimac and Titcomb Streets should be removed. Chairman McCarthy asked about snow mitigation and security? Director Port said coning off an area to push snow over on the Merrimac Street side and carting it off was under consideration. Cameras would be installed. He was working with the Police Department on monitoring.

Leah McGavern made a motion to continue the Major Site Plan Review, DOD Special Permit, and Special Permit for Use to June 7. Andrew Shapiro 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) Berkeley Investment, Inc.**
260, 268, 270, 274, and 276 Merrimac Street
Discussion of Special Permit Conditions Regarding Preservation Restriction (PR) for,
and Rehabilitation of, the '1690' House

Executive Session – pursuant to L.L. c. 30A, s 2 I (a)(3) to discuss strategy with respect to litigation if an open meeting may have a detrimental effect on the negotiating or litigating position of the public body and the chair so declares.

Chairman McCarthy said the discussion would review permit conditions and what had transpired. Director Port said the ordinance was adopted with a condition that the 1690 House have a Massachusetts Historical Commission (MHC) preservation restriction (PR). The PR was called out by the overlay. Subsequently, the board voted to require an MHC PR. What effort had the applicant made?

Attorney Lisa Mead, Mead, Talerman, and Costa LLC, 30 Green Street, said the requirement for a PR began with a draft prepared with the local details and sent to the MHC. Comments come back and the iterative process was repeated. Ten years had passed since the original decision. Architect Lawrence Cheng could detail what was done to the house to get the PR approved. Chairman McCarthy said the 2005 permits did not specify what should be preserved in the PR. The 2007 PR condition specified restoration to the Secretary of the Interior Rehabilitation Standards. Page two of a 2007 letter from Linda Smiley's letter to the MHC detailed exterior preservation items in both structures. A 2008 letter described a 'voluntary preservation of interior items within reason.' Could the board specified MHC PR still be achieved? Attorney Mead said there was concern about interior elements in 2008. An MHC PR could probably be achieved with support from the NHC. Director Port said he suggested at the March meeting that it was premature to say what the MHC would approve, especially if the exterior had been modified too much. He believed it was important to find out where the MHC stood first. Chairman McCarthy said wording in the board's 2007 decision could not be changed. Attorney Mead said the 2007 decision required a "perpetual preservation restriction approved by the NHC, then approved by the MHC." Ms. White said the NHC had not formally voted but were interested in a PR on the remaining elements. The NHC wanted to see photos requested by MHC and the MHC comments first. The brick arches and chimneystacks to the top were important to the NHC. Chairman McCarthy asked why wait for MHC? Ms. White said not many original features remained on the interior. Members said the changed exterior elements might cause the MHC to deny the PR. Ms. White agreed.

Members said the application would be reopened in a public hearing for a major modification if the MHC PR were not granted. Chairman McCarthy suggested the NHC conclude the matter quickly. Attorney Mead said the MHC advisory feedback could take 30-60 days. Ms. White agreed to provide a letter of support for the PR without a formal consent. Attorney Mead would be at the next meeting.

Malcolm Carnwath made a motion to write a letter supporting the preservation restriction. Mark Bilodeau seconded the motion and all members voted in favor.

Chairman McCarthy said the definitive list of interior elements called out in paragraph 11 was not done. Interested parties were invited to take unused interior elements out of the building. Attorney Mead said an email chain documented that items were made available. Tom Kolterjahn, co-chair, Newburyport Preservation Trust, removed some items. Members said the City was to

identify items they wanted before any construction began. That didn't happen. Chairman McCarthy said there was no intent for interior elements to be saved as part of the permit. Members said the 2007 letter stipulated following the Secretary of the Interior Standards that included preserving interior and exterior elements. Attorney Mead said comments from Kopelman & Paige stated the interior restoration was voluntary to the extent practical. An effort was made for voluntary interior preservation. The Secretary of the Interior Rehabilitation Standards did not include preserving everything in the building. Exterior elements were agreed upon in 2015 by the board. The NHC and the architect agreed to preserve three windows and the chimneys. The siding had already been removed and replaced in accordance with the agreement. Members said the City solicitor was now in charge. Chairman McCarthy said if the Secretary of the Interior Rehab Standards were not met. The MHC could deny the PR. Attorney Mead said the MHC needed to see local input on the application first. She would start working with the NHC to that end. Members questioned, independent of the PR, whether the applicant fulfilled paragraph 11 in the 2015 decision? Chairman McCarthy agreed the applicant failed there. The intent was for a third party to take things not being used out of the building. Members said the board should be looking for a modification. Attorney Mead would put the package of correspondence together for the board.

Sarah White made a motion to adjourn the Newburyport Historical Commission at 10:15 PM. Malcolm Carnwath seconded the motion and all members voted in favor.

3. General Business

- a) The minutes of 5/3/17 were approved as amended. Bonnie Sontag made a motion to approve the minutes. Mary Jo Verde seconded the motion and seven members voted in favor. Don Walters and Joe Lamb abstained.

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) Application Completeness Vote – 6 Perkins Way (2017-SPR-02)

Don Walters made a motion to endorse the Application Completeness. Joe Lamb 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.

4. Public Hearings

- a) New England Development
83 Merrimac Street and 90 Pleasant Street
Definitive Subdivision (2014-DEF-02)
Continued from 3/1/17 – Request to continue to 11/1/17*

Chairman McCarthy preferred to continue month-by-month because permitting was beginning.

Don Walters made a motion to continue the Definitive Subdivision to June 21st. James Brugger 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.

5. Planning Office/Subcommittees/Discussion

- a) Updates*

NED's Waterfront West was discussed.

8. Adjournment

Anne Gardner made a motion to adjourn. Mary Jo Verde seconded the motion and all members voted in favor.

The meeting adjourned at 10:51 PM.

Respectfully submitted -- Linda Guthrie