



CITY OF NEWBURYPORT
PLANNING BOARD
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**SITE PLAN APPROVAL,
DOD SPECIAL PERMIT APPROVAL,
SPECIAL PERMIT FOR USE APPROVAL**

DECISION DATE: 7/5/2017
APPLICATION DATE: 4/20/2017
FILE NO'S: 2017-SPR-01, 2017-SP-03, 2017-SP-04
APPLICANT: City of Newburyport, Office of Planning & Development
MAILING ADDRESS: 60 Pleasant Street, Newburyport, MA 01950
PROPERTY ADDRESS: 83 Merrimac and 90 Pleasant Street
MAP/PARCEL(S): 47-38, 47-34
BOOK/PAGE: 23919-54 and 23921-21
ZONING DISTRICT: B2
BRIEF DESCRIPTION: demolition of an existing structure in the Downtown Overlay District to allow for the redevelopment of the site and construction of the Newburyport Intermodal Transit & Parking Facility, Use #413.
NOTICE: Notices were published on May 2, 2017 and May 9, 2017 in the Newburyport Daily News.
PUBLIC HEARING: A public hearing was held on the above application on 5/17/2017 at Newburyport City Hall and continued to 6/7/17, 6/21/17, and 7/5/17.
DECISION: After the close of the public hearing, upon a motion made by member Verde and seconded by member Shapiro, the Planning Board voted to approve the Site Plan, DOD Special Permit, and the Special Permit for Use #413.

The motion having received a majority vote of all the members of the Planning Board, in accordance with Section X-H.7, XV-I, and XXVII-F of the Newburyport Zoning Ordinance, the application for Site Plan review was therefore **approved**.

RECORD OF VOTE: The following members of the Planning Board voted as follows with respect to the petition for Site Plan approval subject to the agreed-upon terms and conditions stated below:

Jim McCarthy	Yes	Bonnie Sontag	<u>Yes</u>	Don Walters	<u>Yes</u>
James Brugger	<u>Yes</u>	Andrew Shapiro	<u>Yes</u>	Leah McGavern	<u>Yes</u>
MJ Verde	<u>Yes</u>	Joe Lamb	<u>Yes</u>	Anne Gardner	<u>Yes</u>

PROCEDURAL HISTORY

1. Applications for Site Plan review pursuant to Section XV, Special Permit for Use pursuant to Section X-H, and Special Permit for the Downtown Overlay District pursuant to section XXVII of the City of Newburyport's Zoning Ordinance was made by the above-referenced owner and filed with the Planning Board on 4/20/2017. The Board deemed the site plan review application complete on 5/3/2017.
2. A public hearing on all three of the applications was opened on 5/17/2017.
3. All three applications are approved subject to compliance with the following plans, drawings, and documents:
 - Existing Conditions Plan, Sheet 1 of 1, Feldman Land Surveyors, 112 Shawmut Avenue, Boston, MA, 02118, revised to 12/7/16.
 - Plan set provided by Desman Design Management, 18 Tremont Street, Suite 300, Boston, MA 02108, Allen & Major Associates, Inc., 100 Commerce Way, Woburn, MA 01801, and R.W. Sullivan Engineering, The Schrafft Center, 529 Main Street, Suite 203, Boston, MA, 02129, containing the following plans:
 - Layout & Materials Plan, Sheet C-02, revised to 7/5/17
 - Grading & Drainage Plan, Sheet C-03, 12/9/16
 - Utilities Plan, Sheet C-04, 12/9/16
 - Overall Landscape Plan, Sheet C-05, 12/9/16
 - Detailed Landscape Plan, Sheet C-06, 12/9/16
 - Landscape Plan, Sheet C-07, revised to 7/5/17
 - Lower Level Plan, Sheet A-100, 12/9/16
 - First Level Plan, Sheet A-101, 12/9/16
 - Second Level Plan, Sheet A-102, 12/9/16
 - Roof Level Plan, Sheet A-103, 12/9/16
 - Electrical Site Plan, Sheet E-001, 12/9/16
 - Set of Architectural Renderings provided by Desman Design Management, 18 Tremont Street, Suite 300, Boston, MA 02108 and Fennick McCredie Architecture, Ltd, 70 Franklin Street, Boston, MA 02110, containing the following sheets:
 - Building Elevations, revised to 7/5/17
 - Merrimac St. Elevation, revised to 7/5/17
 - Storefront Condition at Merrimac St., revised to 7/5/17
 - Merrimac St. View from Titcomb St., revised to 7/5/17
 - Merrimac St. View from Market St., revised to 7/5/17
 - View from Brown Square, revised to 7/5/17
 - Lobby Floor Plan, revised to 7/5/17
 - Façade Materials Detail Sheet, 7/5/17

- MVRTA Newburyport Intermodal Parking Facility Code Analysis, Prepared by Desman Inc., 18 Tremont Street, Suite 300, Boston, MA 02108, dated 12/9/16.
 - Construction Cost Analysis, Prepared for Desman Associates, Prepared by Vermeulens, 470 Atlantic Avenue, 4th Floor, Boston, MA 02210.
 - MVRTA Newburyport Intermodal Parking Facility: Energy Design Narrative, Prepared for Desman Associates, Prepared by R.W. Sullivan Engineering, The Schrafft Center, 529 Main Street, Suite 203, Boston, MA, 02129, dated 12/9/16.
 - Traffic Impact and Access Study: MVRTA Intermodal Parking Facility, Prepared for Desman Associates, Prepared by Tetra Tech, 100 Nickerson Road, Marlborough, MA 01752, dated November 2016.
4. The plans and submission material were reviewed by the Planning Board, in addition to the following peer reviews:
- Comments from City Officials, including: Wayne Amaral, Deputy Director, DPS, 4/21/17; Crispin Miller, Chair, Tree Commission, 4/26/17; Molly Ettenborough, Recycling and Energy Manager, 5/2/17; Deputy Steve Bradbury, Fire Department, 5/2/17; Dan Lynch, Distribution System Manager, 5/4/17; Jon-Eric White, City Engineer, 5/8/17.
5. Throughout its deliberations the Planning Board has been mindful of the statements of the applicants and their representatives, and the comments of the general public, all as made at the public hearings.

FINDINGS

The Planning Board has found that the project complies with the findings and criteria as found in the Newburyport Zoning Ordinance sections X-H.7 (Special Permit Findings), XV-G (Site Plan Review Criteria), XXVII-F (DOD Special Permit Criteria), and XI (Performance Standards) as follows:

X-H.7: Special Permit Findings

- As there is no public parking garage in downtown, the proposed facility will not by its addition to the neighborhood cause an excess of that particular use that could be detrimental to the character of the neighborhood.
- The parking garage, through significant input from the Board, the NHC, the City Council, and residents, will be a dramatic visual improvement along Merrimac and Titcomb Streets, as evidenced by the provided architectural elevations and details.
- The level of architectural detailing, which is unusual for a parking garage, will be compatible with surrounding architecture and the downtown in general; as such, it will not impair the integrity or character of the district or adjoining districts, nor be detrimental to the health or general welfare.
- The facility will not overload any public water, drainage, or sewer system or any other municipal system to such an extent that the garage itself, or any developed use in the immediate area or in any other area of the City, will be unduly subjected to hazards affecting health, safety, or the general welfare of the community.
- The parking garage has already received several votes of approval from the Newburyport City Council, including site designation and design funding, and benefits from approximately

\$7 million in state and federal funding; thus, this project is clearly essential and/or desirable to the public convenience or welfare.

- The facility will help to lessen the traffic impact on Market Square by allowing visitors to park closer to Route 1, removing the need to navigate through the core of the downtown in the effort to find parking. The project includes sidewalk improvements and traffic calming measures on surrounding streets, and based on the findings of the initial traffic study, this project will not create undue traffic congestion or unduly impair pedestrian safety.
- The construction of this facility will benefit the downtown as well as the entire community by the removal of no less than 100 parking spaces located on the waterfront, which may allow further expansion of park and green space along the Merrimack River.

XV-G: Site Plan Review Criteria

- *Community Character* – The facility has been designed in such a way as to minimize, as much as possible, the disturbance of scenic views and is in harmony with the architectural style of downtown Newburyport. The height and size of the facility is appropriate as compared to various buildings in the downtown, as is the choice of brick façade so that the facility will match the City’s historic architecture.
- *Traffic, Parking, and Public Access* – The 207-space facility will house public parking that would otherwise continue to be accommodated on the central waterfront and other downtown surface parking lots. While this facility will provide parking for the downtown, it is not in itself a traffic generator. The facility, with entry/exit points on both Merrimac Street and Titcomb Street, will allow for efficient flow of vehicular traffic into, out of, and around the garage. The ‘cut-out’ along Merrimack Street will enable buses to pull off of the main road to load and unload passengers without impeding the natural flow of traffic eastward toward the center of the downtown. In addition to the public transit option, the facility will include the conduit for electric vehicle charging stations and bicycle parking facilities to encourage alternatives to single-occupant vehicles.
- *Health, Public Services and Utilities* – The facility will not overload any public water, drainage, or sewer system, or any other municipal system to such an extent that the garage or any other use in the immediate area or in any other area of the City will be unduly subjected to hazards affecting health, safety, or the general welfare. The proposed use will require minimal use of public water and sewer – only associated with fire suppression and a public bathroom – and will mitigate any existing drainage problems on the site through the inclusion of a stormwater management plan and integrated collection system.
- *Land Use Planning* – This project is compatible with land use goals for the City in that it will remove surface parking from the waterfront and direct vehicular traffic to the edge of the downtown core, which will improve pedestrian safety throughout the downtown area. The inclusion of a bus stop, electrical vehicle charging stations, and bike parking facilities will also further discourage vehicular traffic from entering the core downtown area. Further, from a planning and urban design perspective, construction of this facility will allow a reduction in the “footprint” of downtown parking. New spaces within this facility will allow a corresponding reduction in parking spaces on the central waterfront thereby expediting park expansion in cooperation with the Newburyport Redevelopment Authority (NRA) and Waterfront Trust (WFT).
- *Open Space and Environmental Protection* – The project is sited at a currently 100% impervious parcel in the downtown. The property is already developed so therefore there will be no development on a parcel that is used for open space. Additionally, it is surrounded by parcels that are fully built-out and thus will not interrupt any areas of contiguous open

space. The property is not near the Merrimack River thus there is no threat to the health and safety of the river.

XXVII-F: DOD Special Permit Criteria

- The Massachusetts Historical Commission (MHC) has stated that the former Port Cinema Theatre, currently known as The Fitness Factory, does not meet the criteria to be eligible for listing on the National Register of Historic Places. The Board may approve the demolition of this structure since it has been deemed not historically significant and preferably preserved.
- The plans and documents submitted to support this application illustrate a replacement structure that respects the architectural style, through design details and façade materials, of the surrounding historic neighborhood. The new facility will be compatible with both the neighborhood and the community at-large.
- The size and scale of the facility is compatible with other buildings and structures in the downtown. Its height will not negative impact views to the river as other, taller structures are located between the facility and the water.

XI: Performance Standards

- *Fire and Explosive Hazards* – there will be no storage of flammable and explosive materials during construction or operation of the completed facility.
- *Radioactivity or Electrical Disturbances* – there will be no radioactivity or electrical disturbances during construction or operation of the completed facility.
- *Smoke* – there will be no emission of visible smoke during construction or operation of the completed facility.
- *Fly Ash, Dust, Fumes, Vapors, Gases and Other Forms of Air Pollution* – the construction of the facility will follow all applicable regulations regarding the control of construction-related dust and other forms of air pollution. The project will be constructed and operated in accordance with local, federal and state laws regarding air quality typical of public parking facilities. Because this facility will reduce idling and congestion in Market Square while encouraging the use of public transit, electric vehicles, and bicycles it should help to improve overall air quality in downtown Newburyport.
- *Liquid or Solid Wastes* – there will be no discharge into any public or private sewage system, stream, or the ground of liquid or solid waste during construction or operation of the completed facility.
- *Vibration* – the contractor will follow all applicable regulations regarding vibrations during the construction phase of this project.
- *Noise* – the contractor will follow all sound pressure levels for noise radiated from the facility during the construction phase of this project. Additionally, all noise regulations shall be adhered to during the operation of the completed facility.
- *Odors* – there will be no emission of odors in such quantities as to be offensive during the construction or operation of the completed facility.
- *Glare* – the lighting, which will be submitted to the Board during the final design phase, will be designed so that the locations and the fixtures will be directed to shine on the facility itself, not on abutting properties or the public way.

WAIVERS

The Board reviewed and granted the following waivers as requested in the applicant's submission:

- Application Fees

- The following reports and documents that will be submitted during the final design phase, as detailed in Special Condition #1 below:
 - Drainage Report
 - Signage Details
 - Lighting Details
- Environmental and Community Impact Analysis

GENERAL CONDITIONS

In view of the foregoing Findings, the Planning Board hereby decides to grant Site Plan and Special Permit approvals in accordance with the Newburyport Zoning Ordinance and the terms and conditions stated below, all as agreed to by the applicant.

1. The applicant shall file this Site Plan approval decision with the Southern Essex County Registry of Deeds (or Land Court if registered land) and a copy of the decision stamped with the recording information (Book/Page or Land Court document number) shall be included with the application for a Building Permit. The final site/construction plans shall also make reference to the decision date and conditions of approval.
2. Prior to the granting of a Building Permit, the applicant shall submit the written certification of a registered Architect or Civil Engineer to the Building Commissioner that the project will be constructed in accordance with the approved plans and conditions.
3. Prior to any construction, the applicant shall provide the Office of Planning & Development with one (1) copy of the entire approved plan set in both CAD and .pdf formats. All digital mapping data must be delivered in the Massachusetts State Plane Coordinate system with a horizontal datum of NAD83, units of U.S. survey feet and a vertical datum of NAVD 88.
4. No building permit shall be issued unless all public utilities have been reviewed and approved by the respective utility departments and that the proposed utilities will be installed in accordance with plans submitted with the application. All utility work shall be done in compliance with regulations and instructions issued by the Department of Public Services, including (but not limited to) the installation of curbing, pavement, sidewalks, pavement markings, and other infrastructure.
5. Prior to the issuance of a building permit, Project Review Fees shall be paid in full subject to MGL c44 Sec. 53G.
6. All design and construction of all water utilities must meet Federal, State and local standards and the latest version of Newburyport Water Works Construction Guidelines and Construction Policies. Contractors are prohibited from operating or connecting to any part of the existing water system without written authorization and field oversight by the Department of Public Services Water Division.
7. All design and construction of all sewer utilities must meet Federal, State and Local standards and the latest version of Newburyport Sewer Department Construction Guidelines and Construction Policies. Contractors are prohibited from operating or connecting to any part of the existing sewer system without written authorization and field oversight by the Department of Public Services Sewer Division.
8. One hard copy and one .pdf copy of as-built plans stamped by a professional engineer showing new construction, renovation, or expansion shall be submitted to the Office of Planning and Development at the completion of the project. Said plans shall contain a

certification, made by a registered architect or civil engineer, that what was constructed is consistent with approved plans and conditions set forth by the Planning Board as part of this Site Plan approval.

9. Should there be any discrepancy in the above referenced plans and/or drawings, all landscaping, plantings and screening improvements shall be installed in accordance with the above referenced and approved drawing sheet C-07 entitled "Landscape Plan."
10. Any proposed material change to the use, size, configuration, footprint or height of the existing or proposed buildings shall require an amendment of this permit, this approval having been based on a review of the buildings and site design as presented to the board on the above referenced drawings.
11. This Site Plan and Special Permit approvals are valid for two years from the date from filing with the City Clerk, unless an extension is requested by the applicant and approved by the Board prior to expiration.

Special Conditions

1. Prior to issuance of a **Building Permit** for the proposed facility the applicant shall provide the following additional documents for review and approval of the Planning Board at a regular meeting without the need to advertise for a public hearing:
 - a. **Specifications for the proposed lighting fixtures**, including rooftop lights and façade lighting, along with a photometric plan to confirm that the proposed facility will not project any undue glare onto adjacent properties. If possible, the applicant shall install rooftop lighting fixtures only along the center "spandrel" line running east-west through the facility (*set back from the outside walls*). All rooftop lighting fixtures shall be "shoebox"-style dark sky glare-cutoff fixtures directing light onto the rooftop parking level and not onto adjacent properties.
 - b. **Design and/or specifications for the proposed façade signage.**
 - c. **A stormwater management plan**, including an Operation & Maintenance (O&M) Plan for any stormwater drainage systems associated with the proposed facility, along with confirmation of final peer review approval from the Board's consulting engineer (CSI).
2. Prior to issuance of an **Occupancy Permit** by any vehicles, including municipal, the applicant shall provide the following additional documents to the Planning Board:
 - a. The final **Phase II Traffic Impact Study**, addressing potential traffic from the proposed facility as well as "future build" conditions that may result from additional development proposed by New England Development (NED) in the so-called "Waterfront West" area and opening of the so-called "Merrimac Ale House" (*now under construction*). Said Study shall include consideration of potential traffic impacts to the intersection at Merrimac Street and Route One as well as the downtown area in general.
 - b. **A Traffic Flow Study and Management Plan.** The City shall provide evidence of a signed/executed contract in place with a traffic consultant with specific traffic flow management experience to develop a traffic flow study and management plan for downtown Newburyport. The minimum geographic scope shall include the area bounded by Kent Street, Merrimac St. (through Market Square) along Water Street, up Federal Street and along High Street back to Kent Street. The consultant shall

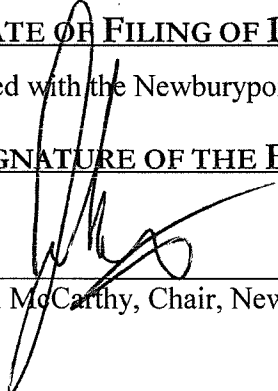
begin observations immediately after the garage is open. The consultant shall, if necessary make short term recommendations to improve traffic flow. The consultant shall study traffic for at least one full summer season (May 1 to Sept 30) at least six times during the anticipated peak congestion times. The consultant shall recommend traffic flow improvements including, but not limited to:

- i. Changing the direction of any street, making any street one way, or two way
 - ii. Removing or adding signalization to any pedestrian or street intersection
 - iii. Using technology to synchronize flow
 - iv. Considering the delivery schedule impacts of businesses in the geographic area
 - v. Changes to parking rates to minimize cruising for parking
- c. The results of an **air quality analysis** on and associated with operation of the proposed new parking facility at this location. The scope of the study shall include an estimate of how many cars idling for what amount of time would create need for additional engineering (*to mitigate air quality conditions at the proposed site*).
3. **Traffic Management During Construction:** During construction the applicant shall work with the Newburyport Police Department to manage construction activities both on- and off-site and to prevent traffic delays on surrounding streets.
4. **No Bus Idling:** The applicant shall prohibit idling of any buses using the proposed bus stop on Merrimac Street.
5. **Reduction in Waterfront Parking Spaces:** The City shall continue to work diligently and cooperatively with the Newburyport Redevelopment Authority (NRA) to identify no less than one hundred (100) spaces on the NRA's central waterfront parking lots which will be removed (*in order to facilitate park expansion thereon*) commensurate with opening of the proposed parking facility. Commensurate with the issuance of an Occupancy Permit for the proposed parking facility the City shall report to the Planning Board and City Council on the status and timeline for reduction of waterfront parking spaces in consultation with the NRA. Within 15 days of the flow study identified and submitted under Special Condition (2)(b) above, the City shall request that the NRA provide specific plans for the removal of no less than one hundred (100) spaces on the NRA's central waterfront parking lots, such plans to be provided to the City within seventy-five (75) days thereafter. The NRA's response and/or plans relative thereto shall be forwarded to the Planning Board, Mayor and City Council accordingly.

DATE OF FILING OF DECISION

Filed with the Newburyport City Clerk on 7/18/17.

SIGNATURE OF THE BOARD



Jim McCarthy, Chair, Newburyport Planning Board

7/18/17

Date

NOTICE OF APPELLATE RIGHTS

For appeals to the Site Plan Review Approval, as per Section XV-J of the Newburyport Zoning Ordinance, appeals shall be made directly to a court of competent jurisdiction in accordance with the provision of M.G.L. Chapter 40A Section 17. Appeals of the Special Permit decisions shall be made pursuant to M.G.L. Chapter 40A Section 17 and filed within twenty (20) days after the date of filing this decision in the Office of the City Clerk.

CITY CLERK CERTIFICATION OF APPEAL PERIOD EXPIRATION

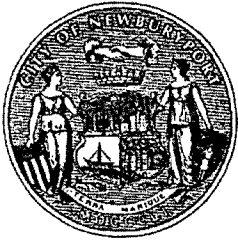
I, _____, City Clerk of the City of Newburyport, hereby certify pursuant to M.G.L. Chapter 40A Section 17, that the Special Permit for Use, Downtown Overlay District Special Permit, and Site Plan approval decisions for the property known as 83 Merrimac and 90 Pleasant Street was filed in the Office of the City Clerk on 7/18/17.

Pursuant to M.G.L. Chapter 40A Section 11, this decision was also filed in the Office of Planning and Development on and twenty days have elapsed after the decision was filed and NO APPEAL has been filed. Appeals shall be made pursuant to M.G.L. Chapter 40A Section 17 and made within twenty (20) days after the date of filing of this decision in the Office of the City Clerk.

Newburyport City Clerk

Date

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PLANNING BOARD
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**SPECIAL PERMIT AND SITE PLAN APPROVAL
NOTIFICATION OF DECISION**

NOTICE OF DECISION

You are hereby notified of the decision of the Planning Board on the application filed by the City of Newburyport, Office of Planning & Development for property located at **83 Merrimac and 90 Pleasant Street**, which was filed with the Board on 04/20/2017.

The Board held public hearings on the above referenced application on 5/17/2017 at Newburyport City Hall and continued to 6/7/17, 6/21/17, and 7/5/17 and 7/20/16 and voted to approve the following request:

Allow the demolition of an existing structure in the Downtown Overlay District to allow for the redevelopment of the site and construction of the Newburyport Intermodal Transit & Parking Facility, Use #413.

APPEALS

An appeal of this decision shall be made pursuant to M.G.L. Chapter 40A Section 17 and filed with the Superior or District Court and the Office of the City Clerk within twenty (20) days after the filing of the above with the Office of the City Clerk. This decision was filed on 7/18/17.

Copies of this decision and detailed records of proceedings of the Planning Board presented at the public hearing, which is being incorporated herein by reference and considered a part hereof, are on file with the Office of the City Clerk and the Office of Planning and Development.