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CITY OF NEWBURYPORT
PLANNING BOARD
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SITE PLAN APPROVAL FINDINGS & DECISION



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APPLICATION & DECISION SUMMARY

*file
Townland
Permits*

DECISION DATE: 12/5/2007

APPLICATION DATE: 6/28/2007

FILE NO: SPR 200704

APPLICANT: First Republic Corp. of America c/o Port Eng.

APPLICANT ADDRESS: 1 Harris Street, Newburyport MA 01950

PARCEL(S) ADDRESS: 260, 268, 270, 274, 276 Merrimac Street

MAP/LOT: 55-10, 58-7,9

BK/PAGE: 25802-266 and 12800-145

ZONING DISTRICT: TCROD

BRIEF DESCRIPTION: site plan approval for the construction of residential two-family and multi-family dwellings and associated site work.

NEWSPAPER NOTICE: 7/18/2007 and 7/25/2007

PUBLIC HEARING: Public hearings were held on the above application on 8/1/2007, 9/5/2007, 10/17/2007 and 12/5/2007.

DECISION: After the close of the public hearing, upon a motion made by member James McCarthy and seconded by Daniel Bowie, the Planning Board voted to approve the site plan.

The motion having **received** a majority vote of all the members of the Planning Board, in accordance with Section XV-I of the Newburyport Zoning Ordinance, the application for Site Plan Approval was therefore **granted**.

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

Susan Grolnic	<u>No</u>	Bonnie Sontag	<u>Yes</u>	James McCarthy	<u>Yes</u>
Don Walters	<u>Yes</u>	Jeffrey L. Roelofs	<u>Not Voting</u>	Brian Tierney	<u>Yes</u>
Anne Gardner	<u>Yes</u>	Henry Coe	<u>Yes</u>	Daniel Bowie	<u>Yes</u>

PROCEDURAL HISTORY

1. Application for Major Site Plan Review pursuant to Section XV of the City of Newburyport's Zoning Ordinance was made by the above-referenced owner and filed with the Planning Board on 6/28/2007. The Board deemed the application complete on 8/1/2007.
2. Public hearings on the Site Plan application were held on: 8/1/2007, 9/5/2007, 10/17/2007 and 12/5/2007. The Planning Board appointed members to a Project Subcommittee, which held public meetings on 10/11/2007 and 11/29/2007.
3. This site plan application is accompanied and augmented by the following plans, drawings and materials:
 - "Towle Riverwalk Condominiums," prepared by Port Engineering Associates, Inc., One Harris Street, Newburyport, MA on behalf of First Republic Corporation of America, 302 Fifth Avenue, New York, NY, dated 12/07/06 and revised through 10/01/2007, Sheets C1 – C10.
 - "Proposed Landscape Master Plan," prepared by Holzaepfel Design, 1 Cate Street, Portsmouth, NH, dated 05/29/2007 and revised 11/16/2007, Sheets L1 – L7.
 - Floor Plans for Units 1-2, Sheets A2.0 – A2.2; Units 3-4, Sheet A2.1; Units 5-6, Sheets A2.1-A2.2; Units 7-15, Sheets A2.0 – A2.5; and the Towle Maintenance Building, Sheet A1.1, prepared by TMS Architects, 1 Cate Street, Portsmouth, NH, dated 10/27/2006.
 - Exterior Elevations for Units 1-2, Sheets A3.0 – A3.1; Units 3-4, Sheet A3.0; Units 5-6, Sheets A3.0 – A3.1; Units 7-15, Sheets A3.0 – A3.1; and the Towle Maintenance Building, Sheet A3.0, prepared by TMS Architects, 1 Cate Street, Portsmouth, NH, dated 10/27/2006.
 - "Electrical Site Plan and Details," and "Footcandle Site Plan and Details," prepared by McCabe Associations Consulting Engineers, 15 Ermer Road, Salem, NH, Undated, Sheets E-5 and E-6.
 - Written documentation addressing special permit criteria, submitted by David Ouellette, PE, Port Engineering Associates, Inc., dated 06/20/2007.
 - Response to Peer Review Comments submitted by David Ouellette, PE, dated 10/02/2007, including:
 1. Attachment A – Intersection Sight Distance Measurement;
 2. Attachment B – Sight Distance Exhibit, dated 09/26/2007;
 3. Attachment C – List of Waiver Requests, dated 10/02/2007;
 4. Attachment D – Lighting Details/Specifications;
 5. Attachment E – Sequence of Construction and Erosion Control Implementation for Towle Riverwalk Condominiums, dated 10/01/2007;
 6. Attachment F – Existing Signage on Site as of 10/02/2007.
 - Draft Legal Documents submitted by Michael Meagher, Esq., 85 East India Row, Boston, MA on 10/01/2007:
 1. Mutual License Agreement;
 2. Newburyport Sidewalk Easement (Revised 10/17/2007);
 3. Newburyport Preservation Restriction Agreement;
 4. Planning Board Covenant;
 5. Massachusetts Affordable Housing Deed Rider.

4. The plans and other submission material were reviewed by City Departments, the Planning Board's consulting engineer and the City Solicitor as follows:
 - Letter from John Moak, Mayor, addressed to John Martin, First Republic Corporation of America, regarding "Towle Riverwalk Condominiums – Donation of Barn and Public Restrooms," dated 07/18/2007.
 - Planning Office Comments, dated 07/13/2007, and Project Summary Report, dated 10/12/2007.
 - Health Department Comments, submitted by Jack Morris, Director, dated 07/03/2007.
 - Department of Public Services Comments, submitted by Aaron Cilluffo, Utilities Engineer, dated 11/20/2007.
 - Peer Review Reports from Tony Capachietti of Christiansen & Sergi, Inc., 160 Summer Street, Haverhill, MA, dated 08/28/2007, 09/05/2007, and 10/12/2007.
 - Solicitor Review from Kopelman & Paige, 101 Arch Street, Boston, MA, dated 11/30/2007.
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 hearing.

FINDINGS

General

The development site consists of approximately 7.5 acres that currently supports medical offices housed in a historic mill building. First Republic Corporation of America proposes additional development, including a maintenance building and reconfigured parking lots to support the medical offices, and fifteen residential units.

Access to the existing and proposed development will be provided by a shared driveway located off of Merrimac Street. As shown on the site plan, said driveway is of suitable pavement width, grade, layout and drainage so as to be acceptable to the Planning Board for access purposes to the rear condominium buildings.

Site Plan Review Criteria

Section XV-G states that the Planning Board, in making a final determination regarding site plan approval, shall require that the site plan promote the objectives of community character; traffic, parking, and public access; health; public services and utilities; land use planning; open space and environmental protection as more fully set forth in Section XV-G subsections a-f.

Specific Findings

The Board considered all applicable criteria and finds that the application either meets the requisite criteria or will upon fulfillment of reasonable conditions included in this site plan review decision, all as agreed to by the Applicant.

WAIVERS

The Board reviewed and granted the following waivers as requested in correspondence dated 10/02/2007:

- 1) § XV-E.a.4: Requirement that registered landscape architect prepare the planting plan;
- 2) § XV-E.a.10: Submission of 10 and 100-year storm event calculations;
- 3) § XV-H.a.2: Maximum curb cut width for site drive onto Sally Snyder Way;
- 4) § XV-H.c.2: Requirement that light poles in parking area be 18' – 22' in height;
- 5) § XV-H.d.4: Two portions of the parking lot with more than 20 parking spaces between landscaped islands;
- 6) § XV-H.f: Maximization of groundwater recharge.

DECISION

In view of the foregoing Findings, the Planning Board hereby decides to **grant** Site Plan Approval in accordance with Section XV-L and the terms and conditions stated below, all as agreed to by the applicant.

General Conditions

- 1) The applicant shall file this Site Plan Review Decision with the Southern Essex County Registry of Deeds or registry of the 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 construction plans were prepared in accordance with the project approved plans and conditions.
- 3) Prior to the granting of a Building Permit, the applicant shall confirm with the Planning Department that all engineering peer review fees have been paid in full. The Applicant also agrees to pay legal fees incurred during the review of this project in an amount not to exceed \$5,000.00.
- 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.
- 5) Record plans stamped by a professional engineer showing new construction, renovation or expansion shall be submitted to the Building Commissioner and the Planning Board. 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 Site Plan Review and associated TCROD Special Permit issued December 5, 2007.
- 6) The Planning Board requires the developer to submit all drawings and plans in computer aided drafting (CAD) formats. Specific file format shall be .DXF unless otherwise determined by the Planning Office.
- 7) 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, which are available at the Water Works office in City Hall. Contractors are prohibited from operating or connecting to any part of the existing water system without written authorization and field oversight by the Water Works Department.
- 8) 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, which are available at the Sewer Plant located on Water St. Contractors are prohibited from operating or connecting to any part of the existing sewer system without written authorization and field oversight by the Sewer Department.


Specific Conditions

- 1) All work shall comply with the Development, Landscaping, Elevation and other Site Plans Plans referenced above in the Procedural History, in addition to the provisions and conditions made in the Section XXV: TCROD Special Permit, as granted on December 5, 2007.

DATE OF FILING OF DECISION

Filed with the Newburyport City Clerk on: 12/10/2007

SIGNATURE OF THE BOARD


Daniel Bowie, Chair, Newburyport Planning Board 12/10/07 Date

NOTICE OF APPELLATE RIGHTS

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.

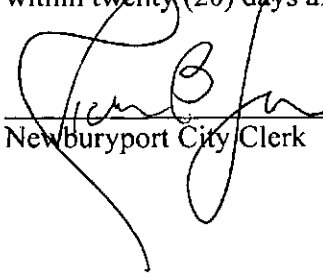
**CITY OF NEWBURYPORT PLANNING BOARD
RECORD OF PROCEEDINGS AND DECISION FOR SITE PLAN REVIEW**

Certification of the City Clerk: I, Richard B Jones, City Clerk of the City of Newburyport, hereby certify pursuant to M.G.L. Chapter 40A Section 17, that the decision for the property known as:
260, 268, 270, 274, 276 Merrimac Street

was filed in the Office of the City Clerk on: 12/10/2007

This decision was also filed in the Office of Planning and Development on: 12/10/2007

And that twenty days have elapsed after the decision was filed and NO APPEAL has been filed. Appeals shall be made pursuant to Newburyport Zoning Ordinance Section XV-J and 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 6/12/2008 Date