



CITY OF NEWBURYPORT  
 PLANNING BOARD  
 60 PLEASANT STREET • P.O. BOX 550  
 NEWBURYPORT, MA 01950  
 (978) 465-4400 • (978) 465-4452 (FAX)

RECEIVED  
 CITY CLERK'S OFFICE  
 NEWBURYPORT, MA  
 2014 OCT 10 A 11:45

**SITE PLAN APPROVAL**

**DECISION DATE:** 10/1/2014

**APPLICATION DATE:** 4/9/2014

**FILE NO:** 2014-SPR-02

**APPLICANT:** Tropic Star Development, LLC

**MAILING ADDRESS:** 321D Lafayette Road, Hampton, NH 03842

**PROPERTY ADDRESS:** 75, 79, 79R, 81, and 83 Storey Avenue

**MAP/PARCEL(S):** 109-2, 109-3, 109-3-A, 109-4, and 109-5

**BOOK/PAGE:** 29309-305, 5529-663, 7006-664, and 15942-475

**ZONING DISTRICT:** B1

**BRIEF DESCRIPTION:** Major Site Plan Review for the construction of a pharmacy with drive-up prescription window and a service station with a convenience store

**NOTICE:** Notices were published on April 22, 2014 and April 29, 2014 in the Newburyport Daily News.

**PUBLIC HEARING:** A public hearing was held on the above application on 5/7/2014 at Newburyport City Hall and continued to 5/21/14, 6/4/14, 6/18/14, 7/16/14, 8/6/14 (no substantive discussion,) 8/20/14 (no substantive discussion,) 9/17/14, and 10/1/14.

**DECISION:** After the close of the public hearing, upon a motion made by member Bonnie Sontag and seconded by Henry Coo, the Planning Board voted to approve the Site Plan and requested waivers.

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 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	<u>Yes</u>	Bonnie Sontag	<u>Yes</u>	Henry Coo	<u>Yes</u>
Don Walters	<u>Absent</u>	Sue Grolnic	<u>Yes</u>	Paul Dahn	<u>Yes</u>
Noah Luskin	<u>Absent</u>	Douglas Locy	<u>Absent</u>		

## PROCEDURAL HISTORY

1. Application for 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 4/9/2014. The Board deemed the application complete on 4/16/2014.
2. A public hearing on the Site Plan application was held on 5/7/2014 and continued to 5/21/14, 6/4/14, 6/18/14, 7/16/14, 8/6/14 (no substantive discussion,) 8/20/14 (no substantive discussion,) 9/17/14, and 10/1/14.
3. This site plan application is approved subject to the following plans, drawings, and documents:
  - Plan set titled, "Site Plan of Land, Storey Ave Fueling Center & Pharmacy, Tax Map 109, Lots 2, 3, 3A, 4 & 5, Storey Ave & Low St., Newburyport, MA", prepared by Jones & Beach Engineers, Inc., 85 Portsmouth Ave., PO Box 219, Stratham, NH 03885. This plan set includes the following sheets: "Cover Sheet," CS - Sheet 1 of 21, revised 9/26/14; "General Notes," G1 - Sheet 2 of 21, revised 9/24/14; "Existing Conditions Plan," C1 - Sheet 3 of 21, revised 9/24/14; "Demolition Plan," DM1 - Sheet 4 of 21, revised 9/24/14; "Overall Site Plan," C2-1 - Sheet 5 of 21, revised 9/24/14; "Site Plan," C2-2 - Sheet 6 of 21, revised 9/24/14; "Grading and Drainage Plan," C3 - Sheet 7 of 21, revised 9/24/14; "Utility Plan," C4 - Sheet 8 of 21, revised 9/26/14; "Turning Movement Plan," C5 - Sheet 9 of 21, revised 9/24/14; "Landscape Plan," L1 - Sheet 10 of 21, revised 9/17/14; "Landscape Details," L2 - Sheet 11 of 21, revised 9/17/14; "Landscape Details and Notes," L3 - Sheet 12 of 21, revised 9/17/14; "Lighting Plan," Sheet L4 - Sheet 13 of 21, revised 9/26/14; "Detail Sheet," D1 - Sheet 14 of 21, revised 9/24/14; "Detail Sheet," D2 - Sheet 15 of 21, revised 9/24/14; "Detail Sheet," D3 - Sheet 16 of 21, revised 9/24/14; "Detail Sheet," D4 - Sheet 17 of 21, revised 9/24/14; "Erosion and Sediment Control Details," E1 - Sheet 18 of 21, revised 9/24/14.
  - Plan set prepared by BKA Architects, Inc., 142 Crescent Street, Brockton, MA 02302 containing the following sheets: "Outline Plan" Sheet OL, dated 9/22/14; "Exterior Elevations" Sheet A-4.1, dated 9/22/14; "Floor Plan & Exterior Elevations" Sheet A4.1.1, dated 9/22/14.
  - "Drainage Analysis, Sediment and Erosion Control Plan", Prepared by Jones & Beach Engineers, Inc. 85 Portsmouth Avenue, PO Box 219, Stratham, NH 03885. Revised date 9/9/14. This analysis includes the following plans: "Existing Watershed Plan", W1-Sheet 1 of 3, dated 4/8/14; "Proposed Watershed Plan", W2-Sheet 2 of 3, dated 4/8/14; "Proposed Watershed Plan", W3-Sheet 1 of 3, dated 4/8/14.
  - "Amended Supplemental Traffic Impact Assessment, Proposed Commercial Development, Newburyport, MA", Prepared by Jeffrey S. Dirk, P.E., PTOE, FITE, Vanasse & Associates, Inc., 10 New England Business Center Drive, Suite 314, Andover, MA 01810. dated 9/9/14. This analysis includes an updated plan entitled "Figure 15, Route 113/Low Street Improvement Plan", Sheet 1 of 1, revised date 9/9/14.
  - Response Document from Jeffrey S. Dirk, P.E., PTOE, FITE, Vanasse & Associates, Inc., 10 New England Business Center Drive, Suite 314, Andover, MA 01810 regarding Dermot J. Kelly Associates, Inc. review of the Supplemental Traffic Impact Assessment, dated 9/30/14, with an updated "Figure 15", last revised September 29, 2014.
4. The plans and submission material were reviewed by the Planning Board, in addition to the following peer reviews:

- Peer Review Comments from Christiansen & Sergi, Inc. 160 Summer Street, Haverhill, MA 01830, dated 4/14/14, 4/24/14 and 10/1/14.
- Peer Review Comments from Tony Komornick, Merrimack Valley Planning Commission, 160 Main Street, Haverhill, MA 01830, dated 10/1/14.
- Response documents from Jones & Beach Engineers, Inc. dated 9/26/14 and 10/1/14.
- Comments from City Officials, including: Robert Bracey, Director of Public Health, dated 4/10/14; Lieutenant Mark Murray, Newburyport Police Department, dated 4/30/14; Deputy Chief Steven Bradbury, Newburyport Fire Department, dated 5/2/14 and 9/5/14; Peter Binette, ADA Coordinator, dated 5/1/14; Dan Lynch, Water Distribution Manager, dated 4/23/14, 9/23/14 and 9/25/14; Jamie Tuccolo, Collection System Superintendent, dated 9/23/14 and 9/25/14; and Jon-Eric White, City Engineer, dated 5/7/14 and 9/29/14.

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**

The Planning Board finds that the proposed project is consistent with land use planning goals and objectives identified in Section XV-G of the Newburyport Zoning Ordinance and the City's Master Plan and related long-range planning documents, and as further described below.

### **General:**

The project consists of the demolition of existing structures (including the existing Shell Station) and construction of new structures located at and near the intersection of Low Street and Storey Avenue. The first structure, located at the corner of the two streets on a lot to be created through an Approval Not Required plan, will be a one and a half story pharmacy building with approximately 12,900 square feet of area. The other structures, located further westward along Storey Avenue, will be a service station with a 3,000 square foot retail space and four fueling islands with a canopy. The site plan includes extensive landscaping, a storm water management system, and a comprehensive Transportation Improvement Program. Additionally, the project involves the gifting of approximately 20-acres of open space ("Lot 3A") to the City along with a donation of \$15,000 to be used for maintenance of the donated land (or as an endowment for Essex County Greenbelt Association to handle maintenance).

### **Community Character:**

The entire site has been designed in a manner that is appropriate and compatible with neighboring uses and properties. The corner-location of the pharmacy building will better define the intersection while creating a more pedestrian-welcoming atmosphere. The architecture, building materials and colors, and landscaping visually improve the site.

### **Traffic, Parking and Public Access:**

This project includes the closing of several curb cuts along Storey Avenue, construction of two shared, full access drives streamlining traffic both into and out of the site, and other significant transportation improvements, which will create a safer experience for both drivers and pedestrians. Once implemented, the improvements listed in the Transportation Improvement Program, will further improve the area for both vehicular and non-vehicular travel. The project involves walkways from

the major roads into the site and through it to the rear of the property where the donated open space may be accessed.

#### Health:

The project will not involve any substantial noise, vibration, smoke, gas, fumes odor, dust or other objectionable features. The approved gas station use will not be adding new health concerns as it is simply a relocation of an existing station on the site. Also, with the elimination of the auto service portion of the gas station and replacing it with a convenience store, potential health hazards are further limited. Lighting has been appropriately designed to facilitate the safe use of the property with minimal spill-over onto abutting lots. The development minimizes adverse air-quality impacts, noise, glare and odors and provides for the appropriate handling and disposal of hazardous materials and transmissions.

#### Public Services and Utilities:

The project will utilize municipal water and sewer services. The applicant is installing waterlines for both domestic and fire services to each of the buildings and modifying the water connections on Low Street and Storey Avenue. Since this project involves the change in use from four residential homes to two commercial buildings, the demand on public utilities is decreased.

#### Land Use Planning:

The project is consistent with general land use planning goals by being situated and designed in a manner that is compatible with adjoining land uses, by minimizing adverse environmental impacts, designing a stormwater management system that mimics the existing conditions, providing for safe and efficient vehicular and pedestrian access and circulation and including extensive site landscaping.

#### Open Space and Environmental Protection:

This project involves the donation of approximately 20-acres of open space to the city along with a \$15,000 donation to be used for maintenance of the property. The development itself minimizes adverse environmental impacts by replicating the current conditions on the site in the stormwater management plan and also installing landscaping throughout the site that will be both visually appealing and environmentally sensitive.

### WAIVERS

The Board reviewed and granted the following waivers as requested in the applicant's submission and further identified in the above listed peer review comments of Christiansen & Sergi, Inc.:

- Section XV-E.b.3 – Environmental and Community Impact Analysis - Note: The Planning Board has not required the submission of an Environmental and Community Impact Analysis (ECIA) under this provision of the Site Plan Review Ordinance or pursuant to Section 5.6 of the Newburyport Subdivision Rules and Regulations, based upon the overall scale of the proposed project and in recognition of the proposed public benefits and improvements associated therewith. Materials provided also addressed many issues typically addressed in an ECIA.
- Section XV-H.d.1 - Landscaping - Waiver is granted since the applicant substantially complies with these requirements by providing a 20' landscaped buffer, planting shade trees every 30' along the roadways with the exception of directly in front of the pharmacy building

on Storey Avenue, constructing a stone wall for aesthetic purposes and installing sidewalks to provide pedestrian access and connections along the public ways and into the site.

- Section XV-H.d.4 - Landscaped Islands in Parking Areas - Waiver is granted due to the applicant substantially complying with this requirement by providing extensive landscaping and shade trees near the parking area and also within it although some of the islands are not the required 9' in width.
- Section XV-E.a.3 - Signage Details - Waiver is granted since the respective operators of both the pharmacy and the service station shall apply for sign permits prior to the issuance of Occupancy Permits. The applicant is aware that any freestanding sign shall require a Variance from the Zoning Board of Appeals.
- Submittal requirements, Generally - Waiver is granted since the applicant has submitted all of the information and materials necessary for the Planning Board to review the project and evaluate its compliance with the applicable Site Plan Review criteria and performance standards.
- Section XV-H.a.2 – Pedestrian and vehicular access and traffic impacts – Allowing 24' drives instead of 30' wide drives.

## **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.

## **STANDARD CONDITIONS:**

1. The applicant shall file this Site Plan Approval with the Southern Essex County Registry of Deeds (or the Land Court if registered land.) 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. 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.
4. 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 DPS Water Division 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 DPS Water Division.
5. 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 DPS Sewer Division.

6. As-built record plans stamped by a professional engineer showing new construction, renovation or expansion shall be submitted to the Building Commissioner and the Planning Board after 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 review approval.

7. The Planning Board requires the developer to submit all approved drawings and as built plans in computer aided drafting (CAD) formats. Specific file format shall be .dwg or .dxf unless otherwise allowed. Such plans should be submitted to the Office of Planning & Development within 20 days of the issuance of this decision/approval. Further, in order to ensure consistency of plan sets approved by the Board and the Building Department, the applicant shall submit a copy of all plans submitted to the Building Department for Building Permit approval to the Office of Planning & Development in electronic (.pdf) format forthwith.

8. 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.

#### **SPECIAL CONDITIONS:**

1. Other than temporary construction project signage, no free-standing signage or building (facade) signage shall be constructed or installed by the applicant or tenants until such time as signage design and placement details have been reviewed and approved by the Planning Board. Submission of proposed signage may be submitted for each proposed use and building separately and need not be submitted for review concurrently. In accordance with the Newburyport Sign Ordinance, free-standing signage and any signage requiring a variance shall be subject to review not only by the Building Commissioner, but also by the Zoning Board of Appeals (ZBA).

2. The applicant shall install an in-ground irrigation system around the perimeter of the site, inclusive of both the pharmacy parcel and the gas station parcel, to ensure that the plantings as proposed on Sheets L1, L2 and L3 of the approved plan set, thrive and remain healthy into the future.

3. To ensure protected public access across the parcel(s) from the public ways to proposed Lot 3A – Open Space Area, as indicated on sheet C2-1 of the approved plan set, the applicant shall place Access Easement from Storey Avenue to Lot 3A and install sufficient signage, to be reviewed by the Office of Planning & Development, indicating the public space and related parking area prior to obtaining any Occupancy Permit(s) for the proposed new buildings.

4. The upper half of the pharmacy's windows along the Low Street and Storey Avenue façades shall be transparent to allow light to filter both into and out of the building.

5. The applicant shall implement the Transportation Improvement Program as submitted and approved by the Planning Board. In particular, the applicant shall adhere to the Recommendations as listed on pages 26 through 31 of the Amended Supplemental Traffic Impact Assessment, including the plan titled, "Figure 15, Route 113/Low Street Improvement Plan", both dated September 9, 2014 and the response document regarding Dermot J. Kelly Associates, Inc. review of the Supplemental Traffic Impact Assessment, dated 9/30/14, including an updated "Figure 15", last revised September 29, 2014, all prepared by Jeffrey S. Dirk, P.E., PTOE, FITE, Vanasse & Associates, Inc. 10 New England Business Center Drive, Suite 314, Andover, MA. The applicant shall notify the Director of Planning & Development at least forty eight (48) hours prior to any meeting with MassDOT

representatives wherein the proposed traffic improvements will be reviewed, the time and place of such meeting(s) identified, so that the Director may attend said meeting(s) and may participate in the discussion with or without a member of the Board (if available).

6. The applicant shall obtain approval from the Department of Public Services for all water and sewer connections prior to obtaining a Building Permit.

7. The applicant shall submit to the Newburyport Office of Planning & Development, for review and approval, detail sheets for the construction of window dormers, doors and related lighting fixtures on the Storey Avenue and Low Street sides of the pharmacy building in order to ensure sufficient depth to all related trim and moldings and the overall compatibility of proposed lighting fixtures at these locations.

8. This Approval is subject to:

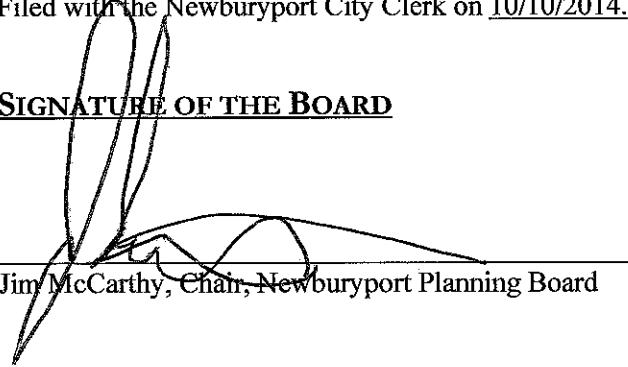
(1) the applicant preparing an updated set of plans incorporating the revisions that the applicant proposed making in response to the DPS comments dated September 29, 2014, as described further on page 1 of a 6-page response letter from Jones & Beach Engineers, Inc., dated October 1, 2014, and any revisions warranted based on the Christiansen & Sergi peer review comments dated October 1, 2014 respectively, accompanied by a written response to Christiansen & Sergi's comments,

(2) the Planning Department's administrative review of the revised plans and written response and determination that the revised plans appropriately incorporate warranted revisions based on Christiansen & Sergi's comments and that the revisions are minor in nature such that no amendment to the Approval is required. In the event the Planning Department determines that the revisions proposed are material in nature, the applicant must request an amendment to this Approval, such amendment to be issued only after a public hearing.

**DATE OF FILING OF DECISION**

Filed with the Newburyport City Clerk on 10/10/2014.

**SIGNATURE OF THE BOARD**



\_\_\_\_\_

Jim McCarthy, Chair, Newburyport Planning Board

10/10/2014  
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 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 Site Plan approval decision for the property known as 75, 79, 79R, 81, and 83 Storey Avenue was filed in the Office of the City Clerk on 10/10/2014 .

Pursuant to M.G.L. Chapter 40A Section 11, this decision was also filed in the Office of Planning and Development on 10/10/2014 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