

NOV 07 2017

Form revised 7/25/16

City of Newburyport Zoning Board of Appeals
Application for a VARIANCE

Newburyport Planning Dept.

Petitioner: Minco Development Corporation

Mailing Address: 231 Sutton Street, Suite 1B, North Andover, MA 01845

Phone: 978-687-6200 Email: nbpt@mincocorp.com

Property Address: 92R Merrimac Street, Newburyport, MA

Assessor's Map and Lot(s): Map 48 Lot 4 Zoning District: wmu&wwod

Book and Page(s): SERD Bk 30658 Pg 291 Years owned land: 31

Owner(s) Name: Rear 92 Merrimac Street Realty Trust, Robert W. Richard & Sheryl A. Richard, Trustee:

Mailing Address (if different): owner's address: 9 Hunter Dr., Newburyport, MA 01950

The petitioner is requesting a Variance from section(s):

Use Regulations (V)

Parking (VII)

PIOD (XXI)

- FAR
2 1/2 stories
Footprint expansion

Dimensional Controls (VI)

- Lot Area
Open Space
Lot Coverage
Height
Frontage
Front Yard
Side Yard
Rear Yard
Lot Width

Other:

Request:

To allow Use #104, Over 20 Units, in the WWOD district, requiring variances for lot area, street frontage, open space, front yard setback, and compact parking spaces.

Table with 3 columns: Description, Existing, Proposed. Rows include Ground Floor Square Feet, Number of Floors, Total Square Feet, and Use.

City of Newburyport Zoning Board of Appeals
Application for a VARIANCE

	Existing Dimensional Controls	Proposed Dimensional Controls	Required Dimensional Controls
Lot Area	24,925 SF or 0.57 ac	24,925 SF or 0.57 ac	174,240 SF or 4 ac
Frontage			
Height			
Lot Coverage (%)			
Open Space (%)			
Front Setback			
Side A Setback			
Side B Setback			
Rear Setback			
Parking Spaces			
FAR*	N/A	N/A	N/A

*FAR is only applicable in the Plum Island Overlay District (PIOD).

Any advice, opinion, or information given by any board member or any other official or employee of the City of Newburyport shall not be binding on the Zoning Board of Appeals. Every application for a Variance shall be made on this form, which is the official form of the ZBA. It shall be the responsibility of the petitioner to furnish all supporting documentation with this application. The dated copy of this application received by the City Clerk or Planning Office does not absolve the petitioner from this responsibility. The petitioner shall be responsible for all expenses for the filing, publishing, and legal notification. Failure to comply with the application requirements, as cited herein and in the Zoning Board Rules and Regulations may result in a dismissal of this application as incomplete.

Petitioner's and Owner's signature(s):

Louis P. D'Amore, Jr. President
 KP

M INCO DEVELOPMENT CORPORATION

MINCO DEVELOPMENT CORPORATION
231 SUTTON STREET, SUITE 1B
NORTH ANDOVER, MA 01845

978-687-6200 office

978-682-6473 fax

November 7, 2017

Ed Ramsdell, Chairperson
Newburyport Zoning Board of Appeals
60 Pleasant Street
Newburyport, MA 01950

Re: Second transmittal letter for 92R Merrimac Street application

Dear Mr. Ramsdell:

On June 2, 2017, we applied to the Zoning Board of Appeals for variances for 92R Merrimac St.

We would like to amend our application to withdraw the request for a height variance as the height of the building has been reduced to 40' from 45'. Our architect, Greg Smith, GSD Associates, LLC, met with Mr. Binette on September 26, 2017 to discuss a public accommodation that encompasses a ground level public use on portions of the site and within a portion of the building structure footprint. A pergola will be extended off the building structure over a portion of the public open space area on the eastern end of the property to provide shade and shelter for the public benefit. The inclusion of a ground level public amenity within the footprint of the building structure increases the allowable maximum building height to 40'.

The attached letter memorializes that meeting. Yesterday, Mr. Smith spoke with Mr. Binette about this letter and Mr. Binette agreed with its conclusions. He will provide a letter confirming their phone conversation.

Also, we are amending our application to withdraw our request for a rear yard variance and add a variance for compact parking spaces.

In addition, our civil engineer, Scott Cameron from the Morin-Cameron Group, Inc., met with Kate Day of Essex Natural Heritage Commission on October 18, 2017 to discuss their interest in having us host an Essex Heritage kiosk and/or interpretive signage in the proposed public accommodation area. A letter from Annie Harris, the CEO, is attached.

On November 1, 2017, we met informally with the Planning Board, having submitted the additional information they requested. They continued our meeting to December 6th, at which

time they will vote on the completeness of our application for special permits and site plan review.

Today, in support of our application for variances, we are submitting the following additional documents:

- Memo comparing 92R Merrimac St. to Horton's Yard (58 Merrimac St.);
- Letter to Peter Binette re public accommodation;
- Public accommodation plan;
- Letter from Essex Natural Heritage;
- Landscaping and lighting plan;
- Chart comparing WWOD to WMU;
- Memo in support of WWOD.

Our comparison of the requirements of WMU vs. WWOD supports our conclusion that WWOD is the appropriate zoning option for the following reasons:

- The height of the proposed structure has been reduced to 40' and therefore, a height variance is no longer required for WWOD;
- WWOD requires fewer variances than WMU;
- The proposed use in WWOD conforms to the intent of the Zoning Ordinance and Master Plan;
- WMU does not allow for the development of any economically feasible use;
- WMU requires a use variance for any structure over 6 units; and
- Location in the floodplain makes any use other than parking infeasible on the first floor.

Finally, our application meets the standards for variances.

Circumstances concerning soil conditions, the shape of the lot, OR the topography of the land:

- The site is irregular in shape and its frontage is on the "Summer Street Extension" which is functionally the northbound on-ramp to the Route 1 bridge;
- The site is accessed by a right of way, commonly known as Tournament Wharf;
- The site is more than 12' below the grade of Merrimac St.; and
- The site is located entirely in a floodplain.

Circumstances affect the land, but not the zoning district generally:

- Circumstances including the location below the grade of Merrimac t. and the location in the floodplain affect the parcels accessed via Tournament Wharf, and not the zoning district generally.

Zoning Board of Appeals

November 7, 2017

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Literal enforcement of the ordinance:

- Variances are required in both WMU and WWOD;
- Multifamily buildings of more than 20 units in WMU are required to follow the requirements of WWOD.

Granting relief:

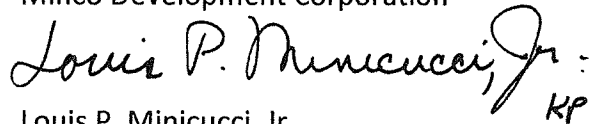
- Relief can be granted without substantial detriment to the public good:
 - The proposed project provides housing opportunities which are in high demand;
 - 10% of the units will be affordable units;
 - 95% of the proposed parking is under the structure;
 - A deteriorating structure will be removed;
 - The site will be improved both functionally and economically; and
 - The proposed use is consistent with other nearby residential uses.
- Nullifying or derogating from the intent or purpose of the ordinance:
 - The proposed use is consistent with the intent of both the Zoning Ordinance, specifically the Waterfront West Overlay District, and the Master Plan.

We look forward to discussing our application with the Zoning Board of Appeals on November 14th. If you have any questions, please contact me at 978-687-6200.

Thank you.

Sincerely,

Minco Development Corporation



Louis P. Minicucci, Jr.

President

LPM/kp

Attachments

**MINCO DEVELOPMENT CORPORATION
231 SUTTON STREET, SUITE 1B
NORTH ANDOVER, MA 01845**

978-687-6200 office

978-682-6473 fax

October 31, 2017

Bonnie Sontag, Chairperson
Newburyport Planning Board
60 Pleasant Street
Newburyport, MA 01950

Re: Memo comparing Horton's Yard to 92R Merrimac Street

Dear Ms. Sontag:

On June 27th, we appeared before the Zoning Board of Appeals with a petition for variances for our proposed project at 92R Merrimac St. (Map 48 Lot 4). At that hearing, testimony was given regarding Horton's Yard located at 58 Merrimac St. (Map 48 Lot 15), in which a resident of Horton's Yard stated that Horton's Yard is an abutter to 92R Merrimac St. Although we welcome all opinions given during the ZBA public hearing and anticipate the same at the Planning Board public hearing, Horton's Yard is not an abutter. See attached Assessor's map.

We offer the attached comparison between Horton's Yard and 92R Merrimac St. for your review. Our source for the information regarding Horton's Yard is the Special Permit issued by the ZBA on August 27, 1986 (ZBA File No. 86-049), the Master Deed for Horton's Yard (NERD Book 9603 Page 317), the Declaration of Trust NERD Book 9303 Page 344, the Amended Master Deed (NERD Book 9611 Page 11), the recorded plan (NERD Plan Book 241 Plan 63) and the recorded modified plan (NERD Plan Book 241 Plan 86).

As you may recall, Horton's Yard at 58 Merrimac St. and Merrimac Landing at 1 Merrimac St. were designed by the same architect and are similar in size and appearance, the only major difference being that the second floor units at Horton's Yard are residential and the second floor units at Merrimac Landing are office.

Our architect, GSD Associates, LLC, has prepared the attached cross section showing the relationship of the improvements proposed at 92R Merrimac St. and the improvements permitted at Horton's Yard. Also attached is a chart comparing the two buildings.

Newburyport Planning Board

October 31, 2017

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As you can see from this comparison, the buildings are similar in several ways. Both are rectangular multistory buildings, are on similar size lots and have a similar residential parking ratio.

However, although 92R Merrimac St. is slightly larger in square footage, Horton's Yard is taller than the building proposed for 92R Merrimac St. (46' vs. 40'). Also, since the mean grade level for 92R Merrimac St. is at least 12' below Merrimac St., its height appears shorter, which makes its apparent height from Merrimac St. to be 28'.

Finally, as it is situated perpendicular to the Merrimack River and Merrimac St. and not parallel to the river and street as is Horton's Yard, its visual impact is lessened.

We look forward to discussing our applications with the Planning Board. If you have any questions, please contact me at 978-687-6200. Thank you.

Sincerely,

Minco Development Corporation

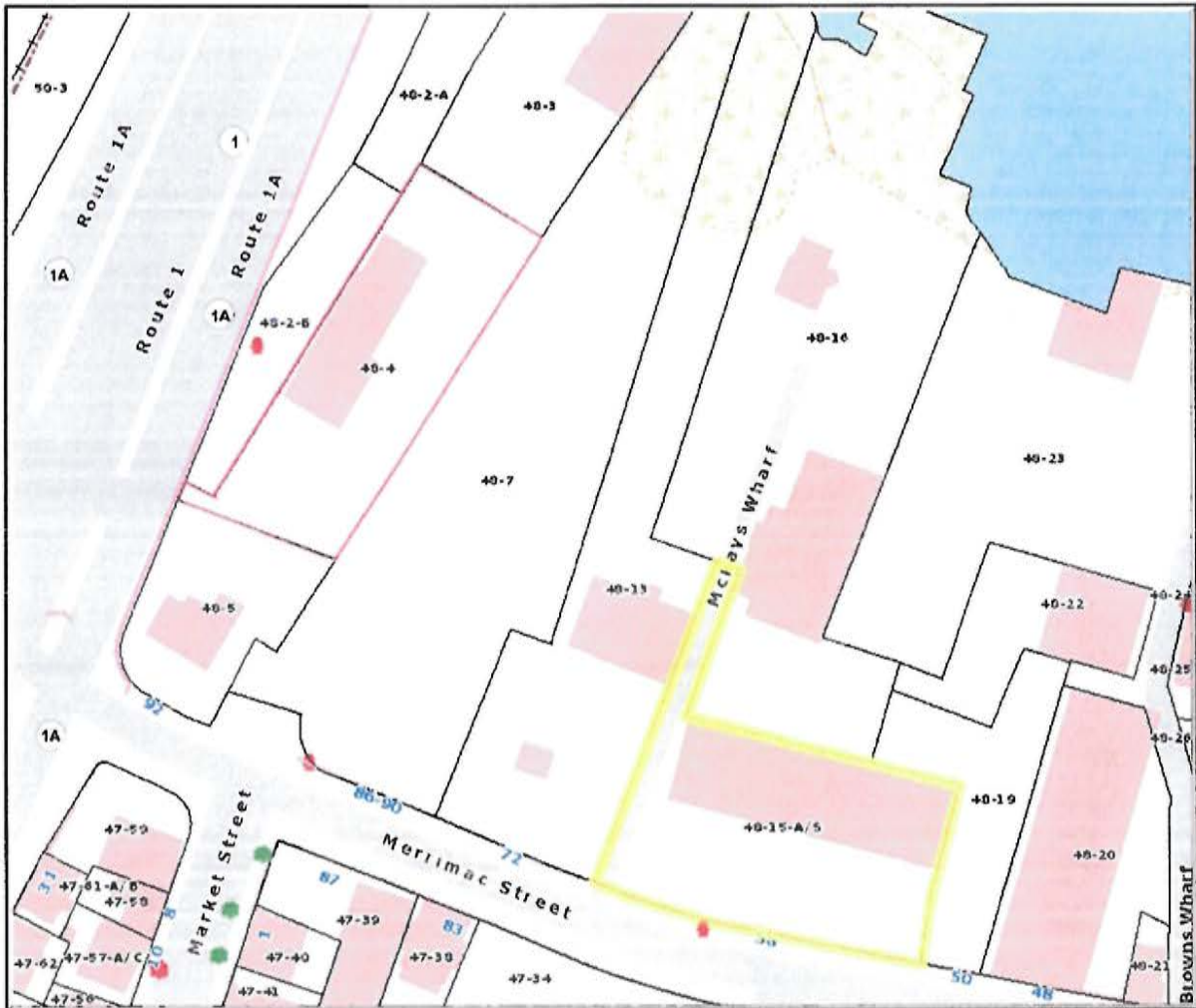

Louis P. Minietucci, Jr.

President

LPM/kp

Attachments

Assessor's Map
92R Merrimac St. (Outlined in dark pink)
Horton's Yard (outlined in yellow)



Compare Horton's Yard to 92R Merrimac St.
 October 31, 2017

	Horton's Yard	92R Merrimac St.	Notes
Zoning	B-2	WWOD	
Permits	ZBA-SP 1986	ZBA variance PB special permit	
Lot Size (sq.ft.)	26,000	24,952	1
Height (grade level to roof)	58	53	2
Height (first floor to roof)	46	40	3
Size including garage	46,928	49,640	4
# Units Residential	16	25	
# Units Commercial	4	0	5
# Units Total	20	25	
# Parking Spaces Commercial (surface)	28	0	
# Parking Spaces Residential	24	39	6
Parking Ratio (residential)	1.50	1.56	

Note 1: The Horton's Yard lot area varies by the source:
 Assessor's record = 0.68 acres or 29,621 SF
 Special Permit application = 26,000 SF

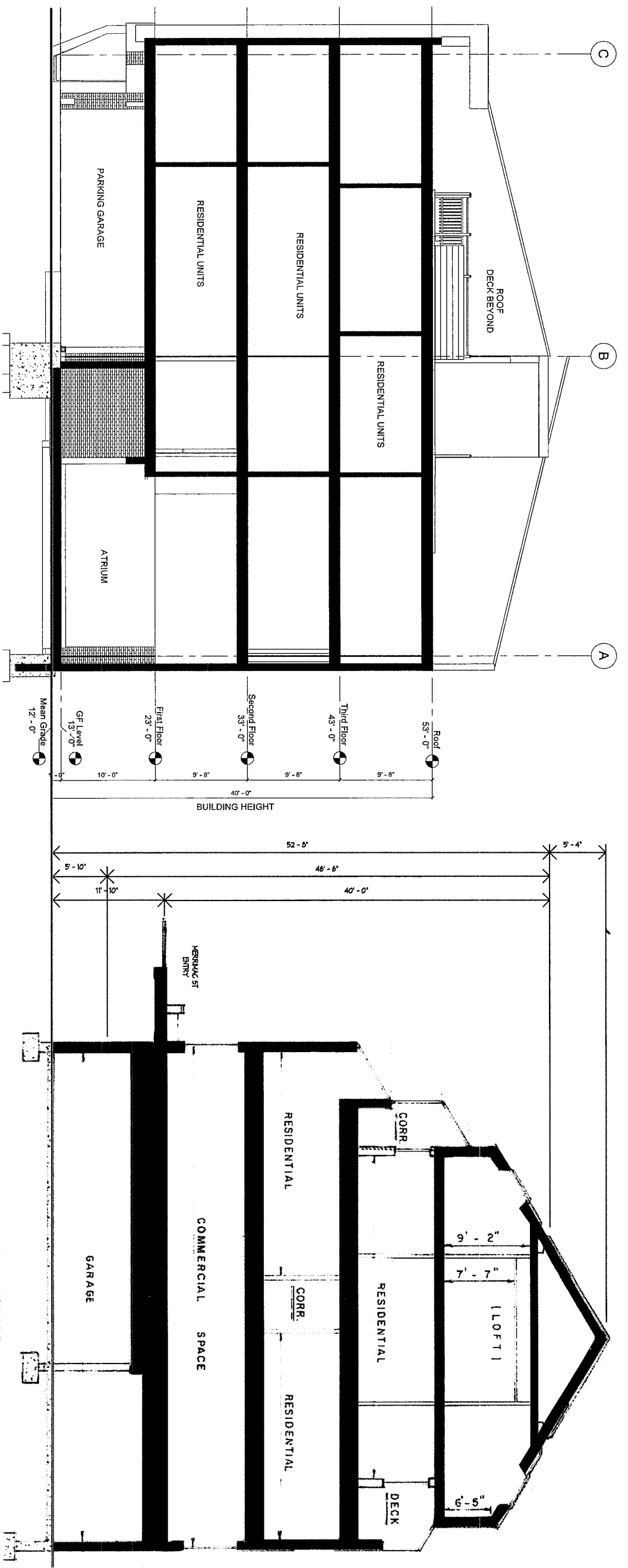
Note 2: Horton's Yard building dimensions are recorded in
 NERD Plan Bk 241 Plan 63 & Plan Bk 241 Plan 86

Note 3: Horton's Yard height from grade level to roof peak is
 measured from ground level at the rear of the building

Note 4: Horton's Yard size is an estimate from the recorded plans

Note 5: Horton's Yard originally had 4 commercial units, some of
 which were subdivided and then recombined

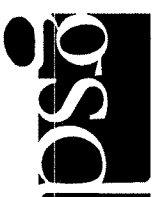
Note 6: At 92R Merrimac St., there are 37 garage spaces and
 2 surface spaces; at Horton's Yard, all residential spaces are
 garage spaces



2 92 Rear Merrimac Section
SCALE: 3/16" = 1'-0"

(FROM CONDOMINIUM DOCUMENTS DEED REFERENCE: 9603 BK 317 PAGE)

P:\MINCO\92 Merrimack St Newburyport\40 - Design Development\Linked 92r Model.rvt



architect:
GSD Associates, LLC
146 Main Street
North Andover, MA 01845
Tel: 978-688-5422
www.gsd-assoc.com

consultant:

sheet title:
Ground Floor w/ Public Accommodation

project name:
project:
Proposed Residential Development
92 Merrimac St.
Newburyport, MA

issue date: 10/16/17
revisions:

job number: GSD-13-130



October 26, 2017

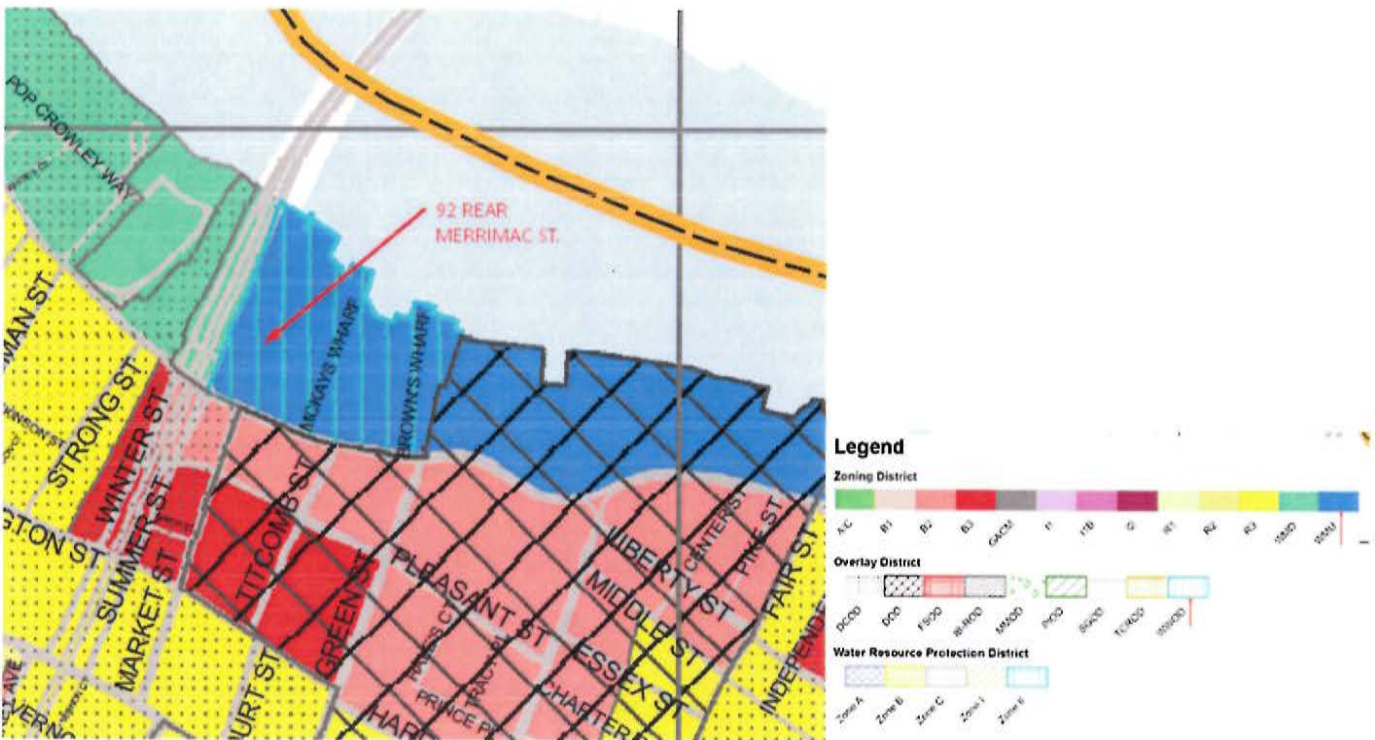
Peter Binette, Building Inspector
 Building Department
 60 Pleasant St
 Lower Level
 Newburyport, MA 01950

RE: 92 Rear Merrimac St. Newburyport, MA Zoning and Height of Building.

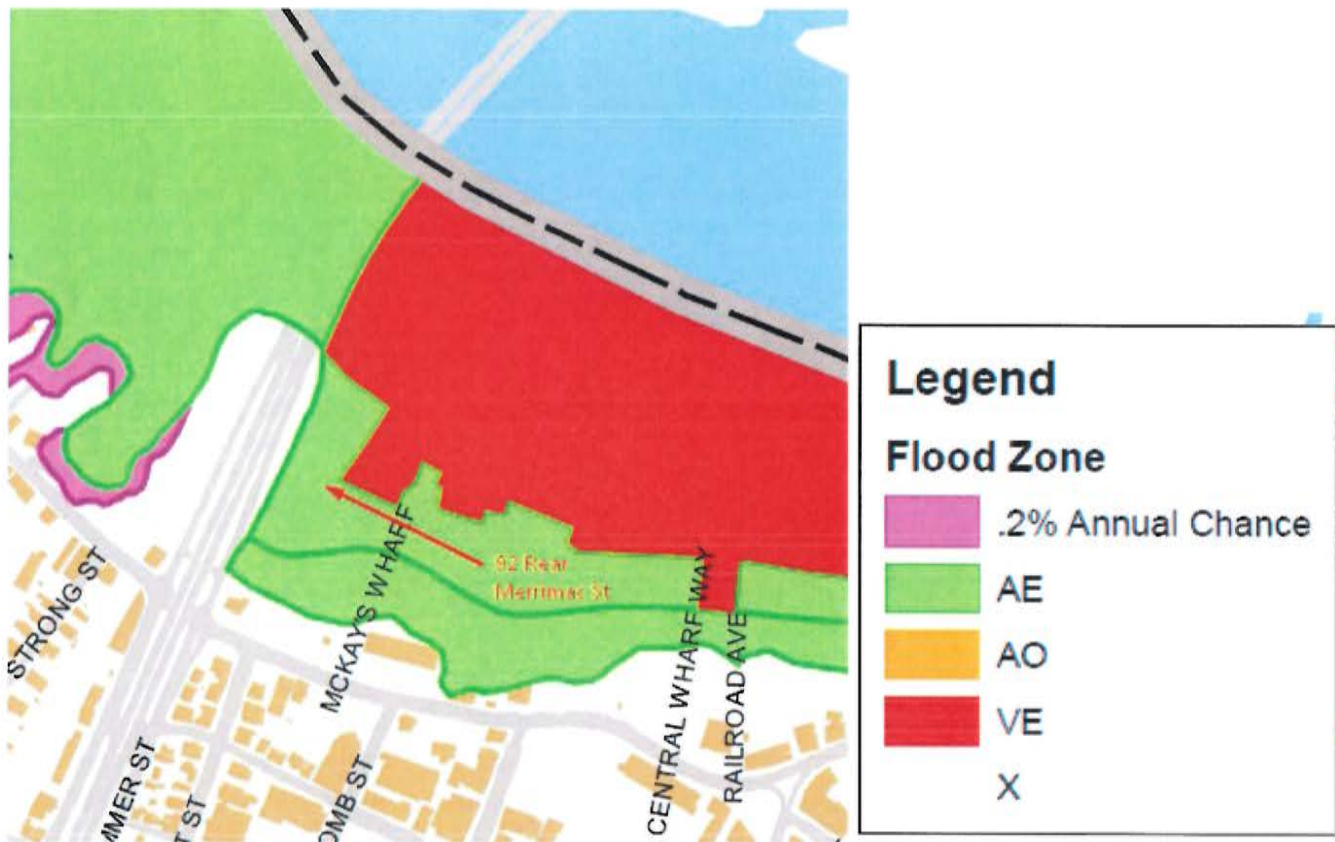
Dear Mr. Binette,

This letter is to follow up on a meeting and discussion a few weeks ago related to the uses at the above-mentioned property.

As we discussed, the property is located in a number of Zoning and overlay districts, the base underlying district is the WMU – Waterfront Mixed Use zoning district. The property is also located in the Floodplain Overlay District, and the WWOD -West Waterfront Overlay District. We are currently preparing documents to present to the ZBA for variances to construct a Residential building under the WWOD regulations.



Partial Newburyport Zoning Map



Newburyport FEMA Flood Map

Flood Overlay District:

As we discussed, the site is also located in an AE Zone on the Floodmap and is therefore in the Floodplain Overlay District. FEMA regulations and the Building code in Section 1612.2 references structural requirements for construction in the Floodplain. The first floor of the proposed building is the **Lowest Floor** of the building and is defined in 1612.2 as:

LOWEST FLOOR. The floor of the lowest enclosed area, including basement, but excluding any unfinished or flood-resistant enclosure, usable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the structure in violation of this section.

This lowest level floor level is permitted to be used for parking and is required by 16.12.5 to have flood hazard documentation (110.3.3). For residential use buildings dry floodproofing is not permitted, floodwater is only permitted to automatically enter and exit this lower level so that hydrostatic forces are equalized. These areas cannot be “dry floodproofed” where water is kept out of the lowest level and engineered to resist the forces of hydrostatic pressure in residential uses. Therefore, a commercial use at this level is not permitted unless the entire lowest level of the structure is located above the base flood elevation.

It is therefore our understanding of the requirements if the Building Code and FEMA regulations that the lowest floor levels below the base flood plain cannot be enclosed and dry floodproofed to be used as commercial space due to the

residential use above. This condition exists throughout much of the entire WWOD district where the existing grades are located at or below the base flood elevations and this flood overlay zone.

West Waterfront Overlay District:

We also discussed the fact that the site is located within the West Waterfront Overlay District. We are proposing to use this district in making our application for the City's entitlement permits to construct this project. There are several variances that we are seeking. However, we had originally discussed seeking a permit for a 45' height variance. We are no longer seeking this 5' variance but will be lowering the building height to 40' in compliance with

Section. XXIV-D - Dimensional and density regulations.

A.

- * Maximum building height: Thirty-five (35) feet, except as follows: (a) Forty (40) feet for parking structures located directly along Route 1, as measured to the upper plane of the top floor of the upper parking level but no higher than four (4) levels above grade with an open roof and parapet design and excluding from the measurement of "height" appurtenances normally constructed above such level such as guardrails and light standards; such parking structure shall not be located directly along Merrimac Street; and (b) forty (40) feet for buildings located on streets perpendicular to the Merrimack River between Route 1 and Titcomb St. that include design layout and floor height suitable for ground floor commercial uses or other areas of public accommodation.

The compliance with the above referenced section is based on the intent to provide at the ground level of the building a covered canopy area of public accommodation for picnic benches and general seating off the public trail on the adjacent lot. We have also been in contact with staff from Essex National Heritage Area and they have expressed an interest in providing a kiosk in this area of Public accommodation. Therefore, it is our understanding that this public accommodation area will allow for the 40' height of the building without a need for a variance.

Please let me know if you have any questions regarding this information.

Sincerely,
GSD Associates, LLC



Gregory P. Smith, AIA
Architect

Cc:



October 30, 2017

Louis P. Minicucci, Jr., President
Minco Development Corporation
231 Sutton St., Suite 1B
North Andover, MA 01845

Dear Mr. Minicucci:

As you may know, Essex Heritage is currently engaged in the designation and development of a Scenic Byway program encompassing 14 communities and spanning 90 miles along the North Shore from Newburyport/Salisbury to Lynn. The purpose of the Essex Coastal Scenic Byway is to encourage residents and visitors to explore one of our nation's most picturesque and historically significant regions.

Kate Day of our staff met recently with your engineer, Scott Cameron of the Morin-Cameron Group, to view your proposed redevelopment site at 92R Merrimac St. in Newburyport. They discussed your interest in hosting an Essex Heritage kiosk and/or interpretive signage in the proposed public seating area/pedestrian walkway at this location.

We would be pleased with work with you to further explore this option. Such signage could help familiarize Rail Trail visitors and other pedestrian users of your open space area with the Coastal Byway, showing local and regional attractions.

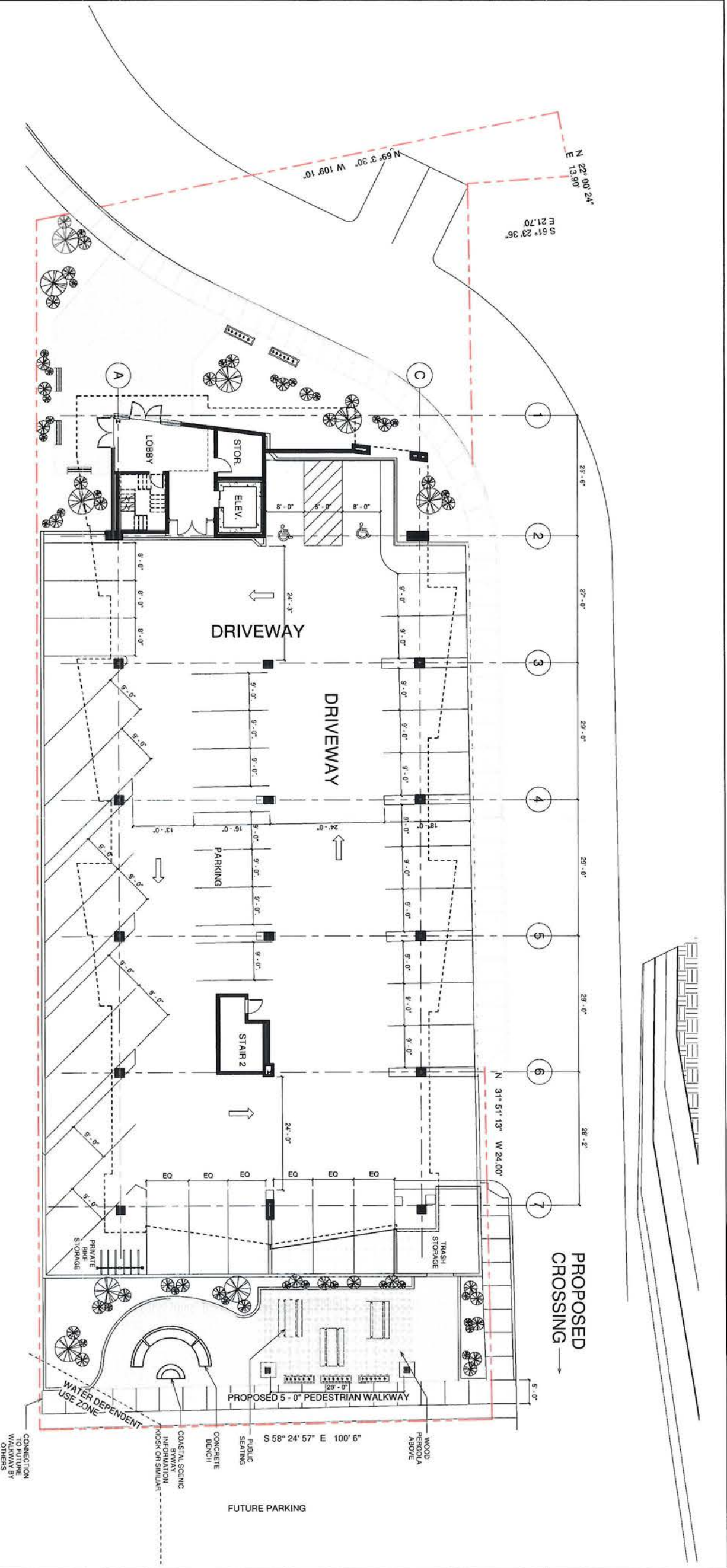
While this discussion is currently in an early and very tentative stage, Essex Heritage is most interested in further exploring this concept with you. Thank you for reaching out to discuss hosting informational materials relating to the Byway at your site. We look forward to learning more about this potential collaboration.

Sincerely,


Annie Harris
Chief Executive Officer

cc: Scott Cameron

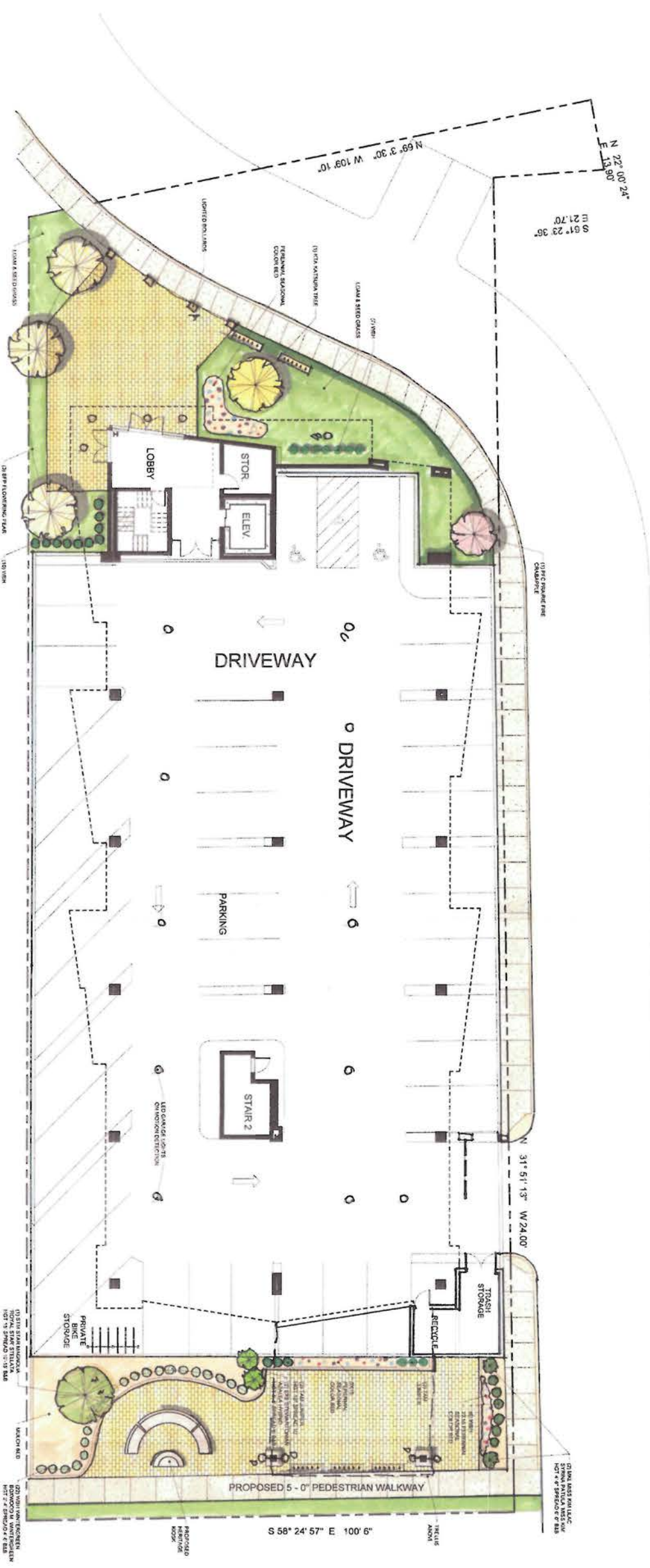
Enclosures



1 Public Accommodation Plan
SCALE: 3/32" = 1'-0"

 <p>architect: GSD Associates, LLC 146 Main Street North Andover, MA 01845 Tel: 978-688-5422 www.gsd-assoc.com</p>	<p>consultant:</p>	<p>sheet title: Ground Floor w/ Public Accommodation</p>	<p>project name: project: Proposed Residential Development 92 Merrimac St. Newburyport, MA</p> <p>issue date: 11/01/17 revisions:</p>	<p>job number: GSD-13-130</p> <p>2c</p>
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P:\MINCO\92 Merrimac St Newburyport\40 - Design Development\Linked 92r Model.rvt



LANDSCAPE PLAN

SCALE: 3/32" = 1'-0"

Symbol Ref	Light Fixture Description	Model Number	Spec Reference
A	Lighted Bollard - LED	OVER-2-8842-209-20 UC-4000K-8BK-VRB	Open Walk - Round Dome Top 8" Diam - 42"
B	Recessed Exterior Downlight - LED	ART-EGO-Square-CEILING	Square adjustable Flood or spot
C	Garage Lights - LED	SQL-65WU5BK	Garage under canopy light
D	Decorative Sconce Lights - LED	DWLED - MAC-289 64.5	Outdoor Wall Sconce

Plant Schedule

Residential Development 92 Merrimac St, Newburyport, MA

Symbol	Common Name	Scientific Name	Size	Rate of Growth	Water Req.	Notes
Large Deciduous Trees	Large Deciduous Tree	Prunella serotina	4' x 3.5'	30'	2 1/2" cal	BBB (Highly resistant to pests, diseases, and drought)
Small Accent Flowering Trees	Small Accent Flowering Tree	Prunella serotina	4' x 3.5'	30'	2 1/2" cal	BBB (Highly resistant to pests, diseases, and drought)
Evergreen Trees & Accent Evergreens	Evergreen Tree	Thuja occidentalis	3' x 3'	10'-15'	6"-7" high	BBB (Very hardy, resistant to pests, diseases, and drought)
Low, Evergreen Ground Cover	Low, Evergreen Ground Cover	Juniperus horizontalis	4' x 1.5'	10'	18"-24"	CTN (Low growing, resistant to pests, diseases, and drought)
Deciduous Flowering Shrubs	Deciduous Flowering Shrub	Spirea praecox	3' x 4'	6'	2'-2 1/2" high	BBB (Very hardy, resistant to pests, diseases, and drought)
Accent/Flowering Evergreen Shrubs	Accent/Flowering Evergreen Shrub	Rhododendron	4' x 5'	7'-8'	2'-2 1/2" high	BBB (Very hardy, resistant to pests, diseases, and drought)
Perennials/Seasonal Color	Perennials/Seasonal Color	Heuchera	1.5' x 1.5'	24"-30"	2 qt.	BBB (Very hardy, resistant to pests, diseases, and drought)
Lawns/Seeding	Lawns/Seeding	Grass	30'	30'	3 Gal.	CTN (Low growing, resistant to pests, diseases, and drought)

- Notes:
- All planting beds shall be mulched with a minimum of 4" of shredded cedar bark mulch.
 - All sod and/or seeded lawn areas to have minimum 6" topsoil blanket.
 - All plant material to conform to current ANS American Standard for Nursery Stock, ANSI Z60.1-1994.

<p>project name: project: Proposed Residential Development 92 Merrimac St. Newburyport, MA</p>	<p>sheet title: LANDSCAPE PLAN</p>	<p>consultant:</p>	<p>architect: GSD Associates, LLC 146 Main Street North Andover, MA 01845 Tel: 978-688-5422 www.gsd-assoc.com</p>	
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job number:
GSD-13-130

LA-1

92R Merrimack St.
 Newburyport
 November 7, 2017

Proposed 25-Unit, Multi Family Structure

Comparison of WMU and WWOD zoning districts for multifamily use (#104)					
	Proposed	WMU	Footnote	Variance ?	
Lot Area	24,829	20,000 sq. ft.	a	YES	
Street Frontage	13.9	120 feet		YES	
Height	40	25 feet		YES	
Maximum Lot Coverage	50%	40%		YES	
Minimum Area Coverage	50%	N/A		NO	
Minimum Open Space	8,910	1,000 sq. ft.	b	NO	
Minimum Front Yard	40	20 feet		YES	
Maximum Front Yard	40	N/A		NO	
Minimum Side Yard	4	10 feet		YES	
Minimum Rear Yard	8	20 feet		YES	
Compact Parking Spaces	8x16 to 8x18	9x18	d	YES	
Total Variances Required				8	5

Use	WMU	WWOD
Multifamily	SP	SP
Multifamily +20	SP	WWOD SP
Hotel	SP	SP
Elderly Housing	SP	WWOD SP
B&B	SP	SP
US Post Office	P	P
Veterinary Hospital	SP	SP
Public Parking	P	P
Library	P	P
Education	P	P

Dimensional footnotes:

Fn (a) The lot area requirements for multifamily developments are twenty thousand (20,000) square feet for the first four (4) units and four thousand (4,000) square feet for each additional unit. In addition the total maximum number of units allowed per structure is six (6).

Fn (b) Except for the R-1, R-2, R-3 and WMD districts, the minimum open space shall be one thousand (1,000) square feet or a minimum of one hundred fifty (150) square feet per dwelling unit, whichever is greater.

Fn (c) Ground floor must contain a public or commercial use, have frontage on a street perpendicular to the Merrimack River, and must be between Titcomb St and Route 1.

Fn (d) Compact parking is not contemplated in the zoning ordinance; a variance is requested to allow 16 compact spaces.

92R Merrimac Street
Newburyport, MA
October 31, 2017
Memo Regarding WWOD

XXIV-A - Purpose.

A Waterfront West Overlay District (WWOD) and WWOD special permit (WWOD-SP) are established due to the unique land use, historic, cultural and architectural resources of the properties located along the central waterfront to encourage implementation of the recommendations of the 2001 Master Plan and 2003 Waterfront Strategic Plan, as amended and supplemented from time to time, to:

A: Encourage a building pattern, scale, setbacks, height, density, and design conforming to that now found in the historic downtown business district.

The proposed structure contains 25 total units with an overall building height of 40' and all setbacks are minimized to create a pedestrian friendly environment. The scale, setbacks, height, and density are all similar to that currently found in Newburyport's downtown.

B: Encourage a pattern of building development similar to the existing downtown by eliminating excessive "yard setback requirements," providing mandatory "build-to" lines, and increasing the percentage of a lot area that can be covered by a building.

The proposed side yard and rear setbacks are all designed to create a pedestrian friendly site by placing the building close to the Right of Way and pedestrian pathways. The proposed building will have approximately a 50% percent lot area coverage.

C: Encourage mixed-use buildings with commercial uses on the ground floor and housing and/or offices above.

Due to the site's location in the flood plain there is no proposed commercial or residential use on the first floor. We are providing three floors of housing above a garage.

D: Promote a lively mixed-use waterfront district that will serve Newburyport's citizens and visitors with ample public space and intimately scaled streets and public pedestrian ways with key views to the water from Merrimac Street.

The addition of 25 residential units will promote a significantly more lively use than the existing condition of a one story storage facility and former automobile repair garage. The proposed setbacks, sidewalks, and landscaping all improve pedestrian access over the existing use. The landscaped area on the eastern portion of the site facing the Merrimack River, similar in size and design to the plaza located next to the harbor master's facility, will provide an active public accommodation. The building is oriented perpendicular to the river and the site grade is approximately 12' below Merrimac Street, so key views to the water will not be affected.

E: Maintain and protect marine-dependent uses consistent with the requirements of Commonwealth Chapter 91.

The current use is not a marine-dependent use and the proposed use will not be detrimental to any existing or proposed future marine-dependent uses.

F: Diminish the visual impact of the parked car by discouraging expansive surface parking lots and encouraging structured parking.

The proposed building will have 37 of the 39 total parking spaces in a garage under the structure to avoid an expansive surface parking lot. All parking under the building will be screened with fencing, plantings, and other landscaping.

G: Encourage "shared parking" strategies in mixed-use projects to diminish overall parking requirements.

N/A

H: Provide incentives to construct pedestrian ways to the water such as pedestrian alleys, sidewalk plazas and other public open spaces. Also provide incentives to pool and contribute private open space required by zoning to public open space areas.

The landscaped area on the eastern end of the site provides usable public open space that does not currently exist and will be accessible to the Rail Trail

I: Protect the architectural, cultural, economic and cultural heritage of the waterfront through preservation and adaptive reuse of existing historic structures.

The Historic Commission deemed this building NOT to be historically significant.

J: Encourage affordable housing within an overall density that is generally consistent with the Zoning Ordinances and the downtown districts.

The proposed development will contain 10% or three affordable units. They will be evenly distributed throughout the development and contain the same finishes and fixtures as all other units.

MINCO DEVELOPMENT CORPORATION
231 SUTTON STREET, SUITE 1B
NORTH ANDOVER, MA 01845

978-687-6200 office

978-682-6473 fax

October 31, 2017

Bonnie Sontag, Chairperson
Newburyport Planning Board
60 Pleasant Street
Newburyport, MA 01950

Re: Second transmittal letter for 92R Merrimac Street application

Dear Ms. Sontag:

On July 19, 2017, we submitted an application to the Planning Board for a special permit and site plan review for 92R Merrimac St. At that time, we submitted the following:

- Denial letter;
- Site plan review application;
- Site plan review checklist;
- Special permit application;
- Architectural plan set dated 06/01/2017;
- Site layout and zoning analysis plan;
- Authorization letter;
- Memo addressing special permit requirements;
- Assessor's card;
- Development team;
- Photos;
- Deed;
- Renderings.

On August 16, 2017, we appeared before the Planning Board to discuss the application in an informal meeting.

Today, in support of our application for a special permit, we are submitting the following additional documents:

- Traffic Impact Assessment;
- Memo comparing 92R Merrimac St. to Horton's Yard (58 Merrimac St.);
- Letter to Peter Binette re public accommodation;

- Public accommodation plan;
- Letter from Essex Natural Heritage;
- Landscaping and lighting plan;
- Chart comparing WWOD to WMU;
- Memo in support of WWOD;
- Revised elevations.

A report on stormwater runoff, potential runoff and sedimentation, an analysis of environmental and community impacts and the compatibility of the proposed development will be submitted at a later date if required.

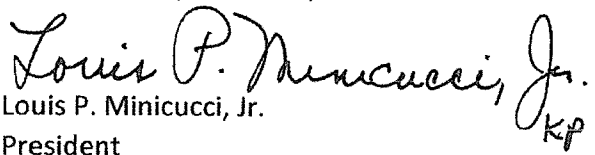
Please note that we have revised our design to lower the height of the building to 40' and will advise the ZBA that a height variance is no longer necessary.

Our comparison of the requirements of WMU vs. WWOD supports our conclusion that WWOD is the appropriate zoning option for the following reasons:

- The height of the proposed structure has been reduced to 40' and therefore, a height variance is no longer required for WWOD;
- WWOD requires fewer variances than WMU;
- The proposed use in WWOD conforms to the intent of the Zoning Ordinance and Master Plan;
- WMU does not allow for the development of any economically feasible use;
- WMU requires a use variance for any structure over 6 units; and
- Location in the floodplain makes any use other than parking infeasible on the first floor.

We look forward to discussing our applications with the Planning Board. If you have any questions, please contact me at 978-687-6200. Thank you.

Sincerely,
Minco Development Corporation


Louis P. Minicucci, Jr.
President

LPM/kp

Attachments