



# TOWN OF IPSWICH

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## IPSWICH, MASSACHUSETTS 01938

PLANNING BOARD  
978-356-6607

Applicant: James W. Burnham, Trustee  
Market Street Commercial Realty Trust  
15 Market Street (Assessor's Map 42A, Lot 214)  
**Special Permit and Site Plan Review Approval**  
September 22, 2011

Pursuant to the authority vested by Sections V.D., VI.B. (Footnote 11), VI.G., VII.J., and IX.J. of the Protective Zoning Bylaw of the Town of Ipswich, the Planning Board (hereinafter referred to as the "Board") grants Special Permit and Site Plan Review approval, subject to the conditions listed on pages six to nine, to James W. Burnham, Trustee, Market Street Commercial Realty Trust (hereinafter referred to as "the Applicant"), for the addition of a second story, third story, and fourth story over a portion of the building, containing sixteen residential units and two professional offices to an existing one-story commercial building located at 15 Market Street, further known as Assessor's Map 42A, Lot 214.

All application materials and submissions are incorporated by reference into this decision and all plans, as noted below, are incorporated by reference into this decision.

### Site Plan

Consisting of three sheets

Dated: June 14, 2011

Revisions: July 27, 2011

Prepared for: Market Street Commercial Realty Trust

Prepared by: Griffin Engineering Group, LLC.

P.O. Box 7061

100 Cummings Center, Suite 224G

Beverly, MA 01915

Scale: 1 inch = 20 feet or as noted

### Architectural Plans

Consisting of 14 sheets

Prepared for: Market Street Commercial Realty Trust

Prepared by: Olson Lewis Dioli & Doktor

Architects & Planners Incorporated

17 Elm Street

Manchester-by-the-Sea, MA 01944

### Presentation Drawings

1 of 2 – Historical images, streetscape view

2 of 2 – 3D model aerial views, Shadow Study

## **DESIGN REVIEW**

Pursuant to Section IX.K., the Design Review Board held two duly posted meetings on May 31, 2011 and June 27, 2011 with the Applicant and his architect, and submitted their recommendations to the Board for consideration in their review of the project. Members of the Design Review Board also attended a posted meeting of the Board's 15 Market Street subcommittee held on September 6, 2011, at which the Applicant and his architect was also present.

## **PUBLIC HEARINGS**

The Board held a duly advertised public hearing with respect to the application on July 7, 2011 and continued the hearing to July 28, August 25, and September 22, 2011. On September 22, 2011 the Board closed the public hearing. At the Board's regular meeting on September 22, 2011, the Board approved the Special Permit application by a vote of 5 to 0. The vote was based on information provided by the Applicant, consideration of testimony given at the public hearing, and on the following findings.

## **FINDINGS – Special Permit**

1. The use requested, the addition of a second, third and fourth story, with the fourth story being over a portion of the building, containing sixteen residential units and two professional offices to an existing one-story commercial building located in the Central Business (CB) District, is defined as "Use, Mixed" in Section III. of the Protective Zoning Bylaw. One of the proposed principal uses, "Multi-family dwelling," is listed within the Table of Use Regulations in SECTION V.D. as requiring a Special Permit from the Board in the CB District. The Applicant is also requesting: (a) to use Footnote 11 to the Table of Dimensional and Density Regulations in SECTION VI. to provide four more dwelling units than would otherwise be allowed by the zoning bylaw; (b) to construct a fourth floor over a portion of the building, pursuant to SECTION VI.G.e.; and (c) that the Board approve an alternative to the number of loading spaces required by SECTION VII.J. The Board is authorized to, and does hereby do so, allow each of the Applicant's requests by Board special permit.
2. The Applicant's submittal materials include sufficiently detailed, definite, and credible information to show that the Board's granting of this Special Permit, as conditioned, is consistent with the intent of this bylaw.
3. The proposed use involves the addition of a second, third and fourth story, with the fourth story being over a portion of the building, to an existing one-story commercial building currently containing three businesses. The new stories will contain sixteen residential condominium units and two professional office condominium units. The residential units will be comprised of twelve two-bedroom units and four one-bedroom units. One of the two

professional offices will be located on the second floor and one will be located on the third floor. The portion of the building containing the fourth floor will contain lofts for the four one-bedroom units. The building's gable peak as proposed will be 45 feet high, with 35 foot roof heights for the balance of the building.

4. By way of an area sun/shadow analysis, the Applicant has demonstrated, to the Board's satisfaction, that the addition of two full stories and a partial story to the existing building at 15 Market Street will not significantly increase the amount of shadow that the building casts over Market Street and that in fact, the additional shadow created by the new building will be less than the amount of shadow that is currently produced by the existing buildings on the opposite side of Market Street.
5. The proposed site modifications shown on the plan are acceptable. Several existing trees near the back of the property will be saved within a proposed variable-width planting bed. The 17 currently existing parking spaces on the site will be increased to 24 spaces which will meet the parking requirements as stated in the zoning bylaw (1.5 spaces per residential unit). The loading area will remain in the current location. All commercial dumpsters will be relocated to the northwest corner of the building. Residential unit dwellers will dispose of recyclables and trash in an enclosed area to be located adjacent to the building on the west side. An American Disabilities Act (ADA)-compliant parking space suitable for vans will be located directly in back of the building.
6. Pursuant to SECTION VI., Footnote 11, the Board, by special permit, is allowing the overall residential density of the project to increase by four residential units (from twelve to sixteen). In exchange for this additional density, the Applicant has agreed to make a payment of \$40,000 into the Town's Affordable Housing Trust Fund, as recommended by the Ipswich Affordable Housing Partnership and the Affordable Housing Trust Fund Board, to be used for the purpose of preserving and adding affordable housing in Ipswich, and which donation the Board finds to be reasonable and appropriate.
7. The Board reviewed the proposed project in accordance with Section XI.J.2. of the zoning bylaw and makes the following findings relative to that subsection:
  - a. **Social, economic or community needs which are served by the proposal:** The project as proposed not only provides a number of benefits to the community, but is also consistent with several policies and/or action steps of the Town's Community Development Plan. Providing dwelling units in the downtown benefits the businesses and restaurants by providing a nearby base of customers, which satisfies Action Step E-1 (Encourage Mix of Uses Downtown), and also concentrates development in areas of existing density and infrastructure, which is consistent with Housing Policy 1 (Promote both ownership and rental housing development in areas in and near downtown that are already affected by development and have infrastructure in place

to meet the needs of new residents). Providing two of the dwelling units as permanently affordable, as well as making a payment into the Town's Affordable Housing Trust Fund to support other affordable housing efforts in town, helps to preserve the Town's social and economic diversity, which is consistent with Housing Goal H-1 (Provide a variety of housing options to meet the needs of residents of diverse income, age, and family size to support social and economic diversity in the community).

- b. **Potential fiscal impact, including impact on town services, tax base, and employment:** Adding sixteen one and two-bedroom dwelling units and two commercial units to the subject property in the downtown, while preserving the existing three commercial units, is expected to have a positive financial impact on the town. It will enhance the tax base by increasing the value of the property, creating employment opportunities by providing two professional offices, and providing housing for persons who not only may find employment within the town (EBSCO Publishing, located within the downtown, currently has 90 positions available) but will also patronize local businesses, thus improving their vitality. The impact on town services will likely be limited, as the project occurs within an existing building located on a street with complete infrastructure, and the limited number of bedrooms and the housing type will appeal primarily to households with no children.
- c. **Traffic flow and safety, including parking, loading:** The surrounding streets are sufficient to accommodate the traffic flow in an area that currently accommodates both downtown businesses and residences. The addition of the sixteen residential units will add approximately 70 vehicle trips per day. It is probable that some of the residents of these proposed units will walk to work or to the nearby commuter train station. Parking and loading concerns have been met by providing an increase of seven parking spaces, from 17 to 24 spaces, sharing the parking between residential and commercial uses, and providing an adequate loading area directly in back of the building; this alternative loading area design is adequate and acceptable.
- d. **Adequacy of utilities and other public services:** The utilities and public services as proposed are adequate to serve the needs of the proposed multi-story addition. However, close cooperation with the Ipswich Utilities Department, in regards to pole and line placement and water and wastewater management, is imperative and will be demanded of the Applicant.
- e. **Compatibility with neighborhood character:** The Board finds that the mixed use (residential and commercial) multi-story building is compatible with downtown character, which contains a mixture of commercial buildings of various heights and commercial buildings with residential units located on upper stories.

- f. **Impacts on the natural environment:** In an area already heavily developed, with much impermeable surfacing, this project proposes to handle storm water events to the same extent that the current one-story building does, retain several existing trees on-site, and add landscaping within the existing non-vegetated parking area, thus mitigating impacts on the natural environment.

Therefore, the Board finds that the benefit to the Town outweighs the adverse affects of the proposed development.

### **FINDINGS - Modification to a Site Plan Review**

The Board's approval of the requested Site Plan Review is based on its determination that the Site Plan makes reasonably adequate provisions that satisfy the general standards set forth in Section X.C. of the Zoning Bylaw, as described below:

1. Traffic circulation and access  
Traffic circulation as proposed is adequate, with primary vehicular access to the property from an entrance off of Hammatt Street, through the Hammatt Street parking lot.
2. Pedestrian safety and access  
Pedestrian access is adequate with proposed parking located in the back of the building. One parking space will be ADA compliant.
3. Off-street parking and loading which is in compliance with the applicable requirements of the Protective Zoning By-Law  
The proposed parking is compliant with the current zoning requirements. There will be 24 parking spaces for the 16 residential units. The two professional offices do not require additional off-street parking.
4. Emergency vehicle access  
Emergency vehicle access to the site is adequate.
5. Storm water drainage, utilizing on-site absorption wherever practical  
Storm water drainage is compliant as the project proposes to handle stormwater events in the same manner as the current one-story building does and retain existing trees on the site.
6. Water supply and sewage disposal adequate to support the intended use(s)  
Adequate as proposed. The Applicant will work closely with the Ipswich Utilities Department to ensure that pole and line placement and water and wastewater management are done to that Department's satisfaction.

7. Screening, including the use of natural land features, plantings, and erosion control  
Screening and landscaping are adequate. The existing trees near the back of the property will be retained as part of a green strip.
8. Protection and preservation of existing natural features and vistas  
In an area already heavily developed, the project as designed provides adequate mitigation of impacts on natural features or vistas.
9. Signage and exterior lighting  
No plans for new signs or lighting have been proposed as of this date, but the Applicant has indicated his intention to submit such a plan (to include specifications both on any proposed lighting or signs as well as existing lighting or signs to be retained) as a part of the final architectural plans to be presented to the Board for its review and approval. This standard shall have been met once the afore-mentioned architectural plan has been approved by the Board, said approval to occur prior to the endorsement of the plan sheets.
10. Visual impact of parking, storage or other outdoor service areas.  
The existing building backs up onto the Hammatt Street parking lot and proposes to improve that view aspect by providing screening and enclosed areas for commercial dumpsters and the residential trash and recycling areas. All storage areas for the units will be located inside the building.
11. Consistency of character and scale of surrounding buildings.  
The building is consistent with character and scale of the surrounding buildings which consist of a mixture of single and multistory buildings. The building's architecture has been carefully considered to harmoniously complement the downtown area.
12. Energy, water and resource efficient design, through appropriate building orientation, landscaping and use of resource efficient materials and energy – and water-efficient systems.  
The project adequately addresses energy, water and resource efficiency provided that Condition 10.b. is met to the Board's satisfaction.

## **CONDITIONS OF APPROVAL**

The Board's approval of the Special Permit application is subject to the following conditions:

1. The location to which this Special Permit applies is 15 Market Street, Ipswich, Mass. The property is more fully described as Assessor's Map 42A, Lot 214.

2. The Special Permit, or a true copy thereof, shall be posted in a conspicuous location at the subject property for which it is granted. Said permit shall remain posted until a certificate of occupancy has been issued.
3. No amendment, alteration, waiver, or other change in this permit shall be effected other than by an affirmative vote of at least four members of the Board, and by the issuance of an amended Special Permit decision.
4. The Special Permit is issued to the Applicant to construct an additional second, third fourth stories, with the fourth story being located over a portion of the building, over an existing one-story commercial building. The building will be mixed use, with the additional stories containing 16 residential units and two professional offices, while the original first story will continue to be used for commercial purposes. The property is located at 15 Market Street (Assessor's Map 42A, Lot 214).
5. All applicable state and local laws, bylaws, codes, and rules and regulations shall be complied with, including all applicable requirements of the ADA and the Architectural Access Board. The Applicant shall obtain all other necessary licenses, permits and variances required for the project.
6. If the commencement of the use granted by this Special Permit – a mixed use with both residential and commercial development (i.e. addition of multiple stories to contain sixteen residential units and two professional offices) – is not begun within two years of the date hereof, the permit shall lapse as provided in Section XI. Paragraph I. of the Zoning Bylaw.
7. To address concerns expressed by both the public and the Board, the Applicant has agreed to reserve the 24 parking spaces for residents only between the hours of 6 p.m. and 9 a.m. During all other hours the spaces shall be unrestricted and available for parking by the residents, as well as the commercial tenants of the property and their patrons.
8. Prior to the endorsement of the plans, the Applicant shall do the following:
  - a. Submit, for the Board's review and approval, Architectural Plans that reflect the architectural design as approved by the Board and which include a list of the proposed building materials and color schemes, signs (existing or new), lighting specifications (existing or new), and front, rear, and side elevations;
  - b. Modify all submitted plans to reference the date of the Board decision;

- c. Submit, for the Board's review and approval, the proposed method for reserving the spaces during certain hours, including the wording, specifications of any proposed signs, any striping, and the proposed enforcement strategy.
9. The Applicant shall submit to the Board a reproducible copy and two complete sets of the approved plan, and two copies of the recorded written decision. One copy of each of the above shall also be submitted to the Town Clerk. Additionally, the Applicant will send PDF files for each drawing to the Planning Office.
10. Prior to issuance of a building permit, the Applicant shall do the following:
  - a. Provide written confirmation from the owners of 21 Market Street that they are in agreement with the electrical service and weatherhead collaboration proposed by the Applicant.
  - b. Provide written confirmation from the Ipswich Utilities Department that they are satisfied with the plans as concerns electrical distribution improvements proposed by the Applicant.
  - c. Obtain street addresses/unit numbers from the Assessor's office.
  - d. Submit to the Board a copy of the Condominium Association document, which shall contain within it a perpetual covenant which acknowledges that the 24 residential parking spaces will be reserved for residential owner use between the hours of 6 p.m. and 9 a.m. only.
11. Section IX.I. (Inclusionary Housing) of the Zoning Bylaw states that any multi-family development with greater than ten units must provide affordable units that comprise 10% of the total number of units. When the application of that formula results in a fractional housing unit, a fraction of one half of a dwelling unit or more shall be considered as one affordable housing unit. Thus, for the sixteen units being built, the Applicant is required to provide two dwelling units that meet the definition of affordability as provided in Section IX.I.3.a.(1) of the zoning bylaw. The Applicant further agrees that the two affordable units shall each have two bedrooms, be of a single level design, meet universal design requirements (i.e., capable of easy retrofitting to an ADA-compliant dwelling should the need arise), and otherwise comply with the requirements of Section IX.I.4. of the zoning bylaw. As previously noted in Finding 6, the Applicant shall also make a \$40,000 payment into the Town's Affordable Housing Trust Fund to meet the community benefit requirement of Footnote 11. If further discussions relative to the use of the \$40,000 payment for community benefit purposes should occur between the Board and the Applicant between the time of the decision and endorsement of the plan sheets, and should those discussions lead to a decision to use some of the \$40,000 payment for



purposes other than affordable housing preservation but still within the scope of the community benefits described in Footnote 11, then the specifics of said alternative agreement shall be put in writing and the details of implementing the alternative funding scheme shall be of sufficient specificity to satisfy the Board.

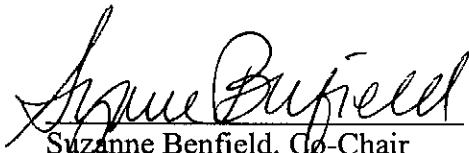
12. The Applicant shall provide appropriate measures to limit construction debris and materials on the site, and to prevent the tracking of soils and debris from the site onto Market Street. In the event that debris is carried onto any public way, the Applicant shall be responsible for all cleanup of the roadway. All cleanups shall occur within twenty-four (24) hours after first written notification to the Applicant by the Board or its designee for public ways and within forty-eight (48) hours for private ways. Failure to undertake such cleanup may result in either: the project being shut down until said public or private way is clear; Town cleanup at the Applicant's expense; or other measures deemed appropriate in the reasonable judgment of the Board.
13. Project construction shall be limited to the hours of 7:00 a.m. to 6:00 p.m., Monday through Friday and 8:00 a.m. to 3:00 p.m. on Saturday. Construction during the evening hours, nights, Sundays, and on major state holidays, is expressly prohibited.
14. The Special Permit shall inure to the benefit of the Applicant, and bind its successors and assigns, and shall be deemed to run with the land.
15. Prior to the issuance of a final certificate of occupancy for the subject property, all site improvements shall be installed in accordance with the approved plans, as determined by the Board, including the approved measures for designating the uses of the 24 parking spaces during the different time periods.

This permit shall become effective only upon the Applicant's recording a copy of this Decision of the Board, certified by the Town Clerk of Ipswich, with the Essex County South District Registry of Deeds, as required by Massachusetts General Laws, Chapter 40A, Section II.

A copy of this Decision shall be filed with the Town Clerk of the Town of Ipswich, and one copy shall be mailed to the Applicant. This decision may be appealed to the Superior Court within twenty (20) days of its filing with the Town Clerk.

Executed this 29<sup>th</sup> day of September, 2011.

I, Suzanne Benfield, certify that I am Co-Chairman of the Planning Board of the Town of Ipswich, Massachusetts, a Planning Board established pursuant to Massachusetts General Laws, Chapter 41, Section 81A, and I further certify that this decision was voted on by the Planning Board at its meeting of September 22, 2011.

  
Suzanne Benfield, Co-Chair  
Ipswich Planning Board