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April 28, 2025

VIA ELECTRONIC MAIL

Robert Peirent, P.E.
Special Capital Projects Coordinator
Town of Amherst
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Re: Jones Library Renovation and Expansion, 43 Amity Street, Amherst, MA; Historic Preservation and National Environmental Policy Act Environmental Review: Notice of Finding of No Significant Impact and Notice of Intent to Request Release of Funds

Dear Mr. Peirent:

On behalf of the Steering Committee of Amherst Historic Preservation Coalition (the "AHPC"),¹ thank you for the opportunity to provide comments on the Town of Amherst's (the "Town's") *Notice of Finding of No Significant Impact* and *Notice of Intent to Request Release of Funds* (March 28, 2025). The AHPC is an ad hoc citizens group established out of concern with the Project's adverse effects identified by the Massachusetts Historical Commission to the Jones Library.

Members of the group have been closely observing the Project since its conception in 2012. Unfortunately, despite the passage of that time, the AHPC's concerns remain unaddressed. The AHPC objects to the Town's Finding of No Significant Impact ("FONSI") and Notice of Intent to Request the Release of Funds ("NOI"). First, the FONSI is inadequate as it does not constitute a "hard look" of the environmental impacts on a historic building and the surrounding neighborhood as required by the National Environmental Policy Act ("NEPA"). Second, the Town failed to explore alternatives or modifications that would avoid or minimize adverse effects of the proposed project, and, thus, violated NEPA by failing to prepare an Environmental

Impact Statement (“EIS”). Lastly, since it appears the Town has signed a construction contract before the conclusion of environmental review (as it suggested it would), it has violated United States Department of Housing and Urban Development (“HUD”) regulations, prematurely committing the grant funds prior to the approval of environmental certification.

We urge the Town to revisit the alternatives to this project under NEPA and to prepare an EIS that more thoroughly considers the possible paths for renovation of the Jones Library. We also ask HUD to reject the Town’s FONSI and certificates of environmental compliance, if the Town has signed a construction agreement that precludes the selection of alternative choices before the conclusion of the environmental review process.

I. The Proposed Project

As you are aware, the Jones Library, built in 1928 and renovated in 1993, is listed in the National Register of Historic Places as a contributing element of the Amherst Central Business District. The 1993 addition expanded the library but made only minor alterations to the original historic building. Indeed, the historic 1928 building remains largely intact and much of the interior finishes (surfaces, flooring, ceilings, cornices), along with nearly all of the millwork (stairs, doors, mantels, wainscoting and paneling, building-in cabinetry), have been retained and are in a very good condition considering their age.

The proposed project (the “Project”) will change all of this. It includes the demolition of portions of the original 1928 building and the 1993 rear addition in its entirety, and a construction of a new three-story rear addition. A significant portion of the west façade, the north façade and east façade on the Children’s wing (west wing) will be demolished to accommodate the new addition. The north elevation of the 1928 building ell will be completely covered with the proposed new addition. The new addition will be visible from the south elevation, which is the front façade. Two sets of historic wood stairs in the original 1928 building are proposed to be removed changing the circulation of the historic 1928 building. Additionally, other floor plan modifications will be made, causing the removal and loss of historic fabric, including much of the wood paneling that is impossible to replace.

II. The Town’s Refusal to Prepare an EIS violates NEPA

NEPA’s “primary function is ‘information-forcing,’ compelling federal agencies to take a hard and honest look at the environmental consequences of their decisions.” *American Rivers v. FERC*, 895 F.3d 32, 49 (D.C. Cir. 2018) (citations omitted). To satisfy this “hard look” requirement, the Town must prepare an EIS if the Project significantly affects “the quality of human environment.” 42 U.S.C. § 4332(C). Under NEPA’s regulatory scheme, such effects can be, among others, historic, aesthetic, or cultural. 40 C.F.R. § 1508.8. However, if the Town believes that a project may not require an EIS, it may first prepare an environmental assessment to determine whether a “no significant impact” determination might find support in the record. 40 C.F.R. § 1508.9(a). A FONSI is a finding that the proposed Project “will not have a significant effect on human environment” and for which EIS is not required. *Id.* at § 1508.13.

Under *City of Waltham v. U.S. Postal Service*, 786 F.Supp. 105, 121 (D.Mass.1992), *aff'd*, 11 F.3d 235 (1st Cir.1993), the Town was required to: (1) accurately identify the relevant environmental concerns; (2) take a “hard look” at the problem in preparing the environmental assessment; (3) if a finding of no significant impact is made, the Town must be able to make a convincing case for its finding; and (4) if the Town does find an impact of true significance, preparation of an EIS can be avoided only if the Town finds that changes or safeguards in the project sufficiently reduce the impact to a minimum.

Here, the Town has failed to take a “hard look” at the impacts pursuant to NEPA, despite many urgings by the AHPC and others to do so, and erroneously concluded that changes or safeguards in the Project sufficiently minimized the impact.

Specifically, the degree to which the Project will adversely impact the Jones Library, a historic building, mandates the preparation of an EIS. *See* 40 C.F.R. § 1508.27(b)(8). NEPA requires the Town to take into account the effect of the Project on the historic property, and, if the Project directly affects the landmark, take steps to minimize harm to the landmark. *See* 40 C.F.R. § 1508.27(b)(8). The Project will have a severe adverse impact on the historic property. These adverse effects include: discarding irreplaceable, handcrafted Philippine mahogany woodwork; destroying the original, character-defining floorplan of this unique building; discarding the preponderance of original roof slates, many in good condition; overwhelming a historic building with a massive, incongruous addition; and dramatically and permanently altering the visual setting of the Amherst Central Business Historic District and adjacent Strong House. These impacts undeniably rise to the level of NEPA significance, as, at a minimum, the historic building will be partially demolished and negatively altered because of the Project.

The central assumption underlying the Town’s FONSI, and driving its conclusion of no significant impact, is that the Project’s severe environmental impacts relative to historic preservation can be mitigated as described in the Memorandum of Agreement (“MOA”) executed by the Town, Jones Library, Inc., and the Massachusetts Historical Commission (“MHC”), serving as the State Historic Preservation Officer (“SHPO”). The record, however, shows that this assumption is unfounded.

The Town’s assessment of the scope of the Project’s effects has drawn consistent and strenuous opposition from the consulting parties, including the AHPC. The Town claims to have studied the Project’s environmental impacts and considered various alternatives. However, the Town’s alternatives analysis falls short of the requirements imposed by NEPA. Indeed, the MHC, in its role as the SHPO, has criticized the lack of the Town’s evaluation of alternatives. In its November 1, 2024, letter, the MHC concluded that proposed replacements were inconsistent with the Secretary of the Interior’s Standards for Rehabilitation, and that the introduction of a new addition will diminish the setting of the historic library and the Amherst Central Business District. 36 C.F.R. § 800.5(a)(2)(i), (ii), (iv), and (v). The MHC requested an alternative analysis study, including, at a minimum, an alternative analysis of the following topics: roof materials, staircases and circulation, woodwork, and the size, scale, and massing of the proposed addition.

On November 22, 2024, the Town submitted its Alternatives Analysis for the Project prepared by the Public Archaeology Laboratory, Inc. As the MHC concluded in its December 9, 2024, letter, the alternatives analysis was insufficient as it merely described different alternatives the Town has considered and rejected as the project proceeded without any input from the MHC. The MHC requested further analysis in order to make a good faith effort to explore alternatives or modifications that would avoid or minimize adverse effects of the proposed project.

On January 8, 2025, the Town responded to the December 19, 2024, letter. The Town notified the MHC that the Jones Library Trustees voted unanimously to recommend the Town install natural slate instead of synthetic slate and to maintain the current conditions for book returns, keeping the existing external wall book drop at the east building entrance for patron use when the Jones Library is closed, which effectively eliminates the proposal to cut the stone façade by the front entrance.

While the MHC has succeeded in directing the Jones Library Building Committee to address certain adverse effects associated with the historic building's roof material and planned cut into the stone façade, many serious adverse effects remain. The Town has never provided any further analysis as to the following issues: staircases and circulation, woodwork, and the size, scale, and massing of the proposed addition. The Town's current preferred alternatives provide for the elimination of 20% of interior walls with the woodwork with no mitigation measures in place, removal of two sets of historic wood stairs in the original 1928 building and other floor modifications. The proposed new addition dwarfs and visibly obstructs the building's north face, is visible from three historic districts, and represents significant departure from the historic look of the district.

Due to significant impacts of the Project on the historic landmark, the Town has not made a convincing case that an EIS is unnecessary. *See, e.g., American Rivers*, 895 F.3d at 50 (ordering an EIS based on concerns that the agency "just shrugged off" potentially significant impacts based on "estimates entirely unmoored from any empirical, scientific, or otherwise verifiable study or source"). The gaps underlying the Town's assumption regarding the issues of staircases and circulation, woodwork, and the size, scale, and massing of the proposed addition are especially critical here because they are central to the Town's finding of no significant impact. In particular, the Town continues to rely on the MOA addressing the adverse effects associated with the historic building's roof material and planned cut into the stone façade. Even if true, these mitigation measures have no bearing on the adverse effects described above. This fundamental oversight distorted the Town's consideration of the significance and severity of other potential impacts.

Accordingly, we urge the Town to revisit alternatives to the Project under NEPA and to give careful considerations to our concerns that the Town's preferred alternatives regarding the issues of staircases and circulation, woodwork, and the size, scale, and massing of the proposed addition are based on inadequate and extremely problematic iterations. Congress created the EIS process to provide robust information in situations precisely like this one, where, following an environmental assessment, the scope of a project's impacts remains both uncertain and highly

controversial. Failing to undertake that process risks losing a historical and cultural asset of the Town forever for the sake of nothing more than expedience.

III. The Notice of Intent to Release Funds is Inappropriate under HUD Regulations.

The AHPC also objects to HUD's disbursement of funds to the Town and urges HUD to reject the Town's FONSI and certificates of environmental compliance if it learns that the Town prematurely committed funds before the approval of the environmental certification in violation of 24 C.F.R. § 58.75 (e).

On April 4, 2025, the Town awarded the general contract to Fontaine Bros., Inc.² In order to receive \$15.6 million to finance the Project from the Massachusetts Board of Library Commission (the "MBLC"), the Town must execute a construction contract and issue a demolition permit for the Project by April 15, 2025. *See* Bid Protest Letter at 2-3. It is, however, inappropriate to continue with the execution of the contract for the Project before the April 28 conclusion of the public comment period on the FONSI for HUD's Environmental Assessment has run, regardless of whether it may make it more difficult for the Town to meet the MBLC's deadlines. If that has nonetheless occurred, it would be a basis for HUD to reconsider its grant of funding. The Town was aware that AHPC members and others intended to submit comments by that date. Moving the project forward without waiting for, reviewing, and addressing the public comments received undermines their very purpose. *See Dubois v. U.S. Dep't of Agric.*, 102 F.3d 1273, 1286 (1st Cir. 1996) ("one aspect of evaluating a proposed course of action under NEPA, the agency has a duty to study all alternatives that appear reasonable and appropriate for study . . . , as well as significant alternatives suggested by other agencies or the public during the comment period") (citations omitted). Because it is unacceptable for grantees to execute legally binding agreements prior to completion of the environmental review process, thereby committing \$2.1 million in federal grant money, HUD should disapprove the Town's request for release of funds.

IV. Conclusion

For the above reasons, the Town should prepare an EIS to fully consider the scope of the Project's impact on a historic building. We also urge HUD to reject the Town's FONSI and certificate of environmental compliance where the contract for the Project was signed before the conclusion of the comment period.

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April 28, 2025
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Sincerely,

/s/ Mina S. Makarious

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