



# CITY OF SALEM PLANNING BOARD

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CITY CLERK, SALEM, MASS.

## Decision

January 12, 2017

### **Site Plan Review and Special Permits under the North River Canal Corridor Neighborhood Mixed Use District and Flood Hazard Overlay District**

On September 1, 2016, the Planning Board of the City of Salem opened a Public Hearing for a Site Plan Review, Flood Hazard Overlay District Special Permit, and Special Permits associated with the North River Canal Corridor Neighborhood Mixed Use District (NRCC) to allow for the redevelopment and expansion of the existing two-story concrete industrial building at 9 South Mason Street, expansion of the three-story residential building at 3A Buffum Street Extension; and construction of two new townhouse style buildings along with parking and landscaping throughout the site. The project when completed will total 29 residential units in four buildings with all associated parking onsite located at 9 South Mason Street, 3A Buffum Street Extension; and 23 Mason Street (also including 23 ½ Mason Street and 23R Mason Street) (Map 26, Lots 73, 74, 79).

The petitioner requests the following Special Permits to reflect the plans as referenced:

1. Special Permit per Sec. 8.1.4 to allow construction within the Flood Hazard Overlay District.
2. Special Permit per Sec. 8.4.13(4) to allow construction of a decorative wooden stockade fence to exceed the four foot height maximum adjacent to residentially zoned or used parcels, as per the plans referred to herein.
3. Special Permit per Sec. 8.4.5(4.4) of the NRCC to allow multi-family residential uses in townhouse and multistory arrangements.

The Public Hearing was continued to September 15, 2016, November 3, 2016, December 15, 2016, and January 5, 2017.

One of the parcels, 9 South Mason Street, is located in the NRCC zoning district. In considering approval of the NRCC Site Plan Review, the Planning Board finds that the development meets the goals of the North River Canal Corridor Plan, as stated in the Salem Zoning Ordinance, as follows:

1. **Create appropriate development while preserving our historic neighborhood character:**

The project consists of the rehabilitation and expansion of the former Hood icecream factory that is currently used as a metal workshop into a residential building, and the construction three new townhouse-style residential buildings. The redevelopment of the industrial building preserves the historic character of a building that has been in use for over 100 years, while creating an appropriate transition of new townhomes that complement and harmonize it with adjacent development to the north and south. In addition, the proposed project was unanimously recommended for approval by the Salem Design Review Board (DRB) on December 20, 2016.

**2. Address transportation issues for existing and new developments:**

The development is not projected to have significant impact (increase) on motorist delays. Nevertheless, the project is conducive to multi-modal transportation, in that it is located within walking distance to bus stops and the commuter rail station, contains bicycle racks and adequate parking. The entrance to the project site at 9 Mason Street will be widened onto the public way and the driveway access will be placed under stop sign control with illumination to improve access and egress.

**3. Enhance the public realm in keeping with our unique neighborhood character:**

The development project strengthens Buffum Street Extension as a quality residential road in adding numerous trees along the property line and siting development close to the property while also complimenting the existing residential to industrial transition. The project also enhances the public realm by incorporating a new lawn within the site, a decorative perimeter fence and façade improvements, while preserving the character of the site's industrial history.

The criteria for the requested Special Permit under the NRCC Mixed Use District, Section 8.4.5(4.4), Residential Uses: *Except by Special Permit, Multifamily residential uses as primary uses in townhouse, row house, flats or multistory arrangements* are met in that:

1. The multifamily residential uses abut residential uses.
2. The project is not located on a main corridor.
3. Each unit in a newly constructed building has a separate exterior first floor entrance.

In considering approval of the NRCC Special Permits, the Planning Board finds that based on submitted reports, project plans, visual analysis and site investigation, the proposed project is consistent with the North River Canal Corridor Neighborhood Master Plan in that it:

1. Rehabilitates a dilapidated site while preserving historic neighborhood character.
2. Enhances the residential character of the neighborhood by creating new housing opportunities, 10% of which will be affordable units.
3. Compliments the residential to industrial transition that currently exists by incorporating multi-family residential development between the commercial uses along Commercial Street and the residential uses along Mason Street.

### *Flood Hazard Overlay District Special Permit*

Pursuant to Section 8.1.2.2.(a) of the Salem Zoning Ordinance, the FHOD includes all special flood hazard areas within the City of Salem designated as Zone A, AE, or VE on the Essex County Flood Insurance Rate Map (FIRM) issued by the FEMA. A portion of the project site is located in the AE Flood Zone. Therefore, in considering approval of the Flood Hazard Overlay District Special Permit, the Planning Board hereby makes the findings for the portion of the site within the FHOD pertaining to the Flood Hazard Overlay District Special Permit Application as follows:

- a. The proposed uses comply in all respects to the uses and provisions of the underlying districts in which the land is located.
  - i. The subject site is partially within the NRCC and the Industrial zoning districts. Multi-family residential use is permitted in the NRCC. The applicant will request zoning relief from the Zoning Board of Appeals for residential use in the Industrial zoning district.
- b. There is adequate convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets and property, particularly in the event of flooding of the lot(s) or adjacent lot(s) caused by either overspill from water bodies or high runoff.
  - i. The base flood elevation is 10 feet. The site will be graded to provide a pedestrian pathway above elevation 10 feet from each dwelling unit to the westerly Buffum Street Extension sidewalk. A vehicle pathway above elevation 9.5 feet has also been provided, matching the Buffum Street Extension roadway elevation of 9.5 feet at the site entrance. Parking areas are above elevation 9.0
- c. Utilities, including gas, electricity, fuel, water and sewage disposal, will be located and constructed so as to protect against breaking, leaking, short-circuiting, grounding or igniting or any other damage due to flooding.
  - i. All utilities are designed based on standard engineering practices and applicable standards. Utilities, including gas, electricity, fuel, water and sewage disposal, shall be located and constructed so as to protect against breaking, leaking, short-circuiting, grounding or igniting or any other damage due to flooding.
- d. Where the proposed use will be located within a coastal high hazard area (Zone VE on the FEMA Flood Insurance Rate Maps), the Planning Board shall also find the following conditions to be fulfilled: New structures or substantial improvements shall be located landward of the reach of mean high tide. The support of new structures or substantial improvements shall not be, in whole or in part, by the use of fill.
  - i. There are no proposed uses within the VE zone as mapped by FEMA on the site.

The Public Hearing was closed on January 5, 2017. At a regularly scheduled meeting of the Planning Board held on January 5, 2017, the Board voted eight (8) in favor (Chair, Ben Anderson, Carole Hamilton, Noah Koretz, Dale Yale, Bill Grisct, Kirt Rieder, Helen Sides, Tony Mataragas) in favor and none opposed, to approve the application of JUNIPER POINT 9

SOUTH MASON STREET LLC for a Site Plan Review, Flood Hazard Overlay District Special Permit, Special Permits associated with the North River Canal Corridor Neighborhood Mixed Use District in accordance with the following sections of the Salem Zoning Ordinance Section 9.5 Site Plan Review; Section 8.1 Flood Hazard Overlay District; Section 8.4 North River Canal Corridor Neighborhood Mixed Use District; and a Stormwater Management Permit in accordance with Salem Code of Ordinances Chapter 37 for the property located at 9 South Mason Street, 3A Buffum Street Extension; and 23 Mason Street (also including 23 ½ Mason Street and 23R Mason Street) (Map 26, Lots 73, 74, 79). Specifically, the application is for the redevelopment and expansion of the existing two-story concrete industrial building at 9 South Mason Street, expansion of the three-story residential building at 3A Buffum Street Extension; and construction of two new townhouse style buildings along with parking and landscaping throughout the site. The project when completed will total 29 residential units in four buildings with all associated parking on site. The project is subject to the following conditions:

**1. Conformance with the Plans**

- a. Work shall conform with the set of plans entitled, “9 South Mason Street Residential Development,” prepared by Red Barn Architecture, Sheets A-1, A-2, A-3, A-4, A-5, A-6, A-7, and A-8 dated August 10, 2016, revised November 7, 2016 and December 2, 2016; and plans entitled, “Juniper Point 9 S. Mason Street LLC,” prepared by Griffin Engineering Group LLC, Sheets C-1 through C-10, dated August 10, 2016 and revised December 15, 2016, and sheets D-1 through D-6 dated August 10, 2016 and revised December 15, 2016, Sheet C-7 Landscaping Plan and Sheet C-5 Proposed Grading and Drainage revised January 5, 2017.
- b. Any amendments to the site plan shall be reviewed by the City Planner and if deemed necessary by the City Planner, shall be brought to the Planning Board. Any waiver of conditions contained within shall require the approval of the Planning Board.

**2. Site Specific**

- a. Final landscape plans to be submitted before building permit issuance for review and approval by the City Planner. Revisions shall be subject to discussion at the January 5, 2017 Planning Board meeting minutes regarding landscaping, fence, air condition units, and location of the bike rack.
- b. HVAC units shall be located as close to the building as feasible. HVAC units shall not be attached to the fence.
- c. The developer shall provide a report to the City Planner on efforts to obtain public access to Commercial Street through the site prior to issuance of a certificate of occupancy.

**3. Amendments**

- a. Any amendments to the site plan shall be reviewed by the City Planner and if deemed necessary by the City Planner, shall be brought to the Planning Board. Any waiver of conditions contained within shall require the approval or the Planning Board.

**4. Landscaping**

- a. Maintenance of all landscaping on the site shall be the responsibility of the Applicant. The Applicant, his successors or assigns, shall guarantee all trees and shrubs or be replaced as necessary.
- b. Final completed landscaping shall be done in accordance with the approved plan and shall be subject to approval by the City Planner for consistency with such plan, prior to the issuance of a Certificate of Occupancy.

## **5. Lighting**

- a. No light shall cast a glare onto adjacent parcels or adjacent rights of way.
- b. A final lighting plan shall be submitted to the City Electrician for review and approval prior to the issuance of a building permit.

## **6. Maintenance**

- a. Refuse removal, ground maintenance and snow removal shall be the responsibility of the developer, his successors or assigns.
- b. Winter snow in excess of snow storage areas on the site shall be removed off site.
- c. Maintenance of all landscaping shall be the responsibility of the applicant, his successors or assigns.
- d. The applicant, his successors or assigns, shall guarantee all trees and shrubs for a two-year period.

## **7. Design Review Board**

- a. The partition walls between units on the third floor of building 1 (the concrete building) shall be lowered as much as possible so as to still provide adequate privacy, but shall be no lower than six (6) feet.
- b. The canopies on the first floor of building 1 (the concrete building) shall project no further than the end of the decks over which they are installed.
- c. All black and white plans/drawings shall align and match with the color renderings.
- d. The applicant shall submit final construction plans to the Design Review Board (DRB) for its review and approval prior to obtaining a building permit.
- e. All plans, materials and color samples shall be in accordance with those submitted to and approved by the DRB on December 20, 2016.
- f. All future proposed signage shall be approved by the DRB prior to issuance of sign permits. The signage for the buildings and the site shall conform to the City of Salem's Sign Ordinance and NRCC zoning code.

## **8. Conservation Commission**

- a. All work shall comply with the requirements of the Salem Conservation Commission
- b. The applicant shall receive all necessary approvals from the Salem Conservation Commission.

## **9. Affordable Housing Units**

- a. Three housing units shall be set aside as affordable housing units. The Applicant shall place an Affordable Housing Restriction on these three (3) housing units in the form acceptable to the Commonwealth Department of Housing and Community Development (DHCD). The restrictions shall be in accordance with the eligibility criteria for DHCD's Subsidized Housing Inventory for the purpose of ensuring that the three (3) dwelling units will be restricted as affordable housing for households whose annual incomes are eighty percent (80%) or less of Area Median Income ("Low Income Households") with a sales or rental price affordable to said households as determined by DHCD for a period of ninety nine (99) years from the date of the original conveyance. The Affordable Housing Restriction(s) shall be registered with the Essex South Registry of Deeds.

## **10. Board of Health**

- a. The owner shall comply with the following specific conditions issued by the Board of Health:
- b. The individual presenting the plan to the Board of Health must notify the Health Agent of the name, address, and telephone number of the project (site) manager who will be on site and directly responsible for the construction of the project.
- c. If a DEP tracking number is issued for this site under the Massachusetts Contingency Plan, no structure shall be constructed until the Licensed Site Professional responsible for the site confirms that the site meets the DEP standards for the proposed use.
- d. A copy of the Licensed Asbestos Inspector's Report must be sent to the Health Agent.
- e. A copy of the Demolition Notice sent to the DEP, Form BWPAO6, must be sent to the Health Agent.
- f. The developer shall give the Health Agent a copy of the 21E report.
- g. The developer shall adhere to a drainage plan as approved by the City Engineer.
- h. The developer shall employ a licensed pesticide applicator to exterminate the area prior to construction, demolition, and/or blasting and shall send a copy of the exterminator's exterminator's survey report, treatment plan and treatment reports to the Health Agent.
- i. The developer shall maintain the area free from rodents throughout construction.
- j. The developer shall submit to the Health Agent a written plan for dust control and street sweeping which will occur during construction.
- k. The developer shall submit to the Health Agent a written plan for containment and removal of debris, vegetative waste, and unacceptable excavation material generated during demolition and/or construction.
- l. The Fire Department must approve the plan regarding access for fire fighting.
- m. Noise levels from the resultant establishment(s) generated by operations, including but not limited to refrigeration and heating, shall not increase the broadband sound level by

more than 10 dB(A) above the ambient levels measured at the nearest abutting residential property line.

- n. The developer shall disclose in writing to the Health Agent the origin of any fill material needed for the project.
- o. The resultant establishment shall dispose of all waste materials resulting from its operation in an environmentally sound manner as described to the Board of health.
- p. The drainage system for this project must be reviewed and approved by the Northeast Mosquito Control and Wetlands Management District.
- q. The developer shall notify the Health Agent when the project is complete for final inspection and confirmation that above conditions have been met.

#### **11. Fire Department**

- a. All work shall comply with the requirements of the Salem Fire Department.

#### **12. Building Inspector**

- a. All work shall comply with the requirements of the Salem Building Inspector.

#### **13. Utilities**

- a. Underground utility installation shall be reviewed and approved by the City Engineer prior to the issuance of a Building Permit.

#### **14. City Engineer**

- a. All work shall comply with the requirements of the City Engineer.
- b. Prior to issuance of a demolition permit from the City, the applicant shall cut and cap all abandoned water lines at the City main in the street.
- c. The Applicant complete additional fire flow tests to confirm the actual fire flows available at the location of proposed buildings (at the end of the end of the private water main) prior to issuance of a Building Permit, and will modify design and incorporate improvements to private or City water mains as necessary to meet required fire flows as directed and approved by City Fire Department and City Engineer.
- d. The Applicant shall provide separate metering and backflow prevention for irrigation as requested by City Engineer before issuance of Building Permit.

#### **15. Clerk of the Works**

- a. A Clerk of the Works shall be provided by the City, at the expense of the applicant, his successors or assigns, as it deemed necessary by the City Planner. Notwithstanding the foregoing, the parties acknowledge the Project shall be subject to controlled construction, which requires oversight by licensed engineers and architects. Accordingly it is the understanding of the Board, the City Planner and the Applicant that the Clerk of the Works is expected to oversee and review all civil/site improvements related to the project located within the public way, including all utility connections to publicly owned

infrastructure. It is also mutually understood that the expense associated with the Clerk of the Works shall be for a reasonable number of hours and at a customary rate of service.

- b. The applicant shall submit a construction plan to the City Planner prior to starting work.
- c. The construction plan will be incorporated into the Clerk of the Works Task Order. No work shall start prior to an approved task order for these services.

## **16. Construction Practices**

- a. All construction shall be carried out in accordance with the following conditions:
  - i. All provisions in the City of Salem's Code of Ordinance, Chapter 22, Noise Control, shall be strictly adhered to.
  - ii. All reasonable action shall be taken to minimize the negative effects of construction on abutters. Advance notice shall be provided to all abutters in writing at least 72 hours prior to commencement of demolition and construction of the project.
  - iii. Drilling and blasting shall be limited to Monday-Friday between 8:00 AM until 5:00 PM. There shall be no drilling, blasting or rock hammering on Saturdays, Sundays, or holidays. Blasting shall be undertaken in accordance with all local and state regulations.
  - iv. All construction will occur on site; no construction will occur or be staged within City right of way. Any deviation from this shall be approved by the Department of Planning & Community Development prior to construction.
  - v. A construction traffic management plan and schedule shall be submitted to the Department of Planning & Community Development for review and approval prior to the issuance of a building permit.
  - vi. Any roadways, driveways, or sidewalks damaged during construction shall be restored to their original condition by the applicant.
  - vii. All construction vehicles shall be cleaned prior to leaving the site so that they do not leave dirt and/or debris on surrounding roadways as they leave the site.
  - viii. All construction shall be performed in accordance with the Rules and Regulations of the Planning Board, and in accordance with any and all rules, regulations and ordinances of the City of Salem.
  - ix. All construction vehicles left overnight at the site, must be located completely on the site.
  - x. All construction activities shall be in accordance with the "Salem Police Station Construction Management Plan".
  - xi. All construction shall take place under the direction and supervision of a Licensed Site Professional in compliance with the rules and regulations of the Massachusetts Department of Environmental Protection.



- xii. The applicant shall promptly notify the Board of Health of any environmental condition encountered during construction that may adversely impact the abutters to the site.

#### **17. As-built Plans**

- a. As-built plans, stamped by a Registered Professional Engineer, shall be submitted to the Planning Department and Engineering Department prior to the issuance of the final Certificate of Occupancy.

#### **18. Flood Plain Mitigation**

- a. Due to the property being located in a FEMA designated 100 year flood zone the following actions shall be undertaken by the applicant to mitigate the effect of any potential flooding:
  - i. New buildings shall be constructed so that the first floor elevation is above elevation 12 feet.
  - ii. Crawl spaces shall be equipped with passively-operating flood openings so that flood waters can enter and leave without requiring human intervention or pumping.
  - iii. Site grading shall comply with compensatory flood storage volume requirements so that no net loss in on-site flood storage volume occurs due to site development.
  - iv. Mechanical and HVAC equipment associated with the development shall be located above the 100-year flood plain

#### **19. Violations**

- a. Violations of any condition shall result in revocation of this permit by the Planning Board, unless the violation of such condition is waived by a majority vote of the Planning Board.

I hereby certify that a copy of this decision and plans has been filed with the City Clerk and copies are on file with the Planning Board. The Special Permit shall not take effect until a copy of this decision bearing the certification of the City Clerk that twenty (20) days have elapsed and no appeal has been filed or that if such appeal has been filed, and it has been dismissed or denied, is recorded in the Essex South Registry of Deeds and is indexed under the name of the owner of record is recorded on the owner's Certificate of Title. The owner or applicant, his successors or assigns, shall pay the fee for recording or registering



Ben J. Anderson  
Chairman