

City of Salem Planning Board
Approved Meeting Minutes
Thursday, May 17, 2018

A public hearing of the Salem Planning Board was held on Thursday, May 17, 2018 at 7:00 p.m. at City Hall Annex, 98 Washington Street, Large Public Hearing Room, First Floor, Salem, Massachusetts.

Chair Ben Anderson opens the meeting at 7:00 pm.

I. ROLL CALL

Those present were: Chair Ben Anderson, Dale Yale, Carole Hamilton, Helen Sides, DJ Napolitano, Matt Veno, Noah Koretz (7)

Absent: Kirt Rieder, Bill Griset (2)

Also in attendance: Amanda Chiancola, Staff Planner, and Stacy Kilb, Recorder

II. REGULAR AGENDA

A. Location: 11-13 Dodge St., 217-219 Washington St., and 231-251 Washington St. (Map 34, Lots 404, 405 and 406)

Applicant: DODGE AREA, LLC

Description: A continuation of a public hearing for all persons interested in the amendment to the approved Site Plan Review, Planned Unit Development Special Permit, Flood Hazard Overlay District Special Permit, and Stormwater Management Permit for the property located at 11-13 Dodge St., 217-219 Washington St., and 231-251 Washington St. (Map 34, Lots 0404, 0405, and 0406). The applicant proposes changes to the proposed buildings, landscaping, hardscape, parking, utilities, and lighting, primarily in order to incorporate changes requested by other City boards and departments and to make the project economically feasible by reducing the maximum number of stories from six to five and constructing the project all at once rather than in phases. As amended, the applicant proposes to construct an approximately 146,000 square foot mix-use development with 52 residential units, commercial space including a 113 unit hotel, a parking structure with 212 parking spaces, associated landscaping and pedestrian and transportation improvements.

This item is heard second.

Present for the Applicant are:

Tom Alexander, Attorney for Dodge Area LLC

Ken McClure, Owner's Representative and former Landscape Architect

Barry Stow, Engineer, Opechee Design/Build

Attorney Alexander describes the Applicant's progress so far; they are seeking approval of a Draft decision tonight after presenting a final green roof proposal incorporating Board comments. Engineering Staff Barry Stow also met with Salem City Engineer Dave Knowlton to discuss changes for Engineering and public works involved. The revised Draft Decision highlights the changes from the original Decision.

Ken McClure presents:

- Summary of Green Roof Study
- Concept C: Plan View. Applied architecture to view; a 4' grid was used to plan the shapes, which will work with the materials planned. It will be a sedum sod product rather than a tray system. Design is based on

what residents and hotel guests will see from their respective viewpoints. Semper Green is being strongly considered as a manufacturer; color options are described. Massing is shown

- Numbers are outlined A1: gravel roof, ¾" or larger angular crushed stone to avoid wind lift, color TBD but will meet requirements of green roof.
- Green roof vegetation: sedum sod, also will have some water holding capacity on the roof to take pressure off infiltration areas.
- Green area has increased to 8,736 square feet.
- Aluminum edging will be used to separate angles: lightweight aluminum, color TBD but most likely a stainless/chrome look, slotted to allow for water penetration between layers. Roof pitch thus does not require modification.
- Artistic Element option: lighted twig bench by Escofet, can only be installed as white polyvinyl due to weight restrictions integral lighting option to be reviewed and approved by hotel partner; working with manufacturer to dim and make light softer. Will definitely have benches, lighting is questionable.
- Perspective Views.

The Applicant is looking to move toward construction documents. Helen Sides comments that this is "exciting" but that aluminum strip material should be matte and dark, not shiny, in order to complement the gravel. Chair Anderson also applauds the enthusiasm and willingness of Applicant to step out of the box in their response to Board comments. This is an excellent solution to a problem that was important to the Board.

Mr. McClure notes that a list of changes has been passed along after discussion with David Knowlton, and these are outlined:

- Water service from Washington St., stubs have been installed for this development, were going to be cut and capped, as their service was proposed for Dodge Court, but will now use those stubs on Washington St. Will cut and cap existing water lines coming in from other side. Dave Knowlton approves
- Retaining wall was originally a 3-step wall, and will now be one tall wall because the Applicant wanted to increase its structural capacity, and wanted to make room for a larger tree at the base
- All planters along edge had metal edging; that has been changed to granite planters, thus marrying the building to the landscape (granite is on the building), also the steel when wet can bleed rust residue onto the sidewalks. Park across the street uses granite curbing as well
- Pavers along sidewalk: originally pervious pavers were proposed to be brought into City Right of way; Mr. Knowlton said City does not maintain pavers that do not meet its standard; now being changed for standard City pavers on City space, with others along restaurant patio to delineate. City Hall clay brick will be used on City sidewalk.
- There is also a change into the building around the hotel garage entrance to accommodate Massachusetts ADA compliant vans, where the garage door was too small for that compliant Van so was made taller. Also allows for van to be brought to 3rd floor of garage. This caused some changes in the restaurant that were not desirable from a design perspective.
 - The Chair feels this is an unfortunate solution, and Mr. McClure agrees, noting they lose 500 square feet of rentable restaurant space, but cannot make it conform to code otherwise. The Design Review Board (DRB) will see this at 100% documentation so if a better way can be found, hopefully they and the Applicant will find it
- Gas service on Dodge St. Court was not shown on previous plan and is now shown. Plant material will block it from view. Sewer service has been added to the existing stub, which was originally slated for removal (similar to water)
- Conservation Commission has completed its review of finished floors regarding flood hazards; a tabletop drive in creates a low point in one area, so a backup valve that can open to drain water rather than pooling there.

- Drainage next to Starbucks has changed; there is a new hotel entrance there. Original design had table topping only in one area, but it has now been continued all the way through the entrance as a traffic calming measure.
- Revised hotel valet footprint.
- In response to recent work of the City, which has implemented high and low-pressure gas lines in the sidewalk: trees were originally planned but cannot be installed there. Trees moved from public right of way to private space, and changed from Valley Forge Elm to an, Jeffers Red Maple, which is higher and will stay tighter, and its height and fall color will be the same. Elms are still planned for the residential area; trees will actually change with the building and this creates wider sidewalks for the public, plus trees are now not between parking spaces. Landscape areas have also been increased.
- A tree was suggested for one additional area at corner of Dodge St and Dodge St court; this has been added, and the curb there also protects the fire hydrant.

Extensive discussion occurs regarding the location of the 38 public parking spaces. All 38 were planned for the upper garage level on the original Plan, but that is not feasible now. The current design shows 28 spaces on the first floor and 10 on the 3rd floor. This change was made because the original design allowed those parking on top to exit through the building. There is no internal circulation of cars within the garage due to the nature of the use on each level. Debate centers on several points:

- Split public parking could be confusing
- Logistics of access from garage to retail tenants in the area

Chair Anderson opens to public comment.

Josh Turiel, Ward 5 City Councilor, 238 Lafayette St.

- Impressed with roof design
- Parking: original requirement was for 38 public spaces, mix of metered and monthly permit, many handicapped spaces, breakdown of previous usage/demand is outlined
- Concerned about splitting parking between two levels and possible confusion
- Future flow of traffic/pedestrians

Bill Legault, 2 Orne St.

- Thanks Developer for taking comments into consideration
- As a public area, commuter, shoppers, residents, would prefer to see all 38 spaces on the top, uncovered, but would accept the 10 on top. Businesses on upper Washington St. from AT&T to barbershop should be considered

Noah Koretz motions to close the public hearing, is seconded by Dale Yale, and the motion carries.

Comments submitted by Kirt Rieder in anticipation of his absence are read into the record:

- Supports eccentric pixilated green roof edge
- Recommends Board include in the Decision that, contingent upon installation of a green roof of X square feet, that board approval is required if there are any changes; Noah Koretz notes it is not in the decision and agrees that it must be specifically referenced

Chair Anderson reviews the Draft Decision, an amendment to the Amended Decision of 2015.

- Page 3: Chair Anderson asks if the PowerPoint of the green roof is included in the submission- this should be included on the list of plans in the decision. Mr. McClure states that this will be through a separate consultant but can be added and referred to as “Green Roof Concept C, 5/14/2018.”
- p. 6 13(c) Tree locations should be tested for the presence of gas. Chair Anderson asks about putting in amended locations of trees. The Plans listed and associated with that date show trees.
- p. 7 Construction plan must be submitted and clerk of the works on board; tightens when clerk is to be assigned and that they must assess utility connections on public and private property.

Discussion on how to include language that requires the green roof to be installed occurs.

Special conditions: Add a new letter (c) to the section on parking to capture that discussion. The Board ultimately decides to split the parking. It is noted that some parking will be replaced that was removed on the Washington St. side. Currently there is a small private lot, but a small number of public on street spaces on Washington St. were removed. Spaces in front of the former strip mall were lost. Carole Hamilton wonders about requesting 14 spaces on the upper level and 24 on the lower level. However, this is not possible, since the public parking spaces have to be separated/secured from residential spaces, so there could be security issues. Residential spaces cannot be lost or relocated there as the third level is the only access for residential spaces. Noah Koretz feels that changing the “goal post” now is an issue; if more than 10 are required, they will need to re-think things that were assumed all along until this hearing, and he wants to vote on this tonight, feeling that 10 spaces are adequate, as he does not think they will be used frequently. He feels it is not a big deal to park and walk for a couple of blocks downtown. These 10 spaces are on level 3.

Special Condition 3 (c): Applicant to provide 10 parking spaces on Parking level 3 with 28 spaces on Parking level 1 for a total of 38 public spaces. A revised Plan shall be submitted to reflect this change.

Condition 20: The original application included the addition of a seating area in front of Starbucks, but that is not included in this project. Mr. McClure explains that it was eliminated because it was proposed by RCG, who owns the building in which Starbucks is a tenant, however, as the Applicant wants its own coffee tenant and that space will include a small patio, this would be a “conflict,” as their patio should be a selling point for their own coffee tenant. That condition should be eliminated. The consensus is that RCG can add that amenity if they want it, and that building outdoor seating for a neighboring owner is not appropriate. Also, two public handicapped spaces would have been lost.

A motion to approve the Amended the Draft Decision is made by Carole Hamilton, seconded by DJ Napolitano, and passes 7-0.

- B. Location:** 132-134 Canal Street, 142 R. Canal Street, and 144 Canal Street (Map 33, Lots 5, 6, and 8)
- Applicant:** CANAL STREET WAREHOUSE LLC, CANAL STREET REALTY DEVELOPMENT LLC and CANAL FURNITURE LLC
- Description:** A continuation of a public hearing for all persons interested in the application of Canal Street Warehouse LLC, Canal Street Realty Development LLC, and Canal Furniture LLC for the properties located at 132-134 Canal Street, 142 R. Canal Street, and 144 Canal Street (Map 33, Lots 5, 6, and 8) in accordance with the following sections of the Salem Zoning Ordinance: Section 7.3 for a Planned Unit Development, Section 9.5 for a Site Plan Review, Section 8.1 for a Flood Hazard Overlay District Special Permit, and Section 6.7 for a Drive-Through Special Permit, and a Stormwater Management Permit in accordance with Salem Code of Ordinances Chapter 37. Specifically, the applicant proposes the redevelopment the site by razing the buildings at 132-134 and 144 Canal Street and constructing three

(3) new buildings with associated driveways, parking spaces, landscaping, utilities, and drainage systems for stormwater runoff. Construction of a new three-story, mixed-use building with approximately 7,000 square feet of retail on the first floor and 20 residential units on the upper floors is proposed at the north side of the site. Construction of a three-story building with 30 residential units and parking below; and a 2,500 square foot retail building with a drive-through is proposed at the south side of the site. The existing buildings located at 138-142 Canal Street will remain with some site improvements.

This item is heard first.

Present for the Applicant are:

Attorney Scott Grover
Matthew Mullally, P.E., AECOM
Blair Symes, Symes Associates
Steve Feinstein, Symes Associates
Rich Williams, Williams & Sparages
Dan Ricciarelli, Architect, Seger Architects
Scott Thornton, Vanasse & Associates
James Emanuel Landscape Architect
Gary Hebert, Traffic Peer Reviewer, New England Civil Engineering
Bill Ross, Civil Engineering Peer Reviewer, New England Civil Engineering.

Attorney Grover notes that 6 Board members only are eligible to vote; he mentions that the Applicant had considered withdrawing and re-filing to allow additional Board members to be eligible, but ultimately felt they had enough positive feedback to proceed. Ben Anderson, Kirt Rieder, Carole Hamilton, Helen Sides, Noah Koretz and Dale Yale are eligible to vote on this item. Kirt Rieder is not present tonight but has not yet missed a meeting where this item has been on the agenda.

Tonight's presentation will review refinements of the conceptual plan. The Applicant is hoping for a vote at the next meeting if all six eligible Board members are present.

Dan Ricciarelli of Seger Architects presents architectural changes:

- Reviews site plan: 3 buildings, North, South and retail
- Floor plans of each building
- North building, retail on first floor, residential above:
 - Front and rear elevations; colonnade proposed along with bays; additional elements are described
 - Side elevations
 - Clapboard and panelization
- South building, retail only, drive through:
 - Front, rear and side elevations
- South building, residential only
 - Parking, lobby
 - Clapboard and panelization, canopied entrance, lobby faces train tracks
 - End elevations
- Birds eye view and additional renderings from North and South, corner of Canal & Ocean, and from bike path

Chair Anderson comments that he appreciates the changes to the North building. He wonders about “panelization” and Mr. Ricciarelli mentions Hardie Panel or something cementitious. Chair Anderson is not a fan of EFIS and the retail on the corner is a striking piece, so he would like them to consider a different material, noting that the McDonald’s nearby is brick. The Applicant is willing to make a change.

The electronic version was slightly different and will be sent.

James Emanuel, Landscape Architect, presents site design changes:

- 70 new trees (3” caliper) are being added, wherever they can be
- “Pocket park” by the access path will also serve as green space
- Trees, benches and the bike rack added are described
- Attempting to integrate pedestrian connections; walkways will be in a concrete pattern with crossings differentiated by stamped asphalt
- Traffic will be slowed via textured paving for a tactile and visual cue
- Trees and seating areas have been added to South retail building on the street side; benches have been added between the two middle buildings and places for pedestrians/seating have been added wherever possible
- Pedestrian circulation and plantings throughout the site are described

Chair Anderson also appreciates these changes, especially the pedestrian connections and addition of the trees. He notes that the requirement is 3.5” caliper, which the Board would like to see; please let them know if that can be changed.

Dale Yale asks about lighting; this is on the civil drawings and can be described. There is a photometric plan for a specific light, but there is still some debate on this.

Chair Anderson asks about the dark line along the sidewalk on the left side of building 142. It represents a retaining wall with a fence on it to protect pedestrians. He approves of the sidewalk but wanted to ensure pedestrian safety.

Rich Williams, Civil Engineer with Williams & Sparages, presents the photometric plan:

- Post top and building mounted lights are the same on top and are LED
- Post mounted lights are in various locations around the parking lots, some single and some double topped
- Building mounted lights are also shown and described

Chair Anderson asks about the existing buildings; they have wall packs that are existing.

Matt Veno asks about the portion of the light extending beyond the bike path; that light will not fall onto the bike path.

Chair Anderson asks the Landscape Architect about the limitations of landscaping regarding the multi use trail. Mr. Symes replies that the area will be graded and seeded with a wild seed mix. This is part of the trail system but will abut parking. Originally was proposed to be riprap but The Applicant worked to require that the City plant it. AECOM has been consulted, as has the City, and the Applicant is exploring what they can do with the MBTA, to obtain permission for additional landscaping. However, ultimately this is an MBTA/DOT/City of Salem issue.

Gary Hebert, PE, traffic peer reviewer with Stantec Consulting, Inc., presents:

- This area has many curb cuts; hence it is a good opportunity for improvements by the City and State
- What was done:
 - Review VAI Traffic impact study

- Visit neighborhood at peak times
 - Determine acceptability of VAI study
 - Prepare initial peer review findings letter
 - Coordinate w/City/Applicant and peer review follow up letter, as necessary
- Peer Review Study Area Overview
- Site Plan Aerial Context, showing pedestrian connections and neighborhood context
- Site Visit Findings
- Traffic Counts and Growth Review; these are outlined and are acceptable
- Trip Generation/Distribution Review; these are reasonable. Driveway volumes will always be higher due to pass-by traffic on the street
- Crash History Review; 2011-2015 was originally examined and Mr. Hebert examined 2002-2015. Study crash analysis is acceptable. DJ Napolitano asks about the definition of high crash rate and Mr. Hebert elaborates. 4.5-5 per year would be the average rate that would be considered high and need to be addressed
- Future 2024 Build/No-Build Analysis Findings; there are 2 intersections of concern: Ocean Ave at Canal St. and Laurel St. at Canal St.; the former may warrant a signal in the future
 - Matt Veno comments that the reason it is a difficult intersection is the left hand turn across traffic, because the line of sight is poor
- Off Site Traffic Mitigation
- Site Parking Overview Review
 - Overall site supply should be adequate if shared parking is permitted
- On Site Exterior: Proposed Site Circulation Environment
 - Minor sight line issue, meets minimum requirements but should consider re-signing Canal St. for 25mph speed limit
 - Suggests how to move some curb cuts, if possible. 7 are on one side and 9 on the other; two will be eliminated on the side of the development
- View North to Canal St. Northwest curve
- On Site Interior: Proposed Site Circulation Environment
 - Recommended continental onsite crosswalks with a minimum 6' (8' is better), but textured are acceptable
- Access Option A1 to Consider: Relocate curb cuts in front of existing building to force them to make a right turn going in; close 1 of 3 curb cuts; City would have to cover cost of curb cuts so this should be kept in mind
- Access Option 1B to Consider (may lose some trees)
- Access Option 2A to Consider; advantages and drawbacks are outlined
- Access Option 2B to Consider; advantages and drawbacks are outlined
- Findings Overview

Scott Thornton of Vanasse & Associates responds to the Traffic Peer Review. There is one main issue on which they disagree.

- Option 1B is discussed. Existing tenants are wedded to the existing parking arrangements but have agreed to the curb cut changes. Mr. Thornton describes possible issues with Option 1B
- Access Option 2A or Option 2B: Grading makes changes/connection impossible. Angling spaces was discussed but two-way circulation in the front is needed; one way in the front does not function well. That aisle in front of the right hand existing building may be widened
- Agrees that shared parking is desirable and makes the site work, especially with the area to the South at the back and at 140 Canal St.

- Signalization at Ocean Ave. and Canal St.; signal warrants are barely met, and that may not be necessary. Additionally, if traffic backs up on Ocean Ave. people may exit via Broadway

Matt Venio asks about the 1A option; he is concerned about the proximity of the curb cuts to the crosswalk. While not highly traveled, moving the curb cuts away from it provides some distance to drivers who may not be looking in that direction. However, 1A puts more traffic closer to the crosswalk. This deserves some attention. Mr. Hebert notes re existing parking, if the curb cuts are left as is, two spaces are problematic, at the corners of the O'Reilly Auto Parts building. He suggests that it might be safer to move them but existing the tenants would not receive that well.

Mr. Thornton notes that there will be added signage at the crosswalks; it is unknown if they will be signalized (with beacons).

Carole Hamilton asks about #140 and if people parking in front go around the building to exit. Mr. Landrew Symes notes that it is currently one way so they do need to go around due to the Dollar Store current situation; Carole Hamilton notes she has never gone around that building and to do that is not and would not be intuitive. Mr. Thornton notes that there will be a narrower aisle on either side and there will be additional signage to highlight one-way flow. Chair Anderson feels pavement markings would also emphasize this.

A Civil Engineering Peer Review is provided by Bill Ross with New England Civil Engineering.

- Stormwater management, Flood Hazard Overlay District (FHOD), private and public utilities, requirements of special permits are his domain
- Stormwater management/FHOD issues
 - Entire site is currently impervious; drainage is described
 - Entire site is under Elevation 10, thus in the flood zone, cars and pedestrians must be able to exit in flood conditions. He notes that the street, however, is also under the flood zone
 - There are some cuts and fills
 - Comments have been submitted and additional information requested
 - Requested was a flood inundation map along with a cut and fill map and spot grades
 - Drainage structures of existing buildings are a mystery; connection to City drainage is there but not enough information has been obtained
 - FHOD: transformers, switches and equipment will be above flood zone but are not shown on plan
 - FHOD relation to drainage: would go before the Conservation Commission to determine whether this is Land Subject to Coastal Storm Flowage (LSCSF) or Bordering Land Subject to Flooding (BLSF). No compensatory storage required for the former, and the Applicant has applied assuming this will be LSCSF. The City's project was granted that same designation
 - Largely impervious site, collection of water is described: deep sump catch basins pre treat oil separators. System can fill requiring release to City's drainage, which is described, and that project is not yet complete
 - Soil boring information for some locations has not yet been provided and has been requested, as has clarification on oil sediment traps (different style than recommended)
- Utilities:
 - Demo plan not provided and has been requested. This would be a Plan of existing utilities and what will be cut and capped
 - Proposed connections are described; these and abandonment were discussed with City and options for combining them are described
 - Fire suppression is described but does not meet City's connection requirement that fire and drinking water be separate; how to do this is described
 - Information on depth of sewer has been requested

- Plans require that site shows all proposed Utilities, but none is yet shown; additional information on sprinklers has been requested
- Treatment and discharge to sewer; additional information has been requested
- Requested clarification on flows for fire, which may not be sufficient if the figure is 2000 gallons for the whole site, not per building
- Snow storage is proposed in trees/landscaping, also there is a conflict in the rear where originally dumpsters and trees were proposed in the same place, but this has since been rectified
- Will touch base with project Engineer in the next week or two
- Rich Sparages agrees that the Applicant can work out these issues and has been working with the City re cut and capping of the existing utilities, and also with the Engineering Dept. and AECOM in the street. Landrew Symes comments that as Canal St. will be finished, the demolition permit means they need to cut and cap utilities that they will not use in the future since it needs to be done before the final coat is put on Canal St. Along with curb cuts, this is being worked out with the City outside of this Board.

Chair Anderson opens to public comments, but there are none.

A motion to continue to the June 7, 2018 meeting is made by Noah Koretz, seconded by Veno, and passes 7-0.

- C. Location: 57 Marlborough Road/Osborne Hills**
Applicant: Osborne Hills Realty Trust
Description: A five-year extension request to complete the Osborne Hills Subdivision, located at 57 Marlborough Rd.

Present for the Applicant are:

Attorney Brian McGrail, 599 North Ave., Wakefield

Paul DiBiase, Trustee, Osborne Hills Realty Trust

Bill Luster, Planning Consultant

Attorney McGrail outlines his history with the project when it was permitted in 2005-2007; Mr. Luster was also involved. He describes the project's scope. The development includes 160 acres with a 96-acre open space component, which is becoming available to public use at various times. It spans two zoning districts. The current phases 1-3 are in R1. Phases 4 and 5 will be in RC and when completed, the open space there will be open to the public.

When the request for the extension was made, discussion ensued with resident input; the Board desired due diligence and additional information. Attorney McGrail comments that the City's consultant has since reviewed the project, as have City officials and residents. The Planning Board has the Applicant's attention and he hopes to make a positive presentation. Clerk of the Works, Jim Rivard from Stantec Consulting Services Inc. (not present at this meeting) issued a correspondence to the Planning Dept. on May 2 with his findings and referenced his meeting with residents on April 29 to review their concerns. A representative of Mr. DiBiase was at that visit. Regarding engineering, Mr. Rivard noted no major issues but that there are five engineering items that must be addressed, which would be done at the time of the final coating of paving for phases 1 through 3. Final paving will occur by the end of October this year.

1. Need to replace damaged manhole covers throughout the development. This will be done.
2. Rubberized crack sealer should be placed into binder and sidewalks. Also, will be done.
3. Replace damaged areas of sidewalk throughout; residents noted that repairs should be driveway to driveway to avoid a patched appearance, and this can be stipulate that at time of paving. Mr. Rivard can determine where that needs to be done, and the client will comply.
4. Silt sacks to be removed from catch basins (done).

5. Silt fence should be re-established throughout the project; the Conservation Commission is being consulted, as they may want the Applicant to remove this since much of the project is completed.

During the meeting with residents, Mr. Rivard noted that the majority of their concerns are maintenance issues, which were itemized:

1. Street light poles not secured/damaged: National Grid should be scheduled. Repairs have been made as needed by Mr. DiBiase, but two lamp heads must be repaired by National Grid, who has been contacted and provided a work order number.
2. Curbing at the subdivision entrance is damaged, most likely due to plowing, and this is common. Mr. DiBiase will repair it prior to October 2018 in conjunction with paving.
3. Replacement of all dead trees: A certified arborist should be consulted, and unhealthy trees treated or replaced. An arborist has been hired and has inspected all trees, then issued a detailed report that has been submitted to this Board. Trees will be replaced if they cannot be made healthy. A training session for employees is scheduled for this Saturday to teach them tree maintenance techniques.
4. The landscaping company dumps waste in the tree line, and the area near the entrance should be cleared; this has been done
5. 22 Amanda Way – fence replacement completed
6. 21 Amanda Way – fence repairs/replacement – completed
7. Remove/replace loam at open space Amanda Way & Osborne, as glass and construction debris is in loam – completed, site restored, photos submitted. Will be seeded with grass, mown, maintained
8. Review trail access at 30 Amanda Way; stairs may be required; this will be done as part of the open space phase
9. Fencing at large culvert crossing Osborne Hill – completed
10. Inspect and repair all fencing – completed
11. Apply a minimum of 2" mulch at planting beds – completed
12. Overall site cleanup – process has begun, and will continue during the extension through the completion of the subdivision
13. Flush hydrants, clean up drinking water: Dave Knowlton, City Engineer, was consulted, and hydrants will be flushed under his supervision. Mr. Knowlton will determine which and when.
14. Flag pole at entrance has been replaced and a new flag installed

No ownership change will occur, and the property is still owned by Osborne Realty Trust. Mr. DiBiase will continue to be a Trustee but will inform this Board of any changes as required.

DJ Napolitano asks about the City ownership of streets. Heads can only be repaired by National Grid, and Mr. DiBiase is not sure if the City has taken ownership of the lights or will do so once they take ownership of the streets. The Electrical Inspector has been called but has not responded, and a work order has been put in to National Grid, who did the original installation.

DJ also asks about the trees and the training. There were issues with the trees as some were installed too low by Mr. DiBiase, whose company is responsible. No trees are dead, but some are struggling, however the arborist is confident that in 2 years there will be improvement.

DJ asks about responsibility for the grassed area; several common areas exist and the Association (at this time the Realty Trust) is responsible and will continue to maintain those areas and the one that will be a common space. Grass is maintained by a hired landscape company. Trees planted improperly are in one small section, but the majority are fine. Phase 2B is where the issue is. The training will be on how to correct the problem of planting too deeply planting and on how to prune trees. Four men will be trained. Water quality is discussed; it is safe but magnesium may be contributing to the discoloration of faucets and drains. Flushing is being attempted to eliminate

this. Mr. DiBiase is not familiar with DPW policies on hydrant flushing and is not sure about the requirements for flushing in developments where the City has not yet taken control of the streets.

The Board has serious concerns about granting this extension, given the length of time the project has already been going on and the lack of initiative and accountability on the part of Mr. DiBiase. Their main points of contention are:

- Timing/Expiration of Permit
 - The original Decision was filed in 2006, twelve years ago, obviously longer than the 8-10-year time frame anticipated
 - Residents have been living in the development for several years, while receiving no benefits as taxpayers because the City has not accepted the streets
 - Since the Developer did not file for this extension on time, several Board members feel the permit is technically expired even accounting for the longer time frame originally allowed and the Permit Extension Act
 - Options for moving forward are discussed
 - If the extension is not granted, the Applicant would be required to re-file the Project
 - Carole Hamilton notes the difficulties of the matter, observing that no current Board members were on the Board serving at the time of the original Decision, yet may have to move forward with a plan that does not now make sense to them. This Board would like to participate in planning the remainder of the subdivision
 - One condition of the original Decision was that, as the anticipated timeframe of the project was 8-10 years, that the Board would not unreasonably withhold extensions
 - Several Board members feel strongly that the Developer is still obligated to request appropriate extensions at appropriate times, i.e., not after the permit has expired, even if it is only expired by a few months
 - Carole Hamilton feels that, while it was known that the Development would take longer than the usually allotted time to build, a plan should still be in place re phasing of the development and the acceptance of completed portions by the City of Salem
 - It is not clear if it is the responsibility or under the jurisdiction of the current Planning Board to “fix” what it sees as substantive problems in the design approved by the Planning Board serving at the time of the original Permit
 - At issue is the fact that the Development has only one outlet, yet Osborne Hill Drive is planned as a dead end with the end of the street extremely close to Barcelona Ave. It is not clear what the reasoning for this was. This would be something to consider as it will become relevant in the next phase of the development
 - Noah Koretz feels that, as the largest subdivision in Salem at 160 acres, to treat this like a series of cul-de-sacs is “wildly inappropriate”
 - If the project was re-filed, a connection to Barcelona Ave. could be discussed and conditioned
 - Amanda Chiancola notes that there were reasons why this connection was not made that would come to light if the project was reopened
 - Amanda Chiancola notes that this is at the discretion of the Board

The implications of not approving the extension, and of rescinding the expired Plan, are discussed. Attorney McGrail states that this would create many issues for his client, the City, and current residents of the Development. Chair Anderson reviews the original 2006 Decision, noting that it involved a significant amount of time, investment by the applicant and the City, and that there was an amended Decision and language in time frame section, which he cites. He reiterates that a time frame of 8-10 years was anticipated, and that extensions beyond that will were not to be unreasonably withheld. He feels it is disingenuous to say that the Board wishes to re-examine this Plan, which

has already had amendments and extensions. The Board can debate comments re performance of developer, who has responded emphatically to Board comments, so the Board must consider the precedent it would set by rescinding or not extending the Decision. He feels that conditions can be added re the punch list, which is the right thing to do. Issues brought up by residents lead to the requirement of a peer reviewer; this should be conditioned in order to satisfy the Board and residents, not to reject the development.

Matt Veno agrees that serious consideration is required before taking the extraordinary step of undoing a permitted project. Not approving an extension would do that; while current Board may not do the process the same as a previous Board, nevertheless that Board is owed some deference. Issues raised at the last meeting by residents have been largely addressed.

Bill Luster notes that in the original Decision, the condition that saw the most discussion centered on timing, because the Developer knew this Project would take longer than the usual time allotted. The Planning Board did not want to give them the time they knew they needed all at once, so the compromise was to allow for extensions. During that discussion, which lasted hours, though, trust was built between the Board and the Applicant.

While Chair Anderson notes that the Developer really should have filed for the extension on time, he reiterates that the Board should not set such a precedent by rescinding. Conditions will be important for the Developer to follow, and he has shown good faith. Noah Koretz feels more convinced but feels that developers should be held accountable and extensions that really need to be applied for should not be automatically granted. He notes that there is also a difference between re-litigating an original condition and changing something that came up afterwards. Applicants should not rely on something that later gets pulled out from under them; they should be able to trust the Board and its decisions.

Carole Hamilton states that time frames are in place due to the nature of laws, planning practice, and Board member changes. Developers should feel they have an overriding approval, however, when a developer ignores the obligation to apply for extension at an appropriate time, it is fair to deny it and ask them to start over. In this particular case, the time frame involved is exceedingly long for those who have purchased property; they have rights and the developer has until now ignored his obligations to them, so strict conditions on moving forward for this project should be in place.

Helen Sides observes that Mr. DiBiase has come before this Board for other issues, and there have been segments of scolding on conditions not being met, so this is an ongoing issue. He cleans up the Project when he finally comes in, so she is sympathetic to what Carole Hamilton is saying. Mr. DiBiase has had time and opportunity to complete the project, yet residents and this Board are still dealing with the recession even though it ended long ago.

DJ Napolitano agrees, noting that if he does not pay his mortgage, he cannot seek relief due to a bad economy, and the bank forecloses. Mr. DiBiase is a very late in filing for this extension. He did not pay any penalty to City for being, there are no consequences, and this is not the first-time issues have come up, as noted by Helen Sides. Neighbors have complained before about a lack of action and the Board and City have pushed back on this lack of action.

Mr. DiBiase says that the recession did affect the process. He had a legal issue out of his control that prevented him from obtaining financing, but he was half owner at the time. That will not change, but what is different is that he now has full control over it so there will be no delay due to legal issues with family. Markets cannot be predicted, but he promises to do his best to finish in a reasonable time frame.

DJ Napolitano asks why Mr. DiBiase did not reach out, and he replies that it wasn't on his radar, and that Amanda Chiancola had notified him that the permit had expired. The original Decision anticipated it being longer than 7 years. This Board wonders how it can trust him if the extension request is already a year late. Attorney McGrail

points out that they are not a whole year late, as the original Decision was made in July 2006, and the endorsement of the Plan occurred in November 2006. The Project must be completed in 7 years, plus the time allowed by the Permit Extension Act, so the extension was actually due in Nov. 2017, and Mr. DiBiase is 5 months late.

Chair Anderson opens p

Marilyn Cusick, 27 Osborne Hill

- Complained about a tree two years ago, and it was never addressed; feels that action items have only been addressed because Mr. DiBiase wants an extension approval
- Property across the street was meant to be finished/landscaped/grassed/irrigated, but is not irrigated, so cannot be used as a common area

Stephanie Matthews, 23 Osborne Hills

- Residents want to see the Development finished, but also want the work done that was already promised them
- Trees are an issue
- Claims fence at 21 Amanda Way has not been fixed
- Grass on common and side common areas has been cleaned up but must still be maintained
- Wonders about documentation re maintenance of open space trails, safety/litigation issues, and resident responsibilities

Mark Loffer, 14 Amanda Way

- Maintenance/plowing staff has changed, and they do not do a good job. The previous plow guy was slow, careful and respectful
- Mailboxes are starting to rot due to incorrect installation; he wonders if residents are allowed to replace them themselves

Jack Cusick, 27 Osborne Hills Drive

- Concerned about the future given the history of this project
- Appreciates efforts at cleanup of punch list items but is concerned that these issues will happen again, as residents are here because they have been complaining for 4 years, and nothing would have changed if they had not acted
- Wants to see empty lot maintained similarly to front entrance. Asks Board if Paul DiBiase has posted a performance Bond to ensure project completion to satisfaction. He mentions monies to be released

Paul DiBiase replies that the drainage area/vacant lot is not buildable because it is used as a subsurface drainage area. There are large storage arches underground and manhole covers, so it is not a great area to play in especially if a manhole cover is removed. There is no water source there for irrigation. Special irrigation near entrance was allowed; and he asks if the City allows for separate meters. That is a detailed discussion for another time.

Property Owner, 7 Osborne Hill Dr.

- Notes that service has gone “downhill” with the recession
- Street has been there for 11 years, yet still has only the binder coat
- The fact that work does not get done unless it is requested represents an inherent problem in the structure of the trust, in that no one oversees the property
- Division should be allowed to finish, while protecting residents

Patrick Hill, 22 Amanda Way (has also submitted a letter

- Notes that Mr. DiBiase is obligated to maintain the development

- Feels that actions taken since last meeting are a false show of good faith; rather these were obligations and a “last minute scramble”
- Recession is long ended yet the last house sold was two years ago
- Feels that conditions of the original Permit should be revisited to ensure that all have been adhered to, before issuing any extension

Phil Picarello, Osborne Hill Dr.

- Has lived in the neighborhood for two years, and has not seen maintenance done during that time
- Also wishes to see the development finished but feels that work begun should be completed and roads accepted as public ways before an extension is granted
- Taxes are high, yet residents see no benefit in this area

Attorney McGrail acknowledges the lack of action, reiterating that internal issues and litigation with the trust were the issues that caused the delay, but have now been resolved. Mr. DiBiase is now entirely in control of the project and can reference other projects that he has finished.

Chair Anderson proposes the following requirements in order to allow the Board to move forward while still being responsive to the concerns it has, and has heard:

- Tie punch list to extension approval
- Obtain a written statement from Mr. DiBiase that issues will be addressed
- Require a yearly check up/check in where Mr. DiBiase will hire the City’s peer reviewer and report to the Board or Planning Dept.
- Field comments from the neighborhood, who will provide a letter of concerns, also to be reviewed on a yearly basis
- Planning Dept. should review this on a yearly basis and can inform the Planning Board if there are concerns. Matt Veno feels that concerns should be written as conditions, which if not met, would mean the project is not compliant. Concerns would be noted in the peer reviewer letter, written into the extension, and if not met, the Decision can be reexamined.

The procedure for the City’s acceptance of the streets as public ways is described. Typically, a subdivision must be complete and adhere to any conditions agreed upon by the City’s Engineer and the Applicant. The City’s main concern is that, if it accepts completely finished streets in a subdivision that is only partially complete, construction vehicles will damage streets that the City would then have to repave. This subdivision has only three of ten phases complete, and final pavement and all conditions on those phases must be met by December 31, 2018, for the City to accept the streets. Phased acceptance is being allowed in this case. All work must be done before the Applicant is allowed to move on to the next phase, and the Applicant has agreed that any damage done during the five-year extension by construction vehicles will be repaired by him. The Clerk of the Works has noted that sidewalk repairs should also be included.

It is noted that comments from Patrick Hill and an email from Strongwater Crossing residents were received in writing.

Chair Anderson reviews the Draft Extension, not including the Clerk of the Works language. Attorney McGrail clarifies that the Applicant is fine with the dates and conditions, but Mr. DiBiase would like to start Phase 4 while doing the outstanding work. The extension enables them to begin phase 4 works but notes that the conditions of the peer reviewer will be written into the extension.

Carole Hamilton asks if the City Engineer has reviewed the performance bond to ensure adequate coverage of costs. He has; it was reviewed by the Planning Board in 2016 for a reduction due to the completion of these phases. A new bond to cover phase 4 will be required.

Chair Anderson adds that, upon confirmation of the completion punch list items and final coats of phase 3, with the bond can be released.

The Chair adds:

- Item 6: Incorporation of Peer Reviewer Engineer's letter and developer's response, confirming in writing
- Item 7: On a yearly basis, from the approval of the extension, the Applicant must hire a Clerk of the Works/Peer Review Engineer to review the project and its status. He must also obtain a letter from the neighborhood indicating concerns or questions that shall be reported to the Planning Department, then to the Board if the Department has concerns

Language and how to hold Mr. DiBiase accountable are discussed. Amanda Chiancola will run the language by the City Solicitor. The expectation is that the Applicant will commit to fixing issues identified by the Peer Reviewer.

A motion to grant the five-year extension is made by Matt Veno, seconded by Noah Koretz, and passes 6-1 with DJ Napolitano opposed.

D. Location: 45 Traders Way and 40 First Street (Map 08, Lot 159; Map 13, Lot 0011)

Applicant: PETER LUTTS/PAVEL ESPINAL

Description: A continuation of a public hearing for all persons interested in the application for the properties located at 45 Traders Way and 40 First Street (Map 08, Lot 159; Map 13, Lot 0011) in accordance with the following sections of the Salem Zoning Ordinance: Section 7.3 for a Planned Unit Development and Section 9.5 for a Site Plan Review. Specifically, the petitioner is proposing seven (7), free-standing, residential/retail mixed use buildings of varying heights throughout the 8.9 acre site. The development includes 212 dwelling units, approximately 7, 600 square feet of retail space, 318 parking spaces, bike racks, at least one parking space for a car share, landscaping, a dog park, walking paths, utility work, and drainage systems for stormwater runoff.

Present for the Applicant are:

Attorney Scott Grover

Peter Lutz

Pavelle Espinale

Rich Williams, Civil Engineer, Williams & Sparages

Dan Ricciarelli, Architect, Seger Architects

Michael DeAngelo, Landscape Architect

The Applicant is responding to comments made by the Board and neighbors as of last meeting.

Conceptual Plan changes since last meeting are shown, and modeling is provided to show project scale in context of neighborhood.

Michael D'Angelo presents the changes:

- Driveway relocated
- Moved 50 parking spaces under buildings 3 and 4, added community green space and relocated clubhouse and pool there

- Added fence along Eastern property line
- Tree palette has been diversified

Dan Ricciarelli reviews architectural changes:

- Buildings 2 and 6 may be aligned with building 5; this is not done yet but Rich Williams shows a preliminary sketch
- Balconies removed for privacy
- Massing of buildings 5, 6 and 2: Elevations have been reduced along exterior of site and raised on the interior instead
- Pocket park/seating are added near wetlands
- Buildings 3 and 4 have been combined, with parking underneath. They have a total of 5 stories, four residential plus garage (grade changes mean possibly higher at one end)
- Fly through view is shown

There is no Design Review on this project.

Chair Anderson comments that this is an atypical neighborhood for Salem, with lots of trees and dog walking areas. He approves of the shift of buildings off First St. but would like to see more paths and landscaping, so the character is more in keeping with that of the neighborhood. The Developer should create another “forest feeling” sidewalk like what is already there. He requests that they please save any existing trees in good condition if possible.

The Chair also approves of the pedestrian connection to Target/Market Basket/Shaws plaza. This is an opportunity to distinguish car centric vs. pedestrian developments and to find tenants who can walk to that plaza. He notes that it could be also be an amenity for other neighborhoods in area, to walk through site as well.

Reducing pavement is a positive change. He asks if there is a 10% requirement for moderate to low income housing; the City expects it, and the Applicant will make the commitment. First St. and Traders Way connections will be used to make it fit in with the current neighborhood character.

Attorney Grover points out that a path from First St. that connects back to the Target, plus a new solid fence will create a sense of security. Those across First St. can also use that path.

Additionally, the sidewalk along the front will be improved to encourage walking and pedestrian connectivity. Chair Anderson would still like a less regular, more random, “forest” or natural feel.

Noah Koretz cites as an example the Pine Hills development in Plymouth for its landscaping aesthetic, as it is “of the landscape,” not forced.

DJ Napolitano thanks the Applicant for the improvements in the Project Plans, especially the reduction in parking lot area and the inclusion of green space.

Matt Venio notes that he will walk the site and feels that density does not bother him on a site like this; if as far as developments go in Salem, it is adjacent to retail, and the scale is more appropriate at this location. Carole Hamilton comments on the orientation of the development, having large buildings farther back from the street, and that it is hard to decide on an orientation. Matt Venio feels that it could go either way, and is hard for this Development to “fit into” the neighborhood, whose separate developments are diverse. Noah Koretz feels this type of housing is needed and that pedestrian-oriented developments outside of the urban areas aren’t often considered, but in outer areas with retail, this works well.

Chair Anderson opens to public comment.

Debbie Tucker, 35B First St.

- Thanks Attorney Grover and the developer for acknowledging residents' concerns
- Requested improvements were made, but she agrees that more greenery would be ideal
- They approve of path as neighbors, but are concerned with safety and lighting, which must be focused

Barbara Canty, 33 A First St.

- Approves of changes re massing and moving buildings away from First St.
- Trees should also be diversified
- Moving driveway was a positive change

Dave Goodoff, 31C First St.

- Congratulates the developer, and is no longer concerned about number of units and parking
- Feels that issues will not be caused by this development in particular, though they arise due to other factors, so he approves of project

Angela Manzi, 14 Queensbury Dr.

- Feels development should be scaled back
- Fears that people will not walk to Target, etc. as they cannot even safely walk to their cars even in that area, as traffic makes it unsafe
- Feels the density of development and parking will not be supported

Cindy Anselmo, 400 Highland Ave., East Coast Properties. Manager, Cloister Condominiums

- Pleased with suggestions by residents and the resulting changes
- Appreciates developers listening

Chair Anderson reads comments submitted by Ward Councilor 3, Lisa Peterson, into the record.

- Describes community meetings
- Developers have been thoughtful and responsive, willing to meet anytime
- Welcome changes have been made – cites changes previously described
- Neighbors are still concerned re:
 - Traffic; some suggest moving the entrance via Demoulas paper street
 - Traffic: some suggest the area not be developed at all or the total number of units be reduced
 - Others feel there is sufficient parking so will be no street parking
 - Some feel that dog walking is at a peak, and that the new complex should remove the dog park and disallow dogs, but others feel very differently
 - A privacy berm was added to Cloister condos, residents want the same closer to First St./Traders Way

Timing of the Peer Review and the process is described.

A motion to continue to the June 21, 2018 meeting is made by Matt Veno, seconded by Carole Hamilton, and the motion carries.

III. OLD/NEW BUSINESS

A. Provide the Registry of Deeds an update on the Planning Board Members.

Tabled to the next meeting.

DJ Napolitano asks if presentations can be limited to 30 minutes, this will be discussed at the next agenda. It is felt that extremely lengthy presentations are not fair to other applicants, or the public, and Applicant's don't need to recap progress thus far at every meeting.

B. Deliberate and vote on recommendation to City Council on three (3) separate proposed Zoning Amendments listed below:

- 1. To amend the City's Zoning Ordinance Section 3.0—Table of Principal & Accessory Use Regulations amending scrivener's errors from 2009 recodification including allowing a dwelling above first floor retail, service or office in B1 zone; allowing by right clubs, indoor commercial recreation, service, plumbing/carpentry/sheet metal, restaurants, manufacturing, storage, research/development and adult daycare in I zone; allowing by special permit outdoor commercial recreation and accessory structures in I zone.**

The Board has no concerns and would recommend adopting the amendments. Discussion of dimensional requirements and heights briefly occurs; the revision picks up changes in dimensional area but not height.

A motion to recommend that the City Council approves these amendments for corrections to section 3.0 is made by Noah Koretz, seconded by DJ Napolitano, and the motion carries.

- 2. To amend the City's Zoning Ordinance Section 4.1.1—Table of Dimensional Requirements establishing 1) max. height of fences and 2) dimensional requirements for B1 zone dwellings.**

A motion to recommend that the City Council approve the amendment is made by Noah Koretz, seconded by Carole Hamilton and the motion carries.

- 3. To amend the City's Zoning Ordinance Section 10.0—Definitions relative to dwelling unit; rooming, boarding and lodging house; general service establishment; assisted living residence; site plan review; and zoning bd. of appeal.**

Noah Koretz says that as general policy, definitions should mirror state law.

A motion to recommend that the City Council approve the amendment is made by Carole Hamilton, seconded by DJ Napolitano, and the motion carries.

IV. APPROVAL OF MINUTES

- A. Special Joint Planning Board and City Council Meeting held on April 9, 2018**
- B. Special Joint Planning Board and City Council Meeting held on April 30, 2018**
- A. Regular Planning Board Meeting held on May 3, 2018**

Approval of all above meeting minutes is tabled until the June 7, 2018 meeting.

V. ADJOURNMENT

A motion to adjourn is made by Noah Koretz, seconded by Carole Hamilton, and passes 7-0 (with a sigh of relief).

The meeting ends at 11:54PM.

For actions where the decisions have not been fully written into these minutes, copies of the decisions have been posted separately by address or project at: <https://www.salem.com/planning-board/webforms/planning-board-2018-decisions>

Respectfully submitted,
Stacy Kilb, Recording Clerk

Approved by the Planning Board on 06/07/2018

Know your rights under the Open Meeting Law M.G.L. c. 30A § 18-25 and City Ordinance § 2-2028 through § 2-2033.