



CITY OF SALEM PLANNING BOARD

City of Salem Planning Board Meeting Minutes, October 15, 2020

Chair Ben Anderson calls the meeting to order at 7:00pm.

A public hearing of the Salem Planning Board was held on Thursday, October 15, 2020 at 7:00 p.m. via Remote Access. Public participation was possible via zoom video and conference call.

I. ROLL CALL

Those present were: Chair Ben Anderson, Vice Chair Kirt Rieder, Carole Hamilton, Helen Sides, Noah Koretz, DJ Napolitano, Bill Grisct, Tom Furey, Bill Grisct, Noah Koretz (8)

Absent: Matt Smith (1)

Also in attendance: Mason Wells, Staff Planner, Tom Devine, Senior Staff Planner

Recorder: Stacy Kilb

I. REGULAR AGENDA

- A. Location:** 413 Essex Street (Map 25, Lot 190)
Applicant: Mirosław Kontorosinski
Description: Endorsement of a Plan believed not to require approval under the Subdivision Control Law (ANR).

Phil Pattison with Hancock Associates represents the Applicant. Mr. Kontorosinski owns the property and would like to purchase vacant land at #413. A Plan is shown. The Assessor's Parcel in question is described. The City has been approached and he discussed a strip of land 12' wide adjacent to his property at 409 within the property at 413, with the intent of having off-street parking for the residents at #409. The property itself was historically a land taking by the City of Salem and is currently vacant except for a paved parking lot, used by members of the fire station.

The parcel to be purchased is 1103 square feet, and Lot 2 is the remaining land at #413 Essex St. Ms. Rennard also outlined the steps to be taken after the Planning Board meeting, in regard to the purchase. Mr. Kontorosinski has also discussed installing a curb cut.

The Chair asks if Lot 2 would remain buildable w/appropriate frontage. As it stands currently it is nonconforming prior to any subdivision. There once was a building on the lot, though. Chair Anderson wonders if this will make the lot undesirable for the City if they wanted to dispose of it, though it would require a special permit anyway. This has not been discussed.

Kirt Rieder notes that according to Google Street View there are two "quirky curb cuts" for fire related vehicles. He comments that on-street parking runs from the curb cut toward downtown, and 2 spaces

would be deleted if curb the cut was allowed by the City on #409. Also, there is a vacant tree pit that will never be able to receive a tree if a curb cut goes in. This is not a dealbreaker, however he is just pointing out the public parking and street tree components that have not been mentioned.

Helen Sides assumes the City has agreed to divide this piece, and that it still allows the fire dept. to park there. Mr. Pattison notes the FD was involved in the discussions and the offer was that the 12' strip is vegetated (term used loosely) and Mr. Kontorosinski was granted the right to purchase it. Kirt Rieder asks about the dimensions and these are outlined. He notes that personal FD vehicles would mean the City will give up 3' that is currently used for parking. The tree print straddles the future line between private and public property. He wonders if the City is prepared to give up a City street tree pit, and if the Client will be willing to contribute to the Street Tree Fund? Yes, he would. If the City moves forward, are they at peace with the deletion of 2 on street parking spaces? Kirt Rieder states that the Board is making this assumption, that the City and Beth Rennard most likely worked it out/accepted it. This is our working assumption, given no other direction was provided.

Mason Wells reviews the sign off procedure for working remotely. The Board has previously granted permission for Tom Daniel to sign it. Kirt Rieder asks how to capture the requirement for street tree donation/coordination w/tree warden. Mason Wells is not sure how to capture in an ANR but this is recorded in the minutes and can be communicated via letter to the Applicant. Kirt Rieder finds this agreeable. The Chair suggests attaching it to the purchase of the property; Mason Wells will speak with Beth Rennard about this issue.

Kirt Rieder notes that the dimensions provided means a 12' curb cut restriction is 20' maximum per resident, so the Applicant can put in an 18' curb cut and allow 2 cars to park side by side.

A motion to grant the ANR is made by Kirt Rieder, seconded by Carole Hamilton, and the motion passes 8-0 in a roll call vote.

Ben Anderson	Yes
Bill Grisct	Yes
Carole Hamilton	Yes
DJ Napolitano	Yes
Helen Sides	Yes
Kirt Rieder	Yes
Matt Smith	Absent
Noah Koretz	Yes
Tom Furey	Yes

- B. Location:** 379, 383, and 387 Highland Avenue; 4, 10, 12, 14, and 16 Barnes Road; 9, 12, 14-16, and 18 Cedar Road (Map 7, Lots 18-21, 49-54, 59, & 60; Map 3, Lot 66 & 67)
Applicant: Overlook Acres LLC
Description: A continuation of a public hearing for all persons interested in the application of OVERLOOK ACRES, LLC for the property located at 379, 383, and 387 Highland Avenue, 4, 10, 12, 14, and 16 Barnes Road and 9, 12, 14-16, and 18 Cedar Road (Map 7, Lots 18-21, 49-54, 59, & 60; Map 3, Lot 66 & 67) for a Site Plan Review and Planned Unit Development Special Permit in accordance with the Salem Zoning Ordinance Section 9.5 and Section 7.3. Specifically, the applicant proposes a development on the

approximately 15.5 acre site along Highland Avenue at Barnes Road and Cedar Road consisting of a mix of uses, including commercial, residential, and public spaces. There is one commercial building with an approximate footprint of 8,450 square feet, four residential buildings with approximately 290 units (subsequently reduced to 282 units), and a residential club house. There are also approximately 490 parking spaces (subsequently reduced to 453 parking spaces).

Vice Chair Kirt Rieder directs this item as Chair Ben Anderson recuses himself.

Present for the Applicant:

Attorney Scott Grover

Nicholas Campanelli

Bill Ross, Peer Review for Civil Engineer, New England Civil Engineering

Scott Cameron, Civil Engineer, The Morin Cameron Group

Pavel Espinal, Principal

Peter Lutts, Principal

Rich Kirby, LEC Environmental

Robert Michaud

Revised Plans have been submitted that address Planning Board concerns raised at the last meeting. Attorney Grover outlines the process that began two years ago, and the evolution of the project, which has changed immeasurably. Virtually every request made by stakeholders has been met.

Proposed new conditions, not yet seen by Board:

- Acceptance of prohibition on rock crushing
- Vertical Granite curbing, rather than Cape Cod berm, along Barnes Rd.
- Agreement that no work will be performed on Saturdays preceding Monday Holidays (councilor request)

Project will turn blighted property to providing benefits:

- \$95 million in improvements
- Will provide 18x more tax revenue than current property
- 28 units at 60% AMI
- Contribution of \$300K to traffic improvement fund
- Drainage along Barnes Rd.
- DOT Barnes Rd. improvements will be made by Applicant
- Installation of public sidewalk, trails for public use
- Sets bar higher for future developers

Scott Cameron, Civil Engineer, The Morin Cameron Group, outlines changes made since the last Plan:

- Shift Building 3 parallel to Building 2, pulled further from Buffer zone
- Building 1 moved entirely out of buffer zone
- Shift Building 4; half was in the Buffer zone, stormwater was to be under the parking area; current design has stormwater structure underground still, but behind the building. Entirety of building structures are now outside of the buffer zone. There will only be temporary impacts in the buffer

- Wetland buffer zone impacts are shown; only 14% of it is being changed. Average depth of buffer zone will be 86 feet upon project completion; restoration efforts to be completed are described
- Limits of work are described
- Wetland Ordinances in other towns had been discussed; setbacks in bylaws from other communities are met and are described. Many communities have a 25' no disturbance setback. Other communities' setbacks are described: Peabody, Danvers, Ipswich, Lynn
- Reduction in number of units to 282 and parking is now at 453 spaces

Kirt Rieder:

- Snow storage and removal? This is shown and described. Can condition that any excess snow be removed from site
- Agrees w/comments of Attorney Grover and Mr. Cameron re accommodations and project changes, almost never supportive of token efforts to provide buffer vegetation, but there is a substantial landscape planned
- Landscape drawings: changed chain link to mini mesh but photos show chain link still, note in Conditions to ensure
- Use of the word "park," or "parkland" suggests City owned/municipal, but this will not be. Will be private ownership, less than a park amenity. Wants to see word "park" struck from Decision. Playground was changed to linear open space; use that term
- Perennial food garden mentioned but not in Decision? Don't use it as an "amenity carrot;" strike this. Attorney Grover: Applicant intends to explore this possibility, documentation in Decision is to present programming for that area to PD and allow them to accept/reject. Kirt Rieder comments that they should bring this before the DRB when they have construction documents, just don't leave it open ended. Attorney Grover agrees
- BPD figure - Solicitor's Decision, graphic was provided last time, but he questions the delineation of curb line as extent of development, but must disturb down the hill w/grading operations that extend lime green into dark green area. Pavement does not cross line but logistical disturbance of fill = larger than 47.3% footprint. See sheet C5 showing disturbance. Spaces behind Building 3 serve no residential purpose, roadways as part of that? Too late for adjusted percentage but he suspects it is greater than the 47.3%
 - Attorney Grover: Understands it must be disturbed to construct but will revert back to public use (wetlands) once work is done, and that is counted as nonresidential use once revegetated. Kirt Rieder accepts this answer
- PDF that has Kirt Rieder's name on it in the public folder shows research he did on other City's restrictions on building around wetlands, Applicant took and responded to this. It is difficult b/c City does not have dimensions for Applicants to use as goals, and Board is to provide guidance. This is not a referendum on rewriting zoning tonight, but this Board is charged to make a determination that this will not result in net negative environmental impact. Impressed that they were able to pull buildings back
- Described where retaining walls were, forthcoming, not trying to hide anything, this is positive
- Good that they described groundwater infiltration behind building #4. 40' lawn behind the building, pushed back into the buffer to accept stones, can they keep those in the parking area, was the question before tonight. Understands desire for an efficient system but is that a better use of real estate than keeping the buffer undisturbed? Applicant decided that it was, but Scott Cameron discusses:
 - Limit of work pulled further from wetland

- Need to make sure they are recycling/reusing everything, even large boulders
 - Riprap slope took up a lot of real estate due to topography, so went on a more vertical 6:1 using large blast rocks; it is not a wall but pulls limit of work away from wetland
 - Kept stormwater/lawn there, it is ideal rather than in front of building b/c of how much soil will be underneath. Limited soil testing shows it is shallow to bedrock, in front of building 4 they would be removing rock to put in sand below stormwater system to force it into the space; in back of building it can be above the existing soil grade so is far more effective
- Kirt Rieder: Board must allow asphalt parking, granite curbing, etc. in buffer zone to the tune of 14% of buffer zone. Are we OK with this as a Board? Could the team reduce it any further?
 - Board has the ability to approve projects in exchange for something else. Could this be removal of material to expand the square footage of the wetland area to offset the 14% incursion? Carole Hamilton is fine with where they are, was much more concerned w/buildings than pavement in buffer
 - Bill Griset: agrees w/Carole Hamilton
 - Kirt Rieder notes that Applicant has been the most accommodating the Board has seen in a long time. Absence of dimensional constraints lead to difficulty; hopes this can be a springboard to a larger municipal conversation about the Ordinance. Attorney Grover hopes the Decision sets a precedent re wetlands protection and affordable housing, sensitive construction practices

Other board comments:

- Helen Sides is thankful they met the requests Board has and appreciates improvements

Noah Korets re: Affordable Housing:

- Draft Decision language: The commitment for a project like this, to 28 units at 60% AMI, is a deep commitment. There is language in the Decision where they ask us (the Board) to admit they need a public subsidy or tax credit to make that level of affordability work; this is irregular to be in a Decision. Practical and Policy reasons exist that we may not want that language there. Will be discussed when Decision is reviewed

Kirt Rieder:

- Draft Decision bears his name, in folder for more than a week, though his name is on it Chair Anderson notes it is an all volunteer Board that relies on the Planning Department for coordination, writing Decisions, but only when together as a Board can those decisions be reviewed and approved. They all must perform ethically with no behind the scenes discussion, so they saw them last week, some not until more recently, and tonight's is the venue where they will be discussed. Nothing is predetermined, all work done by Planning Department, City Solicitor etc.

Mason Wells asks Tom Devine to review a list of written comments received since the last meeting. Kirt Rieder notes all written comments have been reviewed by him and have informed his thinking on the Decision, but will not be read aloud at the meeting tonight.

Comment names and dates since July 23:

- Wayne Silva – 2020.08.07
- Joseph R Ingemi Jr – 2020.08.30
- Nicholas Zuzolo – 2020.08.30
- Reeve Brenner – 2020.09.01
- Linda Ferraresso – 2020.09.03
- David Freni – 2020.09.03
- Patti Morsillo – 2020.09.14
- Todd Dunlop – 2020.09.02
- Steve Kapanatais – 2020.09.17
- Salem Alliance for the Environment - 2020.09.28
- Alvi Ibanez - 2020.10.01
- Linda Ferraresso - 2020.10.01
- Betty Yeung - 2020.10.11
- Kevin Kelaher - 2020.10.11
- Richard Fox - 2020.10.09
- Joe Dempsky - 2020.10.09
- Bernard Szwarc - 2020.10.12
- Alvi Ibanez - 2020.10.06
- Linda Ferraresso - 2020.10.08
- Alvi Ibanez - 2020.10.08
- Craig Johansen - 2020.10.13
- Kathleen Tone - 2020.10.13
- Mary Wilburt - 2020.10.12
- Steve Kapantais - 2020.10.14
- Dennis Colbert - 2020.10.14
- James Lonergan - 2020.10.13
- Andrew Cunningham - 2020.10.14
- Daniel Harrington - 2020.10.09
- Don and Sandy Burns - 2020.10.09
- Alizabeth Marcy - 2020.10.09
- Susan Bennett - 2020.10.09
- Alan Samiljan - 2020.10.09
- Nakuci family - 2020.10.09
- Gregory Rabinovich - 2020.10.09
- Linda Marquis - 2020.10.09
- Richard and Liisa Fox - 2020.10.09
- Tarik Gouhier - 2020.10.09
- Harry and Diane Caplan - 2020.10.09
- Tom and Debbie Dusenberry - 2020.10.09
- Olga Keselman - 2020.10.10
- Ronald and Susan Finestone - 2020.10.10
- Ralph & Mona Guy - 2020.10.11
- Amy Levine-Fagg - 2020.10.11
- Phillip & Diane Blaskovich - 2020.10.11
- Deb Harding - 2020.10.11
- Robert Schrater and Gertrude Schrater - 2020.10.11
- Arnold Davila - 2020.10.12

- Kathleen Tone - 2020.10.13
- Alvi Ibanez - 2020.10.14
- Steve Kapantais - 2020.10.15
- Patti Morsillo - 2020.10.15
- Petition - 2020.10.15
- Craig Lee - 2020.10.15
- David Freni - 2020.10.15
- Richard Lindeman - 2020.10.15
- Linda Ferraresso - 2020.10.15
- Kevin Kilfoyle - 2020.10.14
- Ken Girard - 2020.10.13
- Alice Hayes - 2020.10.12
- Maisy Wong - 2020.10.11
- Elena C. Kirios - 2020.10.09
- Jennifer Kasper - 2020.10.09
- Colpitts - 2020.10.08
- Mary Milton - 2020.10.08
- Robert Provencher - 2020.10.08

Vice Chair Kirt Rieder opens to public comment

Stephen Kapantais, 23A Wisteria St.

- Contamination and soil testing?
- PB Decision limited by zoning Ordinance; feels project does not have net negative result on environment
- Objects to encroaching into buffer zone, removing trees and vegetation, 20,000 lbs/year will be emitted from driveways in buffer, well over several hundred thousand lbs CO2 emissions from the development will occur annually
- Encroachment into wetlands is 14' *on average*. Developer is asking to encroach on every single linear foot of boundary
- Petition: current legislation in Salem re wetlands boundary. Petition started 36 hours ago but has 750 signatures.
- Is not impressed by the \$300,000 transportation enhancement fund, what about wetland/environmental enhancement?
- Affordability: 10% at 60% is conditional upon receipt of state grants, if not, left up to the developer? Relying on taxpayers to do affordability
- Can they even be eligible under WPA for encroaching?
- What level of affordability can they offer w/out conditions of state funds?
 - Attorney Grover re affordability:
 - Committed to 10% at 60%, it is NOT at Applicant's discretion. Language was something that he and Tom Daniel worked out in interest of transparency/achieving 10% at 60% via Housing Development Incentive Program (HDIP)
 - If language is seen as eroding commitment to affordability it can be removed
 - Mr. Kapantais thanks them for commitment to affordability

Jodie Fenton, 4 Patton Ridge, South Hamilton

- Family owned property w/approaches to develop, these have offered best Plan

- Salem and neighbors will be left w/enhanced property when Development is done
- Endorses Overlook Acres project, cares about City, has businesses here

Kathleen Ingemi, 381 Highland Ave.

- Family has owned this property and seen progress on and off Highland Ave. and paid taxes
- Now is time for others to enjoy living here away from downtown
- Will lead to increase tax base and affordable units
- Overlook Acres is a positive development

David Freni, 5 Wyman Ave, Environmental Science Degree re contamination

- Phase 1 assessment includes contamination research, not testing but historical research
- Was this done? Was found and presented by Salem Community member w/no experience but Developer did not present in ESA 1 despite concerns raised by residents
- Land mostly owned by Ingemi's, mentioned in the document, sold by that family in P&S and NOI
- Would not have been done (contamination research) if residents/community members had not brought it up. What other issues may have been overlooked?
- Kirt Rieder notes certain projects trigger a state DEP posting; Mr. Grover should address this since virtually every property of this size in the City will have contamination issues; it is not a reason to write off possible development but make sure it is done in accordance w/state regulations
- Attorney Grover asks Scott Cameron. Civil Engineer, to elaborate
- Scott Cameron:
 - Applicant not trying to "hide things" but it is a private matter between landowners and Applicant
 - Once research and review started there are DEP timelines and regulations for the public process, but until that point in time, work is underway, but the information is not public yet and will follow all state regulations. Here we are trying to improve the development itself, and Applicants don't get into DEP regulations at this level
 - Tom Devine adds that if anyone has questions about process please contact him for answers and he can connect the public w/DEP
 - Kirt Rieder notes that he has been through this topic on other projects and the Licensed Site Professional (LSP) is ultimately a strong actor in ensuring that the Applicant follows state regulations. Nothing in the Decision frees this or any Applicant from state or federal regulatory requirements

Bob Provencher, 17 Barnes Rd.

- Concerned about soil contamination esp. w/fly ash
- Concerned about wildlife
- Feels it should be left as "a sanctuary"

Maria Rd

- Family that owns has not tried to deny any other Developer
- Opposed to project

Alvi Ibanez, 20 ½ Barnes Rd.

- Concerned about contamination especially in bedrock

- Wait for 107 Corridor study to come out before developing
- Don't rush Decision; Developers may be under P & S Deadline of Nov. 15 and does this factor into tonight's decision?
- Kirt Rieder: How did it go from being publicly discussed to more "secretive?" (Research into contamination)
- Scott Cameron:
 - LSP is overseeing the review and research, including soil testing, there is a process, regulated by DEP, based on many timelines. This is just at the start of the process. Will hit a benchmark of submitting info to DEP, who will review what it is, how it will be cleaned up. Cleanup will be overseen by LSP and DEP, the process is very typical as part of the Development proposal. It is not public information yet, until they are certain what it is and if it meets reportable standards; there is nothing to report right now. When it gets to the state level, then it becomes public record on Mass GIS and other sites. The LSP was present at last meeting to give a detailed presentation on the process; Tom Devine may also answer additional questions
 - Frank Ricciardi of Weston and Sampson is the LSP. License depends on a very transparent handling of this; LSPs have personal liability
 - Alvi Ibanez wonders when they decided to go public and do the testing, was it only due to pressure from the public during many hearings?
 - Kirt Rieder clarifies that it was not an informal decision, it is a well thought out process as there are large dollar amounts associated with this
 - Scott Cameron: address the lingering belief about secret vs. public? We understand it is potentially heavily contaminated which will prompt state regulations/mandates, beyond the Board and City, which will be the authority overseeing it. Testing and remediation are not discretionary. The Applicant is looking at End Land Use during the process to determine standards. As residential, they must clean it up to the highest standards. Even testing is a huge investment; during phase 1 it was identified, and it has been shown on Plans, but the Applicant needed to understand where they were in the process before investing more in it. This has nothing to do with public input received. Process was already planned out

Nick Zuzolo, Woodlands Rd.

- In favor of project
- Highland Ave. area beautification is beneficial

Board Member Tom Furey is opposed to the project on a number of levels.

Pedro Fabri, 4 Porter St. (?)

- Tom Devine noted people could call him for more info, but it [information] should be provided upfront in the meeting
- Concerned about traffic
- Opposed to project

Kirt Rieder clarifies that Tom Devine meant that he has an open door policy for residents to call about any matter; the intent was not to defer, deflect or delay this project. Tom Devine reaffirms this. While the Board could cover more about the LSP and the process, it was already discussed extensively at the last meeting, but Tom Devine reiterates that he is available for additional questions.

Attorney Scott Grover appreciates Mr. Furey's candor, as this helps Applicants to understand where Board members stand, but would like to ask, if there are any other concerns have not been addressed, that would prevent a favorable outcome? Most other Board members are impressed with the Applicant's willingness to adapt and seem amenable to the project. Kirt Rieder wonders what else they could do to offset encroachment, ex. pay into a wetland fund that does not yet exist. This may be too big an "ask," but the Board may request greater revegetation in the Decision, for steep slopes, not simply seed mix. Whips and woody more mature vegetation affect change and recovery in an expedited fashion rather than offsite, that does not directly benefit abutters.

Carole Hamilton draws attention to the level of affordability, which is far above anything the Board has seen, and cautions against pushing it over the edge.

Kirt Rieder re traffic: Uses 107 corridor, familiar w/traffic, but has confidence in licensed professionals that ran numbers and provided peer review; study is not a "magical number generator" but based on hard numbers and data. He will also be sitting in traffic but hard science drives development and allows it to go forward and is not meant to "grease the rails." Projected outcomes are based on real numbers.

Kirt Rieder notes that, when the process started, he did walk the site and was misquoted by the press as saying it was a "horrific" proposal but meant that site conditions were horrific b/c of extreme alterations dumping, invasive species, hostile landscape. This does not mean it does not have value but has been severely degraded, and the transformation promised by this project via removal of contamination to make it productive for people and greater good is a net positive.

Bill Grisct agrees with Noah Koretz, Carole Hamilton, and other Board members, in that he has rarely seen an Applicant as responsive to needs of the Board to change and reexamine a project, as this one. He hopes it is a sign of things to come.

A motion to close the public hearing is made by Bill Grisct, seconded by Noah Koretz, and the motion passes 7-0 in a roll call vote.

Ben Anderson	Recused
Bill Grisct	Yes
Carole Hamilton	Yes
DJ Napolitano	Yes
Helen Sides	Yes
Kirt Rieder	Yes
Matt Smith	Absent
Noah Koretz	Yes
Tom Furey	Yes

The Draft Decision is reviewed.

p. 2 (6) Scale of Impact on Wetlands - change to "reduce the dimensional encroachment toward the BVW buffer surrounding the wetlands on the property." Tom Devine confirms that Tom Furey submitted a signed affidavit that he reviewed materials, but Matt Smith is being removed as he has not signed an affidavit.

p. 3 7.8.3.1 Change “linear parkland” to “linear open space”

p. 3 7.3.8.2 Change “totally” to “cohesive” and change “and none of the buildings are mixed use” to “with no mixed use buildings”

p. 3 7.3.8.3 Change to “as yet uncharacterized debris” - remove “view and” - strike “in addition” , change “minimize” to “reduce”

p.4 (2) Amendments KR: suggests adding: “*any modification to the encroachment footprint into the buffer to the bvw shall be brought to the full PB before any directly related work commences.*” i.e. don’t take approval then come to PB for administrative doubling or tripling of encroachment. Minor modifications going to the Planning Department don’t apply to wetlands. Attorney Grover agrees. DJ Napolitano is concerned about issue, recalling the AC units on the pad at the North River Apts. The Planning Department thought it was a minor change and approved, but there should be no de minimis Planning Department changes on this project. I.e., amendments can only be exercised by this Board and not the Department.

Any modification to the encroachment footprint to the wetland buffer zone to the BVW shall require an amendment to this Decision by the Planning Board.

DRB/handling of 100% design plans, language matches that of Ferris Decision

Affordable Housing:

- 5 (a) Board may want to strike part B, alternative language is proposed
- Noah Koretz agrees that part B should be struck (re tax credits etc). He notes:
 - 28 units at 60% is more significant than we typically see, and this is appreciated along with the fact that creating deeper affordability cuts into revenue for developer
 - Idea of the Board weighing in, that a public subsidy is required is inappropriate as we don’t have a pro forma
 - We are in an affordability crisis, there is no magic bullet, must chip away at problem by doing little things in lots of areas. In an ideal world, inclusionary provisions whether in Ordinance or Approval like this, is once piece, ideally we would want subsidies that are available to be going to other projects, such as requiring market rate deals like this to have affordability built in and having subsidies/tax credits on other projects apply there
 - Board should be agnostic and should not care on a deal by deal basis, but wants to stay away from opining that subsidies/credits be used on a specific project, as they should be spread across projects
 - We don’t know if Developer can or can’t make it feasible w/out subsidy. It is also redundant; if PB requires 10% at 60%, the Developer would have to come before PB anyway b/c it would be a requirement
 - Strike the language in (b) leave (a). Carole Hamilton agrees w/Noah Koretz
- Kirt Rieder notes it was such an issue he was prepared to vote against it over this
- DJ Napolitano asks how many more units they could make affordable if it was left at 80% AMI. Quantity is as important as deeper affordability. Exact numbers are unknown, but Attorney Grover notes that there is a scale. Language in (b) does not add anything as Applicant would have to come back to PB if they want to modify 10% at 60%; it does not substantively change the situation
- Kirt Rieder disagrees, noting that it does change it, as the language provides certainty they will do it vs. kicking it down the road to see if the numbers work with or without HDIP. Attorney

Grover notes it was more in an effort of transparency rather than a lack of commitment to the idea

- Tom Devine comments that this configuration of the level of affordability is a Planning Department staff recommendation based on housing needs analysis, especially at a deeper level of affordability. They are recommending a deeper level than what has been requested of private projects in the past. Intention of Part B was to note that public subsidy may be required to achieve and that if fails outright, the Department was preparing the Board to see the Applicant again requesting a different level of Affordability. Would still be 10% but might need to move to 80% AMI
- Noah Koretz notes that the difference between 80% and 60% AMI is significant. The 60% are harder to get elsewhere so more important to maintain here
- DJ Napolitano asks about tradeoff in numbers of units offered at the different levels
- He also notes this should be a “wake up call” to City Council; should not be on a case by case basis, there should be serious discussions about this and Plans should be put forward if people don’t agree with the Plans that are out there. This puts the Planning Board in a difficult position regarding Inclusionary Zoning (IZ) and affordability. This is a perfect example of why we need an IZ and Affordability Ordinance, not leaving it up to the Board. It is the same issue as dimensional wetlands. Tom Devine should convey this to Tom Daniel. Under Old/New Business there is AHTFB discussion.
- Carole Hamilton would like to put folks on notice of 1) Applicant, if you come back and request a change to this provision, we will be expecting a LOT more information on why it is necessary, such as financial, pro formas, information we don’t currently have. 2) General: if we are looking for this kind of subsidy in this project, developers should be on notice that we will be looking for it in future projects
- Kirt Rieder comments on both topics, wetlands and affordability: it is a simmering pot heading toward a boil. These issues must be reviewed in a linear fashion rather than on a case by case basis

Traffic: Delete Part B, MassWorks grant (similar to Affordability subsidy issue). Tom Devine proposes edits.

- Keep first three sentences, delete the rest. If grant is obtained, developer pays difference, if no grant, Developer is responsible for the whole thing
- c) Bicycle parking: Kirt Rieder would like to see a minimum of 10% of units, to be shared with DRB when more detailed plans are available
- “A quantity of bicycle parking not less than 10% of units.” Tom Devine is worried the Applicant may have proposed more than that. Kirt Rieder wants language tightened. Tom Devine notes new bike parking guidelines/calculations, which may be more than 10%
- Add “according to City of Salem Bike Parking Guidelines” at the end

7. Landscaping

- (d) Change to “all curbing along the full length of the property along Barnes Road shall be vertical granite curb.”
- (a) Why Registered Professional Engineer? Change to Registered Professional Landscape Architect
- (c) Perennial food and flower garden: pick up w/DRB when plans are closer to 100% - language will be left as is

- (a) Trees: in another project, trees were planted then left to die. If they perish, they must be replaced. "Any tree that does not survive must be replaced in perpetuity." 2 year timeline to replace anything that perishes but may have used in perpetuity. Standard warranty is 12 to 24 months, so no good. If current Developer sells to another Developer City, would not have teeth to reinforce vegetation standards

8. City does not have a lighting Ordinance - the need for this is discussed. Would assure residents that there will be no light trespass and would codify that. Beyond the scope of tonight's discussion

9. Maintenance a) "adequate facilities for all users to recycle their trash"

- add "Snow shall not be moved to or stored within the vegetated areas of the 100' buffer to the bvw

10. a) change "parkland" to Open Space, add to "throughout the property"

Conservation Commission and Order of Conditions wording is discussed to capture buffer zones and wetlands. Thus "linear" is deleted from "open space" so it is more general.

14. Board of Health. Change "exterminate" to "eradicate" But Tom Devine notes that these are boilerplate BOH standard conditions that should not be changed

g) Why would developers not continue a responsibility for rodent control indefinitely rather than just during construction? Usually during construction rodents are scurrying away from the site, so that is the most important time

15. City Engineer - A lot of material has been added; Draft Engineering conditions provided as separate document and added here. Conditions are based on Engineering Dept's current expectations; Applicant has seen them but only recently. Bill Ross of NECE notes that the added condition regarding extending drain through property drain but will function as a City Drain in that case, however no easement is described. c) Scott Cameron notes Applicant will provide easement from Barnes Rd. infrastructure across property through site, document will be provided. "Owner shall provide City of Salem w/drainage easement along the entire length of the pipe that serves Barnes Rd."

16. Clerk of the Works "as is deemed necessary by the City Planner." This one WILL require a Clerk of the Works. (no language changes suggested)

i.ii. iii. Why different? any vs. all? Should be consistent. Change "any" to "all" in iii. iv. and v.

c) "a reasonable number of hours" is too expansive. "An average of 8 hours per week for the duration of the project." Tom Devine notes base Clerk of the Works scope on schedule from developer; at this point we don't know what type of approach they will take to construction, argues Devine, so can't pin down a number of hours. Kirt Rieder does not want to agree to one for X \$ only to find it is not enough. Bill Griset suggests, "customary rate of service." Kirt Rieder is comfortable with that. This language is there so a Clerk cannot spike the rates, and the rates must be comparable. Carole Hamilton wonders if that paragraph is necessary at all. The contract will be awarded via a city RFP that will guide hiring and the number of hours. Kirt Rieder agrees, and c) will be stricken.

17. Construction practices a. i. First sentence should stand alone. "Shall not be allowed at the site. This is in order to..." So there can be no argument against that

iii. Discussion re notifying the neighborhood of blasting, this is not easily written out so broad language has been added. Discretionary things to be determined by Plan, otherwise notification formalities are in place

v.i. Blasting etc. “shall not occur over more than a single, continuous 12 month period”

viii. No activity on Saturdays before a State or Federal Monday holiday has been added. Pavel Espinal was in support of this. strike “activity” and substitute “construction or related activity”

xiii. add “to the written satisfaction of the City Planner”

re: damage to mature trees. Generally, they are irreplaceable. Add: “In the instance of damage to mature City trees, the Tree Warden shall be solely responsible for determining monetary damages and acceptable mitigation”

A motion to approve the Draft Decision with the above edits is made by Noah Koretz, seconded by Bill Grisette, and the motion passes 6-1 in a roll call vote.

Ben Anderson	Recused
Bill Grisette	Yes
Carole Hamilton	Yes
DJ Napolitano	Yes
Helen Sides	Yes
Kirt Rieder	Yes
Matt Smith	Absent
Noah Koretz	Yes
Tom Furey	No

- C. Location:** 57 Marlborough Road / Osborne Hills
Applicant: Osborne Hills Realty Trust
Description: A public hearing for all persons interested in the application of **OSBORNE HILLS REALTY TRUST** for a Definitive Subdivision Plan and Cluster Residential Development Special Permit for the property located at 57 Marlborough Road (Map 09, Lot 0001) and currently shown as Phases 6, 7, 8, 9, and 10 of the “Definitive Subdivision of Osborne Hills Realty in Salem, Massachusetts” dated November 2, 2006 as approved under the Subdivision Control Law by the Salem Planning Board, comprising Lots 88 through 131. Specifically, the applicant proposes to modify the previously approved Subdivision and Special Permit to change the lot area and lot frontage of 44 lots that are situated in the Residential Conservation (RC) zoning district and to construct the roadways and utilities to service the construction of these modified phases.

Brian McGrail, Attorney
Paul, Diandra and Chanel Dibiase
Chris Mello, Eastern Land Survey
Bill Luster, Consultant

Requesting subdivision and regular special permit.

- Reduction in size of 44 lots in phases 6-10 in Residential Conservation (RC) zoning

- Applicant not requesting any additional lots vs. what already exists; number will remain the same while lot size is reduced, and disturbance also reduced
- Will continue to be part of phases 6-10
- Subdivision consists of 131 homes. Originally proposed were 96 acres of open space for public use as well as use by residents, now 118 acres are proposed
- Represents improvement to development if modified; will allow for 44 lots in RC to be smaller, proportionate to the 86 lots in R1 district, will have less environmental impact while providing additional open space.
- Would reduce lot frontage and area requirements.
- Already been before ZBA and obtained variance re setbacks and lot widths for lots in question
- Strongwater Drive is shortened, Diandra Dr. And Kate Way eliminated, 1,910 linear ft of roadway eliminated
- Addition of 25.7 acres to the dedicated, permanently protected open space for a total of 118.7 acres
- Phases 1-5 including 71 homes currently developed and sold
- Preliminary subdivision approval second means of access/egress: Applicant's desire to leave subdivision access/egress as originally approved. Surrounding neighborhoods and subdivision residents desire it to be left as it is. No homes being added to add demand on egress/access. Traffic engineer, Ken Cram of Bayside Engineering, has been maintained to study the issue. Also finalizing EIS (Environmental Impact Statement) to be presented at next meeting
- Suggests that modifications are in harmony w/Cluster Ordinance

Chris Mello, Eastern Land Survey, presents the proposed changes

- Changes will allow 44 lots to be constructed in a manner consistent with the ones already on the R1 lots
- Creates add'l open space through elimination of 2 streets mentioned
- Wetlands will now be crossed w/much less impact to resource area and buffer zone
- Water and sewer remain the same in size

Chair Anderson

- Subdivision regulation requirements: Roadways and extensions (p. 17 indicates they will provide safe vehicular travel). Radii on roadways are tight, requirements indicate that minimum centerline is 230', greater for principal streets. Please confirm
- Is the dead end under 500'?
- In roadway sections, there is also a lot of grade up and down roadways. Grade requirements are outlined at 6% and 10% for secondary, but at worst they are at 10% on main streets; there are no secondary streets. Please have traffic engineer review reasoning for this, as it seems extreme
- Questions as to whether the City needs direction from Board re peer review studies and roadway circulation, desires Civil peer review

Chris Mello: Geometry is consistent w/original layout including grades as approved in 2006. Chair Anderson is concerned about the design now and notes it does not seem to meet the intention of subdivision regulations.

Kirt Rieder: Dimension from back of curb to front of sidewalk? Tree lawn? Originally a 60' layout w/divider, since eliminated, but 60' layout was left w/extra land put behind the sidewalk, in maybe a 5' strip, sidewalk, strip, curbing, same on the other side. Essentially a 60" tree lawn.

Chair Anderson opens to public comment

Councillor Tim Flynn, Ward 4, 42 Sable Rd.

- Entrance and egress: always agreed that project would not be opened onto Barcelona Ave. Residents of new development and Barcelona Ave are upset at the rumor of it opening. Desire is it to be gated for residential traffic, with a Knox box for emergency responders to get in
- As a firefighter, he cannot see a need to enter that way but there will be a gate
- Concerned it would be a cut through if opened

Matt Sirois 40 Osborne Hill Dr.

- Agrees w/Councilor Flynn re keeping Barcelona Ave. closed
- Councilors involved in original project fought to not have it open

Jamie Yomtov, 7 Chanel Circle

- Understands traffic patterns of the area
- Opposed to Barcelona Ave. connection as Osborne Hill Dr. would become a “cut through” to/from Marlborough Rd. and Highland Ave.
- Cars still speed down Osborne Hill Dr. hoping to cut through even though they can’t; dead end sign at the entrance does not deter people, including an 18 wheeler that took 30 min to turn around (GPS makes it look like a cut through)
- Not safe for children

Jeff Stewart, 1 Chanel Circle

- Also opposes connecting Osborne Hill Dr. to Barcelona Ave.
- Purchased home w/intent to keep it quiet and suburban to avoid “Boston style” traffic
- Concerned about safety of children w/speeding traffic of those hoping to cut through

Elissa Stanley, 5 Chanel Circle

- Echoes concerns of neighbors, desire for quiet neighborhood

Andy Sousa, 9 Amanda Way

- Also opposes connection of Barcelona Ave
- Asks Board to comment on this and why it is coming up

Chair Anderson responds that the project is under review; this idea was brought up in a previous round of review. No decision has been made and the project is being evaluated.

Mike Becker, 2 School St. Court, owns properties near Osborne Hills

- Does not object to lot changes but does not see benefit in connecting Osborne Hill Dr. to Highland Ave. via Barcelona

Dennis Beaupre, 44 Osborne Hill Dr.

- Opposed to Barcelona Ave. opening to through traffic

Rachael Farewell, 31 Barcelona Ave.

- Opposed to Barcelona Ave. opening, safety issues

- Adding another main road would affect property values/taxes the town receives

Chuck Kusek, 27 Osborne Hill Dr.

- Possible opening of Barcelona Ave. is causing anxiety
- Should add language prohibiting opening Barcelona Ave. to connect to Highland Ave.
- Please clarify the term “public access to Strongwater Crossing.” What is the intent of the Developer and Board?

Anthony Jermyn, 50 Ravenna Ave.

- Opposed to connecting Barcelona Ave.
- Narrow roadways, no sidewalks, steep hills

Martin Kessler and Van Pham, 18 Osborne Hill Dr.

- Opposed to Barcelona Ave. connection
- Concerned that Board has not made a clear statement against this
- Residents have been promised hiking trails but still lack access

Shannon Reedy, 17 Osborne Hill Dr.

- Opposed to Barcelona Ave. connection
- Advises Planning Board to conduct a site visit
- Echoes desire for hiking trails promised over a year ago, but not yet delivered

Mason Wells notes a modification to the EIR as submitted for consideration at a future meeting. Peer review and traffic engineering will also be reviewed at a future meeting.

Carole Hamilton would like the peer reviewer to weigh in on additional access to the subdivision.

A motion to continue this item to the November 5, 2020 meeting is made by Kirt Rider, seconded by Noah Koretz, and the motion passes 8-0 in a roll call vote.

Ben Anderson	Yes
Bill Grisct	Yes
Carole Hamilton	Yes
DJ Napolitano	Yes
Helen Sides	Yes
Kirt Rieder	Yes
Matt Smith	Absent
Noah Koretz	Yes
Tom Furey	Yes

- D. Location:** 0 Story Street (Map 23, Parcel 2)
Applicant: Stephen Lovely, Castle Hill Group, LLC
Description: *The applicant has requested a continuation to the regularly scheduled meeting on November 19, 2020 at 7pm (and for an extension of the decision timeline to December 7, 2020) of a public hearing for all persons interested in the application of STEPHEN LOVELY, CASTLE HILL GROUP LLC for the property located at 0 Story Street (Map 23, Parcel 2) at the west end of Cleveland Street bounded by St. Anne’s Church, City of

Salem, St. Anne's Park and land of Bradbury and Chasse, for a Definitive Subdivision Plan. Specifically, the applicant proposes to allow construction of an extension to Cleveland Street which will create a tee turning area and the construction of 3 single family dwellings on the approximately 5.65 acre site.

Kirt Rieder wonders why the Application is not being withdrawn and resubmitted, given the Planning Board process so far. This has been proposed to the Applicant, who is aware of the feelings of the Board and the timeline; a memo was submitted yesterday reiterating Planning Board staff ideas on a viable proposal; they may respond at the next meeting or the Board could take additional action. Kirt Rieder asks if the Board can act tonight. As there is no language drafted for a denial, staff would have to prepare it for the next meeting to formalize it. Bill Griset requests for something to be prepared for the next meeting. Many Board members are concerned about the request and the frontage; the Applicant is aware and must understand if they come back with the same Application, it will not be constructive. Kirt Rieder also notes that the lots back onto vegetated wetlands.

Noah Koretz notes that this is the procedure; Applicants can't "throw something in front of us" then let it languish there forever. What happens if the Board votes not to continue? Applicant has not requested a withdrawal; they were not interested, and a Decision would have to be made. Can the project be turned down w/out prejudice? Procedures are discussed. Carole Hamilton notes that reasons for denial must be given. Incomplete submission/discontinuous progress as those reasons? But the Board cannot leave out any reasons for denial. Work should be done by staff to prepare language in the event of a denial at the next meeting.

The current extension is over on Oct. 30 so the Board would need to extend this item to the next meeting. Helen Sides suggests taking it up at the earlier Nov. meeting. The Board controls its own calendar. Mason Wells notes that continuances must be by mutual agreement by the Board and Applicant, so it has to be on the Nov. 19th agenda. The Board would have to issue a denial. DJ Napolitano notes that all these continuances are not by mutual agreement; they are what the Applicant wants. The Board does not want to go to the 19th. But the Board would be rejecting the project on procedural grounds when there are substantive issues at play.

Noah Koretz asks if the Board could continue to the 19th but not grant an extension, and Mason Wells would make it clear to the Applicant that this will not be continued again? The Board can extend it, but not to Dec. 7, the request made by the Applicant. Does the Board have to adhere to the extension date request? Yes, but the matter can be closed at the meeting on the 19th but has to wait to meeting on 19th b/c the decision timeline has been extended.

An audience member with the screen name Taylor Lovely has their hand raised but this is not a public discussion. Kirt Rieder wonders why the Board bothers doing its work if it can't control its own calendar or agenda. The project can't be denied tonight or on November 5th, and the Board must accept a continuation and extension of Nov. 19th. He cites several instances where the Applicant has spoken w/no graphics, and there was no progress. Chair Anderson comments that Mason Wells can discuss moves w/Applicant and push for a Decision on the 19th.

DJ Napolitano asks if it is an Applicant w/known contention, and if they ask for a continuance to a date certain, why does the Board have to agree? Mason Wells will ensure that the Applicant is at the meeting so can discuss. Otherwise, the Applicant controls the calendar and agenda.

A motion to continue this item to the November 19, 2020 meeting, is made by Carole Hamilton, seconded by Noah Koretz, and the motion passes 5-2 in a roll call vote.

Ben Anderson	Yes
Bill Grisct	Yes
Carole Hamilton	Yes
DJ Napolitano	No
Helen Sides	Yes
Kirt Rieder	No
Matt Smith	Absent
Noah Koretz	Yes
Tom Furey	Abstain/Not Eligible

A motion to provide an extension of the Decision timeline to December 7, 2020, is made by Noah Koretz, seconded by Kirt Rieder, and the motion passes 7-0 in a roll call vote.

Ben Anderson	Yes
Bill Grisct	Yes
Carole Hamilton	Yes
DJ Napolitano	Yes
Helen Sides	Yes
Kirt Rieder	Yes
Matt Smith	Absent
Noah Koretz	Yes
Tom Furey	Abstain/Not Eligible

- E. **Location:** 0 Story Street (Map 23, Parcel 2)
 Applicant: Stephen Lovely, Castle Hill Group, LLC
 Description: *The applicant has requested a continuation to the regularly scheduled meeting on November 19, 2020 at 7pm (and for an extension of the decision timeline to December 7, 2020) of a public hearing for all persons interested in the application of STEPHEN LOVELY, CASTLE HILL GROUP LLC requesting a waiver of frontage requirements of the Subdivision Control Law for Lots A and B located at 0 Story Street (Map 23, Parcel 2) at the west end of Cleveland Street bounded by St. Anne's Church, City of Salem, St. Anne's Park and land of Bradbury and Chasse.

A motion to continue this item to the November 19, 2020 meeting, is made by Noah Koretz, seconded by Carole Hamilton, and the motion passes 6-1 in a roll call vote.

Ben Anderson	Yes
Bill Grisct	Yes
Carole Hamilton	Yes
DJ Napolitano	No
Helen Sides	Yes

Kirt Rieder	Yes
Matt Smith	Absent
Noah Koretz	Yes
Tom Furey	Abstain/Not Eligible

A motion to provide an extension of the Decision timeline to December 7, 2020, is made by Noah Koretz, seconded by Helen Sides, and the motion passes 7-0 in a roll call vote.

Ben Anderson	Yes
Bill Grisct	Yes
Carole Hamilton	Yes
DJ Napolitano	Yes
Helen Sides	Yes
Kirt Rieder	Yes
Matt Smith	Absent
Noah Koretz	Yes
Tom Furey	Abstain/Not Eligible

II. OLD/NEW BUSINESS

A. Receive Affordable Housing Trust Fund (AHTF) Board draft letter and discuss the opportunity to develop an affordable housing policy with the AHTF Affordable Board at a joint meeting.

Amanda Chiancola is online and available to answer questions. The Chair requests a brief outline of the letter and this is provided. Without an IZ (Inclusionary Zoning) ordinance, 120 affordable units have been created by this Board. This work is recognized by the AHTF Board but they want to increase the number and provide deeper levels of affordability. At any opportunity to deepen, please do this b/c Salem needs are at a lower income level. Community Survey data is highlighted. 30% of households are housing burdened, paying more than 30% of income in rent. Of those who are housing cost burdened, 92% are low to moderate income. 49% in Salem are below 80% AMI.

Housing need assessment will be ready early next week and will be shared; this will show a clear need for affordability at deeper levels. Median income Salem is \$65K but \$37K for renters, \$92K for purchasers of homes. AHTFB put together a policy recommendation, and wants to collaborate w/PB to refine. SPR is a by right permit w/out much discretion on criteria, but there is more discretion w/Special Permit, and certain findings can be linked to affordable housing. For example, linking to employment may be an option. The largest sector is education and health care, where the weekly wage is \$1700, and such employees can only afford \$1500./month in rent, but rent is way more than that. Other average weekly wages are \$554 for artists, and \$450 for food service, people with these types of jobs can only pay \$600/month in rent, which is impossible in Salem. 60% AMI could be achieved through a PUD via flexibility on density, parking, setbacks, etc. so that such items baked into an IZ Ordinance are already part of the PUD. The City did a proforma w/MAPC (Metropolitan Area Planning Commission), and the City can achieve 10% at 60% AMI. A draft policy is at the end of the letter.

This is not an Ordinance; it has teeth but is not as strong as an Ordinance. The recommendation is for the Board to require 10% of a PUD at 60% AMI or deeper, but allows the AHTFB to act as a backboard, assisting if the developer says this is not feasible. They would need to explain to the AHTFB why it is not feasible and work to create opportunities. SPR should continue requiring 10% at 80% but should request 10% at 60%, though this is harder to internally subsidize w/base zoning. Re affordability: it is critical for units to be onsite w/in the development, and that Applicants not be allowed to pay a fee in lieu of units.

Chair Anderson asks about next steps. Noah Koretz eagerly comments, "I'm really tired, but I would start this meeting right now if they asked us to. It is somewhat grotesque that it has fallen to volunteer Boards to put this together when elected leaders have not shown leadership on this. Not to say we shouldn't do it, as it is critical and there is a faction of people in this City that have used this as a political football, which is shameful. Amanda, it has been a frustrating few years but your work is detailed, thorough, fact-based and complete. You deserve a big round of applause."

Helen And Noah note it should be a separate meeting, and this is the intent. Chair Anderson is a member of the AHTFB and is supportive of this policy. Mason Wells and Amanda Chiancola will work to set up a joint meeting.

B. Receive and File: Chapter 91 Notification for 38 and 42 Bay View Avenue - General License Certification Pile Held Floats at 38 Bay View Ave and 42 Bay View Ave.

No action required

III. APPROVAL OF MINUTES

A. Regular Planning Board meeting minutes for September 3, 2020.

Deferred to next meeting as it is almost midnight.

IV. ADJOURNMENT

A motion to adjourn is made by Kirt Rieder, seconded by Helen Sides, and the motion passes 8-0 in a roll call vote.

Ben Anderson	Yes
Bill Griset	Yes
Carole Hamilton	Yes
DJ Napolitano	Yes
Helen Sides	Yes
Kirt Rieder	Yes
Matt Smith	Absent
Noah Koretz	Yes
Tom Furey	Yes

The meeting ends at 11:45PM.

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-2020-decisions>

Respectfully submitted,
Stacy Kilb, Recording Clerk

Approved by the Planning Board on 12/17/2020