



CITY OF SALEM PLANNING BOARD

CITY CLERK
2016 JUN 1 10 5 20

Amended Decision

June 1, 2016

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

On July 30, 2015, the Planning Board of the City of Salem opened a Public Hearing for amendments to the approved Site Plan Review and Special Permits decision under the North River Canal Corridor Neighborhood Mixed Use District (NRCC) to allow a multi-story arrangement of a multi-family residential use consisting of the construction of two separate buildings including the Community Life Center, a two-story building, and a five-story mixed-use residential/retail on the corner of Boston and Bridge Street with an associated revised parking and landscape layout located at 401 BRIDGE STREET (Map 25, Lot 74) and 44 BOSTON STREET (Map 15, Lot 305).

Since the project was initially filed, there were significant modifications proposed to the plans as a result of input from the Planning Board, Design Review Board, Abutters and the Massachusetts Department of Environmental Protection. For example, the original application requested a five-story mixed-use residential/retail building. However, in the course of the review, the plans evolved such that the building was reduced to four stories.

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

1. Special Permit per Sec. 8.4.5 (4.4) of the NRCC to allow a multi-story arrangement of a multi-family residential use.
2. Special Permit per Sec. 8.4.12(4) of the NRCC to allow ground level retail use to be amended from the original decision to exceed the 3,000 gross square feet for one retailer.
3. Special Permit per Sec. 8.4.13(4) of the NRCC to allow an increase of the maximum height of fences and boundary walls adjacent to residentially zoned or used parcels may be increased to ten (10) feet.
4. Special Permit per Sec. 8.1.4 to allow construction within the Wetlands and Flood Hazard Overlay District.

The Public Hearing was continued to September 3, 2015, September 17, 2015, October 15, 2015, November 19, 2015, December 3, 2015, December 17, 2015, January 7, 2016, January 21, 2016, February 4, 2016, February 18, 2016, March 17, 2016, April 7, 2016, May 5, 2016 and May 19, 2016.

In considering approval of the NRCC Site Plan Review, the Planning Board finds that the development meets the goals of the North River Canal Corridor Plan, as stated in the Salem Zoning Ordinance, as follows:

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

The proposed project was unanimously recommended for approval by the Salem Design Review Board (DRB) on May 10, 2016. The DRB's role is to review proposals to ensure they are designed to complement and harmonize with adjacent land uses with respect to architecture, scale, landscaping and screening. In a recommendation letter to the Planning Board dated May 10, 2016 the DRB details how the applicant satisfactorily addressed design issues.

2. Address transportation issues for existing and new developments:

The developer has agreed to become a member of the North Shore Transportation Management Association for three years, as specified in Conditions 9(d) below, in order to reduce vehicle traffic on local streets and reduce vehicle emissions in the project area. Additional traffic mitigation measures are enumerated in Conditions 9(a-c).

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

As noted on Site Plan Sheet C6, the existing sidewalk along Bridge Street will be removed and replaced with a six foot wide sidewalk. Sheet L1 of the site plans delineate street trees and a lawn area that provide a buffer between the sidewalk along Bridge Street and the Street. In addition, the sidewalks along the public realm offer a connection to the internal pedestrian paths, including a direct connection from Bridge Street to the Community Life Center's outdoor patio area. Therefore, the project will improve sidewalks and the pedestrian environment along Bridge and Boston Street.

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

1. Redevelops a key site in the NRCC, the former Sylvania site.
2. Creates a new "landmark" building at the southeast corner of Bridge and Boston Streets.
3. Supports the creation of an "Urban Village" and "Gateway" to the downtown at the intersection of Bridge and Boston Streets, as articulated in the Master Plan. The proposed development adds to the vitality of the area through its active, 24/7, mixed-use development, including housing, commercial, retail and the Community Life Center. In urban planning and design, an urban village is an urban development typically characterized by medium density housing, mixed use development, good public transit, and an emphasis on pedestrians.
4. The new mixed-use building and the new Community Life Center are placed close to the street to enhance the pedestrian experience.
5. Buildings are appropriate in scale and meet the height requirements of the NRCC zoning.

6. Parking is located at the rear with entry/exit away from the intersection of Boston and Bridge Streets.
7. Incorporates a shared use parking strategy to reduce the amount of pavement and drainage runoff.
8. Provides a landscaped buffer at the rear of the parcels to protect views of the nearby residences on Federal Street.
9. Improves the sidewalks and pedestrian environment on both Boston and Bridge Streets along the project site through improvement of sidewalks and landscaping.
10. Focuses active ground level uses at the corner.
11. The NRCC vision statement states, "Create new housing opportunities that encourage a range of housing types and affordability". The proposed housing includes 10% affordable units.

NRCC Special Permits

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

- a. The board finds that the multifamily residential uses abut residential uses to the south on Federal Street.
- b. The board finds that the multifamily residential uses retain first floor commercial use along the street.
- c. Due to the topography of the site, the board finds that it is not feasible for each unit of the newly constructed building to have separate exterior first floor entrances. Additionally, the building as proposed is not within 100 feet of a residentially used parcel in an abutting zoning district.

The Planning Board considered the requested Special Permit under the NRCC Mixed Use District, Section 8.4.12(4), Retail Uses: *Except by Special Permit, each individual retail use shall not exceed three thousand (3,000) gross square feet in size.*

- a. The Board finds that the proposed retail size is appropriate to allow an active and practical retail use.

The Planning Board considered the requested Special Permit under the NRCC Mixed Use District, Section 8.4.13(4), Transitional Overlay District: *Fences/boundary walls: The maximum height of fences and boundary walls adjacent to residentially zoned or used parcels may be increased to ten (10) feet with Special Permit approval from the Planning Board.*

- a. The Board finds that the proposed fence heights are appropriate, since they are intended to provide additional buffering between the residential neighborhood and the project, in response to neighborhood concerns.

In considering approval of the Wetlands and Flood Hazard Overlay District Special Permit, the Planning Board hereby makes the findings pertaining to the Flood Hazard District Special Permit Application as follows:

- a. The subject property is located in the North River Canal Corridor, an area designated for urban village of mixed uses. As conditioned, and with the inclusion of the special permits the project complies in all respects to the uses and provisions of the underlying district in which the land is located.
- b. The plans proposed grades for the finished floor elevation of 12.11 feet (NGVD 1929 datum) to account for potential sea level rise and to provide increased parking and pedestrian access above elevation 10.81, above the identified 100 year flood elevations shown on the new July 2014 FEMA Flood Maps. Vehicles will pass through minimal ponding of a couple inches with flood at 10.81 feet since a number of parking spaces are located below the 10.81 foot elevation, as is the entrance on Bridge Street. However, access and egress for vehicles to and from Boston Street above 10.81 feet is provided. Thus, there are adequate convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets and property, particularly in the event of flooding of the lot(s) or adjacent lot(s) caused by either overspill from water bodies or high runoff.
- c. Elevated floor elevations as well as transformer pad elevations are proposed to be above the projected FEMA flood elevations by 1.3 feet. As such, utilities, including gas, electricity, fuel, water and sewage disposal, will be located and constructed so as to protect against breaking, leaking, short circuiting, grounding or igniting or any other damage due to flooding.

The Planning Board considered the request to grant twelve (12) Density Bonus housing units under the NRCC Mixed Use District, Section 8.4.11(2):

- a. Pursuant to condition of approval number 8(a-b), 12 housing units will be set aside as affordable housing units. A density bonus of 12 housing units will not exceed 25 percent of the maximum number of units permitted, and the density bonus is not, in the aggregate, more than one and one half of the maximum number of units permitted in the district. Therefore, the Planning Board awards 12 density bonus units.

Lastly, The Planning Board received testimony on the topic of subsurface environmental conditions as presented by the applicants Licensed Site Professional, which included testimony that the site will meet all applicable DEP standards for residential and CLC use as proposed.

The Public Hearing was closed on May 19, 2016. At a regularly scheduled meeting of the Planning Board held on May 19, 2016, the Board voted by a vote of seven (7) in favor (Ben Anderson, Matt Veno, Carole Hamilton, Dale Yale, Kirt Rieder, Noah Koretz, Helen Sides) in favor and none opposed, to approve the application of HIGH ROCK BRIDGE STREET, LLC for amendments to the approved Site Plan Review in accordance with Salem Zoning Ordinance Section 9.5, Special Permits under the North River Canal Corridor Neighborhood Mixed Use District (NRCC) and a Stormwater Permit in accordance with the Salem Code of Ordinances Sec. 37 for the property located at 401 BRIDGE STREET (Map 25, Lot 74) and 44 BOSTON STREET (Map 15, Lot 305). Specifically, the application is for a multi-story arrangement of a

multi-family residential use consisting of the construction of two separate buildings including the Community Life Center, a two-story building, and a four-story mixed-use residential/retail on the corner of Boston and Bridge Street with an associated revised parking and landscape layout, subject to the following conditions:

1. Conformance with the Plans

- a. Work shall conform to the following plans:
 - i. "Gateway Center," Sheets dated May 10, 2016 entitled: View from Corner of Boston & Bridge Street, Mixed Use Residential/Retail Ground Floor Plan, Mixed Use Residential/Retail 2nd-4th Floor Plan, Mixed Use Residential/Retail Roof Plan and Mixed Use Residential/Retail Unfolded Building Elevations, prepared by The Architectural Team (TAT), Salem, MA;
 - ii. "Mayor Jean A. Levesque Community Life Center," Sheets dated May 10, 2016 titled: First Floor Plan, Second Floor Plan, Building Elevations, Building Perspective, Exterior Lighting Plan, Exterior Light Fixtures, and Sheet dated April 27, 2016 titled: Perspective prepared by Gundersen Associates Architects, Salem, MA;
 - iii. "Gateway Center Landscape Plan- Bridge Street," Sheet L-1 dated May 10, 2016 prepared by Blair Hines Design Associates;
 - iv. "Site Plan, Gateway Center, 401 Bridge Street," Sheets C1, C2, C3, C4, C5, C6, C9, C10, C11, and C12, dated March 23 2016, revised April 29, 2016, and C7 and C8 dated March 23, 2016, revised April 29, 2016 and May 17, 2016 prepared by Hayes Engineering, Inc., Salem, MA.

2. Amendments

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

3. Landscaping

- a. All landscaping shall be done in accordance with the approved set of plans.

4. Lighting

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

5. Maintenance

- a. Refuse removal, ground maintenance and snow removal shall be the responsibility of the developer, his successors or assigns.
- b. Winter snow in excess of snow storage areas on the site shall be removed off site.

- c. Maintenance of all landscaping shall be the responsibility of the applicant, his successors or assigns.
- d. The applicant, his successors or assigns, shall guarantee all trees and shrubs for a two-year period.

6. Design Review Board

- a. The applicant shall submit final construction plans for review and approval by the Design Review Board (DRB) prior to the issuance of a building permit.
- b. The DRB shall review and approve construction mock-ups of material treatments to be provided by the applicant.
- c. Prior to the issuance of sign permits, the applicant shall submit a plan for signage to the DRB for review and approval; the signage for the building and the site shall conform to the City of Salem's Sign Ordinance, NRCC zoning.
- d. The Applicant shall explore relocating the retail use on the ground floor to the corner of Bridge Street and Boston Street. If such relocation is feasible, then the plans showing this revision shall be submitted to the City Planner for discussion and approval prior to the issuance of a building permit. If such relocation is not feasible, the Applicant shall submit a statement to the City Planner explaining their determination prior to the issuance of a building permit.
- e. Prior to the issuance of a building permit, the applicant shall submit plans to the City Planner for review and approval that identify one or more locations for the installation of public art on site.

7. Conservation Commission

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

8. Affordable Housing Units

- a. Twelve housing units (10%) shall be set aside as affordable housing units. The Applicant shall place an Affordable Housing Restriction on these twelve (12) housing units in the form of a deed rider(s) acceptable to the Commonwealth Department of Housing and Community Development (DHCD). The restrictions shall be in accordance with the eligibility criteria for DHCD's Subsidized Housing Inventory for the purpose of ensuring that the twelve (12) dwelling units will be restricted as affordable housing for households whose annual incomes are eighty percent (80%) or less of Area Median Income ("Low Income Households") with a sales or rental price affordable to said households as determined by DHCD for a period of ninety nine (99) years from the date of the original conveyance. The Affordable Housing Restriction(s) shall be registered with the Essex South Registry of Deeds.
- b. It is acknowledged that the Developer is proposing to sell the units as condominiums. The developer shall hire a certified Lottery Agent as required by DHCD to prepare a

buyer selection plan and conduct the lottery for the buyers to ensure compliance with affordable housing requirements. The developer is to be responsible for any marketing costs and income verification. It is expressly noted that should the units be marketed as rental units instead, the Lottery Agent will prepare a renter selection plan and ensure the selection of renters in accordance with DHCD requirements.

9. Traffic Mitigation

- a. Developer to submit an Easement Plan designating an easement on the site for a potential third westbound approach lane adjacent to the north side of Boston Street to provide a right turn lane from Boston Street onto Bridge Street. Plan to be provided for review and approval by the City Engineer prior to issuance of a building permit. The easement to be put in place at such time as the City determines that the additional turn lane is warranted, it being understood that the developer's obligation is the granting of the easement only and not the construction of the roadway.
- b. Proposed plans and details of the mitigation measures below are to be submitted for review and approval by the City Engineer, City Electrician, City Planner, and the Traffic Division of the Salem Police Department.
- c. The developer will implement the following traffic mitigation measures prior to issuance of a Certificate of Occupancy:
 - i. Optimize timing of the Boston Street/Bridge, Proctor/Goodhue Streets signalized intersection:
 1. Implement signal timing adjustments to improve traffic flow.
 2. Pedestrian signals are to be installed at the intersection of Boston and Bridge Streets. Design and location, including crosswalks, are to be submitted by the applicant to the City Engineer, the Traffic Division of the Salem Police Department, City Electrician and City Planner for review and approval.
 - ii. Bridge Street at Flint Street:
 1. Implement signal timing adjustments to improve traffic flow.
- d. The Developer/Owner is required to join the North Shore Transportation Management Association for a minimum of three years prior to issuance of a Certificate of Occupancy in order to reduce vehicle traffic on local streets and reduce vehicle emissions in the study area. The cost for such membership shall be based on the rates in effect at the time of the first year of membership. The Community Life Center is exempt from this condition.

10. Maintenance of Stormwater System

- a. Applicant is to submit an Operations and Management Plan for the stormwater system, including a narrative describing the frequency of cleaning and maintenance of catch

basins and Stormceptors and clearly define responsible party for maintenance, prior to the issuance of a building permit.

11. Board of Health

- a. The owner shall comply with the following specific conditions issued by the Board of Health:
- b. The individual presenting the plan to the Board of Health must notify the Health Agent of the name, address, and telephone number of the project (site) manager who will be on site and directly responsible for the construction of the project.
- c. If a DEP tracking number is issued for this site under the Massachusetts Contingency Plan, no structure shall be constructed until the Licensed Site Professional responsible for the site confirms that the site meets the DEP standards for the proposed use.
- d. A copy of the Licensed Asbestos Inspector's Report must be sent to the Health Agent.
- e. A copy of the Demolition Notice sent to the DEP, Form BWPAO6, must be sent to the Health Agent.
- f. The developer shall give the Health Agent a copy of the 21E report.
- g. The developer shall adhere to a drainage plan as approved by the City Engineer.
- h. The developer shall employ a licensed pesticide applicator to exterminate the area prior to construction, demolition, and/or blasting and shall send a copy of the exterminator's invoice to the Health Agent.
- i. The developer shall maintain the area free from rodents throughout construction.
- j. The developer shall submit to the Health Agent a written plan for dust control and street sweeping which will occur during construction.
- k. The developer shall submit to the Health Agent a written plan for containment and removal of debris, vegetative waste, and unacceptable excavation material generated during demolition and/or construction.
- l. The Fire Department must approve the plan regarding access for fire fighting.
- m. Noise levels from the resultant establishment(s) generated by operations, including but not limited to refrigeration and heating, shall not increase the broadband sound level by more than 10 dB(A) above the ambient levels measured at the nearest abutting residential property line.
- n. The developer shall disclose in writing to the Health Agent the origin of any fill material needed for the project.
- o. The resultant establishment shall dispose of all waste materials resulting from its operation in an environmentally sound manner as described to the Board of health.
- p. The drainage system for this project must be reviewed and approved by the Northeast Mosquito Control and Wetlands Management District.
- q. The developer shall notify the Health Agent when the project is complete for final inspection and confirmation that above conditions have been met.

12. Fire Department

- a. All work shall comply with the requirements of the Salem Fire Department, including the following conditions:
 - i. Should dumpsters be required on the site (outside the building), the Applicant is to submit revised plans for approval by the City Planner.
 - ii. The Applicant is to submit a snow storage plan to the City Planner for review and approval prior to issuance of a building permit.

13. Building Inspector

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

14. Utilities

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

15. City Engineer

- a. All work shall comply with the requirements of the City Engineer.
- b. Prior to building permit issuance, the applicant shall coordinate with the City Engineer to review any service piping that extends to the street encountered during construction of the foundation and/or site work. Existing utility services encountered onsite that have not been abandoned shall be discontinued in accordance with the City of Salem Engineering Department requirements, prior to building permit issuance.
- c. The applicant shall submit a final roof design for review and approval by the City Engineer prior to building permit issuance. The final plan shall show that the roof runoff will be collected by proposed roof drains and will discharge directly into the existing drainage system.
- d. Prior to building permit issuance, the applicant shall provide additional information to the City Engineer about irrigation plan piping, connection to the City water main, and backflow prevention and metering.
- e. Prior to building permit issuance, the applicant shall submit plans to the City Engineer for approval that show that all five tide gates will be installed.
- f. Information on foundation construction approach to be submitted to the City Planner once the foundation is designed, including number of piles and confirmation that the Applicant will monitor vibrations during construction; to be submitted prior to issuance of a Building Permit.
- g. Applicant shall submit a report by an engineer documenting the condition of the retaining wall from the Applicant's side of the wall to the City Planner prior to the start of construction; monitor the condition of the retaining wall during construction; and submit monitoring report to the City Planner to confirm that it is still in satisfactory condition prior to issuance of a Certificate of Occupancy.

16. Clerk of the Works

- a. A Clerk of the Works shall be provided by the City, at the expense of the applicant, his successors or assigns, as it deemed necessary by the City Planner. Notwithstanding the foregoing, the parties acknowledge the Project shall be subject to controlled construction, which requires oversight by licensed engineers and architects. Accordingly it is the understanding of the Board, the City Planner and the Applicant that the Clerk of the Works is expected to oversee and review all civil/site improvements related to the project located within the public way, including all utility connections to publicly owned infrastructure. It is also mutually understood that the expense associated with the Clerk of the Works shall be for a reasonable number of hours and at a customary rate of service.
- b. The applicant shall submit a construction plan to the City Planner prior to starting work.
- c. The construction plan will be incorporated into the Clerk of the Works Task Order. No work shall start prior to an approved task order for these services.

17. Construction Practices

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

- ix. All construction vehicles left overnight at the site, must be located completely on the site.
- x. All construction activities shall be in accordance with the “Salem Police Station Construction Management Plan”.
- xi. All construction shall take place under the direction and supervision of a Licensed Site Professional in compliance with the rules and regulations of the Massachusetts Department of Environmental Protection.
- xii. The applicant shall promptly notify the Board of Health of any environmental condition encountered during construction that may adversely impact the abutters to the site.

18. As-built Plans

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

19. Violations

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

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



Ben J. Anderson
Chairman