



CITY OF SALEM PLANNING BOARD

2018 SEP 17 PM 3:30

CITY CLERK
SALEM, MASS

Decision

Planned Unit Development, Site Plan Review, and Stormwater Management Permit Decision

45 Traders Way and 40 First Street
(Map 8, Lot 159 and Map 13, Lot 11)

September 17, 2018

Findings and Decision

Re: Application of Peter Lutts/Pavel Espinal for the properties located at 45 Traders Way and 40 First Street (Map 08, Lot 159; Map 13, Lot 0011) for a Planned Unit Development Permit and a Site Plan Review in accordance with the Salem Zoning Ordinance.

Procedural History

1. On Thursday, April 11, 2018 Peter Lutts/Pavel Espinal filed the above referenced application with the Planning Board.
2. The application proposed the development of the site with 212 residential dwelling units and approximately 7,600 square feet of retail space.
3. The Planning Board of the City of Salem scheduled the public hearing for Thursday, May 3, 2018. The meeting was continued to May 17, 2018, no testimony was heard
4. The Planning Board opened a Public Hearing for the Planned Unit Development, Site Plan Review, and a Stormwater Management Permit on Thursday, May 17, 2018. The hearing was continued to June 7, 2018; June 21, 2018; July 5, 2018, meeting was cancelled due to a lack of a Planning Board quorum; and September 6, 2018. The public hearing was closed on September 6, 2018.
5. Since the project was initially filed, there have been significant modifications proposed to the plans as a result of input from the Planning Board and abutters to the site. Specifically, in the course of the review the plans evolved such that the massing of the buildings along First Street and Traders Way have been reduced, the parking has been modified from all surface parking to a portion of the parking placed under the buildings to create more pervious surfaces and greenspace, the clubhouse has been relocated to the center of the site to create a buffer from the residential neighborhoods, a cueing lane has been added for traffic turning left off Traders Way, the entrance on First Street has been relocated such to ensure there is not a conflict with the egress across the street, a buffer of trees has been added to the Cloister Condominium on First Street which abuts the project and landscaping has been increased particularly along the street frontages.

6. Throughout the public hearings, the plans and other submission material were reviewed by the Planning Board. Throughout its deliberations, the Planning Board has been mindful of the statements of the applicants and their representatives, and the comments of the general public, all as made at the public hearing.

In considering approval of the Planned Unit Development, the Planning Board finds that the development meets the criteria of the Planned Unit Development as stated in the Salem Zoning Ordinance, as follows:

Specific Findings

A. The Planning Board hereby makes the following findings pertaining to the City of Salem Zoning Ordinance, Sec. 7.3 Planned Unit Development:

7.3.8.1 The proposed planned unit development is in harmony with the purposes and intent of this Ordinance and the master plan of the City of Salem and that it will promote the purpose of this section.

The proposed planned unit development is in harmony with the purpose and intent this ordinance and the master plan of the City of Salem as this project will add vitality to the city by developing the site with a mix of residential units, a portion of which will be deed restricted as affordable housing, and commercial spaces generating new tax revenue for the city. The project includes a walking path through the site that will offer a pedestrian connection for the existing neighborhood to the adjacent shopping center, and the applicant will contribute funding towards the City's Transportation Enhancement Fund to address the impact of transportation network services on municipal roads, and other transportation infrastructure or any other public purpose substantially related to the operation of transportation network services in the city including programs that support alternative modes of transportation. The project also contains a dog park and a trail system around the wetland for the residents of Salem and various locations suitable for public art.

7.3.8.2 The mixture of uses in the planned unit development is determined to be sufficiently advantageous to tender it appropriate to depart from the normal requirements of the district.

The planned unit development is designed to provide various types of land use which can be combined in compatible relationship with each other as part of a totally planned development. As proposed, the compatible relationship among the mixture of residential, commercial and open space combined with the inclusion of affordable housing, a walkway that connects the neighborhood to the shopping center, funding to support the city's transportation network, inclusions of a trail around the perimeter of the wetland for residents of Salem and maintenance of the wetland is determined to be sufficiently advantageous to

render it appropriate to depart from the strict provisions of the underlying zoning classifications.

7.3.8.3 The planned unit development would not result in a net negative environmental impact.

The project will maintain the wetland in its natural state and enhance the wetland by including native plantings around the edges. The surrounding area will be seeded with a native wildflower seed mix; furthermore, the wetlands will be protected by the active management of apartment community and will remain untouched and clean from trash and debris. The project will also include a modern stormwater management system that will treat stormwater discharges from the site and comply with the requirements of the Mass Stormwater Handbook. As such, the project is not anticipated to have a significant effect on the aquatic biota of the waterways or aquatic habitats and will not result in a net negative environmental impact.

Decision

In view of the foregoing, the Planning Board hereby decided that the aforesaid project meets all the requisite criteria. It is therefore decided to grant a Planned Unit Development (Section 7.3), a Site Plan Review (Section 9.5) and a Stormwater Management Permit in accordance with Salem Code of Ordinances Chapter 37 to redevelop the site located at 45 Traders Way and 40 First Street in accordance with the terms and conditions stated below.

1. Conformance with the Plans

- a. Work shall conform to the following project plans for 40 First Street and 45 Traders Way, Salem, MA prepared by Williams Sparages, sheets C1.1, C2.1, C2.2, C3.1, C4.1, C5.1, C6.1, C7.1, C7.2, C7.3, C7.4, and C8.1 dated March 27, 2018, revised June 13, 2018, June 27, 2018, June 29, 2018, and August 15, 2018; and plan prepared by Seger Architects, Inc., sheets cover, A-1, A-1A, A-2, A-3, A-4, A-5, A-6, R-1, M-1, and M-2 dated March 12, 2018 and revised August 29, 2018; and landscaping plan prepared by Michael D'Angelo Landscape Architecture, sheets L0, L1, L2, L3, and L4 dated April 9, 2018, revised September 6, 2018 and August 22, 2018.

2. Amendments

- a. Any further 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. Transfer of Ownership

- a. In the event of the transfer of the site as a whole, within five (5) days of such transfer, the Owner shall notify the Board in writing of the new owner's name and address. The terms, conditions, restrictions and/or requirements of this decision shall be binding on the Owner and its successors and/or assigns.

4. Affordable Housing

- a. Twenty-one (21) housing units shall be set aside as affordable housing units. The Applicant shall place an Affordable Housing Restriction on these twenty-one (21) housing units in the form acceptable to the Commonwealth Department of Housing and Community Development (DHCD). The restrictions shall be in accordance with the eligibility criteria for DHCD's Subsidized Housing Inventory for the purpose of ensuring that the twenty one (21) 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.

5. Traffic

- a. The owner shall tender \$212,000 to the City of Salem Transportation Enhancement Fund (TEF) prior to issuance of a certificate of occupancy. The TEF will be used by the city for transportation network services relating to infrastructure and or operation of the transportation network.
- b. The owner shall designate a member of the leasing staff as a transportation coordinator. The transportation coordinator shall be responsible for disseminating relevant transportation demand management information to residents and commercial building tenants, including provisions of a tenant manual that provides information on public transportation services, routes and schedules, bicycle parking, parking policies and site amenities including car sharing spaces and preferential parking.
- c. Bicycle parking shall be provided for residents and visitors and shall be conveniently located for visitors and employees proximate to building entrances.
- d. The owner shall designate parking spaces on the site for use by a car sharing services such as zipcar.
- e. Preferential parking locations for residents who use low-emission vehicles will be provided. A charging station for electric vehicles will also be provided onsite.
- f. The project shall provide unbundled parking leases for residential units. Residential tenants shall have the option to lease parking spaces separately from the dwelling units or to opt out of leasing parking spaces.
- g. The owner shall post area maps that highlight walking and bicycle routes to promote walking and bicycle travel to and from the site and area businesses, recreational facilities and transit stops.

6. Landscaping

- a. An as built landscaping plan accompanied with a letter from a Registered Professional Engineer or landscape architect certifying compliance of the landscaping with the approved plan shall be submitted to the City Planner prior to issuance of the Certificate of Occupancy.

- b. Maintenance of all landscaping on the site shall be the responsibility of the Applicant, its successors or assigns, and any tree or shrub that does not survive shall be replaced.
- c. Prior to issuance of a building permit, the applicant shall submit revised landscaping plans for review and approval by the City Planner. Plant list shall correct legend to identify "QB" represents Quercus bicolor (Swamp White Oak).
- d. Prior to issuance of a foundation permit, the applicant shall submit revised plans for review and approval by the City Planner that demonstrate GEOWEB or similar soil stabilization system will be used rather than grass pavers.

7. Lighting

- a. A final lighting plan shall be submitted to the City Electrician for review and approval prior to the issuance of a building permit.
- b. Light trespass onto adjacent parcels/rights of way shall be avoided as indicated on the photometric plan.

8. Maintenance

- a. Refuse removal, ground maintenance and snow removal shall be the responsibility of the applicant. "Refuse removal" includes recycling, which shall be the responsibility of the owner, his successors or assigns. The owner shall provide adequate facilities to ensure all users are able to recycle their trash. Owner is to enter into a contract with a company of the owner's choice to arrange pick-up of recyclable material. A copy of this contract is to be submitted to the City Engineer.
- b. The applicant, his successors or assignees shall use its best efforts to engage a waste hauler for compost that will regularly accept organic wastes from onsite residents for offsite composting. Organic wastes shall not be stored onsite in a manner that allows nuisance conditions to develop.
- c. Winter snow in excess of snow storage areas on the site shall be removed off- site.

9. Fire Department

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

10. Building Inspector

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

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 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 survey report, treatment plan and treatment reports to the Health Agent.
- h. The developer shall maintain the area free from rodents throughout construction.
- i. The developer shall submit to the Health Agent a written plan for dust control and street sweeping which will occur during construction.
- j. 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.
- k. 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.
- l. The developer shall disclose in writing to the Health Agent the origin of any fill material needed for the project.
- m. 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.
- n. The drainage system for this project must be reviewed and approved by the Northeast Mosquito Control and Wetlands Management District.
- o. The developer shall notify the Health Agent when the project is complete for final inspection and confirmation that above conditions have been met.

12. City Engineer

- a. All work shall comply with the requirements of the City Engineer.
- b. A Licensed Professional Civil Engineer shall provide a letter to the Engineering Department stating that the drainage infrastructure to service the proposed development has adequate condition and capacity to accept project flows. Back-up data shall be submitted to the City Engineer for review, including complete pipe inspection and structure cleaning of the buried drain structures on First Street and a video inspection from Traders Way to the East boundary of the property First Street to confirm drain connectivity on First Street. Applicant shall resubmit results of the CCTV and revised plans to include Sheets 4 and 5 to the City Engineer for review and approval prior to issuance of a foundation permit. Applicant shall make any repairs deemed necessary by the City Engineer, based on the results of the investigation.
- c. Prior to issuance of a foundation permit, the applicant shall submit a revised utility plan to the City Engineer for review and approval. The revised plan shall include all proposed utilities including: gas, telephone, communication, electrical service, lighting and gas

meter and electric transformer locations, irrigation piping, connection to City watermain, backflow prevention, and metering prior to issuance of a foundation permit.

- d. Prior to issuance of a demolition permit, the applicant shall revise the demolition plan (sheet 12) to the City Engineer for review and approval. The revised plan shall include the limits of curb and sidewalk work to be removed and replaced on First Street and Traders Way.
- e. Applicant shall revise sheet 5 of the civil plan set to include another 12-inch water gate valve to the East side of Building 6 connections on First Street to isolate the project from the rest of First Street.
- f. Prior to issuance of a foundation permit, the application shall submit a plumbing plan to the City Engineer for review and approval. The plumbing plan shall delineate the number and location of floor drains and piping in the garage discharging to the oil/water separator and the location of vent piping for the separator in the building. The plumbing plan shall also include outlet protection for all proposed roof drains that discharge to the wetlands or the ground and shall demonstrate that the entire roof drainage can be collected and conveyed to the subsurface systems, as shown on the civil drawings.
- g. The applicant shall submit the results of the remaining sub-surface investigations for all proposed sub-surface detention or infiltration systems in their final locations to the City Engineer along with design changes to configuration or location of sub-surface storage and infiltration units; prior to receipt of a foundation permit.
- h. A Licensed Professional Civil Engineer shall complete cleaning and CCTV inspection of City sewers from points of connection on Traders Way and First Street to the interceptor sewer at Mooney and Highland Avenue. The video and report of the video shall be submitted to the City Engineer for review and approval. The applicant shall address the capacity, condition and/or infiltration issues prior to the issuance of a building permit by making any improvements deemed necessary by the City Engineer based on the results of these investigations.
- i. Prior to issuance of a building permit, the applicant shall provide a narrative to the City Engineer regarding protection and enhancement of the wetland resource and calculations on pre and post development flows entering the wetland resource.

13. 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 is deemed necessary by the City Planner. Notwithstanding the foregoing, the parties acknowledge the Project shall be subject to controlled construction, which requires oversight by a Registered Professional Civil Engineer. 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, including, but not necessarily limited to:
 - i. all utility cut and caps related the City's Demolition Permit;
 - ii. all new utility installations;
 - iii. any connections to, extension of, or improvements to publicly owned infrastructure both on the applicant's site or within the City's right of way and any on-site stormwater or wastewater systems;

- iv. any new installations or modifications to existing pavement/sidewalk/curbing; and
 - v. any conditions placed on the project by an Order of Conditions from the Salem Conservation Commission.
- b. The Clerk of the Works shall review and approve all proposed, or approved, changes to the original Planning Board decision.
- c. 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.
- d. The applicant shall submit a construction plan that includes a detailed sequence and schedule of all construction activities related to the Project to the City Planner for approval prior to starting work. The construction plan shall clearly detail the sequencing, schedule and duration of all construction activities related to the Clerk of the Works' purview. Once the construction plan is approved, it shall be used to create a Task Order for the Clerk of the Works.
- e. No work, including blasting, demolition, excavation, and grading shall start before an approved task order for the Clerk of the Works services has been agreed upon and approved by all parties.

14. 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, sidewalks, or landscaping 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.

15. As-built Plans

- a. As-built Plans, stamped by a Registered Professional Engineer, shall be reviewed and approved by the Clerk of the Works, then submitted to the Department of Planning and Community Development and Department of Public Services prior to the issuance of the Certificate of Occupancy. As-built plans shall identify 1) the number, location, depth, size and materials of all buried utilities and 2) locations and rim and invert elevations of all manholes and structures.
- b. The As-Built plans shall be submitted to the City Engineer in an electronic file format suitable for the City's use and approved by the City Engineer, prior to the issuance of the Certificate of Occupancy.
- c. A completed tie card, a blank copy (available at the Engineering Department) and a certification signed and stamped by the design engineer, stating that the work was completed in substantial compliance with the design drawing must be submitted to the City Engineer prior to the issuance of the Certificate of Occupancy; as well as, any subsequent requirements by the City Engineer.

16. 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.

Record of Vote

The following members of the Planning Board vote to grant the Planned Unit Development Permit and a Site Plan Review subject to the above-stated terms and conditions: Ben Anderson, Matt Veno, Bill Griset, Carole Hamilton, Helen Sides, and Kirt Rieder.

DJ Napolitano is in opposition to the granting of the Planned Unit Development Permit and a Site Plan Review.

Planning Board Decision
45 Traders Way and 40 First Street
September 17, 2018

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.

A handwritten signature in black ink, appearing to read 'Ben J. Anderson', with a stylized flourish at the end.

Ben J. Anderson
Chairman