

**City of Salem Planning Board
Approved Meeting Minutes
Thursday, December 7, 2017**

A public hearing of the Salem Planning Board was held on Thursday, December 7, 2017 at 7:00 p.m. at City Hall Annex, 120 Washington Street, Room 313, Salem, Massachusetts.

Chair Ben Anderson opens the meeting at 7:06 pm.

I. ROLL CALL

Those present were: Chair Ben Anderson, Kirt Rieder, Matt Venio, Helen Sides, Carole Hamilton, Dale Yale, Noah Koretz

Absent: Bill Grisct

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

II. REGULAR AGENDA

A. Location: 8 White Street, 10 White Street and 57-R Turner Street (Map 41; Lots 284, 283 and 298)

Applicant: BHCM INC.

Description: A continuation of a public hearing for all persons interested in the application of BHCM Inc. for a Flood Hazard Overlay District Special Permit in accordance with Section 8.1 Flood Hazard Overlay District on the property located at 8 White Street, 10 White Street and 57-R Turner Street (Map 41; Lots 284, 283 and 298). Specifically, the applicant proposes to remove existing offices, sheds, tents and existing drainage system for the building of a new 7,500 sq. ft. boatyard and marina building, as well as installing a new drainage outfall and to upgrade utilities.

George Atkins speaks for the Applicant, who requests to continue to the December 21, 2017 meeting as the Board does not currently have a quorum to vote on this item.

A motion to continue to the Dec. 21, 2017 meeting is made by Helen Sides, seconded by Kirt Rieder, and passes 7-0.

B. Location: 19 & 23 Congress St; 223-231 & 235 Derby Street; and the parking lots at 13-15 Herbert Street (Map 34, Lot 408)

Applicant: THE SALEM WATERFRONT HOTEL & SUITES, LLC

Description: A continuance of a public hearing for all persons interested in the application of The Salem Waterfront Hotel & Suites, LLC for an amendment to the approved Planned Unit Development Special Permit, Site Plan Review, and Flood Hazard District Special Permit. Specifically, the applicant proposes to reduce the building from 5 stories and a height of 67 feet to 4 stories and a height of 54.5 feet, a reduction in the total number of hotel rooms from 42 to 34, and adjustments to the façade.

Attorney George Atkins of 65 Congress St. presents. He outlines an issue at the previous public hearing regarding a drainage line; they have worked with the City Engineer and Planning staff has incorporated changes into the Draft Decision. Exterior materials will be addressed by Bridget Forten, Architect with Peter Pittman.

Ms. Forten outlines roofing, gutters, windows, trim and siding materials along with the stone for the base of the building. Samples are presented. Attorney Atkins has reviewed the proposed Draft Decision and has no further comments however will need to return on December 21st to request an extension for the lapse that will be occurring in January.

Chair Anderson opens to public comment but there are none.

A motion to close the public hearing is made by Carole Hamilton, seconded by Helen Sides, and passes 7-0.

Chair Anderson reviews the Draft Decision. The Chair asks about the drain connection; the Applicant confirms that the owner is paying for that work.

A motion to approve the amendment, with one minor correction, is made by Helen Sides, seconded by Dale Yale, and passes 7-0.

- C. Location:** 16, 18 and 20R Franklin Street (Map 26, Lots 400, 401 and 402)
Applicant: JUNIPER POINT INVESTMENT CO LLC
Description: A continuation of a public hearing for a Site Plan Review, Flood Hazard Overlay District Special Permit, and Special Permits associated with the North River Canal Corridor Neighborhood Mixed Use District in accordance with the following sections of the Salem Zoning Ordinance: Section 9.5 Site Plan Review; Section 8.1 Flood Hazard Overlay District; Section 8.4 North River Canal Corridor Neighborhood Mixed Use District; and a Stormwater Management Permit in accordance with Salem Code of Ordinances Chapter 37. Specifically, the applicant proposes to replace the existing junk yard with a residential development consisting of forty-three (43) units in five (5) buildings with parking under each building, in addition to an independent garage and some surface parking resulting in 69 parking spaces. The project also includes landscaping throughout, and public access along the riverfront with walking paths.

Attorney Joseph Correnti of 63 Federal St. represents the Applicant. He outlines progress since the last meeting. An overall presentation was done in September and they have been to the Design Review Board (DRB). That feedback has been incorporated. Neighborhood meetings over the summer occurred, and they worked with the Ward councilor closely, so had lots of feedback. This parcel was always intended to be developed as part of a series along Franklin St., however it is the only one in question at the moment. The shape of the lot is described as “a baseball field.” But, only the “infield” may be in play due to Chapter 91, which restricts development. The Applicant has viewed it as an opportunity to create a public space for the first time in at least five decades. The property will be tied into the park, and they will work with the City to create a flow along the riverfront. The Applicant is still working with the DRB to make further changes, but is not ready to present those tonight. Thus tonight’s presentation is by the Licensed Site Professional (LSP), who will focus on environmental conditions on the site, as they will not change.

Bruce Pool, LSP from SP Engineering, of 45 Congress St. Salem, presents. Bob Griffin, Site Engineer, is also present to address those questions. Mr. Pool describes his firm’s previous along with other local projects his company has worked on. Waste on the property has been there for a long time.

PowerPoint:

- Project Site: Sources of industrial waste, including coal ash, the municipal incinerator and remains from 1914 fire, a mix of many materials

- Figure 1: aerial photograph, Ferris Auto Service: better laid out in accordance with Stormwater Pollution Prevention Program guidelines
- Figure 2: Tax Lot Photography, 16-20 Franklin St. History of the area, Ferris and adjacent lots, is described. All material, 3000 cubic yards, must be removed.
- Sample Locations: in 2004 10 test pits and 2 wells confirmed materials. In 2014, another study was done as part of SWPP (Storm Water Prevention Plan) program and gave the extent of the contamination.
- Test Bore photos: materials found are outlined
- Test Pit photos: contents of pit, mostly white ash
- Soil Logs: they are not required to go into groundwater and remove material below 7', but all other material must be taken out
- Table 1: Soil Metal Analysis 2013 Test Bores. Remediation must occur on the entire property, as lead levels above those allowed for residential have been found
- Table 2: Petroleum Analysis 2004 Test Pits. Some PEH's exceed limits, mostly due to Coal Ash
- Remediation Areas: Two large areas will be removed entirely, but the rest of the site will have remediation only of certain layers, a total of 3000 cubic yards
- Remediation work: photos and descriptions of remediation work process and how the site will be protected. This includes continuous monitoring of dust by dust trackers. Other measures are described. Truck Decontamination Area is described. Three covered trucks a day are loaded, before school/traffic, go through decontamination, and then do not return until early the next morning. All DEP guidelines will be followed.

The Chair asks about the timeframe of remediation. It cannot occur during rain events, and normally not during the winter due to weather and soil conditions.

Chair Anderson opens to public comment.

Eric Papetti 11 Symonds St.: In favor of project

Concerns: Notes that open space proposed is the bare minimum as required by Chapter 91, and asks Planning Board to consider that pathways include separate areas for pedestrians and cyclists as it will be part of a potential network to connect to Salem Station. The fact that the new Bike master plan is kicking off should be taken into account.

Doug Cannon of 64 Dearborn St. asks how long remediation takes; it will be 6-9 months.

Victoria Riccadello, of 5 Foster St.:

Concerned about the scale of the building and how it will fit into the neighborhood

Anne Sterling of 29 Orchard St.:

Concerned about proximity to ball field at Furlong Park, and spreading of dust into children's play areas. Mr. Poole again outlines precautions taken to prevent the spread of any contaminated materials.

Ray Curtis of 53 Highland St.:

President of Little League, is concerned that there are 2 remediation points but only one dust monitor. Locations of the monitors are described; both areas (A and B) will NOT be done at the same time. Mr. Curtis notes that all ballfields have contamination on them, and does not want more.

Judy French of 16 Foster St.:

Concerned about height, but this will be covered in a revised presentation in January, where zoning concerns may also be addressed.

Ann Fell of 24 Larchmont Rd.:

Asks the route that the trucks will take once loaded. They will go from Franklin onto North St, up 114 as they can only turn right. They will not be going through the neighborhood. Attorney Correnti notes that remediation truck route will also be supplied to the Planning Board, and the City and Police Dept. have a lot of input into those routes.

Chris Wolford of 24 Briggs St.

Asks about long term implications to the ball field if remediation is not cleaned up. The material is currently “adequately managed” so it is unlikely that the surface would generate dust, though the current use does generate some pollutants. Benzene and gasoline have not been found in the groundwater.

Matt Veno asks to clarify for the public what an LSP (Licensed Site Professional) does. Mr. Pool outlines his role; an LSP is required to be part of a site assessment, and state standards that must be met. The LSP is bound by state standards that provide some independence. The LSP is beholden to the system, not the petitioner. Noah Koretz asks about the full cost of remediation; it will be between \$500,000 and \$750,000.

Diane Robichaud of Foster St.

Concerned about children in the park in the summer. Mr. Pool outlines safety standards and measures again. Everything is kept wet onsite to prevent dust. All materials must be kept from moving, and will be weighted under plastic at night. They are not allowed to excavate if the wind is over 10 mph or in certain directions.

Written public comment was also received from Judy French of 16 Forester St. and from Mary Ellen Halliwell of 21 Orchard St.

A motion to continue to the Jan. 4, 2018 meeting is made by Noah Koretz, seconded by Helen Sides, and the motion carries 7-0.

D. Location: 65 Washington Street Salem, MA (Map 35, Lot 600)

Applicant: 65 WASHINGTON STREET, LLC

Description: A continuation of a public hearing for all persons interested in the application of 65 Washington Street, LLC for the property located at 65 Washington Street Salem, MA (Map 35, Lot 600) for a Planned Unit Development Special Permit, and a Site Plan Review in accordance with the Salem Zoning Ordinance sections 7.3 Planned Unit Development and 9.5 Site Plan Review. Specifically, the applicant proposes to raze the former Salem District Court building, and construct on the existing foundation a new mixed-use building consisting of sixty-one (61) residential units, two levels of enclosed parking, and commercial/restaurant space on the ground floor. General infrastructure updates to drainage, sewer and landscaping are also proposed.

Presenting for the Applicant is Attorney Joseph Correnti of 63 Federal St. This is the opening of the presentation even though this is a continuation, and the first time the Planning Board is seeing this plan. Merrill Diamond, Developer, is not available tonight but will be at future meetings. This is the old District Court built in the 1970's but now vacant for several years. It is owned by the Commonwealth of Massachusetts and Essex County; the Request for Proposals went out in 2015. Diamond Sinacori was the designated developer named to redevelop the site. Tonight, is an overview and there will be more presentations over the next several meetings. This end of Washington Street is in need of attention, with three vacant municipal buildings, and this property is becoming worse.

Jeff Hirsch represents one of the development partners, Urban Spaces, and will discuss the site and plans for it. Steve Tise is the Project Engineer and will review the design of the building. The process thus far is outlined. The project is under SRA (Salem Redevelopment Authority) Jurisdiction, in the Renewal District, and has been before the Design Review Board (DRB), and the plans have been transformed from the original proposal. They have schematic design approval from the DRB and further future discussions with the SRA will also occur.

Up for discussion is a Planned Unit Development (PUD) Special Permit. The site is 1/2 acre, all of which is building or pavement currently, and the proposal touches all PUD standards. Parking will be situated underneath the building, and all parking for all residents will be onsite. Parking stall dimensions should be considered and this Board's authority to waive dimensional requirements will come into play, but the why's and how's will be discussed. This property was also under discussion by Salem City Council in the past year, the City creating a Housing Development Incentive Program (HDIP) zone. This is an incentive program run by the state for Cities to take advantage of, and this was one of five properties for the HDIP zone brought by the Mayor to the City Council, and this one was adopted. Properties within this zone are allowed to file for tax increment exemptions. They will also go before the Council again, as it has approved a zone but no particular projects as of yet.

Flood zones, storm surge, etc. will NOT be discussed, and project is not subjected to Historical Commission jurisdiction.

Jeff Hirsch; Vice President of Operations; Urban Spaces, LLC (Ownership Group)

Greg Winter; Managing Director; TR Advisors LLC (Project Management)

Wayne Keefner PE, PTOE, LLED AP; Senior Project Manager; Allen & Major Associates, Inc. (Civil Engineering)

Betsy Merry; Manager/Real Estate Broker; Merry Fox Realty (Real Estate Marketing)

Steve Tise; President/Principal; Tise Design Associates (Architecture)

Scott Thornton, P.E.; Vanasse & Associates, Inc. (Traffic Engineering)

PowerPoint:

- Site Plan 1, Site Plan 2: Applicant is aware of the importance of this site to Salem, as the first sight people see upon entering the City.
- Locus Map
- Contextual Images: The Applicant has tried to take cues from the surrounding architecture, so that it would fit in with the transitional nature of the area, neither ultramodern nor strictly traditional
- Existing Images
- Basic Building Information (proposed): 6 levels above grade, 1 below, 1st floor retail, upper floors residential. Will be using existing foundation, but can't fit full sized Salem Spaces, however can do Boston/Cambridge size spaces. This includes 21 stacker spaces: individual unit owners can buy "stackers" and so can put 2 cars in one space. The technology has improved and this means that the Applicant can fit 88 spaces in the garage so will not require a variance for the number of spaces.
- View along Washington St. (artist rendering): Retail will be closer to downtown, since the other end of the building is closer to a residential zone, where it is quieter. Top floor is penthouse dwellings, all glass, predominantly 3-bedroom units. There are bay windows, not balconies except on the penthouse level
- View along Federal St.: The Applicant is working with the public Art Commission to integrate artwork. There will be large 8'x8' metal plates, built into the building, lit, and integrated into the brick above. They will depict City scenes reflecting maritime theme, history, etc. This is planned as a

“Public/Private park” as the City owns some small space, but the Applicant will maintain the green space.

Steve Tise, Architecture and Planning

- Reiterates “theme” of building, ground floor retail with residential units above, and the “hat” of the building. Materials are discussed; the Applicant is still working with the DRB on this. Schematic approval with some conditions has been obtained, but the Board needs more detail.
- Washington St. Main Residential Entrance: Working within financial limitations, the Applicant is using the existing basement to facilitate underground parking. The first floor emulates what is already there, at 24” above sidewalk level.
- View along Washington St.: Bringing building out to the property line presents accessibility challenges, so the Applicant is recessing and screening handicap ramps into the façade treatment. The DRB is concerned with people hanging out in recessed portions, so the lighting plan is to align recessed ramp areas with backlit translucent glass to “glow” and be permanently lit, and become a feature.
- Views along Church St. and Federal St.: Parking will be behind the façade on Federal St. where the artwork is. Residents did not want to see retail there, so they are using the space for extra parking and artwork/park.
- Basement Level Floor Plan
- Ground Level Floor Plan: These are not commercial parking spaces, and are strictly for residents, not visitors. Residents will be coming and going regularly and will become familiar with the limitations of parking fairly quickly. Three sizes of space are proposed: compact, intermediate and larger residential, a mix of all parking space sizes. Elevations of various areas are discussed.
- Second Level Floor Plan
- Levels 3-5: Typical Residential Floor Plan

Chair Anderson comments that it is unfortunate that the retail is 2’ above sidewalk elevation, as there is no other similar situation on Washington St. The site limitations and reasoning for this are described by Mr. Tise.

The PUD requirement for public park space is discussed. The small “park” on the Federal St. side will be maintained by the applicant through a permanent easement, not a land transfer. The Chair feels that retail or a restaurant on Federal street would have been a good idea, and notes that the “park” does not have to be that, exactly, but could just be open space.

Mr. Tise states that a preliminary lighting plan has been submitted, but there is no “site,” all lighting is architectural; a lighting consultant has been hired. Chair Anderson suggests that they give the retail tenant opportunities to connect with the sidewalk so they have a chance for success.

Kirt Rieder appreciates the combined presentation on plans, renderings, and components, but wonders about the trees. He notes inconsistencies between trees shown on the renderings that are not on the plans. Mr. Tise clarifies that the trees on Church Street will not be removed and inconsistencies between the plans and renderings will be corrected.

Wayne Keefner, Civil Engineer, speaks about the trees. The sidewalk width increases but the right of way does not on Washington St./Church St. There is no adequate sidewalk on the City right of way. Kirt Rieder feels there is still a conflict. He also encourages the Applicant to consider elms and other large shade trees. He also does not wholly approve of the large blue banners coming down the façade. Additional detail needs to be provided regarding the bollards at the main entrance. Landscape plans have also not yet been developed and require elaboration.

Kirt Rieder suggests contrasting pavement treatments and would like more information on the apron around the building. He is also concerned with the corner on Washington and Federal Streets, as having some activity there would make it a safer environment.

Chair Anderson noted that the current perspective makes it difficult to envision the height of this development in relation to the rest of Washington Street. The Chair asked for renderings from Essex Street towards the train station and from the train station down Washington St. so the board can get a sense of the scale of the building adjacent to the other buildings on Washington Street. It would be nice to see an elevation of distance along Washington and also a perspective. Mr. Rieder builds on that and recommends an eye level perspective that shows buildings as context. The Board explains that this is requested because it is a big building, that does not mean it is objectionable, but it does warrant more investigation.

Matt Venio approves of the appearance of the project and commends the applicant for including onsite parking. He feels that the raised nature of the first floor sets the building apart, and is acceptable as long as the accessible entrances are functional. He would also like to see different perspectives rendered.

The landscape architect can also come to the next meeting.

Noah Koretz is also concerned about the Federal St. side; that corner is the most important corner, so requires more thought. While he appreciates the engagement with local art community, he is unsure if what is proposed will work, and asks the Applicant to consider options for that side of the building. He also approves of the smaller sized parking spaces and would like to see more bike spaces, along with designations for Electric Vehicle parking. He notes that it can be difficult for housing developers to find good retail tenants and that they should consider how to make the retail space as appealing as possible. The Applicant notes that the possibility of a restaurant moving in is being accounted for, as there will be a vent up to the roof. Kirt Rieder suggests that they take cues from the Adriatic. Chair Anderson notes the need for a dynamic connectivity.

Chair Anderson opens to the public.

Gerry Uhaus of 20 Federal St.:

Asks about metered parking on the Federal St. side. That will not be changed, but one space will be shifted due to the change in curb cuts.

Gary Gill of 12 Highland Ave.:

Concerned about the height of the building, but it has always been planned to be six stories. He is also concerned about the design in general, and does not approve of the “hat,” or overhang, and is concerned about the loss of the trees. Mr. Tise suggests that Mr. Gill attend the DRB meetings as these issues are being worked out there as well.

Pam Broderick of 28 Federal St.:

Concerns:

- Setback
- Overall height/shadows
- Does not approve of having a “glowing UFO cornice hovering in the night sky” (Sorry, that was too amusing to leave out!)
- Placement of residential entrance, to allow for the entire frontage along Washington St. to be retail. Mr. Tise explains why this is not logistically possible.
- Concerned about the Ordinance definition of Convenience Center for developments of 150 units or less vs. Retail Units for development of 150 units or more, and how a restaurant fits in. However, Attorney Correnti is not familiar with convenience centers

- Concerned about parking spaces and variances needed. Attorney Correnti notes that variances are requested from the ZBA; this project needs no variances. However, if the concern is what the Applicant is asking this Board to consider under the PUD, which varies from the underlying zoning ordinances, then there are several, including parking stall dimensions, only by way of information, as no formal request needed. The PUD process allows the Planning Board to determine the adequacy of plans as presented, including with regards to parking, setbacks etc. If approved, it is approved and that gets recorded. The PUD allows maximum flexibility this Board to discuss and decide on individual plans.
- Concerned about traffic on Federal St.; a traffic study presentation will be made at a future meeting

Bill Uhauss of 28c Federal St.:

Concerns:

- Foundation/footprint of building and floors above
- Handicapped entrances
- How residents on Federal St. will engage with the building (lighting and green space)
- Does not approve of the “hat” and is concerned about the mass and bulk of the building
- Would like to see shadow study jhnfgbvcxz

Michael Latulippe of 190 Bridge St.:

- Suggests fewer bicycle spaces as cyclists can be aggressive, rude and dangerous with no regulations to control them

Gary Gill of Ward 3:

Concerns:

- If the retail space is filled by a restaurant, this means deliveries and a loading dock, and also the proliferation of grease and dirt around any dumpsters that can cause rodents
- Also concerned about handicapped access, but the ramp is to the front door and the building complies with all current requirements

Nichole Snow of 190 Bridge St.:

Concerns:

- Echoes Mr. Latulippe about cyclists, opines that they should be registered
- Suggests that retail space be affordable to a small business so it does not remain empty

A motion to continue to the Dec. 21, 2017 meeting is made by Matt Veno, Seconded by Dale Yale, and passes 7-0.

III. OLD/NEW BUSINESS

A. Reappointment of Planning Board Member Carole Hamilton to serve on the Community Preservation Committee for a three-year term.

A motion to reappoint Carole Hamilton is made by Matt Veno, seconded by Helen Sides, and passes 6-0.

B. Planning Board discussion and recommendation to City Council on the following three (3) separate proposed Zoning Amendments relating to the implementation of Chapter 94G of the Massachusetts General Laws, Regulation of the Use and Distribution of Marijuana Not Medically Prescribed:

1. **New uses, allowed only by special permit, to Section 3.0 -- Table of Principal and Accessory Uses for a retail marijuana cultivator within zones B2, B4, Industrial (I) and Business Park Development (BPD), a marijuana product manufacturer within zones I and BPD, a marijuana testing facility within the I zone, and a marijuana retailer within zones B2, B4, I and BPD, and a new use for a marijuana testing facility allowed by right in the B2 and BPD zones;**

A recap of the discussion at the Joint Meetings occurs. The North River Canal Corridor (NRCC) was purposely left out of the discussion and is not now under consideration, but requires review and a look at “the big picture.”

Main points of discussion related to the vote on Item 1:

- Key:
 - N = not permitted
 - BA = requires special permit from the Zoning Board of Appeals
 - Y = as of right
 - Original table is in black. For zones that have had changes, the original is strikethrough and the change in red
- B5 vs. B1 and allowing activity via special permit vs. as of right
- The Board feels that activity should be allowed via special permit in both B1 and B5
 - Comments regarding B1 and B5 in the Council meeting, and in this one, are with respect to retail establishments only, not cultivation, manufacturing and testing
 - B1 is seen as “mom and pop retail,” indistinguishable from entrance corridor retail. For example, most stores on Rt. 114 are in B1
 - Noah Koretz points out that B1 generally consists of larger commercial space along the Entrance Corridors and barely exists in small neighborhoods, so if the matter is over-regulated, establishments could wind up where the City does not want them.
- There is overlap between processing and packaging, but cultivation is its own separate activity
- The Ordinance takes its cues from the current regulation of package stores, which is why there is a distinction between cultivation and manufacturing in B2 and B4. However, for marijuana, a letter of non-opposition from the Mayor and City Council is also required
- As this matter was voted in favor by the Citizens of Salem, access should be facilitated
- However, it is felt that the City would be best served by some sort of review, so ultimately testing facilities in B2 and B5 are changed from “as of right” to “special permit.” The main concern is retail establishments since manufacturing and testing facilities would be more likely to be in industrial parts due to the needs of those types of facilities
- Testing of other products is prohibited in certain zones, and this ordinance is consistent with that. While it is often presupposed that all manufacturing happens in industrial areas, this may not always be the case. However, a larger discussion on the Zoning Ordinance would need to occur to make the case for it being allowed elsewhere

A motion to recommend that the City Council approve the table as amended, to allow retail marijuana cultivation in zones B1 through BPD via Special Permit through the Zoning Board of Appeals approval passes unanimously, 7-0.

A motion to recommend that the City Council approve the table as is with no change with regards to the manufacture of marijuana products passes unanimously, 7-0.

A motion to recommend that the City Council approve the table as amended, to allow retail marijuana testing in zones B2, I, and BPD via Special Permit through the Zoning Board of Appeals approval passes unanimously, 7-0.

A motion to recommend that the City Council approve the table as amended, to allow retail marijuana establishments in zones B1 through BPD via Special Permit through the Zoning Board of Appeals approval passes unanimously, 7-0.

Amended Table:

	RC	R1	R2	R3	B1	B2	B4	B5	I	BPD
Retail marijuana cultivator	N	N	N	N	N BA	BA	BA	N BA	BA	BA
Marijuana product manufacturer	N	N	N	N	N	N	N	N	BA	BA
Marijuana testing facility	N	N	N	N	N	Y BA	N	N	BA	Y BA
Marijuana retailer	N	N	N	N	N BA	BA	BA	N BA	BA	BA

2. A new Section 6.10 – Special Regulations to provide for the special permit process for marijuana establishments listed in Section 3.0; and

Procedures for obtaining special permits are discussed. At the joint meeting, discussion centered around page 5, provision number 5, which indicates that licenses would not be granted to establishments located within 500' of a public or private school, grades 1-12. Some Councilors wanted to expand this to 1000' or more and include universities and all parks. A second section states that the proposed establishment must provide written notice to abutters if within 500' of a church, nursery school, day care, library, or institution of higher education. The Planning Board notes that the ZBA already requires that a notice go out to ALL abutters within 300'. Discussion occurs re the difference between parks and playgrounds, but several board members do not see a need to change.

The Chair asks whether the notice of intent gets sent to abutters by the City or the Applicant; it is sent by the City. He also wonders if it would be easier to send notice to every address or property owner within 500' of the proposed establishment. Kirt Rieder notes that the ordinance should require for the City to send the notice not than the applicant.

Amanda Chiancola suggests that the notice language be removed and added to section 6.10.7 instead. Thus, the first sentence remains as it is state law, but the second sentence would be removed and language added as part of the application procedure, so a notice would be sent as per typical application procedures. Matt Venio asks about purpose of notice, which is to notify occupants of nearby properties so they may weigh in relative to letter of non-opposition or give input to the ZBA. The language of the notice would indicate that an application has been submitted to the City, and there is a public process in conjunction with the non-opposition letter, similar to the notice for Board meetings. Language will need to be crafted to make sure it is all consistent.

Re generation of energy onsite, the Board feels this may be arbitrary and cost prohibitive. On the one hand, cultivation can be energy intensive, but the establishment would be paying for electricity, and if it was cost effective, they would voluntarily generate their own anyway. The Board decides to strike 6.10.10, item 1 that the establishment shall generate all electricity.

Section 6.10.12 limits the number of retail marijuana establishments to 20% of those issued for alcohol. The cap/percentages will ultimately be decided by the City Council, but it seems a foregone conclusion that there will be a cap.

Section 6.10.6 #12: prohibits onsite consumption. Much discussion occurs regarding whether or not onsite consumption is or should be allowed. Mass. General Law (MGL) does not specifically allow or prohibit this, but indicates that if a City or town holds a ballot initiative, it could prohibit onsite consumption. The Assistant City Solicitor, has advised this to mean that onsite consumption is not allowed.

Liquor purchased at stores must be brought to a private residence and consumed, but at a bar, it is consumed onsite. Wine tastings are also allowed at retail establishments.

The Board ultimately decides to strike the language prohibiting onsite consumption from the Ordinance, as the state statute would supersede local Ordinance and thus take care of the issue. If it is allowed by the State, then it should be allowed in the city.

Summary of changes to be made:

p. 5: remove 2nd part of paragraph, strike, move to 6.10.7 so that abutters within 500' get notice from the City, and the Board recommends that it should be clarified that the notice comes from the City

6.10.10: manufacturing, strike paragraph 1

Section 6.10.9: cultivation, strike paragraph #1 re onsite energy generation. The rationale behind numbers 3 and 4 is discussed but no changes are made.

A motion to recommend that the City Council approve section 6.10 as modified is made by Carole Hamilton, seconded by Dale Yale and passes 7-0.

3. **New definitions to Section 10.0 for marijuana establishment, marijuana cultivator, marijuana product manufacturer, marijuana testing facility, marijuana retailer, marijuana processing, marijuana manufacturing, marijuana, marijuana accessories and marijuana products.**

Kirt Rieder notes that the current testing facility is in B5, so would be a nonconforming use under the amended Ordinance. Discussion here centers around the wording in the definition of "marijuana retailer." Ultimately the Board decides to remove the word "transfer."

Carole Hamilton motions to accept the definitions with the removal of the word "transfer," is seconded by Dale Yale, and the motion carries 7-0.

6.10.6 #12

A motion to strike 6.10.6 #12 from section 6.10.6 is made by Noah Koretz, seconded by Helen Sides, and passes with all in favor 7-0.

IV. APPROVAL OF MINUTES

A. Regular Planning Board Meeting held on October 19, 2017

A motion to approve the October 17, 2017 minutes, with minor corrections, is made by Noah Koretz, seconded by Carole Hamilton, and passes 5-0 with Helen Sides and Matt Veno Abstaining.

V. ADJOURNMENT

A motion to adjourn is made by Kirt Rieder, seconded by Helen Sides, and passes with all in favor, 7-0.

The meeting ends at 10:35PM.

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: <http://www.salem.com/planning-board/webforms/planning-board-2017-decisions>

Respectfully submitted,
Stacy Kilb, Recording Clerk

Approved by the Planning Board on 12/21/2017

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