

**City of Salem Planning Board and City Council  
JOINT MEETING  
DRAFT Minutes  
Thursday, November 14, 2019**

A continuation of a joint meeting of the Salem Planning Board and the City Council was held on Thursday, November 14, 2019 at City Hall Chambers, 93 Washington Street, Salem, Massachusetts.

***An Ordinance to amend an Ordinance relative to a Zoning Map Change***

***Be it ordained by the City Council of the City of Salem. As follows:***

***Section I. In accordance with the requirements of Massachusetts General Laws, Chapter 40A, Section 5, that the parcels of real property located at 355 and 373 Highland Avenue and 2, 3, 5, 6 and 10 Cedar Road be rezoned and the City of Salem Zoning Map be amended from Business Highway (B2) and Business Park Development (BPD) districts to the Residential Multi-Family (R3) District.***

<b><u>Address</u></b>	<b><u>Assessor's Map and Lot Number</u></b>
1. 355 Highland Avenue	Map 7, Lot 46
2. 373 Highland Avenue	Map 7, Lot 58
3. 2 Cedar Road	Map 7, Lot 57
4. 3 Cedar Road 5.	Map 7, Lot 47
5. Cedar Road 6.	Map 7, Lot 48
6. Cedar Road	Map 7, Lot 56
7. 10 Cedar Road	Map 7, Lot 55

*Ben J. Anderson, Chair*

Councilor Dibble, presiding, opens the meeting at 7:00PM

**I. ROLL CALL**

***Planning Board Members present:*** Chair Ben Anderson, Carole Hamilton, DJ Napolitano, Matt Venio, Bill Grisct, Matt Venio

***Planning Board Members Absent:*** Noah Koretz, Helen Sides, Matt Smith, Kirt Rieder

***City Council Members Present:***

Thomas H. Furey, Councilor At Large  
Domingo J. Dominguez, Councilor At Large  
Elaine Milo, Councilor at Large  
Arthur Sargent, Councilor at Large  
Robert K. McCarthy, Ward 1 Councilor  
Christine W. Madore, Ward 2 Councilor  
Lisa JB Peterson, Ward 3 Councilor  
Timothy G. Flynn, Ward 4 Councilor  
Josh H. Turiel, Ward 5 Councilor

Stephen G. Dibble, Ward 7 Councilor – Presiding

**City Council Members Absent:** Beth Gerard, Ward 6 Councilor

**Also in attendance:** Planners Tom Daniel, Director and Mason Wells

Councilor Lisa Peterson outlines the history of the proposal. The current proposal is more in line with what the public and neighbors want to see. Housing is considered to be the lowest impact type of development from a traffic standpoint. This type of use (housing + restaurant) requires rezoning.

Attorney Joseph Correnti of 63 Federal St. represents **Star Realty (sp)**, owner of the property. This is a petition to amend the zoning map for these 7 parcels (the “site”). Currently, four are zoned B2, and three are BPD (Business Park Development); the acreage is three acres of PBD and two of B2.

A map and satellite view of the parcel is shown, as is a plan of the parcels. Cedar Road runs down the middle but is a paper road that only goes partway into the site, providing access to these parcels and those in the back. Highland Ave is the main frontage. Cedar Rd. would be built out and probably picked up by the owners of the rear parcels to be continued there; land in the back is not owned by the petitioner.

A change to R3 is being requested because:

- Proposed use by Jefferson Properties, Inc. (site is under agreement) is for multi-family housing. In meetings with neighborhood associations, residents indicated a desire for this type of use
- Mixed use: predominantly multifamily with some retail. No site plan is available yet but some ideas/schematics have been shown
- A restaurant is desired but they don’t have plans for a particular one yet
- B2 allows retail, and BPD makes it eligible for PUD (Planned Urban Development), BUT upon reading the ordinance, including BPD w/residential, a restriction requires that the developer set aside 50% of the land for open space (this would be non usable land). Residential uses, including improvements such as parking/landscaping, cannot exceed 50%. Three of the 4.5 acres are currently PBD so 1.5 acres are unavailable to the Applicant to use for a project. This is burdensome and causes strange configurations of building layouts as land cannot be used for parking or landscaping even if accessory to residential use
- Rezoning to a single district will also allow for height. A PUD has height restrictions; underlying dimensional requirements are set by the plan submitted and approved by the Planning Board (PB) , except for the height of buildings, a requirement that remains and cannot be waived by the PB. BPD = 50’, B2 =30’. That factor, plus the fact that the Applicant must leave 1.5 acres unusable means it is impossible to layout a project on the site that Salem or the Developer would be proud of. The Applicant could, by right, design a project to meet these standards but it would be undesirable
- They are requesting that all seven parcels be rezoned to R3; an adjacent, abutting site is already R3. They are merely requesting that the R3 zone stretch across theirs. This will still be a PUD since R3 is eligible for that, and they would still file as such with PB, since this still allows multifamily mixed use. Also an R3 zone does not mean that only multifamily dwellings can go there.

The question is asked, if the zoning district is changed but the project does not go through, if the land would remain R3 or if a subsequent developer would be allowed to build a commercial project; a PUD including a mix of housing and retail could still be proposed.

City Councilor Comments:

Arthur Sargent, At Large, notes that for PBD the limit is not 50% to be developed, but rather that the concern was losing a tax base. The requirement is that 50% be residential, while the other 50% can be commercial, but not undeveloped.

Councilor Madore is concerned about environmental constraints. Due diligence has been done and is ongoing by both the prior and current owners, and the site is manageable. Additional discussion regarding coverage ensues. While Councilor Sargent's reading was correct, rezoning the parcel would allow for a better layout and more land available for residential units. If not rezoned, there are 1.5 acres that may not be used for residential, so the layout would be contorted. Rezoning would allow a more efficient use of the land.

DJ Napolitano asks how many units will be built. Suggested are two midrise buildings of 4-5 stories, in concepts presented thus far, in the range of 150-180 units split between them. Land slopes down from Highland Ave. and the Applicant can build/mass so it looks lower and more to scale from Highland Ave. Commercial/retail conceptual plans show a separate retail pad, but it is possible that it could be on the 1<sup>st</sup> floor level of the buildings instead. Nothing is precluded at this point. These would be rental unit apartments. Affordable units will be included; that discussion has been followed. The exact percentage or amount is not known but will be at least 10%. DJ Napolitano comments that, at 4-5 levels high, buildings will be significantly higher than any others in the area. Attorney Correnti recognizes this but notes that this is why the layout is so critical. The Applicant is cognizant of this logistical issue. DJ Napolitano asks, if zoning was not changed, what the project would look like. Sandy Stone of the Jefferson Group, states that she cannot answer that at this point in time. Plans allowing for the denial of the zoning change have not been put forth. Plans were put forth early on what could be built as of right, but none of the layouts were plans anyone would want built. The project would most likely be financially infeasible without the zoning change.

Matt Veno asks about the history of the existing adjacent R3 lot. Attorney Correnti is unsure but it has not been changed to R3 recently. It is part of a much larger parcel of land starting on Highland Ave then going into BPD. It goes all the way back, off the slide shown. It is unclear why this was an R3 with a B2 in front. This type of "checkerboard" zoning occurs all up and down Highland Ave., presumably because at the time, the City was doing it piecemeal, according to who owned each property and what they wanted to do with it. The adjacent lot is vacant land, but has always been R3.

Chair Anderson asks why they feel this is not spot zoning. Attorney Correnti replies that spot zoning is having B2 surrounded by three different zones. When changing a zoning map, is there an adjacent parcel that you can 'hitch your wagon to' or pull a zone across to extend it? That is the case here. Think of it as extending current R3 zoning on Barnes Rd. across this site. The Chair still feels this may be spot zoning and cites the definition. He feels it warrants additional discussion and a response.

Councilor Dominguez asks about any traffic studies that will be done. Attorney Correnti notes that this is an SPR (Site Plan Review) question but a traffic consultant has been retained and a peer reviewer will be chosen by the PB. When the entire five acres was thought of as entirely commercial in the past, traffic coming off was significantly more than what would come off a residential site. Residential traffic involves morning and evening peak hours; but an assessment will be presented to

PB. The Applicant can do the project without a traffic break in the island. This is one of the least impactful projects.

Councilor Flynn asks about the quality of life for neighbors in the area. A series of meetings and communication over many months is outlined. The Applicant would not be here if they thought there was universal opposition. No straw polls were taken b/c when in the conceptual stage, generally people have specific questions that can't be answered at that point; the objective is for the developer to listen to their desires. JPI was holding listening sessions and plans have gone through several iterations in response to what was heard from the neighborhood, and there are more meetings to go.

Councilor Peterson notes that this has been popular with most people she has spoken to because of the relatively low impact to traffic to the neighborhood and the resultant quality of life. Preliminary studies have shown residential use is least impactful. She also notes that she personally has been in touch with Rep. Tucker and Sen. Lovely to get Salem bumped up on the list maintained by the DOT for improvements, to prioritize those on Highland Ave. We have been saying that each project cannot individually solve traffic issues, but Salem is more active and more interesting, so may warrant DOT prioritization.

Councilor Milo asks if this is the same JPI that did Bell Station. Jefferson Apartment Group is the company, and while many of the principals in that are affiliated w/JPI, there is no financial connection between the two companies. Councilor Milo asks because she wants to be assured that organized labor will be "at the table." That is uncertain. They do engage in that dialogue but she cannot guarantee that there will be an organized labor component. But they will be heard early on and given a chance. Previous involvement in other projects is outlined.

**Public comment in favor:**

Jay Bachman 3 Clark St., of the Clark Barnes Lyman neighborhood Association, reads a statement on behalf of Gail Fialho, 40 Park St. She appreciates the businesses along Highland Ave but notes that it is primarily residential. They want small family businesses and housing in the area to protect local families.

Laurie Stewart, 7 Barnes Rd., co-chair of The Neighborhood Assoc. formed April 2018. (Clark St., Clark Ave., Lyman Rd., Barnes Rd., Circle St.) She is in support of the rezoning of "Cineplex lot". The Association voted 2-1 in favor of the zoning change. Councilors. Peterson and Flynn held a meeting for resident input, 100 attended, were asked what they wanted to see, and a common theme was housing w/ an upscale restaurant. Councilor Peterson met w/JPI who wanted to buy the lot, told them what we [residents] wanted to see. Ward 3 and 4 leaders were engaged early on. In Jan. 2019 Sandy Silk got positive feedback from Councilors Peterson and Flynn. Ms. Stewart asks that it be changed to R3 for less impact. There is some debate whether their vote had high enough turnout to count. It is noted that voter turnout in the preliminary election was only 17%, yet did not validate election results. 16% voted in this issue.

Anne Louise DeOulis of 14 Barnes Circle, also of the Neighborhood Assoc., echoes Laurie Stewart re process & support. She comments on attitudes and people being moderate, down the middle. She feels that there are two groups of citizen attitudes re 107: many belong to "NOHA, or the Nothing On Highland Ave: Club. Many others who do not live in the vicinity belong to the "PIOHA or Put It On Highland Ave" club. The Cineplex was unveiled; residents were not asked. It received many accolades. The Neighborhood Association was realistic; they know there is land available, and that something will be built. They feel that the moderate road is taken via this plan, and it will be the best

use of that particular land, as it will provide a tax base, housing, and sustains the local quality of life. They also appreciate that this company reached out rather than just unveiling a project, inviting them in.

Dennis Colbert of 37 Clark St. has attended several neighborhood meetings. He notes that a golf driving range and cinema complex have been proposed; many thought it would exacerbate traffic and he agreed. He also notes the developer's involvement in the neighborhood. Several revised concepts and the reasoning for the zoning change request were presented, and he came to believe rezoning is in the best interest of the neighborhood. The PB and public input on types of businesses will be obtained re the PUD process. This connects w/the existing R3 and residential use has less impact on traffic.

Dave Wong of 15 Clark St. feels this is best suited as a residential area.

City Planner Tom Daniel, Director of Planning Community Development, reiterates everything said regarding the process, including meetings hosted in Spring 2018. Many residents at those meetings were hoping for a nice restaurant; somewhere to "leave the kids at home." Traffic was also mentioned regularly. Engagement with Jefferson Apt. Group is commendable. This amendment would allow 150-175 units w/a commercial component. JAG is a quality developer, and he feels their Malden project is "transformational." The option of single story living situations is appealing in that part of town and beyond. it would allow people to stay in the area.

#### **Public Comment Opposed:**

Dave Goodoff of 31 First St. is not opposed to some project here but is concerned about traffic. He feels they will add 300-350 vehicles a day. He is concerned about blasting and dust. He feels that commercial zoning makes more sense in this particular area as it is not residential. Regarding the development of Barnes Rd., he respects their wishes but feels R3 is an inappropriate use.

Polly Wilbert of 7 Cedar St. comments about the process. She feels that the affordable housing discussion should happen prior to rezoning. it is also unfortunate that the DOT has not been responsive to the needs of Highland Ave. The 212 units being added at First St. and Traders Way will impact that area, but it is unknown how. The Union Hospital ER closure in Lynn and expansion of Salem ER are additional unfortunate circumstances. Roadway improvements w/u-turns and cut across should happen simultaneously. Regarding acreage: NRCC has already been rezoned; residential b/c it is TOD. Mom and pop garages and small businesses are going away. Retail space has become too expensive for the. If this area is not developed as a business highway, there will be even less area for that purpose. There needs to be a business park with offices so that those who live in Salem can work here. What the City of Salem needs, where we need it, and how we get there should determine these types of decisions; they should not be dictated by the market.

Johnny Noir of 53 Clark St. is concerned about affordability.

#### **Questions posed by the public:**

Bob Citrullo, Executive Director of the Northeast Animal Shelter, is neither for or against the rezoning but has noise concerns, wondering if there will be a sound barrier or baffling/

Councilor Furey comments that something will go there. This area could have been a school. The Cineplex was shot down. He notes that when the Ward 2 Social Club closed, the developer wanted

residential, but the neighborhood rejected that idea, and now the developer now proposing a detox facility under Dover Amendment. Regarding low income housing, a developer cannot feasibly make half of it low income; they are investing. Compromise must take place on a local level. There are no perfect solutions. "Be careful what you wish for." This developer has done meetings, gotten input, and residents must think toward the future.

DJ Napolitano asks Tom Daniel what could legally be built on the site, by right, as of now, if it is not rezoned. B2 is commercial retail, and PBD is light industrial use. Technology Way could not be extended. This particular property was going to be a Cineplex for a while; one inquiry was a BPD type use but the site did not work. Other inquiries were for residential developments, not B2 or BPD uses. He agrees w/Councilor Furey that we don't know what's coming, and an as of right project could go there that we [the City] would not have any say over.

Councilor Dibble asks about animal shelter noise screening. The Applicant will continue to meet with abutters. He is unsure if there will be blasting. At least 10% of the units will be affordable. Councilor Dibble asks about progress on the inclusionary zoning ordinance; Tom Daniel states that a draft was discussed right before the meeting. There remains one outstanding piece of data analysis that the Planning Department was asked to review. The process is outlined; a filing date of Jan. or Feb. is anticipated but depends on whether all of the Trust Fund's concerns are addressed. Without an Ordinance, the practice is to require 10% at 80% median income, through the PB permitting process. That is obviously insufficient but it is not clear yet what appropriate numbers for Salem might be. Inclusionary zoning currently proposes 10% at 60% AMI. it may be better to do more units at a higher income threshold or 10% at a lower one. The 10% at 80% was previously standard in planning/affordable housing. Before starting this work they knew it was not a sophisticated level to require, but an off the shelf standard. The Metropolitan Area Planning Council was consulted on this issue.

Tom Danile comments on the location of the wetlands and how this may limit projects. Councilor Dibble feels that the City must look at "the big picture."

Councilor Turiel is examining the map and notes that Cedar Rd. is a paper street that goes back as far as the word "Cedar," then a dirt trail goes further; it has nothing in common with what the map indicates, and then a body of water is between that and the self storage adjacent to the gym. Technology Way isn't reached until behind the Barnes Rd. area. It does not connect. Behind Cedar Rd. is unbuildable wetlands. It may have a zone or overlying district, but we are not cutting off access by having something here. in an aerial view of Highland Ave, everything built on that side is smaller areas carved out among wetlands with forest behind. Forest/ledge/water = unbuildable lots and open space. Re councilor Furey's and DJ Napolitano's comments: when these are being developed, we have zoning that applies to every lot in the City, and certain things can be done by right. When considering changes, consider the implications of change vs. status quo. There is some uncertainty but this district is designed for roadside business use. Do we want big stores and commercial activities like the cineplex, which was permissible under zoning? If so, let by right development happen. R3 sounds appropriate in order to make the change needed to build a development that fits better in the neighborhood, and gives the City the opportunity for input. This is also ECOD (Entrance Corridor Overlay District) so the Design Review Board, Planning, and Zoning will be part of the process. The more ability we have to shape the process w/permitting bodies and the City Council, the better.

Councilor Peterson motions to close the public hearing, is seconded by Councilor Madore, and the motion passes.

Councilor Turiel motions to refer the matter to the Planning Board for its recommendations, is seconded by Councilor Furey, and the motion carries.

Councilor Furey motions to adjourn, Councilor Flynn asks for a moment of silence for Lt. Jason Benard, who perished in a house fire in Worcester. After its observance, the motion carries.

The meeting ends at 8:40PM

Respectfully submitted,  
Stacy Kilb, Recording Clerk