

**City of Salem Planning Board  
DRAFT Meeting Minutes September 5, 2019**

A public hearing of the Salem Planning Board was held on Thursday, September 5, 2019 at 7:00 p.m. at City Hall Annex, 98 Washington St., Large Public Hearing Room, First Floor, Salem, Massachusetts.

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

**I. ROLL CALL**

*Those present were:* Chair Ben Anderson, Carole Hamilton, Kirt Rieder, Bill Griset, Noah Koretz, Matt Smith, DJ Napolitano, Helen Sides, Matt Veno

*Absent:*

*Also in attendance:* Mason Wells, Staff Planner

*Recorder:* Stacy Kilb, Clerk

**II. REGULAR AGENDA**

**A. Location: 217-221 Essex Street (Map 35, Lot 251)**

**Applicant: Essex Street Lofts, LLC**

**Description:** A continuation of the public hearing for all persons interested in the application of ESSEX STREET LOFTS, LLC for the property located at 217-221 Essex Street (Map 35, Lot 251) for a Site Plan Review in accordance with Salem Zoning Ordinance section 9.5 Site Plan Review. Specifically, the applicant proposes an historic restoration and adaptive reuse of the conjoined buildings at 217 Essex Street (3-stories) and 221 Essex Street (5-stories). The buildings currently have retail on the street level and are vacant on the upper floors. The proposed mixed use would be to keep commercial/retail on the first-floor pedestrian mall and create 20 new dwelling units on the upper floors. Work will consist of exterior renovation and an interior remodel of the upper floors.

Representing the project is Attorney Joseph Correnti, of 63 Federal St. He describes the location of the project; Project Architect Vu Alexander of Sousa Design will present additional details. This project was originally presented in July. Two commercial tenants on the first floor will remain for now and the street front will remain commercial to take it active. This is a renovation; the building sits on its lot lines, but as they are adding more than 6 units, the project must undergo Site Plan Review. This is an SRA (Salem Redevelopment Authority) project and is going through that process, as well as DRB. Mass, Historic is also involved.

The Architect outlines changes, made after Mass Historic Review:

- Amendment to remove the clock has been added
- Mass Historic preferred refurbishment of windows to replacement; this will be done
- For No. 221 Mass Historic requested sash replacements; will need to see what condition windows are in to determine if this is possible or not
- Asked if they could keep fire escapes, but Building Department and current code do not allow for this, so they will be removed and a staircase added; this is outlined

Noah Koretz asks if the fire escapes were to be left as ornamental or meant to be functional. Mass Historic did not specify. This is a change in use.

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The Applicant is negotiating with existing tenants to reclaim space at back of the building for residential trash and recycling; Plans will be revised accordingly once that process is finished. Chair Anderson asks about changes to the storefront; the existing will be replaced or refurbished as necessary. They have found a contractor experienced in refurbishing cast iron.

Kirt Rieder asks about the nearby bookstore and why it is shown; this is for scale. A landscaping plan is not yet available. Attorney Correnti notes that the Applicant wants the City to do the work on its property, and the Applicant would provide payment in lieu of doing the work itself. A preconstruction meeting with all City departments to discuss timing and logistics will include a staging Plan; if that area must be used and landscaping disrupted, the Applicant will fund its replacement, working with the tree warden or whoever is appropriate. However, this is flexible but they do not want doing a landscape plan as a condition; they would prefer a condition of working with the City to restore the area.

Chair Anderson opens to public comment.

Paula Diaro of 34 Boardman Street comments that she has loved these two buildings and is anxious to see the Project completed.

Daniel Baddel (no address provided) wants to make sure there is a safe work environment for all employees.

*A motion to close the public hearing is made by Noah Koretz, seconded by DJ Napolitano, and the motion carries.*

The Draft Decision is reviewed. It is suggested that Section 6 be changed to reflect the changes to the landscaping and whether the Applicant will coordinate with the City regarding funding. This should be determined before construction has begun. Paragraph 14 discusses the preconstruction meeting; the tree warden can be added to the list of City personnel to be consulted. Also added: a determination regarding City landscaping impacting construction is to be made at that meeting.

Lighting is discussed. The DRB has reviewed lighting; the Applicant would like to be consistent and can continue coordinating with the DRB. The Board would like some assurances.

Add: A permit drawing shall be submitted to City Planner for review of lighting fixture placement and characteristics, and be subject to the approval of the SRA.

Site Plan Review includes submission of a photometric plan, but this is different since the entire site is contained within the building. The Board can ask for it or know the info is being reviewed by others. Noah Koretz notes that a photometric plan is required, but it is the Board's prerogative to waive the requirement and refer the matter to the City. The Chair feels it is not necessary for this project; it should be submitted with permit drawings and should go to the City Planner. It should also undergo SRA review; the text will be changed to reflect this.

Regarding maintenance (8A), Kirt Rieder feels this should be changed to reflect refuse and recycling internal to the building.

Section 12 covers Engineering. Attorney Correnti asks about Paragraph 3, Transfer of Ownership, to clarify if there is a timetable on that. Language states that, in the event of a transfer of site as a whole, within 5 days the Planning Board must be notified. While obviously terms/conditions/restrictions/decisions shall be binding, he wonders if it should be the Planning Department instead. It is unclear if this is meant to apply indefinitely, or only during the construction period. Attorney Correnti feels that it is designed to ensure that conditions are enforced no matter

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who owns it, and this does not need to be stated, as it gets recorded against the property at the Register of Deeds. Chair Anderson suggests that 30 days after transfer may be reasonable, to notify the Planning Dept. so they have it in their records, in case something does come up, so that the new owners can be notified. Attorney Correnti feels that this is certainly reasonable during construction, but asks about transfer of a related entity. He wants to comply. A condition transfer of a related entity would be easy to comply with. Kirt Rieder suggests “before issuance of a certificate of occupancy,” as the intent is short term. The language will be changed

*A motion to approve the Draft Decision is made by Matt Smith, seconded by Helen Sides, and the motion carries*

- B. Location:** 9-11 Franklin Street (Map 26, Lot 375)  
**Applicant:** Gerren LLC  
**Description:** A continuation of a public hearing for all persons interested in the application of Gerren LLC for the property located at 9-11 Franklin Street (Map 26, Lot 375) for a Site Plan Review and Flood Hazard Overlay District Special Permit in accordance with the Salem Zoning Ordinance section 9.5 Site Plan Review and section 8.1 Flood Hazard Overlay District. Specifically, the applicant proposes the reconstruction and enlargement of a commercial building destroyed by fire in 2017. The other existing light industrial/commercial building on the site will remain and access to the proposed building is provided through the existing curb cuts and parking area. Additional parking will be provided adjacent to the new building. A stormwater management system will be installed as well as new utility services to the proposed building.

Despite the Applicant having made a big deal over the delay of this item having been continued at the last meeting, they have requested a continuance to the Sept. 19, 2019 meeting. Notice was received very late of this request. Mason Wells outlines the situation; there was discussion between the Engineering Dept. and Applicant regarding conditions of the Decision; the Applicant response was late and Engineering responded today, but the Applicant is having issues with conditions proposed by Engineering.

*A motion to continue the matter to the Sept. 19, 2019 meeting is made by DJ Napolitano, seconded by Matt Veno, and the motion carries.*

- C. Location:** 435-443 Highland Avenue (Map 3, Lot 127)  
**Applicant:** Life Storage LP  
**Description:** \*Revision: **The applicant requested a continuance to the regularly scheduled meeting on Thursday, September 19, 2019** of a public hearing for all persons interested in the application of LIFE STORAGE LP for the property located at 435-443 Highland Avenue (Map 3, Lot 127) for a Site Plan Review in accordance with Salem Zoning Ordinance section 9.5 Site Plan Review. Specifically, the applicant proposes the demolition of the (2) two-story existing storage facility buildings currently on site and the construction of a new, 90,234 gross square footage three-story storage facility. The applicant proposes to increase parking to 39 total surface spaces for employees and customers located at the front and rear of the building. The existing site includes parking for 31 vehicles. Associated improvements include utilities, stormwater improvements, site lighting, and landscaping. The project falls within the Entrance Corridor Overlay District of the Salem Zoning Ordinance.

*A motion to continue to the regularly scheduled Planning Board meeting on Thursday, Sept. 19, 2019 is made by Noah Koretz, seconded by Matt Smith, and the matter carries.*

### III. OLD/NEW BUSINESS

- A. Deliberate and vote on a recommendation to the City Council on two (2) separate amendments to the Salem Zoning Ordinance summarized below:
1. An Ordinance Amending Zoning Section 3.2.8 Accessory Living Areas by deleting the existing text in its entirety and replacing it with a new ordinance. The existing text requires accessory units to be used solely by a family member or caregiver and for the unit to be dismantled once the need no longer exists. The proposed new ordinance is to help residents, and seniors particularly, to remain in their home by allowing small, accessory use within the same property by right, provide certain requirements are met. The proposed ordinance adds more flexibility to create housing options, removes the tenant restrictions of only a family member or caregiver (anyone may rent the unit), adds, among other things, the purpose of adding moderately priced rental units to the housing stock to meet the needs of smaller households and moderate-income households, to encourage efficient use of the city's housing supply while preserving the character of city neighborhoods, to preserve family bonds, and to permit the owner of an existing or proposed detached dwelling to construct one additional dwelling unit that is incidental and subordinate to the principal dwelling. The Building Inspector shall administer and enforce the provisions of this section unless a special permit is required then the Zoning Board of Appeals will be the Special Permit Granting Authority. The ordinance provides procedures, application process, requirements for accessory dwelling units, Special permits and termination of use.
  2. An Ordinance Amending Zoning Section 3.1 Table of Principal and Accessory Use Regulations of the City of Salem Zoning Ordinance to allow an accessory living area use in the RC, R1, R2 and R3 zoning districts.

Chair Anderson notes that there has been much dialogue about this; he suggests an item-by item review of the Ordinance.

Table: No discussion

Ordinance:

3.2.8 Accessory Living Areas

Purpose:

- The Board feels possible elimination of the terms “moderately priced,” “moderate income” and a distinction between “affordable” vs. “Affordable” would clarify the intent of the Ordinance. This is discussed at length. Size of units may be more relevant than income; the main point is to add to the diversity of housing stock. It is decided that the word “affordable” should be removed, as should “moderately priced” and “moderate income.” The Board does not agree with the Planning Staff recommendations; this is simpler and cleaner. The City Council was also confused on this issue. It is noted that the language must go back to City Council tonight.
  - Matt Venio notes that it is important for those watching that they are not, by removing these phrases, undermining anything of substance in the Ordinance. This is part of the Purpose section, which is descriptive in nature. It does not impact the Ordinance with respect to creating housing stock.
  - Staff memo suggested section (F) which is outlined and will be added.
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- Some Board members object to the phrase “Forced to leave.” Remove this, end at “neighborhoods” and thus end on positive note.
- “to provide homeowners with a means of obtaining companionship” seems odd. “It’s not an app” is one comment. Is this paragraph needed under purpose? It is felt it is not. It describes altruism but is covered by (D) in a more effective way.
- What does this have to do with energy efficiency? Smaller units? Building within existing envelope? Meant to be a comment on sustainability. Strike “energy” but keep “efficient use”

Procedure: no comments

#### Application

- (B): A(b): It is unclear why it says “copy of deed to applicant” and not just “copy of the deed.” Wouldn’t the Applicant be the owner? “And shall include a copy of the deed.” Is the language now under A(b) and B(a)
- 3A (a). The meaning of “Shall include statement of fact based upon which aforesaid purpose has been fulfilled” is questioned. This means that the Applicant must prove that they met the purpose, and creates a substantive basis for that purpose, and the Applicant must check **all** the boxes. Noah Koretz strongly objects to this; noting that much of this is subjective. I.e. if an Applicant meets all other qualifications, this allows someone other than a family member living there, and is meant to add to housing stock, why should that Applicant have to demonstrate they are meeting specific items of purpose? They must already do this in the special permit application form, so this is redundant. It implies that all statements in the Purpose must be met, and if one is left out, a neighbor could bring suit. Applicants will have to make general statement anyway.
- “Application for special permit and/or building permit shall...” There is no difference, as both B and C are the same as A and B; it is suggested to remove the paragraph. And/or b/c: not all will need Special permits, but all will need Building permits

#### Requirements:

- (E) DJ Napolitano suggests that the two year owner occupancy (o/o) condition remain, with the exception of in R1 and RC zones, in which case o/o should be in perpetuity. This ignites a lengthy discussion.
    - DJ Napolitano feel that the new owner would have to live in the R1 dwelling or the ADU, as long as it is an ADU in R1. There are less rental units in R1 zones, and the neighborhood character is different, so he feels that the Board should ensure o/o in perpetuity here. He doesn’t want to undermine the underlying zoning, and the risk mostly is in R1 zone; there are already rental units/investment properties in R2 and up vs. this is a new scenario in R1. However the language must be flexible regarding what o/o means; expand to include an immediate family member so that it is not so strictly limited, e.g. parents own the house, they move, son takes house or ADU and lives there.
    - Chair Anderson is not sure he agrees. If the property is sold, the new owner must stay for 2 years; this is more palatable than in perpetuity due to the investment needed to create an ADU, and owners want a return on their investment. To limit too much is to defeat the intent of creating housing stock. What is the right number? The ADU goes with the land, not the owner. Noah Koretz agrees. If we are concerned about investments/flippers, if they buy they have to stay 2 years.
    - Carole Hamilton notes that as it is written, the new owner would not be held to that 2 year period, and that the next person does not have to stay there, only the original. This is if the ADU is tied to the owner, not the property, notes the Chair. It would cease to be a compliant unit if a new owner does not live there for 2 years. It is in there somewhere that it is tied to the property.
    - Noah Koretz notes that a hypothetical homeowner may say, “I will most likely stay for 3 years, but I can’t in perpetuity; I have no flexibility to leave for 1-2 years and come back and sell, and if there is no option to do
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that, I won't build unit b/c then I would be stuck with a built out, noncompliant unit, or would have to dismantle it."

- Matt Veno feels that these issues are secondary to the fundamental problem, which is, for R1 areas, running the risk of undermining zoning and changing the character of neighborhoods. If this does chip away at intent of Ordinance, he is fine with that since the intent of the Ordinance must be balanced w/other intents. The City is better served by an Ordinance that takes substantial steps, but not every step, and can be expanded over time as the Board gets more comfortable with its use and adoption of allowances. It is hard to reel back in once it goes into effect, like toothpaste in a tube. He urges caution in this one particular area.
  - Noah Koretz does not understand the 2 year o/o rationale, and DJ Napolitano comments that this is to prevent speculation, where purchasers buy housing units, create ADUs and use them as investment properties. Two years o/o would discourage this w/out unduly burdening homeowners.
  - Noah Koretz asks what is the concern over change in character of neighborhood? He argues that a Single Family (SF) house w/studio ADU in the interior would not change the external character of the neighborhood; there would just be a renter in the SF and owner in the ADU, or vice versa. Is the concern, instead, about the tenure of ownership?
    - DJ Napolitano opines that renters sometimes have a different mindset than homeowners/investors. Noah Koretz notes that nothing in zoning discusses tenure of ownership; rather, it is about density and spatial issues; nothing prevents a SF neighborhood from being entirely rentals.
    - Matt Smith comments that we are talking about those who have enough money to buy a single family house. This pits those who can afford to own against those who can't and crosses the line of who can live in certain neighborhoods. SF units create income segregation, so if we continue this, it becomes a huge problem. This will be a small rental unit; rentals can be very nice.
  - Chair Anderson is struck by "zoning;" what comes to mind is that we cannot zone who buys or rents a property, and we are discussing the character of the existing structure only. If requirements are not met, an Applicant must go before the Zoning Board of Appeals (ZBA), an additional expense. The baseline is solid regarding how we are looking at the City's character and how to maintain it. He is fine with 2 years but if extra must be added, then add two years to new property owner.
    - Noah Koretz comments that, if the intent is to prevent flipping, there is nothing in the Zoning Ordinance about tenure of ownership, so this Board would be adding that in, when zoning is meant to address density and spatial issues. It is a slippery slope to go down.
    - Matt Smith comments that the Board is predetermining tenure. DJ Napolitano asks how we are doing that/how it is offensive/how are we judging who can move in into a neighborhood? He comments that this is not what the Board is doing, noting that if someone wants to buy house and build ADU, they can do that, if they want to move, they can do that. Noah Koretz comments that Mr. Napolitano is leaving end part out, which is that they cannot then rent out the house to anyone. This would be adding a condition that in R1 you cannot rent the house to anyone.
    - Matt Smith comments that an empty unit more problematic than a rented one. For example, You live in R1, and you are legally allowed to rent that property to anyone. Noah Koretz feels that, that what Mr. Napolitano is saying, is that it would degrade the character of the neighborhood if you build an ADU, rent that out, then a few years later decide to rent out the main house as well to someone else. He questions how is this different from you staying in your house and renting out the ADU to someone else. The only difference is the prejudice that renters are detrimental to the character of the neighborhood.
  - Carole Hamilton notes a difference is investor owners vs. owner occupied, but Noah Koretz states that the point is that, as noted by the Chair, having a more defined time period to prevent that from happening, is enough to prevent that from happening. To have the house not be able to be rented in perpetuity is overkill.
  - Matt Veno feels that "character of the neighborhood" is an odd phrase, and he is concerned that there is a difference between a SF use of a SF home in an R1 district, whether o/o or rented, and the addition of an
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accessory unit. The Board feels ADUs are a good thing, for many reasons, but there is a difference in the usage of that property; there are 2 units, not one, and that is a change in the use of a SF home in R1 and that is substantial. His point is that in order to qualify for that additional right, it's important to have someone there who has the vested interest of a property owner, to ensure that the additional use does not have a negative impact on the neighborhood. This may reflect a bias toward owners vs. renters. A SF home with two renters vs. the owner living there and renting the other unit, but where owner is right onsite, is a difference. Noah Koretz challenges this. Matt Venio feels owners are more accountable to neighbors. However, all Board members do not feel the same.

- Noah Koretz points out that there are owners with unkempt properties, and renters whose properties are well maintained. The only difference in this market between owning and renting is income. What does “interest in the property” actually mean?
- Bill Grisette notes that only a homeowner has control of the exterior of the property; a renter cannot affect this positively or negatively. An absent homeowner may not be as attentive to exterior as he/she would be if they lived there. Matt Smith says that if renting, homeowners have more of an interest to maintain the exterior in order to attract renters.
- Chair Anderson clarifies that the ADU does NOT follow the land. This means that in the proposed Ordinance, the owner must occupy one of the units for two years after the issuance of the Permit, then the property may be used as an investment buy the next buyer, if sold.
- He notes that the Board does NOT have to agree, but DOES have to make a recommendation, and can vote on this, and the reasoning will be in the minutes
- Helen Sides feels it should be 2 years after Certificate of Occupancy, not 2 years after issuance of the permit. Noah Koretz notes that the Board could address the other point by adding language to trigger 2 years o/o after a sale as well. This would provide protection against flipping w/out preventing someone from leasing their property to someone else
- Change language to reflect: “Owner Occupancy for 2 years from the date of acquisition of the ADU Certificate of Occupancy, then for 2 years after each subsequent sale”
- Relatives/family members? Is family defined (i.e. immediate/extended)? This ties into “in perpetuity”
- Proposed changes to Requirements:
  - Carole Hamilton (A) 3<sup>rd</sup> line “Living area shall have (1) designated off street parking space,” not “a”
  - (M) 2<sup>nd</sup> line: “Condition imposed by the ordinance has not been fulfilled” What is missing?
  - 3.2.8, Accessory Living Areas and/or Special Permit Conditions covers everything in here, but not the conditions of the Special Permit; if these should be included, they should be for building inspector review. 3.2.8 Accessory Living Areas and/or Special Permit Conditions
  - (n) typographical condition “for a special permit or (delete “a” here )building permit”
  - (o) short term rentals (***as defined in section where that is***) are prohibited in the ADU
  - (A)(d) should start with “the” impact
- Matt Smith has issues with the language regarding parking in 5(a), “Will not result in or worsen resident parking availability” and how to define “worse,” but notes that this does not need to be determined here and there is no easy way to do it
- Carole Hamilton notes that language regarding the entry of the ADU was not clear, and Planning Board staff made recommendations to clarify it, that should be considered. It does not take into consideration if an entry cannot be made on the back or side, there are no other options and an Applicant is not allowed to have an entry from the front in any case. No leeway is given if there is a structural impediment to having a side or back entry, only if there is a mobility issue.
  - Helen Sides opines that the language is saying ADU residents can get there through the existing entry or from the back or side of house, but Applicants can't put a second entry on the front of the

house, however this is poorly worded and convoluted. Change to “Entry will be located through existing entry or on back or side of house”

A motion is made by DJ Napolitano to change the language to say “If an ADU is created in the RC or R1 zones, the property must be owner occupied in perpetuity”

Discussion:

Noah Koretz asks for the reasoning behind adding RC. This zone includes city owned parks; housing could be developed there but there is a very large minimum lot size. DJ Napolitano is including RC in case there is a park in an R1. There is some question as to whether, in that case, the RC would need to be rezoned to R1.

The motion is seconded by Helen Sides, but fails to carry, in a roll call vote with two (2) in favor and seven (7) opposed.

Roll Call:

Chair Ben Anderson: No

Bill Grisct: No

Carole Hamilton: No

Noah Koretz: No

DJ Napolitano: Yes

Kirt Rieder: No

Helen Sides: No

Matt Smith: No

Matt Veno: Yes

Re-worded: At least one owner of the residence in which the ADU is created shall reside in one of the dwelling units as a principal place of residence at the time of issuance of Certificate of Occupancy, and for a minimum of 2 years thereafter, and each subsequent owner is required to inhabit one (1) dwelling units for a period of a minimum of 2 years after the date of sale.

A motion to change the language as noted directly above is made by Carole Hamilton, seconded by Matt Smith, and carries in a roll call vote with nine (9) in favor and none (0) opposed.

Roll call:

Chair Ben Anderson: Yes

Bill Grisct: Yes

Carole Hamilton: Yes

Noah Koretz: Yes

DJ Napolitano: Yes

Kirt Rieder: Yes

Helen Sides: Yes

Matt Smith: Yes

Matt Veno: Yes

A motion to approve the language for the table is made by Noah Koretz, seconded by Carole Hamilton, and the motion carries.

## **B. FY20 Community Preservation Plan – Request for Comment/Input**

Carole Hamilton represents the Planning Board on the Community Preservation Committee. A variety of projects were approved this year, and she outlines them. Salem has \$800-900,000 from the CPA. The only controversial occurrence was the request by the City for the CPA to bond, for the next 20 years, \$100,000 per year for the

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Bertram Field House renovation. The City will bond for it, but the CPA would give \$100,000, or roughly 1/10 of their 2018 funding. Suggested improvements of the building are outlined: everything needs to be re-done. Noah Koretz notes that this is in the high school football field. Facilities should be condemned, opines Carole Hamilton, but will be rehabbed. Two meetings were spent discussing the bond issue; it was approved by the CPC but has not been approved by the City Council. The CPA has agreed to cover a partial bond in the past, but the Council did not agree in that case. Noah Koretz asks why the City would not just fund it with general funds. The debt ceiling is lower; using CPA funds affects the bond path.

Carole Hamilton notes that the legislature will be providing additional money. Kirt Rieder asks what is going on with the Common fence. This is being done one section at a time, as it is very expensive. \$50-\$100,000 every year are spent on it. Other projects are also outlined. Carole Hamilton notes that her tax increase has been minimal, and feels this is money well spent.

The Board can make comments or not to the CPA; it approves of that Committee's work.

### **Other Old/New Business**

Kirt Rieder asks for Department clarification about the mechanism for bringing modifications to approved motions by this Board. What is the trigger for returning to the Board when the original or new Applicant taking over wants to make substantive physical changes to the project? Mason Wells comments that this will be clarified and there will be a better process moving forward, especially regarding projects in the NRCC, which undergo DRB review, staff approved vs. field approved changes, etc. Kirt Rieder notes that there are generally three tracks developers follow with regard to project changes. The Applicant:

- Builds as approved
- Makes unauthorized changes, leading to an enforcement issue
- Original or successor Applicant lobbies a City Department to deviate from the Plan that took the Planning Board hours to hone. These last two paths are objectionable and undermine the efforts of this Board.

Mason Wells comments that Tom Daniel, Director of the Planning Department, will this discuss offline with Chair Anderson and concerns will be addressed. Chair Anderson seeks clarification on City oversight of these projects and how modification to approved SPR drawings get reported back. For example, if there is a Clerk of the Works, do reports come back to the Planning Dept. or does the Building Dept. record modifications; is someone looking at SPR approval and Building permit drawings and matching them to see if there are modifications?

Mason Wells notes that the onus is on staff to review for changes, not on the Applicant. building and other permits "If caught, they beg for forgiveness." Kirt Rieder asks what is the Board threshold to trigger retraction. Triggers will be defined in the future, re building/foundation permits. However before occupancy, some projects have gone off plan and the Board needs to know what to do. Such situations undermine the Board's effort. Why hash out details if the developer can ignore them? It is a bad precedent to let things slide.

Helen Sides notes that the City and Developers feel that the "process of development is supposed to speed up." If that's how, this is dangerous. Noah Koretz notes that the Board has multiple Applicants who get through the process quickly b/c they are prepared and know how to answer questions, and build to the documents that are before the Board. Others cannot provide the answers sought, then go off and do whatever they want anyway. Bill Griset notes that the City and the Board benefit from having a core of three attorneys whose styles it is familiar with, who know the Board and its desires. Kirt Rieder echoes that, but says that some applicants subvert that; he is unsure if their counsel in those cases is abetting, encouraging, or turning a blind eye, or forgetting about the project once their role is done. This Board should say "no" if the Applicant begs forgiveness after deviating from plans

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without discussing it. One project has egregious changes, and the builder got away with it this time. The Board must not let it slide, even the first time. An honest mistake that is not hugely detrimental is very different from a major change in Plans after they have been approved.

Kirt Rieder feels that enforcement should not be on the Board; sometimes members drive by and note egregious issues, when in reality the City has staff to enforce. This Board cannot enforce anyway.

Kirt Rieder requests a status update on the rewrite of the subdivision rules and regulations; Stantec will return on this. He is asking b/c the City does not have any buffer zones around wetlands, so no one can enforce regulatory flagging. A buffer zone provision is in the Conservation Commission regulations. Kirt Rieder notes Traders Way, whose operations are occurring close to wetlands. Mason Wells will forward this comment to Stantec and get back to Kirt Rieder.

Matt Veno asks for an update on the Bertuccio Ave court case; it will be provided at the next meeting.

#### IV. APPROVAL OF MINUTES

- A. Regular Planning Board meeting minutes for June 6, 2019.
- B. Regular Planning Board meeting minutes for July 25, 2019.
- C. Special Joint Planning Board and City Council meeting minutes for June 17, 2019
- D. Special Joint Planning Board and City Council meeting minutes for July 8, 2019
- E. Special Joint Planning Board and City Council meeting minutes for August 15, 2019

A motion to approve the Regular Planning Board meeting minutes for June 6, 2019 is made by DJ Napolitano, seconded by Carole Hamilton, and passes unanimously.

A motion to approve the Regular Planning Board meeting minutes for July 25, 2019, with minor corrections, is made by Carole Hamilton, seconded by Bill Griset, and the motion carries.

A motion to approve the Special Joint Planning Board and City Council meeting minutes for June 17, 2019 is made by Helen Sides, seconded by Matt Smith, and the motion passes 9-0.

A motion to approve the Special Joint Planning Board and City Council meeting minutes for July 8, 2019, with minor corrections, is made by Kirt Rieder, seconded by Noah Koretz, and passes 9-0.

A motion to approve the Special Joint Planning Board and City Council meeting minutes for August 15, 2019, with minor corrections, is made by Matt Smith, seconded by Noah Koretz, and passes 9-0.

#### V. ADJOURNMENT

A motion to adjourn is made by DJ Napolitano, seconded by Matt Veno, and passes unanimously.

The meeting ends at 9:18PM.

For actions where the decisions have not been fully written into these minutes, copies of the decisions have been posted separately by address or project at: <https://www.salem.com/planning-board/webforms/planning-board-2019-decisions>

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Respectfully submitted,  
Stacy Kilb, Recording Clerk

Approved by the Planning Board on XX/XX/2019

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

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