



CITY OF SALEM PLANNING BOARD

City of Salem Planning Board Meeting Minutes, July 23, 2020

Vice Chair Kirt Rieder calls the meeting to order at 7:00pm.

A public hearing of the Salem Planning Board was held on Thursday, July 23, 2020 at 7:00 p.m. via Remote Access. Public participation was possible via zoom video and conference call:

Watching the Public Meeting:

- Go to the website link:
<https://us02web.zoom.us/j/86037392198?pwd=aHlsR2RRamgrUU9SNmF2VEJjdWt6Zz02> or
- www.zoom.us/join and enter meeting ID # 860 3739 2198, followed by meeting password 586288, if directed to do so on screen.
- Dial toll-free phone number 877-853-5257. When prompted enter meeting ID 860 3739 2198 followed by meeting password 586288, if directed
- Watch the meeting live on Salem Access Television Channel 22.

ROLL CALL

Those present were: Carole Hamilton, Vice Chair Kirt Rieder, Helen Sides, Noah Koretz, DJ Napolitano, Bill Grisct, Matt Veno (7)

Absent: Chair Ben Anderson, Matt Smith (2)

Also in attendance: Mason Wells, Staff Planner, Tom Devine, Senior Staff Planner

Recorder: Stacy Kilb

I. REGULAR AGENDA

- A. **Location:** 379, 383, and 387 Highland Avenue; 4, 10, 12, 14, and 16 Barnes Road; 9, 12, 14-16, and 18 Cedar Road (Map 7, Lots 18-21, 49-54, 59, & 60; Map 3, Lot 66 & 67)

Applicant: Overlook Acres LLC

Description: A continuation of a public hearing for all persons interested in the application of OVERLOOK ACRES, LLC for the property located at 379, 383, and 387 Highland Avenue, 4, 10, 12, 14, and 16 Barnes Road and 9, 12, 14-16, and 18 Cedar Road (Map 7, Lots

18-21, 49-54, 59, & 60; Map 3, Lot 66 & 67) for a Site Plan Review and Planned Unit Development Special Permit in accordance with the Salem Zoning Ordinance Section 9.5 and Section 7.3. Specifically, the applicant proposes a development on the approximately 15.5 acre site along Highland Avenue at Barnes Road and Cedar Road consisting of a mix of uses, including commercial, residential, and public spaces. There is one commercial building with an approximate footprint of 8,450 square feet, four residential buildings with approximately **290** units (changed from originally proposed 324), and a residential club house. There are also approximately **485** parking spaces (changed from the originally proposed 500) on site.

Present for the Applicant are:

Attorney Scott Grover
Paul Herrick, Principal
Pavel Espinal, Principal
Peter Lutts, Principal
Rich Kirby, Wetland Scientist, LEC Environmental
Robert Michaud, MDM Traffic Consultants
Scott Cameron, The Morin Cameron Engineering Group
Bill Ross, New England Civil Engineering Corps.

Attorney Scott Grover was collaborating with Tom Devine on a Decision, but outstanding issues make a vote tonight unrealistic. Issues include:

- Completion of engineering peer review
- Attention to impact of project to the wetlands

The Application will then be withdrawn as several Board members are no longer eligible to vote on it.

Scott Cameron, Civil Engineer, the Morin Cameron Group:

- Peer review progress outlined; nothing new on review letter
- Rich Kirby, Wetland Scientist, LEC Environmental, is on the call, can address questions/concerns in this area. Mitigation/restoration can be outlined

Bill Ross, New England Civil Engineering, Peer Reviewer:

- Letter dated July 20 seeking information; not enough rec'd to resolve any issues, will be re-addressed next time
- One issue resolved was revision of storm water plan
- Larger utility issues re sewer are still in the process of being resolved by working w/Engineering Dept. and Applicant
- Scott Cameron agrees with the letter and will work toward resolution of any issues, though several are more construction phase related and will require conditions

Rich Kirby, Wetland Scientist, LEC Environmental

- Outlines delineation of wetlands; Salem Conservation Commission issued an Order of Resource Area Wetland; resource areas are outlined - some are jurisdictional, some not
- Portions of the project are within buffer zone; this is described
- Limit of work line is described
- Invasive plants and old fill are present; invasive species are listed

- Building 3 limit of work is close to wetland which is a finger lake projection; function and value of wetland area is somewhat limited. Level of mitigation is commensurate with scope of project. There are some non-jurisdictional areas under City and Wetlands Protection Act, but are jurisdictional under Army Corps. Process is described
- Wetland creation is described. Success is dependent upon monitoring and stewardship; these will be required by Conservation Commission and Applicant is committed to success of wetlands
- Some opportunity for improvement by removing debris and trash on site, as well as replication of wetlands; project is fairly benign

Kirt Rieder:

- BVW (Bordering Vegetated Wetlands) is important inland habitat; EIS (Environmental Impact Statement) notes are mentioned but site layout plan indicates disturbance except for wetland itself; does that figure into the 30%?
- 30% does include wetlands; original submittal re wetland was changed by pulling limit of work away from wetland
- Mr. Rieder supports effort to remove fill soils and refuse, but his comments are relative to the resource itself. It is a lot of disturbance within the 100' buffer. How much is enough/too much? They were much further into the wetland in Jan; they have since pulled back, which he is glad to see. Goal is to get positive approval from the Planning Board before going before Conservation Commission.
- He asks Scott Cameron about the EIS which says that an average of 51% of wetland buffer will be preserved or restored.
 - "Average setback:" Scott Cameron notes the Applicant will try to maintain 12-25' undisturbed area in buffer, in this site the majority of the site's bordering edge is already disturbed, right up to the edge, invasive species have grown in. But previously it was cleared right up to and even into the wetland
 - They can achieve, with this design, overall setbacks. Fingerlike projection is a seep, water coming through fill and supporting vegetation, it is a jurisdictional wetland today but with project, they will remove fill material to restore wetland to a more highly functioning buffer zone
 - Disturbance is now to edge of wetland, average will be less than 50' and will have that average; 25' is a typical threshold, in absence of local regs, 50% is OK
- Vice Chair Kirt Rieder: Salem's regulations are lacking, without a 25' no build and 50' no disturb zone as in Beverly. Salem only has the 100' buffer that allows building up to the Wetland
 - Applicant proposes construction right at the edge of wetland. However, the Board has purview under PUD regulations to determine that it would not result in net negative impact
 - Commonwealth of MA defines buffer zone activities as minor and major. Kirt Rieder applied Application components to state regs and what jumped out was paved walkways greater than 30"
 - Several hundred feet of walls that may inhibit wildlife movement are planned, as is lawn where natives could be used
 - One building is planned at wetland flag 24. State regulations say minor work should occur as far away from the resource as possible. 49% of the buffer remains intact but building #3 is where it is. Focusing on that 80-85% of it is in the buffer itself and 15-

20% in the first 15', so effectively it is 10' away from the wetland with a retaining wall touching the wetland. Parcel configuration means they cannot shift building to the West, and it will always be in a buffer, so building 3 is the issue. The Board needs to figure if this meets the threshold, if they can allow a new development in/adjacent to a wetland buffer

- He understands it was disturbed 50 years ago, if going to reestablish as a buffer would be win win but instead the Applicant is saying there will be a 20' wall supporting a 40' building there instead
- Rich Kirby: Section referred to describes minor projects described as exempt, no permit required, in Wetland Protection Act. Vice Chair Rieder notes walkways are crucial
- Regulations are discussed in detail; conditions around building 3 are described. Water is cloudy there, patch of phragmites, little if any wildlife
 - Vernal pools? Saw common green frogs, mosquitoes as observed wildlife during the season, hard pressed to demonstrate the low value wetland will be adversely affected
 - Retaining wall means fill will not go into fingerlake projection, so may help. Must be some give and take
- Wetland Flag 32-24 to 18 and beyond is very steep. Area is filled with trash

Vice Chair Kirt Rieder:

- Removal of trees and vegetation along Barnes Rd: Concern was that new trees will be damaged as the ones currently in place are. Team said contours had been modified to address this, but it does not appear to be so.
- Applauds landscape and civil sets, wonders if Applicant is trying to force too much into too small a space

Scott Cameron:

- Added to Barnes Rd. Plans was a berm; topography does slope away from Barnes Rd.; can't fight this w/out more walls and structures, so curb was put in for plow edge and there will be maintenance in spring, expected that it will undergo some stress
- Kirt Rieder is concerned about the long term ability of tree cover to thrive; many currently there are declining volunteer species; if money is put into linear park, adjacent neighbors and new residents want to enjoy but the trees they put in may not work for that area.
 - Applicant notes that current vegetation is growing in metal, trash, vs. clean soil that will be imported back in. Will be a condition on survivability of trees before closing out the project. Owners also want to see park thrive

Attorney Scott Grover

- City staff meeting internally to discuss was held to discuss the unresolved issue of Park ownership

Tom Devine

- Written public comments were read at last meeting, he notes that one more was received, an email from David Labbe dated July 16, 2020

Vice Chair Rieder opens to the public.

Anthony Brooks, 7 Clark Ave.

- Concerned about trying to put too much in a small space; Salem is too lenient with zoning regulations in this regard

Bob Provencher, 17 Barnes Rd.

- Re Highland Ave.: Concerned about traffic
- Concerned about traffic and safety on Barnes Rd.
- 50 years of fill/stagnation on property b/c of contaminated soil and violated wetlands
- Concerned that fill will be disturbed and create a health threat

Paula Colpitts, 18 Clark Ave.

- Appreciates Kirt Rieder's comments regarding being conservative with wetlands and the impact of this decision or future ones
- Safe egress into Clark Ave. is Barnes Rd, filled with potholes b/c of trucks

Leann Deoli, 388 Highland Ave.

- Building size
- Type of retailers that will be allowed?
- Area zoned for business but is a residential area so will be a big change. This is outside the scope of SPR, but Attorney Grover notes it is too early in the process to know what retailers would go there; however, compared to others on Highland Ave., it is a small amount of retail space at 8,000 square feet. Property is in the Entrance Corridor so any signage must be approved by DRB. Re hours of operation, this is governed by City Ordinance and most must close by 11PM
- Signage? This would go through DRB, not Planning Board

Kirt Rieder requests if Mason Wells can provide an authoritative description of contaminated or not contaminated soil, as he has not heard of this in the last 6 months.

A motion to withdraw the Application without prejudice is made by DJ Napolitano, seconded by Bill Grisct, and passes 7-0 in a roll call vote.

Ben Anderson	Absent
Bill Grisct	Yes
Carole Hamilton	Yes
DJ Napolitano	Yes
Helen Sides	Yes
Kirt Rieder	Yes
Matt Smith	Absent
Matt Venio	Yes
Noah Koretz	Yes

B. Location: 20, 25, 30, and 40 Colonial Road (Map 24, Lots 117, 118, 119, and 121)

Applicant: COLONIAL ROAD OWNER, LLC

Description: A continuation of a public hearing for all persons interested in the application of COLONIAL ROAD OWNER, LLC for the property located at 20, 25, 30, and 40 Colonial Road (Map 24, Lots 117, 118, 119, and 121) for a Flood Hazard Overlay District Special Permit in accordance with the Salem Zoning Ordinance Section 8.1. Specifically, the applicant proposes site preparation to accommodate a change in use from chemical manufacturing to

warehouse and distribution. Work will include, but will not be limited to, building demolition, parking lot repaving, pavement removal, and improvements to the stormwater system and utilities. A portion of the subject property is located within the 100 year floodplain.

Present for the Applicant:

Attorney Scott Grover

Scott Cameron, Civil Engineer, The Morin Cameron Group

Bill Ross, New England Civil Engineering, Peer Review

Attorney Grover:

- FHOD Special Permit Application only; no SPR

Scott Cameron:

- Peer Review and responses; changes were minor and mostly technical
- Survey expanded to rest of site
- Roof runoff was a concern; entire roof now drains to parking lots but will be routed directly to a new sediment forebay. Runoff is clean but velocity must be managed (also not so clean after running over pavement); will also remove runoff from the closed drainage system, reducing load and making it more effective. Old system will be retrofitted (outflows; will be treated before discharging to wetlands)
- Outfall #1 will have sediment removed and have large rock outlet protection installed to reduce velocity of water going to wetland, to prevent erosion
- Building sewage goes to a pump station; notes and details updating structure are included

Bill Ross, NECE Peer Reviewer: Graphics provided, not part of original submittal and were lacking

- FHOD: Compensatory Storage was difficult to find, so another overlay is being provided
- Impervious and pervious area reduction is being clarified in an overlay (removal and replacement of asphalt)
- Pump station is susceptible to flooding and design must be updated
- Concerned about abandoned underground sewers; condition unknown and floodwater and ground water could be an issue; Applicant has TV'd pipes, demolition Plan will show what will be abandoned and where

Vice Chair Kirt Rieder:

- More work to be done before final Peer Review then Decision by Board? Could be conditioned if Applicant is willing to address technical issues, must demonstrate new sewer system will not impact City's sewers
- Mr. Ross is comfortable w/Board moving on to Decision. Mason Wells notes Engineering has seen this, agrees w/Mr. Ross's assessment. Draft Decision includes many of these conditions, updated Draft Decision in Dropbox removes those that have been addressed. NE Civil Peer Review has final sign off on items

Vice Chair Kirt Rieder opens to public comment but there are none.

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

Ben Anderson Absent

Bill Grisct	Yes
Carole Hamilton	Yes
DJ Napolitano	Yes
Helen Sides	Yes
Kirt Rieder	Yes
Matt Smith	Absent
Matt Veno	Yes
Noah Koretz	Yes

There is some discussion as to whether or not the entire Decision must be read aloud. Typically, in prior meetings, the Decision has been reviewed page by page, and questions/comments made by Board members. The Decision is thus reviewed.

Stricken text is discussed. All outstanding Peer Review items were included, but this has been rolled into one statement referring to the July 15 letter.

A motion to issue a Draft Decision is made by DJ Napolitano, seconded by Bill Grisct, and passes 7-0 in a roll call vote.

Ben Anderson	Absent
Bill Grisct	Yes
Carole Hamilton	Yes
DJ Napolitano	Yes
Helen Sides	Yes
Kirt Rieder	Yes
Matt Smith	Absent
Matt Veno	Yes
Noah Koretz	Yes

C. Location: 23 Summer Street (Map 26, Lot 463)

Applicant: 23 Summer Street LLC

Description: A continuation of a public hearing for all persons interested in the application of 23 SUMMER STREET LLC for the property located at 23 Summer Street (Map 26, Lot 463) for a Site Plan Review in accordance with Salem Zoning Ordinance Section 9.5. Specifically, the applicant proposes the renovation and expansion of the existing multi-family residential property at 23 Summer Street in the Central Development district. The applicant proposes the demolition of the rear portion of the existing building and replacing it with an addition to create a total of 10 residential units. The project includes changes to the existing parking lot, new indoor garage parking spaces, utilities, and landscaping.

Present for the Applicant:

Mike Becker, Applicant

Bob Griffin, Civil Engineer, Griffin Engineering

Bill Ross, Civil Engineer, Peer Reviewer, New England Civil Engineering

Letter from NECE (New England Civil Engineering), letter from City's Engineering Dept., sent back revised Plans/response letter to City and Bill Ross; Mr. Ross has not yet reviewed everything but changes to Plans can be shown. Parking path diagrams can be presented.

- 7/16 Plans are shown:
 - Existing conditions
 - Proposed Plan, easement from owner will allow easier access to parking
 - Iron fence replacement called out
 - Utilities and grading changes:
 - Addition of detail on water system; drainage, water, sewer shown and described. Drawing on demolition details now provided
 - Outdoor parking scenarios

Board comments:

Helen Sides:

- Still not comfortable w/project; crowded and cramped into space, sorry that house is in business district allowing them to build up to property line
- Not respectful of corner, belongs in historic district but is in business district, they have met all requirements, but she cannot approve the project
- People will not go through the "gymnastics" as described to get to parking spaces
- Project should NOT have started with "how many cars can you fit on it?"
- Bob Griffin opines that people who live there will not be driving every day; they will realize parking, if need to come and go they will realize this is not the place for them
 - Also unfair to think of site as unfair to historic integrity, this saves the building, which could otherwise be torn down; addition is compatible w/existing structure
- Helen Sides replies that the project has gone through a lot and is an improvement, but thinks the house would NOT be a tear down/convert, have moved beyond that
- No green space, no breathing room, why is the "extra lot" in front of it not incorporated? That is not owned by the Applicant; partly owned but he does not control 100% of it

Kirt Rieder

- Feels Helen Sides' comments are not unfair; purview of Board is SPR and her comments were in that spirit

Bill Griset

- Agrees w/Helen Sides but focus is on access and egress, the idea of needing to execute 3 point turns to park or leave makes no sense
- "Shoehorned" is the best description for this project, he is not in support either

Kirt Rieder points out that Mr. Griffin has noted that parking spaces 6 and 7 were designed for smaller vehicles. A larger SUV could not fit in spaces 6 or 7 so they acknowledge this is a tight fit for 10 vehicles. Parking space dimensions conform to Salem zoning and those with large vehicles will not move in. Mr Griffin notes that there are similar challenging parking spaces in all projects.

Kirt Rieder:

- ID square footage of triangle area that make parking spaces 1 2 and 3 viable
- Parcel of 23 Summer st. is 2300 square feet; we can't ask about 27 Summer St., yet they are encroaching onto that parcel but unwilling to talk to Board about it

- According to City these parcels do not yet exist, but if the fluidity of property lines gives the City pause, why are we even reviewing this project? Parcels are not acknowledged by the City, but the Board is being asked to go along with it. Need to transfer property and make a proposal.
- Bob Griffin replies that an owner would not normally convey land prior to getting permits. Building permits are contingent upon providing necessary easements. Plans for 27 Summer St. are undefined, Mr. Becker got an easement to occupy a part of it, but to have all land in owner's purview at time of application is not possible
- Kirt Rieder echoes fellow Board members that these questions mean he cannot support the project

Mason Wells notes the Board can go through public comment, close it, then as no Decision is drafted, could close public comment, and continue to the next meeting where the Decision could be made.

Tom Devine wonders if the Board/Applicant would consider that, as several Board members object to the project, this time would give the Applicant the opportunity to take feedback and come back w/responses or modifications to satisfy the Board. Also, regarding public comment: there is some unfinished business. The list of written comments received is read into the record.

Public written comment received:

Carol Carr – March 19, 2020; April 1, 2020; April 2, 2020; April 6, 2020; May 4, 2020; May 7, 2020

Leo and Wendy Kraunelis – April 1, 2020

Jane Stauffer – April 1, 2020

Janice Lebel – April 4, 2020

Steve Fox – May 6, 2020

Jim McLean – May 7, 2020

Elizabeth Padjen – May 7, 2020

William Raye – May 7, 2020; May 8, 2020; June 1, 2020; June 17, 2020; July 9, 2020

Meg Twohey – May 7, 2020

John Carr – May 8, 2020

Historic Salem, Inc. – June 18, 2020

John Casella – July 14, 2020

Public Comment:

John Casella, 8 Beckford St.

- Objects to project, which ignores traffic circle below this; concerned it will negate traffic flow

Vice Chair Rieder notes that all comments must be directed to him, not the Applicant. Applicant notes it is an existing parking lot, not 10 new spaces.

Michael Kraft (Stacia Kraft) 140 Federal St.:

- Objects to size
- Project is awkward
- Wasting Mr. Becker's money by letting him go on

- Does not understand why cars must be “housed”
- Diminishes value of the building

Janice LeBel 1 Chestnut St.

- Thanks the Board for due diligence and attn. to detail.
- Opposed to project; fundamental problem is that it attempts to achieve more than it can; Applicant is trying to maximize space going from 6-10 units, a 66% increase that will crowd the perimeter of land
- As immediate abutter and healthcare professional, feels this destroys charm, integrity and scale of living environment as well as ambience at Chestnut St.
- Noise pollution
- Conflicts w/City efforts to mitigate traffic congestion and accidents
- Suffers from lack of transparency; Applicant claims having had conversations w/neighbors that never happened
- Creating more dense living during pandemic is irresponsible
- Applicant replies that the most visible portion is not historic, but was built 20 years ago, HVAC and ventilation will be improved, new HVAC systems and new air brought in

Carole Carr, 7 River St.

- Complication of parking in various spaces
- Objects to density, especially given COVID 19
- “Shoehorned” for Developer to maximize profit

Matt Veno

- Echoes concerns of Helen Sides and Bill Grisct, thanks Mr. Casella and Ms. Carr for their comments; also, cannot support project
- Concern is ingress and egress at this spot in Salem relative to traffic
- Any substantial disruption to flow which City has sought to address would be detrimental to the City

Kirt Rieder

- Concerned w/site circulation, too much of plan given to site storage

Mr. Becker notes a smaller addition was initially proposed but at the suggestion of Historic Salem, Inc. the Applicant made this addition, which is shorter. Profits are not the only thing driving this. The Applicant got here by following the suggestions of others, including the DRB and SRA. Vice Chair Rieder notes that they are the Applicant, so whatever feedback they got, this is the attitude of this Board.

This project is undergoing SPR, not applying for a special permit, so if the Board can condition the Decision to make the project amenable to SPR purview, this would be best. Mason Wells will provide more info.

A motion to continue to the September 3, 2020 meeting DJ Napolitano, is made by, seconded by Bill Grisct, and passes 7-0 in a roll call vote.

Ben Anderson	Absent
Bill Grisct	Yes

Carole Hamilton	Yes
DJ Napolitano	Yes
Helen Sides	Yes
Kirt Rieder	Yes
Matt Smith	Absent
Matt Veno	Yes
Noah Koretz	Yes

D. Location: 57 Marlborough Road / Osborne Hills

Applicant: Osborne Hills Realty Trust

Description: A public hearing for all persons interested in the application of OSBORNE HILLS REALTY TRUST for a Definitive Subdivision Plan and Cluster Residential Development Special Permit for the property located at 57 Marlborough Road (Map 09, Lot 0001) and currently shown as Phases 6, 7, 8, 9, and 10 of the “Definitive Subdivision of Osborne Hills Realty in Salem, Massachusetts” dated November 2, 2006 as approved under the Subdivision Control Law by the Salem Planning Board, comprising Lots 88 through 131. Specifically, the applicant proposes to modify the previously approved Subdivision and Special Permit to change the lot area and lot frontage of 44 lots that are situated in the Residential Conservation (RC) zoning district and to construct the roadways and utilities to service the construction of these modified phases.

A motion to continue to the Sept. 3, 2020 meeting, is made by Matt Veno, seconded by Helen Sides, and passes 7-0 in a roll call vote.

Ben Anderson	Absent
Bill Grisct	Yes
Carole Hamilton	Yes
DJ Napolitano	Yes
Helen Sides	Yes
Kirt Rieder	Yes
Matt Smith	Absent
Matt Veno	Yes
Noah Koretz	Yes

E. Location: 0 Story Street (Map 23, Parcel 2)

Applicant: Stephen Lovely, Castle Hill Group, LLC

Description: A continuation of a public hearing for all persons interested in the application of STEPHEN LOVELY, CASTLE HILL GROUP LLC for the property located at 0 Story Street (Map 23, Parcel 2) at the west end of Cleveland Street bounded by St. Anne’s Church, City of Salem, St. Anne’s Park and land of Bradbury and Chasse, for a Definitive Subdivision Plan. Specifically, the applicant proposes to allow construction of an extension to Cleveland Street which will create a tee turning area and the construction of 3 single family dwellings on the approximately 5.65 acre site.

Stephen Lovely represents his project.

- Memorandum submitted; little discussion of submissions made

- Comments from Lynn Duncan and Planning Dept; met w/Engineer and developed subdivision w/cul-de-sac; previous process is described
- Plan brings lots closer to wetlands, less backyard but seemed that Department and consultant were concerned about frontage and ZBA
- Will be costly but not difficult to revise Stormwater Management Plan

Kirt Rieder asks

- Proposing 2.85 residences within the buffer area, closer than 50' to the resource; why would the City encourage this?
 - Applicant replies that this is why they came up with the first Plan, to be further from the resource area; Plan is according to Ms. Duncan's comments.
 - Vice Chair Rieder comments that this is a balancing act. Constraints do affect the project; some sites are not easily develop-able for however many units. Board must weigh competing interests

DJ Napolitano

- Proposed at what is now St. Anne's parking lot? Yes.
- Re Lynn Duncan's memo, this was not what she suggested; she suggested Paper St. off of Story St.? Mr. Lovely says this is incorrect, nothing off Story St.
- Memorandum is outlined. Mainly on lack of significant frontage. Mason Wells notes this is correct, and that resubmitted Plan still lacks sufficient frontage, and will require less of a waiver but will still need one through ZBA. There is sufficient acreage to meet lot size for 2 lots
- Kirt Rieder comments that Ms. Duncan's salient point was that a waive for the frontage is counterproductive to the larger subdivision ordinance.
- Mr. Lovely replies that Cleveland St. has 6 residences and one has only 104' of frontage, all these will have 100', up the street are even smaller frontage.
- Zone is RC, not out of character for neighborhood re frontage
- Mason Wells adds that the rationale of RC may be that it is adjacent to conservation land, but this does not discount what Mr. Lovely has said. He comments that there are many other R1 and RC abutting residences; he thinks people thought no one would build there, as the decline in school population, etc. were unforeseen.
- Vice Chair Rieder adds that the rising importance of wetland conservation was also unforeseen in the past. Mr. Lovely notes he met w/Conservation Commission who wanted to see PB Peer Review. No drainage currently

Carole Hamilton:

- Wonders what plan the Conservation Commission saw and was commenting on. Makes it difficult to move forward if the ConCom doesn't know what PB will allow. They commented on initial Plan as approved by ZBA but will need to review this Plan (the one currently before the Board)
- Applicant is trying to balance requirements of PB, ZBA, Planning Department and Conservation Commission

What is Lynn Duncan's role in the City? She is a consultant/staff capacity, not a peer reviewer. Tom Daniels's [the Director] normal oversight/support has been disrupted due to COVID, so Lynn Duncan provides support.

Vice Chair Kirt Rieder asks if the Board is seeing something she [Ms. Duncan] has not seen yet, or she may have or not have given a blessing on other things? Is it possible that the Planning Department is at odds internally? He feels that it may not be constructive to proceed and suggests that the Applicant return to the Planning Dept. for input prior to the next meeting. Mr. Lovely describes the process and feedback received.

Carole Hamilton:

- Keep in mind that this Board is being asked to provide a waiver of frontage, while deciding this would provide the Applicant w/more direction
- Unsure that any Plans convince her that waiver should be granted
- This is under Subdivision control; the Developer is aware of this during planning, so it is hard to agree to waiver of frontage in subdivisions

DJ Napolitano

- A & B will require variances for lot sizes. If the Developer did only 2 lots rather than 3, would he need waivers? This cannot be done; they went with a 110' cul de sac but would need 600' of frontage. The waiver will be granted if the project is in the best interest of Salem and public safety. Of all lots, only 1 is 100', the others are 150' but were built before Subdivision Control and related laws were in effect
- Mr. Lovely: possible to build 3 lots w/200' frontage but would have to be by golf course, logistically difficult w/wetland and utilities
- Vice Chair Rieder: in buffer, crossing resource. Impact on buffer? Removal of existing asphalt results in net positive storm flow but still proposing to add 3 residences that do not exist today in the buffer zone

Applicant and Board will send back to Planning staff; frontage waivers, staff review, and feedback are further discussed.

A request for an extension of the Decision has been requested.

A motion to approve the extension requests for a waiver of frontage to October 30 is made by Carole Hamilton, seconded by Helen Sides, and passes 7-0 in a roll call vote.

Ben Anderson	Absent
Bill Griset	Yes
Carole Hamilton	Yes
DJ Napolitano	Yes
Helen Sides	Yes
Kirt Rieder	Yes
Matt Smith	Absent
Matt Veno	Yes
Noah Koretz	Yes

A motion to extend the deadline for Form C is made by Carole Hamilton, seconded by Helen Sides, and passes 7-0 in a roll call vote.

Ben Anderson	Absent
Bill Grisct	Yes
Carole Hamilton	Yes
DJ Napolitano	Yes
Helen Sides	Yes
Kirt Rieder	Yes
Matt Smith	Absent
Matt Veno	Yes
Noah Koretz	Yes

Helen Sides reiterates the importance of clear visual presentations; the Applicant shows something different but seems unwilling to show the Board those changes. Vice Chair Kirt Rieder notes that the absence of material reflects poorly on the Application.

Public comment:

Paul L'Hereux, 24 Lafayette Pl.

- Definitive site plan identifying property boundaries unavailable; requested Developer provide them with this as certified by independent Engineer
- Original tee roadway, now new Plan, concerns: does design meet City criteria for an accepted roadway? Applicant's intent is unknown; Mr. Lovely states he has provided information requested
- Curb cut on east sidewalk of Cleveland St. will be provided; shown on March 17 site plan but is not on plan with cul de Sac; it does, clarifies Mr. Rieder
- Appears curb cut may be beyond St. Anne's boundary; Mr. Rieder confirms it is not
- This is clarified but Mr. L'Hereux would seek an easement. Vice Chair Kirt Rieder notes this speaks to a lack of clarity in the Plans

F. Location: 0 Story Street (Map 23, Parcel 2)

Applicant: Stephen Lovely, Castle Hill Group, LLC

Description: A continuation of a public hearing for all persons interested in the application of STEPHEN LOVELY, CASTLE HILL GROUP LLC requesting a waiver of frontage requirements of the Subdivision Control Law for Lots A and B located at 0 Story Street (Map 23, Parcel 2) at the west end of Cleveland Street bounded by St. Anne's Church, City of Salem, St. Anne's Park and land of Bradbury and Chasse.

A motion to continue the frontage discussion to the Sept. 3, 2020 meeting is made by Matt Veno, seconded by Bill Grisct, and passes 7-0 in a roll call vote.

Ben Anderson	Absent
Bill Grisct	Yes
Carole Hamilton	Yes
DJ Napolitano	Yes
Helen Sides	Yes

Kirt Rieder	Yes
Matt Smith	Absent
Matt Veno	Yes
Noah Koretz	Yes

A motion to extend the deadline for Form C to Sept. 3, 2020, is made by Bill Grisct, seconded by Matt Veno, and passes 7-0 in a roll call vote.

Ben Anderson	Absent
Bill Grisct	Yes
Carole Hamilton	Yes
DJ Napolitano	Yes
Helen Sides	Yes
Kirt Rieder	Yes
Matt Smith	Absent
Matt Veno	Yes
Noah Koretz	Yes

II. OLD/NEW BUSINESS

A. Location: Clark Avenue (Map 6, Lots 7, 8, and 9) - Woodlands Subdivision

Applicant: NSD Realty Trust

Description: The Applicant NSD REALTY TRUST requests an extension of the time to complete the “ways and services” under Paragraph 7.b.ii. of the Planning Board’s Form C “Definitive Subdivision Decision, Stormwater Permit, and Cluster Residential Development Special Permit” Decision dated February 22, 2016 for Clark Avenue (Map 6, Lots 7, 8, and 9).

Attorney Joseph Correnti presents. The project began permitting in 2015; this is the cluster subdivision of 26 homes. It is described. The project is halfway done, and roadways and utilities are under discussion. This is a late request, regrettably, and not in his or the Developer’s style. This is because the project got off to a rough start procedurally. In Feb. 2016 the Developer got the Planning Decision but could not close on the property until June 2017, due to the fact that the subdivision got tied up in land court; many lots are registered land and they were reconfiguring property lines. Initial activities are described. In 2018 the Applicant was in a position where a Clerk of Works was brought on (NECE), and subdivision work was underway. In Dec. 2018 NSD was required to post the bond. The Applicant was confused and asked for clarification; one Decision mentioned Form C Cluster Residential Special Permit and Stormwater Management Permit, they are careful to not let these lapse. Miscommunications occurred and the Applicant did not communicate w/Planning Board.

Though not a public hearing, community comments will be taken.

John Panneton, 22 Clark Ave.

- Summary of work is unfortunate; it has been “terrible” on Clark Ave. Neighbors tried to work w/City and no response, finally got a response recently
- Activity at site was a “quarry” with no dust suppression: photos and videos document this
- Piles of dirt present
- Developer has finally started working w/neighbors, feels they are only before Planning due to neighbor communications/pushback

- Neighborhood does not want rock crushers on the property, does not agree with 6(a)12 [of the decision: “limited onsite rock crushing.” Please repeal that as well as 6(a)8 as it does not reference rock hammering in the time schedule they presented
- Tom Devine: red lines, highlighting is product of Mason Wells. Mason Wells notes that red lines are incorporating feedback from stakeholders over the last couple weeks
- Attorney Correnti has seen this and has had input, wants to discuss some items
- Noah Koretz: Can’t see photos and videos referenced in folder

David & Paula Colpitts, 18 Clark Ave.

- 60-100 18-wheelers going by house daily
- Last 2 weeks there have been fewer
- Clerk of the Works not assigned, he has been calling City for 4 years saying no Clerk assigned
- Aerial views of quarry operation; KR can see tractor trailers in Google Earth
- Notes sales of crushed rock to other properties; “mountains” of material are moved in and out for processing. Bring in material, crush, size, sell, all with no dust mitigation or water treatment
- John Mills of DEP noted strict OSHA requirements as dust is crystalline silica dust and is carcinogenic. No OSHA or other monitoring has occurred. Mr. Mills said sweeper is also to be running constantly during rock crushing, it is not
- Neighbors want project finished, and don’t want a de facto quarry operation going on
- Vice Chair Kirt Rieder points out that any offsite crushing will result in additional truck traffic

Paula Colpitts 18 Clark Ave

- Notes dangers of crystalline silica; who to go to for health violations?
- Also concerned about truck traffic: no signs, too fast

Patti Morsillo, Councilor, Ward 3

- Thanks residents for working together on list of Conditions before Planning Board
- Questions as to whether residents were warned of blasting; City did not call, Developer meant quantity of rock to be blasted was 95% done but then 4-8 weeks of 6-8 blasts/day during COVID shelter in place
- Conditions must be placed on project
- Her job is communication between developers and residents, this can be communicated via a newsletter, she offers to put blast schedule in it
- Important to have Clerk of Works to be go between, City attempting to hire someone now, stopgap measure? Current Clerk of Works is Civil Engineering person

Ann & Peter Deluca, 10 Clark Ave.

- Notes blasting, disruption
- Impact is understated to residents on street
- Consistent large truck traffic, potholes, children are moving in so lack of signs is a problem
- Concerns about health impacts of quarry dust

David Freni, 5 Wyman Ave.

- House is on same rock outcrop as Clark Ave., his house shakes during blasting despite distance
- Impacts to pets, who need anxiety meds

Carole Hamilton:

- Were inspections done of neighboring properties, including interior and exterior photos pre blasting?
- Have we rec'd a completion schedule for the project?
- Attorney Correnti:
 - All Blasting regulated by state CMR, heavily regulated
 - Pre blast surveys are mandatory for all abutters/properties w/in a certain radius
 - All blasting is supervised by SFD, notified ahead of time, on site
 - Acknowledges it has been a lot but is mostly done; foundation blasting on any outcrops and small trench blasting for utilities remain
 - Completion schedule: request filed w/Board was to continue through Dec. 2021, will be pared back by 6 months but may request further extensions
 - Will report back to PB every 4 months or sooner if requested by City Planner
- Carole Hamilton: Is appalled by what she is hearing from neighbors; disgusting that we are two years out w/out any request for extension; this is "unconscionable" so she does not have faith going forward w/out strict controls on developer. Asks for no further blasting w/out 48 hours' notice to each resident

Tom Devine sent a link to videos referenced; Decision can be reviewed. Vice Chair Kirt Rieder asks: Planning staff had a good deal of participation in crafting, language shared w/Attorney, has it been shared w/Councilor Morsillo etc.? Yes, most recent version has been shared once complete (today).

The Vice Chair would like the City Councilor to indicate progress made, as noted by Mason Wells. We are not hearing a unified reciprocity from the neighborhood. How to move ahead?

Noah Koretz asks if Ms. Morsillo or the neighborhood has reviewed the Decision or if this is their first time seeing it? It was just received, and has not been reviewed, but was discussed this afternoon. Changes were understood, so though she feels there is still some discrepancy between what the neighbors want and what the developers want, she is comfortable with what is written here.

Vice Chair Rieder asks if we (the Board) are taking something that was just issued hours ago and voting on it, or kicking back to Attorney Correnti and Councilor Morsillo to facilitate a conversation so that a true consensus can be reached? Councilor Morsillo is concerned that the Board is not meeting until Sept. and does not want this to continue until then. Attorney Correnti reiterates that 95% is agreed to, and as for the remaining points of discussion, the Applicant can have the Board call those out.

Carole Hamilton

- Notes that the 1st page set of redlines represents a lot of "ass covering" by the Developer
- One thing is not true, which is that "contact between developer and city has been continuous"

- Vice Chair Rieder replies that there is no material difference, however Carole Hamilton would like the language removed. This will be stricken, and will start at “No formal request for extension”

DJ Napolitano

- p. 2 #3 updates: originally 3 then 4 or “at a specific” - should be every 2 months
- Projected timetable to finish project? Here now discussing roadways utilities vs. residential completion. Originally requested Dec. 30, 2021 for ways and utilities, but think it will be through 2021 to completion (confusion). Will be back for another extension prior to July asking for an extension, so no one is surprised
- DJ Napolitano notes the Board has an August recess anyway, so why not bump out to August and take up the first meeting in Sept.? The time frame is still unclear

Attorney Correnti notes that a 2 year check-in is just that, and it does not mean that the project will be done then. The PB uses it to communicate progress w/Developer. They do not want to keep coming in for extensions, either.

Additional changes in language desired by the Board:

- **p. 3, street sweeping** clarification: “Street sweeping shall be scheduled” can be stricken as it is already in 9(b)
- **viii. Blasting**, 10am-4pm hours for those activities, which is unusual for construction activity
- **x. Provide advance notice to abutters** in writing? 3 business days vs. 72 hours; former is more time b/c accounts for holidays, etc. Why did “all abutters” get crossed out? City is using CodeRed (automated text alert system) to alert; Attorney Correnti does not want the Developer to have to leaflet doors when there are more effective ways, and City hall can send out an automated message
 - DJ Napolitano wonders if it is certain they will all get notices? If 30 days of inactivity should a registered letter be sent? Code Red means the Applicant will be relying on the Mayor's office to get in touch, when the onus should be on the Applicant
 - Helen Sides comments that Patti Morsillo is capable of notifying neighbors and may have a comprehensive list. Notify Mayor's office who would then notify Councilor? Mayor's office would not usually do this but given the problems, says Mason Wells, we can use the Code Red form, which is geographically based, and Ward Councilor Morsillo can also participate. DJ Napolitano still feels there should be a written form of communication
 - Applicant will agree to leaflet neighborhood in writing as the chance of a 30 day period of inactivity is remote. If it does happen, they will agree to leaflets. Councillor Morsillo approves
- Live edits are being made to the document.
- **xii. Rock hammering**: Attorney Correnti notes that, “all onsite rock hammering,” was suggested to be changed to “no onsite rock hammering.” However, the Applicant needs rock hammering, the machine that chisels the rock, so they can do foundation and trench work after blasting or if there is a ledge outcrop in the foundation. They need to be able to rock hammer that rock. The alternative might be more blasting. If hammering is prohibited, there will need to be more trucks. Hammering is safer, faster and necessary, says Attorney Correnti

- There is a difference between rock hammering and rock crushing. Hammering must be done onsite, as some rocks are too large to be moved before being broken up
 - Mason Wells notes that the language should be clarified. No onsite rock hammering is expected by default but later in paragraph specifies when it can happen. Vice Chair Kirt Rieder notes that the language must be reworked
 - Attorney Correnti: Rock processing/crushing: Applicant was asked/agreed to do this as far away from neighbors as possible. Verbal or written preapproval from Clerk of the Works is required. Language should be separated so that hammering and crushing are in two separate paragraphs. Hammering is only OK with approval from Clerk of Works. Need to hammer rock for transport or crushing. "Onsite rock hammering shall be conducted for the purpose of decreasing the size of the blasted..."
 - Councilor Morsillo: Neighbors are against a constant 8 hours of rock hammering per day. Punt to Clerk of Works who will provide adequate notification and not exceeding, say, 6 hours/day? They have agreed to a work limitation of 10AM-4PM M-F. Notice to abutters on rock hammering, if it will be prolonged, yes, but with rock hammering they may do a bit each day
 - Vice Chair Kirt Rieder: strike notice to abutters, change to "With Clerk of the Works Approval and limitation on duration not to exceed {# hours} between the hours of 10am-4pm."
- **Roadways:** If City's assessment is that sections are damaged by Development activities, potholes will be repaired appropriately w/industry standard bituminous product to satisfaction of Clerk of the Works. Not just repaving, but filling and stabilization of rutting and potholes will occur on a seasonal basis
 - **Construction Traffic:** Notes about speed limits and signage have been added
 - **Dust Suppression:** (b) not to start before noon on street sweeping, neighbors requested, they agreed. KR wonders if this contradicts goal of more consistent dust removal for health reasons. MW notes one of their concerns is the early morning noise and doing it in PM cleans up after dust has settled.
 - **Clerk of the Works:** City has suggested and neighborhood seeks Clerk of the Works/Community Liaison. Bill Ross/NECE has been on since 2018 but his role is limited to Engineering. They have been asked and agreed to pay for City to hire 2nd CoW to handle non engineering items. KR asks if city's goal is to have second firm participate or another person from NECE? MW: conclusion was to go with another firm. MW notes that ENG dept has had job posting to secure traditional Clerk of Works but has had trouble finding someone to fill this role.
 - **Safety Improvements Amendment:** Mason Wells notes that the City Engineer's comment is about a large rock onsite, to be removed w/approval of property owners, however said owner is not interested in removing as there may be damage to a tree, so the language will be removed

A motion to approve the Decision as amended is made by Noah Koretz, seconded by Carole Hamilton, and the motion passes 7-0 in a roll call vote.

Ben Anderson	Absent
Bill Grisct	Yes

Carole Hamilton	Yes
DJ Napolitano	Yes
Helen Sides	Yes
Kirt Rieder	Yes
Matt Smith	Absent
Matt Venio	Yes
Noah Koretz	Yes

Vice Chair Kirt Rieder requests an update on the Pickering Wharf tree situation and progress regarding the residential property supposed to be adjacent to the Senior Center. He notes that it is 5 years later, and no intersection/crosswalk updates have been made. An update will be presented at the next meeting.

Helen Sides presents some parting gifts to Matt Venio. Discussion/congratulations/appreciation for his service occurs. He notes this is a special Board of superb talent and serious thought, and his belief in how special this City is and that we all have a role in keeping it special. He was happy to have played a small part in that, with all the Board members.

III. ADJOURNMENT

A motion to adjourn is made by Noah Koretz, seconded by Bill Grisct, and the motion passes 7-0 in a roll call vote.

Ben Anderson	Absent
Bill Grisct	Yes
Carole Hamilton	Yes
DJ Napolitano	Yes
Helen Sides	Yes
Kirt Rieder	Yes
Matt Smith	Absent
Matt Venio	Yes
Noah Koretz	Yes

The meeting ends at 11:05PM

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-2020-decisions>

Respectfully submitted,
Stacy Kilb, Recording Clerk

Approved by the Planning Board on 10/01/2020