



CITY OF SALEM PLANNING BOARD

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CITY CLERK
SALEM, MASS

Decision

Planned Unit Development, Drive Through Special Permit, Flood Hazard Overlay District Special Permit, Site Plan Review, and Stormwater Management Permit Decision

**132-134 Canal Street, 142 R. Canal Street, and 144 Canal Street
(Map 33, Lots 5, 6, and 8)**

June 12, 2018

Findings and Decision

Re: Application of Canal Street Warehouse LLC, Canal Street Realty Development LLC and Canal Furniture LLC for the properties located at 132-134 Canal Street, 142 R. Canal Street, and 144 Canal Street (Map 33, Lots 5, 6, and 8) for a Planned Unit Development Special Permit, Drive Through Special Permit, Flood Hazard Overlay District Special Permit and a Site Plan Review in accordance with the Salem Zoning Ordinance.

Procedural History

1. On Thursday, December 14, 2017 Canal Street Warehouse LLC, Canal Street Realty Development LLC and Canal Furniture LLC filed an application with the Planning Board pursuant to Section 7.3 for a Planned Unit Development, Section 9.5 for a Site Plan Review, Section 8.1 for a Flood Hazard Overlay District Special Permit, and Section 6.7 for a Drive-Through Special Permit, and a Stormwater Management Permit in accordance with Salem Code of Ordinances Chapter 37 to redevelop the site located at 132-134 Canal Street, 142 R. Canal Street, and 144 Canal Street (Map 33, Lots 5, 6, and 8).
2. The application proposed the redevelopment the site by razing the buildings at 134 and 144 Canal Street and the construction of three (3) new buildings with associated driveways, 240 parking spaces, landscaping, utilities, and drainage systems for stormwater runoff. A new three-story, mixed-use building with approximately 7,000 square feet of retail on the first floor and 20 residential units on the upper floors was proposed at the north side of the site. A three-story building with 30 residential units and parking below; and a 2,500 square foot retail building with a drive-through was proposed at the south side of the site. The existing buildings located at 142 Canal Street were proposed to remain.
3. The Planning Board of the City of Salem scheduled the public hearing for Thursday, January 4, 2018. The meeting was cancelled due to City offices being closed due to a snow emergency, no testimony was heard
4. The Planning Board opened a Public Hearing for the Planned Unit Development, Site Plan Review, Flood Hazard Overlay District Special Permit, Drive-Through Special Permit, and a Stormwater Management Permit on Thursday, January 18, 2018. The

hearing was continued to February 1, 2018; February 15, 2018; April 5, 2018; May 17, 2018; June 7, 2018. The public hearing was closed on June 7, 2018.

5. Since the project was initially filed, there were significant modifications proposed to the plans as a result of input from the Planning Board, abutters to the site, the city, MassDOT, and the MBTA. Specifically, in the course of the review the plans evolved such that the:
 - a. Drive through in the north building has been eliminated;
 - b. Total residential units increased from fifty (50) to fifty-two (52);
 - c. Several walkways added throughout the site;
 - d. Added new connections to walkways along Canal Street
 - e. The South Retail building (at corner of Canal and Ocean) has been brought closer to the street with landscaping in between the street sidewalk and building, with no parking between the building and sidewalk;
 - f. Added landscaping along street;
 - g. Added enough cue area to meet all the city criteria for drive-thru (12 cars of cue space).
 - h. Removal of trees along the rear of the property; and
 - i. Removal of the retaining wall along the rear of the property
6. Throughout the public hearings, the plans and other submission material were reviewed by the Planning Board. Throughout its deliberations, the Planning Board has been mindful of the statements of the applicants and their representatives, and the comments of the general public, all as made at the public hearing.

Specific Findings

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

7.3.8.1 The proposed planned unit development is in harmony with the purpose and intent this ordinance and the master plan of the City of Salem as this project will add vitality to a major corridor in the city by removing three functionally obsolete and unsightly buildings and redeveloping the site with a mix of residential units and commercial spaces generating new tax revenue for the city. The project also leverages the City's recent improvements to Canal Street by incorporating in new street streetscape and creating a critical connection to the City's multiuse path which will enhance pedestrian and bicycling accessibility.

7.3.8.2 The planned unit development is designed to provide various types of land use which can be combined in compatible relationship with each other as part of a totally planned development. As proposed, the mixture of residential, commercial and open space is compatible with each other, thereby meeting the purpose and intent of good zoning practices and the master plan of the City of Salem. The compatible relationship among the mixture of uses combined with the inclusion of affordable housing, connection to the City's the multi-use path,

installation of new street trees, bicycle racks, benches, an electronic vehicle charging station, a spot for a car share and a spot for a city provided bike share is determined to be sufficiently advantageous to render it appropriate to depart from the strict provisions of the underlying zoning classifications.

7.3.8.3 The planned unit development would not result in a net negative environmental impact, based on the information from the Environmental Impact Statement and plans. The project includes seventy (70) new shade trees along with evergreens and other shrub landscaping resulting in a net increase of permeable area, improvements to stormwater management and a mixture of uses that promote walking and cycling. The will result in net improvements to the natural environment.

B. The Planning Board hereby makes the following findings pertaining to the City of Salem Zoning Ordinance, Sec. 8.1 Flood Hazard Overlay District Special Permit

8.1.4.1 The underlying district is Industrial, however, the provisions for Planned Unit Development Special Permits, as laid out in Section 7.3 of the Salem Zoning Code, allow the Planning Board to approve a project that is in "... compliance with the master plan and good zoning practices, while allowing certain desirable departures from the strict provisions of specific zone classifications."

8.1.4.2 All newly constructed buildings will be built above the flood elevation. The city streets are below the flood elevation, as such it is unlikely that vehicles would be able to leave the site as. However, the multiuse path is above the flood elevations. Residents at both buildings will be able to safely and conveniently exit the site on foot to the multiuse path. Other pedestrians on the site could move to the rear of site and access the rail trail in the event of a flood emergency. Thus, there are adequate convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets and property, particularly in the event of flooding of the lot(s) or adjacent lot(s) caused by either overspill from water bodies or high runoff.

8.1.4.1 All Service connections will be in compliance with the current edition of the Massachusetts Building Code, 780 CMR State Board of Building Regulations Standard, Appendix G: Flood-Resistance Construction.

C. City of Salem Zoning Ordinance, Sec. 6.7 Drive-Through Special Permit

6.7.6.1 A reduction of the 200-foot minimum between curb cuts is determined to be without detriment to the public good and without substantial derogation of the intent and purpose of Section 6.7 of the Salem Zoning Ordinance, as the totally planned development results in a net reduction of vehicular curb cuts. Additionally, there will be an overall enhancement of pedestrian circulation by means of pedestrian pathways that connect the multiple uses throughout the site and that provide access to the multiuse path from Canal Street.

Decision

In view of the foregoing, the Planning Board hereby decided that the aforesaid project meets all the requisite criteria. It is therefore decided to grant a Planned Unit Development (Section 7.3), a Site Plan Review (Section 9.5), a Flood Hazard Overlay District Special Permit (Section 8.1), a Drive-Through Special Permit (Section 6.7), and a Stormwater Management Permit in accordance with Salem Code of Ordinances Chapter 37 to redevelop the site located at 132-134 Canal Street, 142 R. Canal Street, and 144 Canal Street (Map 33, Lots 5, 6, and 8) in accordance with the terms and conditions stated below.

1. Conformance with the Plans

- a. Work shall conform to the following project plans for 132-144 Canal Street, Salem, MA prepared by Williams Sparages, sheets C1.1, C2.1, C2.2, C4.1, C4.2, C5.1, C6.1, C6.2, C7.1, C8.1, C8.2, and C8.3 dated December 12, 2017, revised April 30, 2018, May 30, 2018, sheet C3.1 dated May 30, 2018; and sheet C5.1 dated June 7, 2018; plan prepared by Seger Architects, Inc., sheets A-1 through A-8 dated April 19, 2018.
- b. Updated architectural plans (sheet A-1 through A-8) shall be submitted prior to building permit issuance that annotates building materials. Exterior insulated finish system, (EIFS) shall not be used.

2. Amendments

- a. Any further amendments to the site plan shall be reviewed by the City Planner and if deemed necessary by the City Planner, shall be brought to the Planning Board. Any waiver of conditions contained within shall require the approval of the Planning Board.

3. Transfer of Ownership

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

4. Affordable Housing

- a. Five (5) housing units shall be set aside as affordable housing units. The Applicant shall place an Affordable Housing Restriction on these five (5) housing units in the form acceptable to the Commonwealth Department of Housing and Community Development (DHCD). The restrictions shall be in accordance with the eligibility criteria for DHCD's Subsidized Housing Inventory for the purpose of ensuring that the five (5) dwelling units will be restricted as affordable housing for households whose annual incomes are eighty percent (80%) or less of Area Median Income ("Low Income Households") with a sales or rental price affordable to said households as determined by DHCD for a period of ninety-nine (99) years from the date of the original conveyance. The Affordable Housing Restriction(s) shall be registered with the Essex South Registry of Deeds.

5. Drive-Through

- a. The drive-through transaction window shall be a minimum of four stacking spaces from the menu board.
- b. The entrance to the stacking lane shall be clearly marked and a minimum of twenty (20) feet from the curb cut at the property line.
- c. Menu board shall be a maximum of 30 square feet, with a maximum height of six (6) and shall be shielded from the residential building.
- d. Noise levels generated by all operations, included by not limited to noise emanating from speakers from the resultant establishment shall not increase the broadband sound level by more than ten (10) dB(A) above the ambient levels measured at the property line by the Board of Health or its designee.

6. Landscaping

- a. Maintenance of all landscaping on the site shall be the responsibility of the Applicant, its successors or assigns, and any tree or shrub that does not survive shall be replaced, with the exception of the landscaped areas described in condition 12(b).
- b. An as built landscaping plan accompanied with a letter from a Registered Professional Engineer or landscape architect certifying compliance of the landscaping with the approved plan shall be submitted to the City Planner prior to issuance of the Certificate of Occupancy.

7. Lighting

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

8. Maintenance

- a. Refuse removal, ground maintenance and snow removal shall be the responsibility of the applicant. "Refuse removal" includes recycling, which shall be the responsibility of the owner, his successors or assigns. The owner shall provide adequate facilities to ensure all users are able to recycle their trash. Owner is to enter into a contract with a company of the owner's choice to arrange pick-up of recyclable material. A copy of this contract is to be submitted to the City Engineer.
- b. Winter snow in excess of snow storage areas on the site shall be removed off- site.

9. Fire Department

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

10. Building Inspector

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

11. Board of Health

- a. The owner shall comply with the following specific conditions issued by the Board of Health:

- b. The individual presenting the plan to the Board of Health must notify the Health Agent of the name, address, and telephone number of the project (site) manager who will be on site and directly responsible for the construction of the project.
- c. If a DEP tracking number is issued for this site under the Massachusetts Contingency Plan, no structure shall be constructed until the Licensed Site Professional responsible for the site confirms that the site meets the DEP standards for the proposed use.
- d. A copy of the Licensed Asbestos Inspector's Report must be sent to the Health Agent.
- e. A copy of the Demolition Notice sent to the DEP, Form BWPAO6, must be sent to the Health Agent.
- f. The developer shall give the Health Agent a copy of the 21E report.
- g. The developer shall employ a licensed pesticide applicator to exterminate the area prior to construction, demolition, and/or blasting and shall send a copy of the exterminator's exterminator's survey report, treatment plan and treatment reports to the Health Agent.
- h. The developer shall maintain the area free from rodents throughout construction.
- i. The developer shall submit to the Health Agent a written plan for dust control and street sweeping which will occur during construction.
- j. The developer shall submit to the Health Agent a written plan for containment and removal of debris, vegetative waste, and unacceptable excavation material generated during demolition and/or construction.
- k. Noise levels from the resultant establishment(s) generated by operations, including but not limited to refrigeration and heating, shall not increase the broadband sound level by more than 10 dB(A) above the ambient levels measured at the nearest abutting residential property line.
- l. The developer shall disclose in writing to the Health Agent the origin of any fill material needed for the project.
- m. The resultant establishment shall dispose of all waste materials resulting from its operation in an environmentally sound manner as described to the Board of health.
- n. The drainage system for this project must be reviewed and approved by the Northeast Mosquito Control and Wetlands Management District.
- o. The developer shall notify the Health Agent when the project is complete for final inspection and confirmation that above conditions have been met.

12. City Engineer

- a. All work shall comply with the requirements of the City Engineer.
- b. Prior to issuance of a building permit, the applicant shall submit the required documentation to the City Council for an easement for the walkway on the north side of the site that connects Canal Street to the multiuse trail and an easement on the south side of the site that connects to the multiuse trail.
- c. The applicant shall continue to work with the City Engineer on transferring the rail spur to the City and providing utility and drainage easements to the city relating the rail trail.

- d. The applicant shall continue to work with the City Engineer to stub in any future water and sewer lines prior to spring when the street work will be completed.

13. Existing Conditions Plan- Drainage

- a. The applicant shall submit an existing conditions plan to the City Engineer for review and approval that delineate the existing drainage infrastructure and all connecting piping.

14. Demolition Plan

- a. Applicant shall provide a demolition plan identifying buildings, pavements and utilities to be removed, demolished and or abandoned including water, sewer, drain, gas, and other utilities to be capped or abandoned onsite at the main in the City streets as required by the City Engineer.

15. Proposed Plan- Grading and Drainage

- a. The applicant shall submit a revised "proposed Grading and Drainage" plan prior to Building Permit issuance that delineates the spot grades, including top and bottom of curb elevations, annotate slope on the plan, and identify the cut and fill areas.
- b. Applicant shall obtain a drainage alteration permit from the City of Salem Engineering Department.

16. Utilities

- a. An irrigation plan shall be provided to the City Engineer for review and approval. Applicant shall provide additional information about irrigation plan piping, connection to the City watermain, and backflow prevention and metering.
- b. Buried electric utilities that are proposed to serve buildings and exterior lights shall be identified on the plan for review and approval by the City Engineer.
- c. The applicant shall submit a revised Site Utility Existing Conditions plan that identify the number, size and location of existing water, sewer, and gas utilities and services connecting the site to Canal Street and Broadway.
- d. Applicant shall provide additional information about proposed sewer connection to existing sewer services on City Main.
- e. Applicant shall coordinate with City Engineer to revise water plan to provide separate valved feeds to each building while reducing excavations in Canal Street.
- f. Applicant to provide additional information to the City Engineer about location and size of proposed gas piping for review and approval by the City Engineer.
- g. Applicant shall identify the required fire flow and confirm fire service is sized appropriately. This information shall be submitted to the City Engineer for review and approval.
- h. Applicant shall identify the peak sewer flows and provide the City Engineer confirmation that each sewer service pipe is sized to accommodate peak flows.
- i. Applicant shall submit a Garage Drainage and Roof Drainage Plan to the City Engineer for review and approval. The plan shall identify where the oil/gas separators, associated vents, and garage drainage structure will be located.

17. Street Utility Existing Conditions

- a. A revised street utility existing conditions plan shall be submitted to the City Engineer for review and approval. The plan shall identify the invert depth and location of existing sewers on Broadway and Canal Street.

18. Watershed Map

- a. The applicant shall provide a revised stormwater management plan to the City Engineer for review and approval that, includes:
 - i. The basis for breaks between catchments;
 - ii. Additional elevation data, spot grades and information about existing/proposed roof pitch and piping.
 - iii. Indication of the flow paths corresponding to the time of concentration (Tc) for existing catchment area b2S.
 - iv. Indication of flow paths corresponding to Tc for all proposed catchment areas.

19. Drainage Analysis

- a. Applicant shall demonstrate to the City Engineer that the proposed oil/sediment separators meet the MassStormwater Policy requirements for offline configuration and design considerations.
- b. Applicant shall provide the City Engineer information about the soils where infiltration system SWMA1P is proposed to confirm soil and groundwater levels are suitable for the proposed system.

20. Clerk of the Works

- a. A Clerk of the Works shall be provided by the City, at the expense of the applicant, his successors or assigns, as it is deemed necessary by the City Planner. Notwithstanding the foregoing, the parties acknowledge the Project shall be subject to controlled construction, which requires oversight by a Registered Professional Civil Engineer. Accordingly, it is the understanding of the Board, the City Planner and the Applicant, that the Clerk of the Works, typically the same person or company that provided the design peer review, is expected to oversee and review all civil/site improvements related to the Project, including, but not necessarily limited to:
 - i. all utility cut and caps related the City's Demolition Permit;
 - ii. all new utility installations;
 - iii. any connections to, extension of, or improvements to publicly owned infrastructure both on the applicant's site or within the City's right of way and any on-site stormwater or wastewater systems;
 - iv. any new installations or modifications to existing pavement/sidewalk/curbing; and
 - v. any conditions placed on the project by an order of conditions from the Salem Conservation Commission.
- b. The Clerk of the Works shall review and approve all proposed, or approved, changes to the original Planning Board decision.
- c. It is also mutually understood that the expense associated with the Clerk of the Works shall be for a reasonable number of hours and at a customary rate of service.

- d. The applicant shall submit a construction plan that includes a detailed sequence and schedule of all construction activities related to the Project to the City Planner for approval prior to starting work. The construction plan shall clearly detail the sequencing, schedule and duration of all construction activities related to the Clerk of the Works' purview. Once the construction plan is approved, it shall be used to create a Task Order for the Clerk of the Works.
- e. No work, including demolition, excavation, and grading shall start before an approved task order for the Clerk of the Works services has been agreed upon and approved by all parties.

21. Construction Practices

- a. All construction shall be carried out in accordance with the following conditions:
 - i. Night work as required for water shutdown or other purposes shall be 11:00 p.m. to 5:00 a.m. unless otherwise approved or directed by the City.
 - ii. All provisions in the City of Salem's Code of Ordinance, Chapter 22, Noise Control, shall be strictly adhered to.
 - iii. All reasonable action shall be taken to minimize the negative effects of construction on abutters. Advance notice shall be provided to all abutters in writing at least 72 hours prior to commencement of demolition and construction of the project.
 - iv. Drilling and blasting shall be limited to Monday-Friday between 8:00 AM until 5:00 PM. There shall be no drilling, blasting or rock hammering on Saturdays, Sundays, or holidays. Blasting shall be undertaken in accordance with all local and state regulations.
 - v. All construction will occur on site; no construction will occur or be staged within City right of way. Any deviation from this shall be approved by the Department of Planning & Community Development prior to construction.
 - vi. A construction traffic management plan and schedule shall be submitted to the Department of Planning & Community Development for review and approval prior to the issuance of a building permit.
 - vii. Any roadways, driveways, sidewalks, or landscaping damaged during construction shall be restored to their original condition by the applicant.
 - viii. All construction vehicles shall be cleaned prior to leaving the site so that they do not leave dirt and/or debris on surrounding roadways as they leave the site.
 - ix. All construction shall be performed in accordance with the Rules and Regulations of the Planning Board, and in accordance with any and all rules, regulations and ordinances of the City of Salem.
 - x. All construction vehicles left overnight at the site, must be located completely on the site.
 - xi. All construction activities shall be in accordance with the "Salem Police Station Construction Management Plan".

- xii. All construction shall take place under the direction and supervision of a Licensed Site Professional in compliance with the rules and regulations of the Massachusetts Department of Environmental Protection.
- xiii. The applicant shall promptly notify the Board of Health of any environmental condition encountered during construction that may adversely impact the abutters to the site.

22. As-built Plans

- a. As-built Plans, stamped by a Registered Professional Engineer, shall be submitted to the Department of Planning and Community Development and Department of Public Services prior to the issuance of the Certificate of Occupancy.
- b. The As-Built plans shall be submitted to the City Engineer in an electronic file format suitable for the City's use and approved by the City Engineer, prior to the issuance of the Certificate of Occupancy.
- c. A completed tie card, a blank copy (available at the Engineering Department) and a certification signed and stamped by the design engineer, stating that the work was completed in substantial compliance with the design drawing must be submitted to the City Engineer prior to the issuance of the Certificate of Occupancy; as well as, any subsequent requirements by the City Engineer.
- d. To the extent that construction work has been completed sufficient for a Certificate of Occupancy to be issued for a portion of the Project or the Project in its entirety but that the As-Built plans have not yet been fully completed (for said portion of the Project or the Project in its entirety), the applicant may provide a performance bond or surety in an amount and form subject to approval of the City Planner to ensure that the As-Built Plans are completed within a reasonable timeframe.

23. Violations

- a. Violations of any condition shall result in revocation of this permit by the Planning Board, unless the violation of such condition is waived by a majority vote of the Planning Board.

I hereby certify that a copy of this decision and plans has been filed with the City Clerk and copies are on file with the Planning Board. The Special Permit shall not take effect until a copy of this decision bearing the certification of the City Clerk that twenty (20) days have elapsed and no appeal has been filed or that if such appeal has been filed, and it has been dismissed or denied, is recorded in the Essex South Registry of Deeds and is indexed under the name of the owner of record is recorded on the owner's Certificate of Title. The owner or applicant, his successors or assigns, shall pay the fee for recording or registering.



Ben J. Anderson
Chairman

