

**CITY OF SALEM
JOINT PUBLIC HEARING
OF THE CITY COUNCIL AND PLANNING BOARD
JULY 14, 2021**

The Salem City Council held a Joint Public Meeting with the Planning Board via remote participation on Wednesday, July 14, 2021, at 7:00 P.M. in accordance with Chapter 40A, § 5, of the Massachusetts General Laws and in accordance with Chapter 20 of the Acts of 2021 and ratified by a roll call vote of 8 yeas, 2 nays and 1 absent taken by the City Council on June 24, 2021, to meet remotely until September. The purpose of the public hearing is to provide interested parties with an opportunity to comment on three separate proposed Zoning Ordinance Amendments regarding 1. Waterfront Industrial Overlay District, 2. Gender Neutral Language for the City's Zoning Ordinance, and 3. Temporary Moratorium on new construction within buffer zones of a wetland or on a floodplain. The complete text of the proposed amendments to Zoning are on file at the office of the City Clerk 93 Washington Street, or the Planning Department, City Hall Annex, 98 Washington Street, Salem, Massachusetts, and are available for inspection during regular business hours.

Notice of this meeting was posted on June 28, 2021, at 10:56 A.M. and advertised in the Salem News on June 30, 2021, and July 7, 2021.

Councillor Christine Madore presiding.

Councillor Prosniewski and Councillor Flynn had excused absences.

Planning Board Members in attendance were: Kirt Rieder, Helen Sides, Bill Grisct, Sarah Tarbet, Todd Waller, Tom Furey, Noah Koretz.

#278 - WATERFRONT INDUSTRIAL OVERLAY DISTRICT (WIOD)

In the year two thousand and Twenty-One

An Ordinance to amend an Ordinance relative Zoning

Be it Ordained by the City Council of the City of Salem, as follows:

Section 1. Chapter 8.6 – Waterfront Industrial Overlay District (WIOD) of the City of Salem Zoning Ordinance is hereby amended by adding a new table entry to 8.6.3 – Permitted Uses with the following:

PRINCIPAL USES	WIOD
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C. HOUSING USES

Planned Unit Development.....	N
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Section 2. This Ordinance shall take effect as provided by City Charter.

Councilor Turiel stated this issue was brought because of Shetland Park's redevelopment plans, as put before the state. Purpose of WIOD as it is, is outlined To promote economic health and stability by encouraging commercial and industrial development to increase employment/tax revenue Related uses are listed Continue historic industrial and mercantile nature of waterfront. The complex has been a commercial and industrial facility for more than 100 years. The complex houses a middle and high school as well as government offices, an industrial bakery, businesses, commercial offices, a gym, and a furniture restoration shop. The city needs to be able to accommodate businesses, we don't have another large industrial area to do this; the only other industrial district is a small one on Highland Avenue. To

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eliminate this valuable commercial tax base would be a detriment to the city and goes against the city's economic goals. He acknowledges housing issues in the city and believes we need to enhance housing but not at the expense of active, revenue and job-creating commercial property. The purpose is to eliminate Planned Unit Development (PUD) zoning from being used within this district. PUD would continue to be available to other industrial areas in the city, but the commercial and industrial character of this area would be protected. Moving forward there may be a better solution that allows the city to meet economic goals while providing housing, but wholesale replacement of buildings with housing is not a solution.

Councilor Hapworth: Also approved of new housing, but incremental growth should be explored. This proposed development would double the size of the Point and "change the neighborhood overnight". There are few spaces in Salem for new businesses exist; Shetland Park is one.

Tom Furey: Noted the Cummings Center in Beverly. This could be the new "The Cummings Center of Salem" Nothing should be precluded for this complex. We need "new things." Concerned that Councilor Turiel alone sponsored this, with no co-sponsors. He is interested to hear from Councilor McCarthy. When the Peabody Essex Museum (PEM) was seeking a storage space, they decided against Shetland Park because of climate change and flooding.

Councilor McCarthy (responding to Tom Furey): Concerned that council implemented an overlay district because Shetland Park requested it to be "competitive with Cummings Center in Beverly". Prior to Mr. Lappin's passing the previous owners reached out and considered a zoning change to allow for mixed use and/or housing, but the parcel was sold. The new owners were asked if they were going to want to pursue continuation of zoning. They were more focused on evaluating what they had and were already doing and at that point said "no". They engaged the Point Neighborhood in discussions and then the city was blindsided by the new owner's state filing to put 1500 units there. He is not opposed to having the conversation but does not approve of being blindsided. If they overpaid for the property, that is not our problem. We need to make sure future development will conform and meet with the city's and the neighborhood's needs. He is leery that discussions were only had with the neighborhood before filing with the state and not the city. He wants to protect the Point Neighborhood from doubling its size by adding the same number of units that currently exist. Filing with the state with no broad-based discussion is not acceptable as this will affect the entire city. You cannot add 1500 units without realizing there will be citywide impacts. He discussed Plan with Councilor Turiel, all councilors received a letter from Attorney Quinn stating that he did not like this plan of action because it targets an overlay district, but that was put in to help Shetland Properties be competitive with the Cummings Center. If that has changed, then another discussion is needed. We can't have an entity come in and try to add 1500 units with little discussion.

Councilor Sargent: WIOD table of uses does not mention PUD. Cannot eliminate PUD from WIOD.

Councilor Turiel: Legally the WIOD is an overlay zone. We can add things, which this does, or take things away. The PUD is permitted in an underlying industrial area because nothing is said about it in WIOD, we can add other uses we see fit, or take away uses we don't want there. Overlay happens to encompass a particular parcel but is not aimed at that parcel. By removing PUD from the WIOD it will supersede it from being in the industrial zone. If we eliminate the WIOD district, the only permissible uses would be those permitted by right in the industrial zone, allowing PUD but taking away some things allowed in the WIOD.

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Councilor Sargent: Noted permitted uses: Must take it out of ALL industrial zones, not overlay. Discussed how to remove PUD, would need to be removed from all industrial zones. The Planning Board will need to review, as this could be confusing. There is no mention of zoning 7.3 PUDs. There are two ways you can have a PUD. Even if we don't allow it, someone can apply under section 7.3 to have a PUD in an industrial zone. PUD section: what is allowed where? Zones are outlined. Even if we disallow here someone could apply under section 7.3.

Councilor Dibble: Concerned we are targeting one property Concerned it is "spot zoning" and would like opinion of City Solicitor. In favor of not allowing housing in Shetland, if not spot zoning Need to maintain and encourage businesses, not more luxury apartments or condos Business should go forward on business properties.

Mayor Driscoll: Had a constructive dialogue with Councilor McCarthy, Councilor Turiel, project proponents, and neighborhood leaders they understood the concerns and recognized that we are at our best when we come together, we need to all work together. We need to address impacts and move forward. The Environmental Notification Form (ENF) filing was not the right approach to take All properties are NOT resilient and in need of improvement. We are committed to working together along with stakeholders and councilors.

Kirt Rieder: Understood and agreed with the rationale but had concerns. We are poised to remove PUD as option from single property. This will upend the established review process, as PUD is not by right. There will be no way to see what is acceptable to councilors and the public.

Jeff Cohen, 12 Hancock Street. Vice Chair, Sustainability, Energy, and Resiliency Committee (SERC): Not speaking on behalf of SERC in favor or against. Is personally in favor of Councilor Turiel's motion. Attended initial Point Neighborhood meetings. The traffic and other issues raised by Councilor Dibble were discussed with no mention, even when sked, about housing. The developers came to 3 meetings and presented at two. Most of the discussion was about resiliency. The Shetland property is in one of the most vulnerable areas of Salem. Grateful to know they were going to raise parking lot, but we asked them at each meeting about their intent. They discussed that the two buildings that would be kept as commercial are 400' and 700' long. The building to be converted into housing is 1400' long but this was never mentioned. They discussed parking enhancements and allowing nonprofits and commercial entities to prosper from a sustainability and resiliency standpoint, changing to put housing in means that you must take the necessary steps to change infrastructure. This is not needed in commercial setting. Unique area with a view and a potential bus stop and could be an incubator business opportunity

Polly Wilbert, 7 Cedar Street: In favor of removing PUD. Attended 2 neighborhood meetings. Concerned about development re housing Acreage in Salem converted from industrial to residential is not in the city's best interest. Commercial and industrial use is a crucial component of our tax base. We need percentages of different kinds of taxes to undergird the city's fiscal future. The resulting job loss would be bad PD needs to look, planning fiscal component, not just usage. The investor behind Prime Storage does not have Salem's best interest at heart. PUD is a loophole that should be closed. The capacity of public services and current infrastructure to handle climate change is of concern. Taking down a 400,000-sf building and replacing it with residential is of serious concern. There is a 17' berm around edge, but water will need go somewhere, maybe Pickering Wharf or Pioneer Terrace. This is not a positive trade-off.

Mary Whitney, 356 Essex Street: In favor of removing PUD. She has a background in regional planning. The city has too much housing and we need to shift back to business via zoning.

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Bill Quinn, Attorney, Tinti, Quinn, Grover, and Frye, 27 Congress Street in Shetland Park (office)
Represents owner: If someone has money and we can direct them, we can get property improvements. We have active and capable boards and politicians in Salem. No significant project is approved “as is” without improvement. There are community needs and benefits provided with every project. It was not a good idea to file an ENF with the state without having gone through city channels and the owners are sorry they did it this way. It was withdrawn the next day at request of Salem officials. Salem is a big city as far as its project capacity and a lot of review must occur. If a Shetland project is approved, it will take years to follow through at state, federal and local levels. Any large development will require a zoning change by City Council. He was involved in the original PUD when the property was owned by Mr. Lappin and confirms that they want to be on even competitive footing with the Cumming Center, Lynnfield Mall, etc. so the property could survive. When Mr. Lappin sold, there were preliminary plans, including housing, that did not result in any filings. The best and highest use of property would be combined: public access, amenities, and many businesses. Letters were sent to retain existing tenants, no one would be evicted. The objective is to take care of those already paying rent there. PUD was defined as only Shetland Park but can apply to any 25+ acre park. Neither the city nor any landowner has chosen to. The Point Neighborhood meetings were eye opening with the discovery of much common ground, particularly the desire for waterfront access. Affordable housing is a possibility but had not been deeply discussed; they were amenable. Taxes will be increased by millions of dollars. He thinks they are the highest taxpayers in the city. Additional jobs would be created to service residential property. The public’s access to the waterfront would be unparalleled. This access was focused on by Point neighborhood. Doesn’t sit well with being a long-term contributor to dialogue if the city wants to take rights away from them, right off the bat. Most recent developments at the Cummings Center and Lynnfield Mall are apartments and condos. If you are targeting one property, maybe there is something wrong with the PUD ordinance that may need improving. It is not fair to spot zone and target one property owner in a manner that would impact only them. Applicants apply for more than what they know they will get. The ENF was filed for the densest development possible. The city will have complete control over what the developer does. The property could stay as is, which is not bad. The owners have improved office buildings over the past year, they value businesses and tenants. There is no professional basis for the council’s change

Councilor Madore: Notes it will not be voted on tonight.

Fawaz Abusharkh, 4 Harrison Road: In favor of no residential development at Shetland Park and wants to expand the prohibition to residential development to all commercial properties. Attended the neighborhood meeting and was troubled that housing proposed is not what Salem needs. It would add to infrastructure and traffic issues with no benefit to Salem. Salem has been doing this type of development “all over.” Does not support housing and wants to avoid spot zoning. Would like to generalize this to all commercial and industrial properties.

Linda Fararreso, 57 Aurora Ln.: Supports Councilor Turiel’s proposal. Agrees with other comments re saving commercial properties.

Patrick Schmidt, Prime Group, Anderson Young does not live in Salem. 5 Copper Beach Circle, Westborough: He is the developer. Re ENF, he filed because he was advised it would be an 18-month process. The first half would deal with resiliency, followed by another 18-month Chapter 91 process. They recognize it is not zoned residential and that they would need city council approval. Apologized for not meeting with city councilors and the SERC. This is an iterative process. They are not sure what they will do re residential. The community thought they were taking away jobs by eliminating building #4 so they proposed another building to save them as incubators. A drugstore and grocery store (not Whole

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Foods) have been discussed as a possibility. There is an opportunity to improve the schools by consolidating all their facilities into one building. There is a long way to go with everything. The proposed green space would be as large as Salem Common. Resiliency improvements/17' height, would hurt other ways of Salem, need to explore other options. They want to improve nonprofit situations and leases are currently through 2024-2025. They have sent out a letter stating they want to keep every tenant. They don't want to hurt downtown by bringing in restaurants, etc. Parking and safety will be improved. Constellation Performing Arts is DYING to come to Salem, Shetland Park can accommodate this with redevelopment. They understand the concerns with jobs and traffic, etc. Filing the ENF was a mistake but was not meant to hurry the process through permitting.

Victoria Ricciardiello 5 Foster Street: Supports Turiel Against additional building as housing in any form
Concerns: Traffic Loss of revenue upon conversion to housing, Loss of manufacturing opportunities, Lives of residents need to be improved

Sean Selby, Arlington MA, Prime Group Architect: The site is an industrial zone, but what does that mean? Does not allow buildings over 45' tall, 2 buildings are already more than that. This places restrictions on the site. If we want to build out for commercial use, 45' is very restrictive. Building 4 has a sawtooth roof and is an 1100' long building with some, but not many, windows on the water side. If you want a Facebook or a Google to lease it, otherwise it will be very hard to find takers for it. If you are going to build out commercial space for high paying jobs, then that building is inadequate. It is not modern or updated and no amount of updating would help as it is so oddly shaped. The school in building 3 was built to be a textile mill/factory. The halls at 3 pm on a school day are so congested they can barely get out. Building 4 has the same problem.

Councilor Morsillo: This affects whole the city Taken aback by comments tonight. Does not approve of using zoning as a reactionary tool, but we are here because they decided to jump ahead of the process as part of the process will take 18 months.

Councilor Turiel: If changes to WIOD are spot zoning, then the entire WIOD is spot zoning. Were we addressing a specific parcel it would open it to spot zoning, but we are talking about an overlay district that happens to only include Shetland Park. However, other parcels could be considered part of it if they so choose. For example, the Footprint property meets criteria, but is not part of WIOD, it is just an industrial district. We are not spot zoning by changing the overlay zone (not a parcel) On zoning in general, he disagrees with the premise put forth in public and council comments that Salem is "full". We have 'luxury' housing, this is how real estate brokers market. Brokers don't want to advertise "average or "mediocre" apartments. You can put in nice countertops and call it "luxury". Luxury is used here a pejorative but is an actual marketing term. The Planning Board examines every single proposed project. If a project is in an Entrance Corridor Overlay District (ECOD), adjacent to wetland, or downtown, there are many boards and groups who render judgement and provide expertise. If not in a particular neighborhood or parcel, then City Council decides what zoning rules are. If I buy a lot on Highland Avenue and the rules say that I can put housing there, rules the City Council passed, if the City Council does not like it then there is a need to change what is possible in those zones. Beverly did make it possible for the Cummings Center to put in housing, but that complex is on a major road with direct highway access and is close to arterial roads. The housing building there is below what has been discussed for Shetland. Plus, the Cummings Center is a larger complex. Must work with buildings and zoning in place. There are opportunities to do better in Shetland Park. Maybe once everything is settled there will be opportunities, but not on scale as proposed in the ENF. Without tools in place, we have no effective way to limit things other than height restriction for which they could get a variance. More work and discussion need to

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happen. Pass this unless another agreement can be reached with Shetland. Leave public hearing open for at least a month, maybe this matter will not be needed.

Dates are discussed. Kirt Rieder noted that the Planning Board does not meet at all in August. Councilor Morsillo reminded every one of the upcoming elections in September, noting this should be taken up sooner rather than later. An opinion of the City Solicitor re spot zoning is desired.

Mayor Driscoll suggested considering the September timeline re a community impact group and stakeholders, it is summer for them as well. It may be difficult to get this underway in next 6 weeks. We will get a legal opinion but keep hearing open until September.

Councilor Turiel: Regarding a legal perspective, the City Solicitor wrote wording and verified that this is permissible and sharing with the group is fine. Regarding urgency, the process has begun and at this point the developer would be unable to apply until zoning has been passed. They cannot file any plans so there is no urgency in a resolution.

Counselor Morsillo moves to keep the public hearing open and continue to September 30, 2021, by a roll call vote of 9 yeas, 0 nays and 0 absent.

#340 - GENDER NEUTRAL LANGUAGE IN THE CITY'S ZONING CODE OF ORDINANCES

An Ordinance to replace gender-specific nouns and pronouns in the City of Salem's Zoning Code of Ordinances.

Be it ordained by the City Council of the City of Salem, as follows:

SECTION I. The City of Salem Zoning Code is hereby amended as follows:

1. In section 1.5 replace "his" with "the registered land surveyor's" in all one instance.
2. In section 4.2.1 replace "his" with "the Head of the Fire Department's" in all two instances.
3. In section 6.2.1 replace "he" with "be" in all one instance.
4. In section 6.11.5(3) replace "craftsmen" with "craftspeople" in all one instance.
- 5 In section 7.2.1 replace "his" with "their" in all one instance.
6. In section 7.2.3 replace "his" with "the Head of the Fire Department's" in all two instances.
7. In section 7.3.7 replace "his" with "the Head of the Fire Department's" in all two instances.
8. In section 8.1.7 replace "his successor" with "the petitioner's" in all one instance.
9. In section 8.1.7 replace "his designee" with "the Head of the Fire Department's designee" in all two instances.
10. In section 8.1.8(2) replace "Man-made" with "Artificial" in all one instance.
11. In section 8.3.8 replace "his" with "the Head of the Fire Department's" in all two instances.
12. In section 8.4.5(1.1) replace "craftsmen" with "craftspeople" in all one instance.
13. In section 8.4.5(6.1) replace "fraternal" with "social" in all one instance.
14. In section 9.1.3 replace "he" with "be" in all one instance.
15. In section 9.2.1 replace "He" with "The Building Commissioner" in all one instance.
16. In section 9.2.2 replace "he" with "they" in all one instance.
17. In section 9.2.2 replace "He" with "The Building Commissioner" in all one instance.
18. In section 9.5.5 replace "his" with "the Head of the Fire Department's" in all two instances.
19. In section 9.3.1(1) replace "chairman" with "chair" in all one instance.
20. In section 10 replace "fraternity houses" with "collegiate Greek system residences" in all one instance.

SECTION II. This ordinance shall take effect as provided by the City Charter.

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Jeff Cohen, 12 Hancock Street, Board Member of Salem Project Out, a nonprofit that helps transgender and nonbinary to be themselves. Notes that today is International Nonbinary Day. Pronouns don't mean anything to many, but for others, it validates who they are, he is in support.

Councilor Morsillo moves to close public hearing by roll call vote. The motion to close the public hearing was adopted by a roll call vote of 9 yeas, 0 nays and 2 absent.

Councilor Morsillo moves to refer the matter to the Planning Board for recommendation by roll call vote of 9 yeas, 0 nays and 0 absent.

#356 - TEMPORARY MORATORIUM ON NEW CONSTRUCTION WITHIN BUFFER ZONES OF A WETLAND OR ON A FLOODPLAIN

Submitted by registered voters, pursuant to MGL Chapter 40A, Section 5, request that the following Zoning Ordinance be submitted within 14 days to the Planning Board for review and recommendation back to the Council.

No new building permits shall be issued for any construction within the buffer zones of a wetland or on a floodplain in any zoning district within the City of Salem for a period of 2 years. The reason for this temporary moratorium is because the City has experienced multiple projects being approved for construction within the buffer zones of wetlands and within floodplains. Time is needed so that the city can conduct a comprehensive study on the impact of construction within buffer zones and floodplains. This moratorium shall not apply to building permits for future phases of any project which has obtained all required permits and approvals. This moratorium shall apply to building permits that would encroach upon our wetlands and floodplains from the date of this ordinance. The 24 names that have signed are read into the record.

Councilor McCarthy: Concerned that, as written, "from day one" would mean that anyone who lives in a floodplain, whether coastal or inland, cannot redo a kitchen or bathroom. It eliminates ALL building permits. People on the city council who signed petition: what was their intent? Was it to protect resources or to stop development in the resources? Those who own properties in these resources will not be able to make improvements. North Shore Medical Center is considering improvements, and this would impact them.

Councilor Dibble: 1500-1900 Salem residents signed a previous version of this petition that asked to strengthen wetlands and flood hazard laws. And they asked the city council to act by December 2020. Nothing happened and there were no public meetings. This needs to happen. He was not aware of the private group that was meeting. Purpose is to stop overcrowding of Salem and building of large luxury apartment developments in and near wetlands and FHOD. This moratorium is not designed to stop higher paying jobs or businesses, only luxury apartments. He moves that the language be changed to specify and cite residential only. This would include all residential development, excluding single family houses or complexes under six units. Residential projects under 6 units are exempt. The City Solicitor has commented that such a moratorium would be allowed. Procedural issues are discussed. Can language be changed in a public hearing, or must it be referred to committee?

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Councilor Dominguez: The intention was to bring to this issue to committee. Wetland protection must be considered. Elected officials must work on a recommendation.

Councilor Morsillo: Noted that members of the Conservation Commission, Planning Board, and others that handle development are experts. We are trying to use a wetlands ordinance to stop multi-unit development, this is wrong. Ordinances are built on sciences, it must stay that way, that is what Conservation Commission uses when approving projects and buffers. We are in a position where councilors are bringing through impactful zoning changes on hundreds of residences and businesses “not written, went too far, want to change.” As written, this would preclude ANY building permits by homeowners and businesses in areas in question. Had a notice gone out to homeowners? How many know that their properties are in floodplains? They may not be aware we are trying to “pull the rug out from under them and their property rights” for the next 2 years because we do not want multi-unit development in Salem. They won’t be able to build a new deck or addition on their house because we don’t trust our boards to vet projects and go through the process. This is wrong.

Councilor Turiel: This is a “horrid idea” If council members have issues with potential development or how zoning allows it, then we should exam the underlying zoning. If the City Council wants single family zoning, it can try to pass that change. If it is okay with R2 everywhere, specify what you want or find acceptable. Building housing has, in many cases, revitalized the city. The results have been improvements on land that had been empty for generations, properties cleaned up, taxes increased, and people attracted to Salem. When housing is built, whether “luxury “or “mediocre”, it contributes to keeping “prices from rising through the roof”. There are two ways to address the issues with housing prices. Supply and demand. Increase the housing supply by building more housing or make the city less enticing thereby decreasing demand. Every development proposal must be vetted regardless, and buffer zones must be updated. We need to worry about how clean the proposed development will be. We still have brownfield sites but using this moratorium as a tool is not worth our time being here tonight. Hopes the Planning Board will “fling it off and see it vanish sooner rather than later” so we can update regulations and review underlying zoning.

Councilor Dominguez: A group of residents concerned about wetlands proposed this. Elected officials must listen, but this is not happening. The process takes months and the committee refused to discuss the issue.

Councilor Riccardi: The moratorium was written to protect wetlands and floodplains, intent and reason could be discussed further. If the intent is to stop housing from being built, this is not the correct path to be doing this. If the intent is no more multi-unit buildings, then write an ordinance prohibiting that and submit it. We should protect wetlands and the environment; the ordinance must be updated. See yesterday’s forum, <https://publicinput.com/salemwetlands>. Don’t disguise opposition to housing under the guise of environmental protection. A broad stroke that will have immense implications.

Councilor Madore: This is an action of the extreme. It is far-reaching and is trying to hide anti-development sentiment under the banner of environmentalism. If you are true environmentalist, you would propose a zoning amendment to eliminate parking minimums in development, because at least 1/3 of greenhouse gas emissions in US is caused by cars and transportation. Hears in development, Planning Board, and Conservation Commission meetings, that we need to provide more parking for people who want to live in buildings, but then we complain about traffic and claim to be climate activists. Why are we building for cars? Why not build for those who want bikes/ferry/train? Cites husband Blue Bikes/ferry. We have people who live here that don’t have cars. Or large families with only one car. If you are a true environmentalist, you will not ask the Council to stop residential or other buildings to protect wetlands.

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You will propose an ordinance, which is what we are working on now. Cites the ordinance, again. To say “nothing has happened” is an offence to work of the Planning Board, staff, and volunteers on boards that have been working on these issues. We hired a consultant to do the research and put out public survey that went live today. <https://publicinput.com/salemwetlands> The hours devoted in this chamber to argue this topic is not the definition of “nothing has happened.” This is gaslighting members of public. The issue is complex, cannot simply slap on a moratorium. There is a trend in states, cities, and towns for oratoriums; each one has failed. Last night Amherst Field, North Andover, also another. This is not how you do thoughtful planning and get public feedback. The extent of such a moratorium is beyond what we can perceive. She spoke to property owner who wanted to capitalize on land and build a duplex in her ward, it is completely within floodplain even though it does not seem like it. Nearly a “taking of property rights.” Thoughtful work is happening.

Councilor Dibble: Agrees that moratorium is extreme, and that the wording could be better, hence his motion for a change in wording. This has been going on for over a year with hundreds asking for help from the council and the mayor, but we are not acting on it. There are many “Not for SaleM” signs protesting overdevelopment and working on protecting resources and floodplains. Again notes 1900 signatures last summer/September for the City Council to act on by December 2020. This was put into committee, but the ward 3 councilor refused to hold a meeting on it. Tried to take it out of the committee and put into another, but there was not enough support. The same group put forward this petition.

Councilor Dibble motions to add the sentence: “The moratorium would apply to residential only, with the exception of properties under 6 units, which are exempt,” and is seconded by Councilor Dominguez.

The City Clerk reminds him that this is the language of those who submitted the moratorium, not City Council language, and this should be remembered when taking vote. It should go to the Planning Board and come back with recommendations. The Planning Board will take this into consideration.

Councilor Sargent outlines the procedure:

1. Close hearing.
2. Send to PB.
3. Council votes for or against it.

We have no choice, whether we like it or not, but must follow procedure.

Councilor Morsillo: Re Councilor Dibble’s recommendation that the PB discuss added wording: What is the science that shows that buildings with units of more than 6 are more detrimental to the buffer than those with less than 6?

Kirt Rieder: The Planning Board did not ask for a moratorium, because as written, it upends ability of that board and the Conservation Commission to review and process applications small and large. The board asked for a science-based modification to the existing ordinance. Last evening during the public meeting, wetland ordinance consultants, who are scientists hired by the city, noted that the buffer zones are not resource areas, but wetlands are, and are protected by the state. The timeline for updating the ordinance is shorter than the 2 years written into moratorium. He advocates to let this process work its way through, then it will come to council for a vote.

Noah Koretz: Echoes comments of Councilors Morsillo, Madore, and Ricciardi. If concerned about flooding and wetlands, tune into Planning Board and Conservation Commission hearings. We discuss this at length. Hours and hours are spent per project on these issues, we require insignificant changes to better

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protect wetlands and flood zones in the city. When he first read and heard the moratorium, he thought “how clever, a play against multifamily housing from those who complain about it, disguised as an environmental thing.” If not paying attention it seems the right thing to do. Yet Councilor Dibble gave it away, admitting that the purpose is to stop large residential buildings. The fact is that this is a sweeping moratorium on zoning. There was no advance thought as to whether this would apply to single family or commercial properties. The sloppiness that reached the Planning Board was not acceptable. Idea of adding in, on the fly, “oh this shouldn’t apply to commercial” is offensive. I.e., you can’t build residential but can build a Wal-Mart? This was not thought out enough to come to us, not a serious policy proposal, it is political theater, does not belong in front of us.

Tom Furey ; Agrees with Noah Koretz, notes attendance of Planning Department staff and their work. Moratorium gave City Council 3 days to consider. This is the most ill-advised move he has seen in 36 years of involvement on City Council. We must trust experts and scientists, as in last night’s meeting. Bill Griset agrees with Planning Board comments and the above councilors. Councilor Dominguez was concerned that we as boards and the city do not listen to citizens, but we do. Issues related to these themes were discussed at great length by both the Planning Board and City Council. Councilor Dibble came with good intentions in the petition he signed, said he did not like language, attempted to amend “on the fly,” which may not reflect the desires of the other 23 people. Agrees it is “political theater” and does not want to see increase in acrimony this has been given its due and the Planning Board will do its job if directed by council to review. This is a thinly disguised attempt to stop multi-unit development.

Mayor Driscoll: Opposed to moratorium. Would prohibit any building permit in any area. Massachusetts has enacted regulations regarding minimum construction standards in resource areas/buffers, which represent significant sections of our city. Building requires Conservation Commission, sometimes Planning Board review, before any project can proceed. Local and state must approve if a larger project. With urging from Councilor Morsillo, we set up working group to review current regulations. Do we want local guidelines to be stricter? We need professional guidance, and it is important that review be undertaken thoughtfully and with community input. This moratorium applies a sledgehammer to a situation that requires a scalpel. Would prevent schools, city, homeowners from undertaking ANY work requiring a building permit in these areas. Repair kitchen, upgrade roof, expand a house – all would be prohibited. Salem Oil and Grease, Flynnntan, etc. would not have happened at all. Unclear what floodplain is to be used? FEMA? Other? No one is against stewardship, but the moratorium is short sighted and harmful. The goal of preventing growth and stopping all building permits in 2 years will not help address housing shortage or affordable housing. Less supply + more demand will exacerbate the housing shortage. Limiting owners from obtaining building permits will limit growth and limit tax revenues from growth = cut services or have property owners pay more. Surprised that 2 city councilors would support such a damaging proposal. There is a thoughtful process going on. This is a public hearing but urges council to reject the proposal.

Councilor McCarthy: This is a JPH. He recommended sending his to the Planning Board, they send it back. Is this the proper time to entertain a motion to amend? The motion should be for Councilor Dibble to ask the Planning Board to consider a change. Then return with a referral from the Planning Board as to whether the change is appropriate, then the council entertains the motion. We must only entertain what is in front of us.

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Tom Egan, 57 Wharf Street, Attorney for Michael and Richard Rockett, Salem business owners (Waterfront Hotel): Opposed to moratorium. Cited benefits their hotel has provided to city: taxes, revenue, etc. A blanket moratorium on building permits is detrimental. The City of Salem has the means to restrict wetland/resource area growth via the Planning Board and the Conservation Commission on case-by-case basis, no two-year moratorium needed. Permits for upkeep and maintenance could not even be filed for two years. A copy of the letter will be sent to the City Clerk.

Steve Kapantais, 23A Wisteria Street: In favor, co-author of moratorium. Discussed the genesis and intent of the wetland ordinance. It was meant to protect resource areas. Co-author of moratorium, meant to protect resource areas. 1800 signatures did not contain FHOD first time, he was asked by others to include those. There have been comments that this is written in an “unpolished and unprofessional” way, but it was written by residents. Asked the Council to bring this to the Planning Board, but was not allowed, so that led to this petition. There were recommendations to not send to the Planning Department. You don’t have an option, must send to Planning Department [sic] for review and recommendation. You refused us the right to have this heard so are hamstrung by what the law says. Re current working group: it is excellent. We need to improve our wetland ordinance; this is being worked on now. When moratorium was filed, they did not know that was being worked on. If work is to be done in the coming months, then a 2-year moratorium is too long. He suggested a 5-month moratorium. When has any amendment come forward that has not been tweaked? “It’s not perfect, so no.”

Alvi E Ibanez, 20 ½ Barnes Road: Moratorium happened because ordinance was in silence. There was no communication or updates. Echoes Steve Kapantais’s comments above. Notes Kirt Rieder said they were “powerless” because of how laws are written to stop Overlook Acres, Conservation Commission chair said same thing. One of main reasons Overlook Acres was approved was because of poorly written ordinances. The Planning Board and Conservation Commission must be empowered, and ordinances updated to prevent issuance of undesirable permits. The intention of the moratorium was not to stop development. That came from Overlook Acres.

Lev McClain, 22 Albion Street: This has an environmental impact, effects property rights and is a political issue. Everyone agrees that wetlands protection regs must be strengthened. Moratorium does not provide for increased protection of wetlands and flood zones. More issues are at stake vs. talking about what is built adjacent, environmental stewardship is not simple. Contamination due to prior uses and cleanup is an issue, but there is no discussion of this. The moratorium will hobble any ability of Conservation Commission or Planning Board to take any individual action. No further exploration of issues with this moratorium. If this passes, there will be no opportunity to educate the public. The moratorium is unacceptable. Residents should be able to improve their property. This impacts especially impacts residents in Ward 4 as well as the high school and the North Shore Medical Center. No citizen may introduce a law that disenfranchises other community members. Citizens are seeking greater action re environmental issues and conversation re development, however this proposal as the last, is reactionary. The project proposed was one that people didn’t like so they want to change the playing field to keep the project from happening. We must create goals and zoning regulations to support them, not only respond to what we don’t like, as that makes it harder for smaller players to make it. There is a problem with the councilors that signed the petition. If you consider current councilors or current candidates for council, 20% of signatories are those. When giving Salem an opportunity to be heard before council, don’t bring something that does not have a chance of success. Work with constituents, promote existing forums and processes, help them improve and we will avoid moments like this where we are functionally disenfranchising people. We need this improved; it is bogged down.

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Fawaz Abusharkh, 3 Harrison Road: These are fake attacks on language, everyone knows that was not the intent. There is a lack of transparency of working group's efforts. They were shut down whenever they tried to say anything. Franklin Street and other projects needed licensing while the working group was working on the ordinance. When questioned "why give permits to big projects that may eventually conflict with new rules?", they were shut down on this too. Then the group tried to reach out in different ways. They were shut down on this too, so trying to reach out in other ways. It is not about stopping development but trying to smear other councilors for something that is not their intent.

Councilor Madore stops him, asks him to refrain from attacking members of the council or the Planning Board and to please wrap up comments of moratorium.

Mr. Abusharkh: "Council must decide on language, present it, adopt it, then issue permits."

Jeff Cohen, 12 Hancock Street: Opposed to moratorium; he agrees with the comments of Planning Board members Koretz and Rieder, and Councilors Morsillo, Riccardi, McCarthy and Turiel. It is a bigger issue. He has worked in the energy efficiency business and is a current Citizens Climate Lobby member as well as the vice chair of the Sustainability, Energy, and Resiliency Committee (SERC). Not fond of nature but does what he does to address issues raised by Councilor Dominguez; protect the planet and the community for the Earth and for future generations. We are enduring a climate crisis in Salem. July will shatter all rainfall records: flooding is being experienced, roof leaks, etc. 40% of greenhouse gas emissions in Salem are from buildings. There has been a Green Building Ordinance (GBO) in City Council for over a year. Not one councilor except for Dibble stood up for it. We need to mitigate the climate crisis. No one is against protecting wetlands; it is important that we rally as a community and focus on totality of climate crisis, which is an emergency. Shetland Park is one area vulnerable. The streets under sea level, areas are filled in, etc. We must do something significant. We need to do more than protect wetlands. He will write a resilience ordinance that will scare people – people will be displaced. "No residential on first floor" must happen today.

Jenn Lynch, 38 Charles Street: Opposed to the moratorium for all reasons discussed above. The moratorium is too far-reaching. Thanks Conservation Commission and Planning Board for using science to inform review and decision making.

Mary Whitney, 356 Essex Street: In favor of moratorium, not as written but as a tool. The Supreme Court noted they are legal, not "takings" and used in MA successfully. While working on changing laws/master/comprehensive plan, moratoriums can be implemented 2002 ruling involved 32-month total building moratorium. Disagrees that it is a thinly veiled anti-development attempt. Ardent environmentalist, how to balance growth and conservation for healthy, livable, fair communities. The moratorium prevents comprehensive plan. Not sure what court case. Good moratorium could enhance property values. Projects move forward while laws are being updated. We need to hit pause of projects during that process. <https://www.cga.ct.gov/2002/olrdata/pd/rpt/2002-R-0499.htm> Bill Griscti on zoning ordinances and processes: A previous speaker noted "time out, get the law done." Ordinances and zoning are never done, it is not static, it changes and grows over time as it responds to needs in the community. So, to say, "get the law done, then, go ahead with projects" – is a misapplication of how zoning lives.

David Freni, 5 Wyman Ave.: Problem brought up by almost 2,000 residents a few months ago, may have been extreme but need to aim high and shoot for overprotection. We need to find common ground. 2030's moon rotation will cause extreme coastal flooding (NASA publication). Don't put a building in now that will have drastic implications in 10-20 years.

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Scott Silverstein, Footprint Harbor Real Estate, 67 Derby Street: Appreciates the proposal may be changing re non-residential properties but cautions Council and Board re law of unintended consequences. The Harbor Planning Process and Port Authority have explored offshore wind and uses for our site. We have received encouraging responses to offshore wind. As drafted and submitted, the moratorium would impact ability of our site to host offshore wind.

Councilor Sargent: Should we build on buffers and wetlands or not? This is not just about housing. Must send to Planning Board and the people who brought it forward must be heard. We can't say that we are "concerned about floodplains/sea level rise" and still allow unrestricted building in sensitive areas.

Councilor Dibble: Alvi Ibanez is affected by 500 apartments built around wetlands, he and others assisted in getting 1800+ signatures for a petition. They begged for help from the council and other boards. He was courteous despite his frustration. The group "got creative after being shut down" when the chair did not schedule a meeting. He applauds the effort that "forced City Council to remand back to the Planning Board".

Councilor Turiel: Addressing Steve Kapantais: Must be remanded forward. Addressing Councilor Dibble: Yes, this must be sent to Planning Board, that is why we are here. He is looking forward to that. It does not mean they have to vote for it. They do not have to support when it comes back. He will not support it. It is up to each individual councilor to make their own judgement, the Planning Board's job is to address the issue, not about the working or how well or not it's written, it is about intent. Residents were not heard during earlier attempts as the process they used was not legal. As delivered, whatever their intent is, the process would shut down everything. That is not the actual goal, but that is what it was written twice to do. Green signs all originally said "stop overdevelopment, "then that plus "protect our wetlands" when just overdevelopment didn't resonate. Wetlands need to be protected but there is a "ludicrous amount of politics behind it". We need to get protection right but not shut things down. We just need to figure out what we need to protect and how to do that. Greater protection, no matter your side, is supported by all.

Noah Koretz: Frustrated and Confused re the derision of "sending it to the Planning Board". No one has said anything about NOT sending it to the Planning Board, that is the procedure. This is confounding. You can't have your cake and eat it too! The public" this is a group of amateurs, and we are desperate to get this in front to you". If this was, in fact, brought by amateur, the reaction would have been different. But two city councilors, whose job is this very process, had a hand in it. They are not amateurs. A group of citizens may have organized this but a group including two city councils cannot say "listen to what we say" when you're are part of the group.

Councilor Dominguez: He feels that you play differently when the ball is in your hand. Performs his duty as councilor, to listen to citizens who were not being heard by local government. He signed petition as a resident of the city. Two councilors are trying to defend voice of people. This is politics as usual, and the City of Salem will scapegoat him.

Councilor Sargent: Respects work of Planning Board. This was a group of people resourceful enough to get the petition before the Planning Board via city council. The councilors did not initiate. They merely helped them move the moratorium forward to get it in front of the Planning Board.

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Councillor Morsillo moves to close the public hearing by roll call vote. The Public Hearing was closed by a roll call vote of 9 yeas, 0 nays and 2 absent.

Councilor Morsillo moves to refer the matter to the Planning Board for its recommendation. The motion was adopted by roll call vote of 9 yeas, 0 nays and 2 absent.

On the motion of Councillor Sargent the meeting adjourned at 10:50 P.M.

ATTEST:

ILENE SIMONS
CITY CLERK