



CITY OF SALEM PLANNING BOARD

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CITY CLERK
SALEM, MASS

Flood Hazard Overlay District Special Permit Decision

20, 25, 30, and 40 Colonial Road

Map 24, Lots 117, 118, 119, and 121

August 6, 2020

Findings and Decision

Re: 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.

Procedural History

1. A Flood Hazard Overlay District Special Permit application for site work to accommodate a change in use from chemical manufacturing to warehouse and distribution was submitted June 17, 2020. 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.
2. The Planning Board of the City of Salem scheduled a Public Hearing for the Flood Hazard Overlay District Special Permit that opened on July 9, 2020. Testimony was heard and the Public Hearing was continued to the July 23, 2020 Planning Board meeting.
3. The public hearing was closed on July 23, 2020 with the following Planning Board members present: Vice Chair Kirt Rieder (presiding), Bill Grisct, Carole Hamilton, Noah Koretz, D.J. Napolitano, Helen Sides, Matt Smith, and Matt Veno. Chair Ben Anderson was absent.
4. Member Matt Veno submitted a signed affidavit of service certifying he has examined all evidence pertaining to the project distributed at the single missed session on July 9, 2020.
5. 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.

Findings

1. General

- a. 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.

2. FHOD Special Permit Criteria

Pursuant to Section 8.1.2.2.(a) of the Salem Zoning Ordinance, the FHOD includes all special flood hazard areas within the City of Salem designated as Zone A, AE, or VE on the Essex County Flood Insurance Rate Map (FIRM) issued by the FEMA.

In considering approval of the Flood Hazard Overlay District Special Permit, the Planning Board hereby makes the findings for the portion of the site within the FHOD pertaining to the Flood Hazard Overlay District Special Permit Application as follows:

a. The proposed uses comply in all respects to the uses and provisions of the underlying districts in which the land is located.

- i. The proposed warehouse and distribution use comply with the underlying Industrial (I) zoning district for the property.

b. There is 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.

- i. Per the submitted design plans, the building and majority of the project site are positioned above the flood elevation of 10.0'. Isolated portions of the project, as well as adjacent City streets required to access the project will be under water during a 100-year flood event. The used portion of the on-site area subject to flooding consists of landscaped areas and sections of the access drive and parking lot. The maximum flood depth in these areas is ten (10) inches. In the event that the access drive is potentially obstructed by this depth of water, an alternative exit from the site is available through the building, by exiting on the north side of the building to Colonial Drive. The building is designed for vehicles to drive through so that they can be loaded within the building. The existing building slab (lowest floor) is approximately four feet above the 100-year flood elevation placing it above the maximum flood elevation.

Additionally, changes to grading will protect the health and safety of occupants during flooding through the removal of fill structure, the matching of site topography, and new flood storage with the removal of buildings. Natural characteristics of site flood storage will also be improved to create extra storage and maintain flow. The proposed design can receive more flood water on site, which can improve egress and parking.

c. Utilities, including gas, electricity, fuel, water and sewage disposal, will be located and constructed so as to protect against breaking, leaking, short-circuiting, grounding or igniting or any other damage due to flooding.

- i. The originally submitted design plans do not identify the existing sewer pump station and sewer pipes that are located below the flood elevation or identify improvements to the pump station to protect it from flooding and relocate electrical equipment above the flood elevation. High groundwater and flooding pose risk of overwhelming the pump station through the existing structure that is

not protected, or through improperly abandoned pipes that served the previously demolished buildings or current buildings to be abandoned.

However, revised plans to be submitted by the applicant, per condition 6 below, shall provide additional information that demonstrates compliance with requirement 3 of the Flood Hazard Overlay District Special Permit and revisions to Sheet C-6 that include spot grades on transformer pad, location of gas meters, location of sewer pump station controls, identification of existing sewer pipes and service stubs to be removed or capped, and identification of proposed improvements to the sewer pump station to protect from flood inundation to be reviewed for final sign off by the City Engineer prior to the issuance of demolition permits.

- d. **Where the proposed use will be located within a coastal high hazard area (Zone VE on the FEMA Flood Insurance Rate Maps), the Planning Board shall also find the following conditions to be fulfilled: New structures or substantial improvements shall be located landward of the reach of mean high tide. The support of new structures or substantial improvements shall not be, in whole or in part, by the use of fill.**
 - i. There are no proposed uses within the VE zone as mapped by FEMA on the site.

Decision

In view of the foregoing, the Planning Board hereby finds that the aforesaid project meets all the requisite criteria. Therefore, the Planning Board grants a FHOD Special Permit for the development of in accordance with the terms and conditions stated below.

1. Conformance with the Plan

- a. Work shall conform with the following sets of plans: Plans entitled "Commercial Redevelopment Site Plans in Salem, Massachusetts, 20, 25, 30 & 40 Colonial Road," prepared by MCG on June 2, 2020 and revised through July 22, 2020 *(To be revised per condition 6 below).

2. Amendments

- a. Any amendments to the approved plans referenced in condition 1.a. 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. Board of Health

- a. All Board of Health requirements shall be strictly adhered to.

4. Fire Department

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

5. Building Inspector

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

6. City Engineer

- a. All work shall comply with the requirements of the City Engineer.

- b. The applicant shall comply with all of the comments from the Civil Peer Review Letter prepared by Bill Ross from New England Civil Engineering Corp and dated July 15, 2020:
- c. Sanitary Sewer
 - i. Prior to the issuance of demolition permits, the applicant shall provide additional information about existing and proposed peak sewer flows and include the location, size, and capacity of existing sewer piping and pumping infrastructure to demonstrate the sewer has adequate capacity and condition to convey the project flows subject to review and approval by the Peer Reviewer and City Engineer.
 - ii. The applicant shall clean and CCTV inspect the sewer pipes to confirm condition and capacity to handle project flows, and to identify and locate abandoned service connections to be capped, subject to review and approval of City Engineer.
- d. Water
 - i. Prior to the issuance of demolition permits, the applicant shall provide additional information about existing and proposed peak domestic and fire service flows, and include size and location of existing and proposed water pipes, valves, and appurtenances on the plans, including pipes to be capped and abandoned.

7. Construction Practices

- a. All construction shall be carried out in accordance with the following conditions:
 - i. 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 construction of the project.
 - ii. 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.
 - iii. The Owner shall promptly notify the Board of Health of any environmental conditions encountered during construction that may adversely impact the abutters to the site.
 - iv. All provisions in the City of Salem's Code of Ordinance, Chapter 22, Noise Control, shall be strictly adhered to. If stricter measures are required by this Decision, the stricter measures shall apply.
 - v. Any rock hammering, drilling, or blasting shall be limited to Monday-Friday between 8:00 AM until 5:00 PM. There shall be no drilling or blasting on Saturdays, Sundays, or holidays. Blasting shall be undertaken in accordance with all local and state regulations.
 - vi. Advance notice shall be provided to all abutters in writing at least 72 hours prior to commencement of blasting activity. Notice shall be provided again after blasting inactivity for seven (7) or more days.
 - vii. All onsite rock hammering shall be conducted for the purpose of decreasing the size of blasted or excavated rock. All rock shall be transported offsite to be crushed and processed elsewhere, except in limited circumstances where there is verbal or written pre-approval from the Clerk of the Works. This limited on-site rock crushing activity shall be conducted at the maximum practicable distance from occupied buildings.
 - viii. Where practical, all onsite material shall be used as back fill and for other uses on site.

- ix. All construction vehicles left overnight at the site must be located completely on the site.
- x. All construction vehicles shall be cleaned prior to leaving the site so that they do not leave dirt and/or debris on surrounding roadways.
- xi. With the exception of any off-site improvements required as part of this decision, 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 and Community Development prior to construction.
- xii. Any roadways, driveways, sidewalks, or landscaping damaged during construction shall be restored to their original condition by the Owner. The City Engineer, along with the Clerk of the Works shall determine the condition of the roadways directly impacted by construction and related traffic and determine the types of repairs required by the owner.

8. 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, 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 to 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 sedimentation and erosion control barriers
- 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 Clerk of the Works shall provide the applicant, the City Planner, and the City Engineer reports of inspections including the dates and times on site with all invoices.
- e. 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. If changes to the schedule are necessary, the applicant shall notify the City Planner, the City Engineer, and the Clerk of the Works as soon as possible. If the Clerk of the Works must inspect the site due to lack of sufficient scheduling information and/or non-compliance with permits, approvals, regulations, and/or laws, the costs associated with this work will be in addition to the scope of work and cost established at initiation.

- f. No work, including blasting, 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.

9. 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. As-built plans shall identify 1) the number, location, depth, size and materials of all buried utilities and 2) locations and rim and invert elevations of all manholes and structures.
- b. The As-Built plans shall be submitted to the City Engineer and the City Planner 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.

10. 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.

Record of Vote

The following members of the Planning Board voted to grant a Flood Hazard Overlay District Special Permit subject to the above-stated terms and conditions: Vice Chair Kirt Rieder, Bill Griset, Carole Hamilton, Noah Koretz, D.J. Napolitano, Helen Sides, Matt Smith, and Matt Veno. Chair Ben Anderson was absent.

No members of the Planning Board are in opposition to the granting of a Flood Hazard Overlay District Special Permit.

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 and/or 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.



Kirt Rieder
Vice Chair