



# CITY OF SALEM PLANNING BOARD

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## **Decision**

### **Site Plan Review**

**301 Essex Street (Map 26, Lot 458)**

March 11, 2024

Re: The application of Scott Grover, Esq., f/b/o Jerry's, LLC, for the property located at 301 Essex Street, Salem, MA (Map 26, Lot 458) in the B5 (Central Development) Zoning District for Site Plan Review of the Salem Zoning Ordinance section 9.5 Site Plan Review. Specifically, the applicant proposes a 3.5-story addition to the existing building to create 20 residential units. The proposed site plan includes a driveway apron on Summer Street and 12 onsite parking spaces and 8 off-site parking spaces. Commercial space will remain on the first floor fronting Essex Street.

### **Procedural History**

1. An application for a Site Plan Review under Sections 9.5 of the City of Salem Zoning Ordinance was made by Scott Grover, Esq. and filed with the Planning Board on September 14, 2023.
2. A notice of public hearing was first issued on September 28, 2023.
3. The public hearing was opened on October 12, 2023, and was continued to November 16, 2023, December 21, 2023, January 18, 2024, February 1, 2024, February 15, 2024, and March 7, 2024.
4. On December 5, 2023, the Planning Board provided a statement to the Zoning Board of Appeals (ZBA) in support of a reduction in offsite parking.
5. On January 17, 2024, the ZBA voted to approve a variance per Section 5.1.9 Off-Street Parking – Central Development District to reduce the parking spaces required to a one-to-one ratio. After receiving a parking variance from the ZBA, the applicant proposed an increase of the number of residential units from 18 to 20.
6. On February 2, 2024, the City contracted with New England Civil Engineering (NECE) to provide an independent peer review of the proposed development plans including stormwater management and drainage for all discharges and connections to the City of Salem MS4 drainage system, and onsite engineering issues covered by the City of Salem “engineering rules and regulations for site plan review and building permit routing slip sign off” checklist” per the tasks identified in the proposal dated December 7, 2023.
7. On February 8, 2024, the City of Salem Director of Traffic and Parking provided the Planning Board a letter recommending that the Planning Board include a condition in the decision to preclude residents at 301 Essex Street from being eligible to participate in the City’s resident permit parking program.
8. On February 22, 2024, an updated notice of public hearing was issued to describe the project as proposing 20 residential units.
9. The Planning Board closed the public hearing on March 7, 2024.
10. 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.

### Site Plan Review Determination

The Planning Board finds that the proposed project as conditioned complies with all review criteria as identified in Site Plan Review, Sec. 9.5.6. The Plan meets accepted site planning standards and promotes standards such that the development takes place in a manner which shall in all aspects be an asset to the City.

### Decision

In view of these findings, the Planning Board decided at a regularly scheduled meeting on March 7, 2024, by a vote of seven (7) (Vice Chair Kirt Reider, Helen Sides, Carole Hamilton, Jonathan Berk, Josh Turiel, Sarah Tarbet, Tom Furey) in favor and zero (0) opposed to approve the proposed project subject to the following conditions:

#### 1. Conformance with the Plan

- a. Work shall conform to “Site Improvements at 301 Essex Street (Assessor’s Map 26, Lot 448), Salem, Massachusetts,” with the sheets listed below (the “Plans”):

Drawing Title	Sheet No.	Prepared By	Issued	Revised
Existing Conditions Plan	C1.00	Griffin Engineering, LLC	09/13/23	
Site Layout Plan	C2.00	Griffin Engineering, LLC	09/13/23	02/26/24
Grading and Utility Plan	C3.00	Griffin Engineering, LLC	09/13/23	
Details	C4.00	Griffin Engineering, LLC	09/13/23	
DRB Submittal (Locus Map)	A-0	Seger Architects, Inc.	03/10/23	02/6/24
DRB Submittal (Locus Map and Aerial Views)	A-1	Seger Architects, Inc	03/10/23	02/6/24
DRB Submittal (Street View Looking West)	A-2	Seger Architects, Inc	03/10/23	02/6/24
DRB Submittal (Street View of Storefront)	A-3	Seger Architects, Inc	03/10/23	02/6/24
DRB Submittal (Street Views)	A-4	Seger Architects, Inc	03/10/23	02/6/24
Plot Plan	A-5	PJF & Associates	08/16/23	02/6/24
Grade Floor Plan	A-6.1	Seger Architects, Inc	02/6/24	
Inter-Floor Plan and Second Floor Plan	A-6.2	Seger Architects, Inc	03/10/23	
Third & Fourth Typ. Floor Plan and Upper Floor/Roof Plan	A-6.3	Seger Architects, Inc	03/10/23	
Cross Section	A-6.4	Seger Architects, Inc	03/10/23	02/6/24 (listed as sheet A-6.2)
DRB Rendering (Corner of Summer St. and Essex St.)	A-7	Seger Architects, Inc	03/10/23	02/6/24

DRB Rendering (Corner of Essex St. Looking East)	A-8	Seger Architects, Inc	03/10/23	02/6/24
DRB Rendering (View from Essex St. Looking East)	A-9	Seger Architects, Inc	03/10/23	02/6/24
DRB Rendering (Essex St Looking West)	A-10	Seger Architects, Inc	03/10/23	02/6/24
DRB Rendering (Views from Essex St.)	A-11	Seger Architects, Inc	03/10/23	02/6/24
DRB Rendering (West and North Facades)	A-12	Seger Architects, Inc	03/10/23	02/6/24
DRB Rendering (West and North Elevations)	A-13	Seger Architects, Inc	03/10/23	02/6/24
DRB Rendering (North and East Elevations)	A-14	Seger Architects, Inc	03/10/23	02/6/24
Site Locus in Relation to Municipal Facilities	FIG 1	Griffin Engineering, LLC	12/8/23	

- b. Prior to issuance of a building permit, the applicant shall submit revised Site Layout Plan showing the following changes:
  - i. All signs currently within existing tree pits with or without trees shall be removed & relocated 3-5' from the tree pit edge, reinstalled per City of Salem Traffic Standards.

## 2. Amendments

- a. Any proposed future changes to the site plan shall be submitted to the City Planner for their review, prior to any changes in the field. The submission shall include a plan sheet with all changes from the plans approved by the Planning Board bubbled, noted, and stamped by a licensed professional engineer or architect. This submission shall also include a brief narrative explaining the proposed changes. If deemed necessary by the City Planner, these amendments shall be brought to the Planning Board.
- b. 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. Site Specific Conditions

- a. Where HVAC units, equipment or penetrations are installed on site, they shall be visually screened. The method for screening the unit shall be submitted to the City Planner for review and approval prior to installation. Approved method for screening shall be constructed and installed prior to the issuance of a Certificate of Occupancy. If not screened, units shall be dark in color.
- b. In the event that solar panels are located on the roofs of the resulting establishment, then the developer shall assure that there be no reflective glare from the panels onto

abutting residential properties. This condition shall be monitored post-construction by the developer at the nearest abutting residential property lines.

- c. The applicant shall install a warning system to alert pedestrians when vehicles are exiting the parking garage. The specifications shall be submitted to the City of Salem Building Commissioner prior to issuance of the Building Permit. Installation must occur prior to issuance of a Certificate of Occupancy.
- d. All signs currently within existing tree pits with or without trees shall be removed & relocated 3-5' from the tree pit edge, reinstalled per City of Salem Traffic Standards.

## **5. Pre-Construction Conference**

- a. Prior to mobilizing equipment on site for the start of work, a pre-construction conference as necessary shall be scheduled with the City Planner, the City Engineer (or their designee), the Building Commissioner, the Health Agent, Tree Warden and any other departments that may be necessary. The Owner shall submit a construction schedule at the time of the pre-construction conference. The schedule shall include a description of how construction will be phased and staged and what the impacts will be to the sidewalks and roadways.

## **6. Traffic & Circulation**

- a. The applicant and any future property management company are required to purchase passes to the Museum Place Garage on an annual basis.
- b. The residents of 301 Essex Street shall not be eligible to participate in the Residential Parking Permits Program.
- c. To ensure that safe vehicular, bicyclist, and pedestrian circulation is maintained throughout construction, applicant shall submit to the City Planner, prior to issuance of a Building Permit, a plan detailing site access for construction vehicles, material delivery, debris removal, and any other vehicular activity associated with the project's construction.
- d. The owner shall contribute \$10,000.00 to the City of Salem Transportation Enhancement Fund (TEF), commensurate to the project's impact on the City's transportation network, prior to issuance of a Certificate of Occupancy. The TEF will be used by the city for transportation network services relating to infrastructure and or operation of the transportation network.

## **7. Sustainability and Resiliency**

- a. Prior to issuance of a Building Permit, the developer shall submit a revised Net Zero Energy Questionnaire to the Sustainability & Resiliency Director for review.
- b. Prior to issuance of a Certificate of Occupancy, the developer shall submit a revised Net Zero Energy Questionnaire to the Sustainability & Resiliency Director for review.

## **8. Fire Department**

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

## **9. Building Inspector**

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

## **10. Board of Health**

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

- a. 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.
- b. 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 meets the DEP standards for the proposed use.
- c. A copy of the Licensed Asbestos Inspector's Report must be sent to the Health Agent.
- d. A copy of the Demolition Notice sent to the DEP, Form BWPAO6, must be sent to the Health Agent.
- e. The developer shall adhere to a drainage plan as approved by the City Engineer.
- f. 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 invoice to the Health Agent.
- g. The developer shall submit to the Health Agent a plan for rodent control and maintain the area free from rodents throughout construction.
- h. The developer shall submit to the Health Agent a written plan for dust control and street sweeping which will occur during construction.
- i. 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.
- j. In accordance with Board of Health regulation #7, the developer shall ensure that the trash contractor offer mandatory recycling to the development.
- k. The Fire Department must approve the plan regarding access for fire fighting.
- l. 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 property line.
- m. The developer shall disclose in writing to the Health Agent the origin of any fill material needed for the project.
- n. 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.
- o. The developer shall notify the Health Agent when the project is complete for final inspection and confirmation that above conditions have been met.

## **11. Affordable Housing**

- a. Ten percent of the housing units shall be set aside as affordable housing units. The applicant shall place an Affordable Housing Restriction on the affordable housing units in the form acceptable to the Executive Office of Housing and Livable Communities (EOHLC). The restrictions shall be in accordance with the eligibility criteria for EOHLC's Subsidized Housing Inventory for the purpose of ensuring that the twenty percent of the dwelling housing units will be restricted as affordable housing for households whose annual incomes are sixty percent (60%) or less of

Area Median Income (“Low Income Households”) with a sales or rental price affordable to said households as determined by EOHLC 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.

- b. The Affordable Housing Units must be constructed and ready for occupancy at a proportion of one (1) affordable unit for every five (5) certificates of occupancy released for the market rate units. Ready for occupancy means that 1. The affordable units have a certificate of occupancy, 2. The Affordable Housing Restriction has been registered with the Essex South Registry of Deeds, and 3. The lottery has been completed pursuant to Section III of the EOHLC Comprehensive Permit Guidelines.

## **12. Landscaping**

- a. An as built landscaping plan accompanied with a letter from a Registered Landscape Architect or certified arborist certifying compliance of the landscaping with the approved plan shall be submitted to the City Planner prior to issuance of the Certificate of Occupancy.
- b. Maintenance of all landscaping on the site shall be the responsibility of the Applicant indefinitely, its successors or assigns, and any tree or shrub that does not survive shall be replaced.
- c. The applicant shall coordinate further with the Tree Warden to determine actual size and species, likely to be a Jefferson Elm or Swamp White Oak at the required 3.5” caliper. Method of installation by City or applicant to be determined, with a maximum cost of \$3,000, at the open tree pit along Summer Street.

## **13. 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, 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.

## **14. City Engineer & Utilities**

- a. All work shall comply with all requirements of the City Engineer.
- b. All work shall comply with the Engineering Rules and Regulations.
- c. The applicant shall comply with all the recommendations from the civil peer review letter, to be issued by New England Civil Engineering.
- d. The applicant must comply with conditions 1 through 3 prior to the Engineering Department sign-off on any building permits (including but not limited to building, foundation, demolition, etc.) and/or the issuance of any permits from the Engineering Department.

## **15. Engineering Clerk of the Works**

- a. A Clerk of the Works shall be provided by the City, at the expense of the Applicant, their successors or assigns, as it is deemed necessary by the City Engineer.

Accordingly, it is the understanding of the Board, the City Planner, the City Engineer, and the Applicant, that the Clerk of the Works is expected to oversee and review all civil and 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. All connections to, extensions of, or improvements to publicly owned infrastructure both on the Applicant's site or within the City's right of way including any on-site stormwater or wastewater systems;
  - iv. All new installations or modifications to existing pavement, sidewalk, and curbing; and
  - v. All conditions placed on the project by an Order of Conditions from the Salem Conservation Commission.
- b. The Clerk of the Works shall review all proposed changes to the original Planning Board decision and coordinate with the City before accepting any changes.
  - c. The Applicant shall submit a construction plan that includes a detailed sequence and schedule of all construction activities related to the Clerk of the Works' purview. The submitted and accepted construction plan with sequence and schedule shall be used to create a Task Order for the Clerk of the Works.
  - d. No work, including blasting, demolition, excavation, and grading shall start before a task order for the Clerk of the Works' services has been agreed upon by all parties.

#### **16. Construction Practices**

- a. All construction shall be carried out in accordance with the following conditions:
  - i. All provisions in the City of Salem's Code of Ordinance, Chapter 22, Noise Control, shall be strictly adhered to.
  - ii. 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.
  - iii. 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 state and federal holidays. Blasting shall be undertaken in accordance with all local and state regulations.
  - iv. All construction and staging 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.
  - v. Prior to issuance of a demolition, foundation, or building permit, the Applicant shall provide a detailed construction vehicle access, schedule, and traffic plan for review and approval by the Director of Traffic & Parking
  - vi. Any roadways, driveways, sidewalks, or landscaping damaged during construction shall be restored to their original condition by the applicant.
  - vii. 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.

- viii. 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.
- ix. All construction vehicles left overnight at the site, must be located completely on the site.
- x. Should contaminated materials be encountered onsite, 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.
- xi. 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.

#### **17. As-built Engineering Plans**

- a. As-built Plans, stamped by a Registered Professional Engineer, shall be reviewed and approved by the Clerk of the Works, then 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 acceptable to 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.

#### **18. Lapse**

- a. The site plan approval shall lapse after two years from the grant thereof if actual construction thereon has not sooner commenced except for good cause as determined by the Planning Board in its sole discretion. Such approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant.

#### **19. Violations**

- a. Violations of any condition contained herein 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 seven (7) in favor and zero (0) opposed to approve the Site Plan Review application subject to the above-stated terms and conditions: Vice Chair Kirt Reider, Helen Sides, Carole Hamilton, Jonathan Berk, Josh Turiel, Sarah Tabet, Tom Furey.



Planning Board Decision  
301 Essex Street  
March 11, 2024

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 Site Plan Review 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.

A handwritten signature in black ink, appearing to read "Kirt Reider". The signature is stylized with a large, bold "K" and "R".

Kirt Reider  
Vice Chair