



# CITY OF SALEM PLANNING BOARD

2020 MAY 21 AM 9:22

CITY CLERK  
SALEM, MASS

## **Amended Decision**

**Site Plan Review and Special Permits under the North River Canal Corridor  
Neighborhood Mixed Use District and Flood Hazard Overlay District, and  
Stormwater Management Permit**

**16, 18 and 20R Franklin Street  
(Map 26, Lots 400, 401 and 402)**

**May 18, 2020**

### **Findings and Decision**

Re: Application of Juniper Point Investment Co LLC for the properties located at 16, 18 and 20R Franklin Street (Map 26, Lots 400, 401, and 402) for an amendment to a Site Plan Review, Flood Hazard Overlay District Special Permit, and Special Permits associated with the North River Canal Corridor Neighborhood Mixed Use District in accordance with the following sections of the Salem Zoning Ordinance: Section 9.5 Site Plan Review; Section 8.1 Flood Hazard Overlay District; Section 8.4 North River Canal Corridor Neighborhood Mixed Use District; and a Stormwater Management Permit in accordance with Salem Code of Ordinances Chapter 37.

Specifically, the applicant proposes to amend an existing Planning Board decision dated September 20, 2018. The original decision allows replacing the junkyard with a residential development consisting of forty-two (42) units in five (5) buildings and includes a strip of land running from Franklin Street to the river that is approximately 25,000 square feet and is part of an ownership dispute. The new application includes only a portion of the disputed land and downsizes the project accordingly. The amendment proposes to replace the existing junkyard with a residential development consisting of thirty-seven (37) units in four (4) buildings with parking under each building, in addition to some surface parking. The project also includes landscaping throughout, and public access along the riverfront with walking paths. Also included are slightly repositioned building locations. In order to accommodate the new building layout, the applicant proposes the relocation of the site entrance approximately 55-feet to the south; revised parking and walkway layouts; changes to grading, drainage, sewer, water, gas, electric, lighting, and landscaping; and a new proposed approximately three-foot tall retaining wall along the disputed strip of land.

Alternatively, should the disputed portion of land included in this plan (Parcel B) not be integrated into the project, then this Decision shall reflect a further reduced plan, to 31 units, with no change to the building footprints, or site plan (excepting the landscaped portion of Parcel B), as submitted herewith and conditioned below.

## Procedural History

1. On February 27, 2020, the applicant filed the above referenced application for an amendment to the Planning Board's September 20, 2018 decision.
2. The Planning Board of the City of Salem scheduled a public hearing for Thursday, March 19, 2020. The Planning Board met via remote participation platform Zoom, pursuant to Governor Baker's March 12, 2020 Order Suspending Certain Provisions of the Open Meeting Law, G.L. c. 30A, §20, and the Governor's March 15, 2020 Order imposing strict limitation on the number of people that may gather in one place. In light of these conditions, the applicant requested a continuation to the regularly scheduled Planning Board meeting on April 2, 2020 at 7:00 p.m. The Planning Board continued the meeting to April 2, 2020; no testimony was heard on March 19th.
3. On Thursday, April 2, 2020 the Planning Board met via remote participation platform Zoom and opened a Public Hearing for the above referenced project. The hearing was additionally continued to April 16, 2020 and May 7, 2020. The hearing was closed on Thursday, May 7, 2020.
4. Since the project Amendment was initially filed on February 27, 2020, there have been modifications proposed to the plans as a result of input from the Planning Board and public comment. Specifically, in the course of the review the plans evolved such that landscaping and sidewalk layouts were revised.
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.

In considering approval of the NRCC Site Plan Review, as amended, the Planning Board finds that the development meets the goals of the North River Canal Corridor Plan, as stated in the Salem Zoning Ordinance, as follows:

**1. Create appropriate development while preserving our historic neighborhood character:**

The site is located in a transitional zone, with land use changing from the commercial and industrial uses and structures at the south end of Franklin Street to residential and parkland uses at the north end of Franklin Street. The window openings in the townhouse buildings are a traditional style and arrangement rather than contemporary, a flat roof, and trim panel detail to the top of the roof decks facing Franklin Street. As an amendment to site conditions, this project did not go before the Design Review Board for a recommendation, but the design is consistent with what was reviewed by the DRB and subsequently approved by the Planning Board on September 20, 2018.

The Planning Board finds that the size and scale of the development is appropriate while preserving the historic neighborhood character given the massing of the development is stepped with lower townhouses along Franklin Street to the taller midrise buildings in the back and since the project complies with height requirements per the zoning ordinance.

**2. Address transportation issues for existing and new developments:**

The development is not projected to have significant impact (increase) on motorist delays. Nevertheless, the project is conducive to multi-modal transportation as it is within walking distance of the Salem MBTA Bus and Train Station and the MBTA Bus Route 465 (which travels along North Street at the south end of Franklin Street, approximately 500-feet from the site). The applicant will also contribute funding towards the City's Transportation Enhancement Fund to address the impact of transportation network services on municipal roads, and other transportation infrastructure or any other public purpose substantially related to the operation of transportation network services in the city, including programs that support alternative modes of transportation. The project also provides adequate bicycle storage space in the buildings for residents.

**3. Enhance the public realm in keeping with our unique neighborhood character:**

The development project strengthens Franklin Street as a quality road in adding shade trees along the property line, improving sidewalks along Franklin Street, and providing a public walkway along the North River.

In considering approval of the amended NRCC Special Permits, the Planning Board finds that based on submitted reports, project plans, visual analysis and site investigation, the proposed project is consistent with the North River Canal Corridor Neighborhood Master Plan in that it:

1. Remediates an existing junkyard;
2. Enhances the residential character of the neighborhood by creating new housing opportunities, 10% of which will be affordable units;
3. Creates a public walking path along the North River and connects Furlong Park.

*Flood Hazard Overlay District Special Permit*

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 amended Flood Hazard Overlay District Special Permit, the Planning Board hereby makes the findings:

1. **The proposed uses comply in all respects to the uses and provisions of the underlying districts in which the land is located.**
  - a. The subject property is located in the North River Canal Corridor, an area designated for urban village of mixed uses. The project amendment complies in all respects to the uses and provisions of the underlying district in which the land is located.

- 2. 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.**
  - a. Although portions of the site and the adjacent streets will be flooded up to a depth of approximately three feet in the event of a flood, all habitable portions of the site and all mechanical equipment will be elevated at elevation 11, above the flood zone.
  - b. Effective notice to prospective purchasers of the flood hazard conditions associated with said premises and steps undertaken by the petitioner or his successor in title to alleviate the effects of same will be provided by recording the decision herein at the registry of deeds.
- 3. 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.**
  - a. Underground utilities (water, sewer, gas, and drainage) exist in Franklin Street and will be extended into the property. All mechanical and electrical equipment will be elevated above the 100-year flood elevations (AE elevation 10). An exterior pad-mount transformer will be set on an elevated concrete pad to raise the transformer above the flood zone.
- 4. 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.**
  - a. 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 hereby grants an amendment to the Site Plan Review (Section 9.5) and Special Permits under the North River Canal Corridor Neighborhood Mixed Use District and Flood Hazard Overlay District, and Stormwater Management Permit for the development of the Plan as shown with 37 units, if and only if Parcel B is included; If not, the Board approves 31 units as shown on that Plan. This decision is in accordance with the terms and conditions stated below.

### **1. Original Decision**

- a. All Conditions set forth in the original decision for Site Plan Review and Special Permits under the North River Canal Corridor Neighborhood Mixed Use District and Flood Hazard Overlay District, and Stormwater Management Permits dated September 20, 2018 shall remain and be adhered to by the applicant, unless eliminated or amended in this decision.

### **2. Conformance with the Plans**

- a. Work shall conform with the set of plans entitled, "North River Condominium Development 16, 18 & 20R Franklin Street, Salem, MA," prepared by Red Barn Architecture:
  - i. Sheets A-2.3, A-2.4, A2.5, and A2.6 dated June 13, 2018.
- b. Work shall conform with the set of plans entitled, "Site Plan Review & Flood Hazard Overlay District Special Permit for North River Condominium Development 16-18 20R Franklin Street, Salem, MA," prepared by Griffin Engineering Group, LLC:
  - i. Sheets Cover, C-1, C-6, C-7, C-9, D-1, D-2, D-3, and D-4 dated June 6, 2018 and last revised February 26, 2020.
  - ii. Sheets C-2, C-3, C-4, C-5, C-8, and C-10 dated June 13, 2018 and last revised on April 27, 2020.

### **3. Amendments**

- a. Any proposed future changes to the site plan shall be submitted to the City Planner for their review. 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. Any waiver of conditions contained within shall require the approval of the Planning Board.

### **4. Design Review Board**

- a. The applicant shall submit final construction plans to the Design Review Board (DRB) for its review prior to the issuance of a building permit.
- b. All construction plans shall be in accordance with the plans submitted and approved by the Planning Board. Any changes from the plans approved by this decision shall be bubbled, noted, and stamped by a licensed professional engineer or architect on the construction plans submitted to the DRB for review. This submission shall also include a brief narrative explaining any changes.
- c. The DRB shall inform the City Planner that the construction plans conform to the approved plans or note the changes indicated by the applicant. The DRB shall provide a recommendation to approve or not approve the changes. The City Planner shall review the recommendation, and if deemed necessary by the City Planner, the changes shall be brought to the Planning Board. Any waiver of conditions contained within shall require the approval of the Planning Board.

### **5. Transfer of Ownership**

- a. In the event of the transfer of the site as a whole prior to the issuance of the Certificate of Occupancy, within thirty (30) days of such transfer, the Owner shall notify the Planning Department 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.

## **6. Site Specific**

- a. The public shall have unrestricted 24-hour access to use the path to the river and the path along the river as shown on the Sheet C-3 of the plans approved herewith.
- b. No fence along Franklin Street shall be erected that restricts public access to and across the property.
- c. It is hereby understood that if the developer obtains access or ownership to Parcels A and B, the applicant will work with the City of Salem to create a direct pathway access from Franklin street to the waterfront through or along Parcel A and B to replace the pathway currently shown through the center of the site.

## **7. Affordable Housing Units**

- a. If the Applicant proceeds with the version of the development consisting of thirty-seven (37) residential units, four (4) housing units shall be set aside as affordable housing units. Alternatively, if the Applicant proceeds with the version of the development consisting of thirty-one (31) residential units, three (3) housing units shall be set aside as affordable housing units. The Applicant shall place an Affordable Housing Restriction on these 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 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.

## **8. Traffic**

- a. Refer to original Planning Board Decision dated September 20, 2018.
- b. The owner shall tender \$500 per residential unit constructed to the City of Salem Transportation Enhancement Fund (TEF) prior to issuance of the first 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.

## **9. Landscaping**

- a. Refer to original Planning Board Decision dated September 20, 2018.
- b. The applicant shall confirm the choice of tree species on the project site and proposed street trees with the Tree Warden prior to the issuance of a Building Permit.
- c. Should "Parcel B," as identified on the approved plans, be included in the project development, landscaping must be provided as shown on the approved plans.

## **10. Lighting**

- a. Refer to original Planning Board Decision dated September 20, 2018.

## **11. Maintenance**

- a. Refer to original Planning Board Decision dated September 20, 2018.

**12. Conservation Commission**

- a. All work shall comply with the requirements of the Salem Conservation Commission
- b. The applicant shall receive all necessary approvals from the Salem Conservation Commission.

**13. Board of Health**

- a. Refer to original Planning Board Decision dated September 20, 2018.

**14. Fire Department**

- a. Refer to original Planning Board Decision dated September 20, 2018.

**15. Building Inspector**

- a. Refer to original Planning Board Decision dated September 20, 2018.

**16. Utilities**

- a. Refer to original Planning Board Decision dated September 20, 2018.
- b. Applicant to submit results of planned fire flow tests to City Engineer with recommendations for improvements and submit revise water plans if required to the Engineering Department prior to receipt of building permit.
- c. Applicant to provide detailed garage drainage plans prior to receipt of foundation permit.
- d. Applicant to submit final plumbing plans to City Engineer to demonstrate that entire roof can be collected and conveyed to the proposed roof drains prior to receipt of building permit.
- e. Applicant has added a full-bodied tee and 12-inch gate valve on Franklin Street and a note (Note 3 on Sheet c-4) that the second 12-inch gate valve will be replaced if testing of valve (performed by Applicant and witnessed by City Engineer) during construction indicates valve leaks, does not hold, or is not operational. Applicant to include locations of irrigation lines and details about meters and backflow in accordance with City requirements prior to receipt of foundation permit.

**17. City Engineer**

- a. Refer to original Planning Board Decision dated September 20, 2018.

**18. Clerk of the Works**

- a. Refer to original Planning Board Decision dated September 20, 2018.

**19. Construction Practices**

- a. In addition to the "Construction Practices" conditions outlined in the original Planning Board decision, in order to reduce potential dust, rock crushing shall not be allowed on site without specific review and approval by the City Planner.

**20. As-built Plans**

- a. Refer to original Planning Board Decision dated September 20, 2018.

## 21. 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 vote to grant an amendment to a Site Plan Review and Special Permits under the North River Canal Corridor Neighborhood Mixed Use District and Flood Hazard Overlay District, and Stormwater Management Permit subject to the above-stated terms and conditions: Chair Ben Anderson, Kirt Rieder, Matt Venio, Helen Sides, Noah Koretz, DJ Napolitano, Matt Smith, and Carole Hamilton.

None of the members of the Planning Board are in opposition to the grant a Site Plan Review and Special Permits under the North River Canal Corridor Neighborhood Mixed Use District and Flood Hazard Overlay District, and Stormwater Management 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 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

This notice posted on "Official Bulletin Board"  
City Hall, Salem, Mass. on May 21, 2020  
at 9:22 AM in accordance with MGL Chap. 30A,  
Sections 18-25.