

**City of Salem Planning Board
DRAFT Meeting November 21, 2019**

A public hearing of the Salem Planning Board was held on Thursday, November 21, 2019 at 7:00 p.m. at City Hall Annex, 98 Washington St., Large Public Hearing Room, First Floor, Salem, Massachusetts.

Chair Ben Anderson calls the meeting to order at 7:05pm.

I. ROLL CALL

Those present were: Chair Ben Anderson, Kirt Rieder, Matt Veno, Helen Sides, Noah Koretz (5)
Absent: DJ Napolitano, Bill Griset, Matt Smith, Carole Hamilton (4)
Also in attendance: Mason Wells, Staff Planner
Recorder: Stacy Kilb, Clerk

II. REGULAR AGENDA

A.

Location: 45 Traders Way and 40 First Street (Map 08, Lot 159; Map 13, Lot 0011)

Applicant: Trader's Way Residential Holdings, LLC

Description: *The applicant has requested a continuation to the regularly scheduled meeting on December 5, 2019* of the public hearing for all persons interested in the application of TRADER'S WAY RESIDENTIAL HOLDINGS, LLC for the properties located at 45 Traders Way and 40 First Street (Map 08, Lot 159; Map 13, Lot 0011) for an amendment to a Planned Unit Development Special Permit and Site Plan Review decision in accordance with Salem Zoning Ordinance section 7.3 Planned Unit Development and section 9.5 Site Plan Review. Specifically, the applicant proposes to amend the PUD and SPR decision dated September 18, 2018. Proposed are revisions to walkways, storm drainage systems, and other site grading and retention alterations due to site conditions and building entryway alignments. The applicant also proposes revisions and clarification to the building architecture, footprints, and landscaping. The applicant does not propose further disturbance of wetland areas nor building footprint shifts more than a few feet.

A motion to continue the hearing to the December 5, 2019 Planning Board meeting is made by Noah Koretz, seconded by Helen Sides, and the matter carries.

B.

Location: 51 Canal Street (Map 34, Lot 86)

Applicant: Salem Car Wash, LLC

Description: *The applicant has requested a continuation to the regularly scheduled meeting on December 5, 2019* of the public hearing for all persons interested in the application of SALEM CAR WASH, LLC for the property located at 51 Canal Street (Map 34, Lot 86) for a Site Plan Review and a Flood Hazard Overlay District Special Permit in accordance with the Salem Zoning Ordinance Section 9.5, Section 8.2, and Section 8.1. Specifically, the applicant proposes to demolish the existing facility and to build a 3,900 square foot car wash building, customer parking for access to vacuum cleaners, employee parking, ADA access, and approximately 6,000 square feet of landscape area.

A motion to continue the hearing to the December 5, 2019 Planning Board meeting is made by Kirt Rieder seconded by Matt and the motion carries.

III. OLD/NEW BUSINESS

- A. Deliberate and vote on a recommendation to the City Council for a proposed amendment to the Salem Zoning Ordinance to rezone the map** for the following parcels of real property located at: 355 Highland Avenue (Assessor Map 7, Lot 46); 373 Highland Avenue (Assessor Map 7, Lot 58), 2 Cedar Road (Assessor Map 7, Lot 57), 3 Cedar Road (Assessor Map 7, Lot 47), 5 Cedar Road (Assessor Map 7, Lot 48), 6 Cedar Road (Assessor Map 7, Lot 56) and 10 Cedar Road (Assessor Map 7, Lot 55), **from Business Highway (B2) and Business Park Development (BPD) districts to the Residential Multi-Family (R3) District.**

Table of Dimensional Requirements			
	R3**	B2	BPD
Minimum lot area (square feet)	25,000	12,000	40,000
Minimum lot area per dwelling unit (square feet)	3,500	-	-
Minimum lot frontage (feet)	100	100	150
Minimum lot width (feet)	100	100	150
Maximum lot coverage by all buildings (percent)	35	25	45
Minimum open space (percent)	-	-	10
Minimum depth of front yard (feet)	15	30	50
Minimum width of side yard (feet)	20	10	30
Minimum depth of rear yard (feet)	30	30	50
Maximum height of buildings (feet)	45**	30	50
Maximum height of buildings (stories)	3.5**	-	-
Minimum distance between buildings on lot (feet)	40	-	-
Buffer area required (feet from any residential or conservation use)	-	-	75
Floor area ratio	-	-	-
Maximum height of retaining walls, boundary walls and/or fences (feet)***	6	10	10

The City Solicitor has been consulted re concerns about spot zoning. After reading her memo, the Chair is convinced that this is not. The history of the lots in question, and the plans for development, are reviewed. The limits of the current zoning are described. No potential designs or layouts are available. The reason for not undergoing the ZBA process is to avoid the 50% requirement/limitations on the percentage of unbuildable land that is restricted by BPD/special permit. Kirt Rieder summarizes that this would reduce the number of constraints on the Applicant.

It is noted that more people were in favor of, than opposed to, the project; residential development causes less traffic than commercial. There was a lot of engagement between the developer and the neighborhood. Some expressed concerns about rezoning for a project as opposed to rezoning for the purpose of higher level planning. Other concerns were the loss of this type of zoning use along Highland Ave., an ECOD (Entrance Corridor Overlay District). Many neighbors, however, do not want anything to do with a business corridor development. Because they are losing frontage on Highland Ave., it undermines the usability of that zone for that purpose.

Was mixed use discussed? Yes, the neighborhood would like a family type or upscale sit-down restaurant, but its placement was not discussed as the Applicant has not really started planning. A PUD (Planned Urban Development) requires mixed use based on square footage. Noah Koretz feels that unless it is of a certain envelope, he is concerned whether small scale retail will be viable, and maybe fronting Highland would be OK. Kirt Rieder

believes square footage would mean a small convenience store, yoga studio, or restaurant smaller than a full service sit down establishment, just so that assumptions are not met with surprise.

This would be a PUD in a unified R3 zone. A PUD requires a mix of uses, and must contain a minimum square footage of commercial use. The concern is that it will be built out to comply with zoning but the commercial space will never be fully tenanted. The Applicant would have to plan to build a large restaurant. Having vacant commercial space facing the frontage is worse than having solely residential. But commercial could be located in the back of the lot, however Helen Sides notes that, in this location, it is more likely to be occupied.

Mason Wells clarifies that in BPD 50% of the land area of the parcel cannot be residential or associated improvements (parking and landscaping). In mixed use, residential uses cannot exceed 50% of the gross square footage of the development. Some clarification is desired.

Regarding open space BPD vs. R3:

“7.3.5 Open Space. Provisions shall be made so that usable open space shall be owned:

1. By the City of Salem for park, open space or conservation use;
2. By a corporation or trust owned or to be owned by the owners of lots or residential units within the land that may be approved by the Planning Board, with provisions for limited easements for recreational use by residents of the City; provided that such ownership shall vest in sufficient rights to bogs and areas of enable it to enforce compliance with the restrictions imposed by the Planning Board as conditions of its special permit.
(https://library.municode.com/ma/salem/codes/zoning_ordinance?nodeId=S7.0SPRERE)”

Why is doing a PUD in R3 more advantageous than doing it in a BPD? This is because 50% of the land cannot be developed in a BPD. In a BPD, residential amenities such as parking and landscaping cannot exceed 50%.

Looking at the big picture, gridlock is a serious problem in Salem; if that is to change, Transit Oriented Development (TOD) must be seriously considered. I.e. it may not be good planning policy to add residential density to the most car-dependent part of the City. While the underlying uses are still car dependent, zoning change is policy change, and not just so that people can walk to things. This is one of the least transit/pedestrian friendly areas of Salem. Possible future upgrades to Highland Ave. are discussed. There is discussion about Tropical Products, bicycle parking, etc. The Attorney had argued, “It’s Highland Ave.,” but if that will always be the rationale, it would have to be incrementally changed. This is also ECOD. Noah Koretz is not convinced of the merits of encouraging packing density closer to transit/multifamily houses vs. business highway. There is a bus line here and an additional stop should be considered. Bus only lanes elsewhere have been successful.

The whole system will never work if the City approaches zoning piecemeal like this, notes Noah Koretz. Zoning in the Ordinance is out of date, having been chipped away in lots of places, and does not serve as a workable tool for the City’s priorities. Chair Anderson comments that he would love to see BPD along Highland Ave, with this development behind it, but that is not what is proposed. He feels that there is precedent for this to not be considered spot zoning, but it still feels like this is for this one developer and this one project. Kirt Rieder asks, if the Applicant goes through the same process as the movie theater, would we be asked to revert the property to BPD again? The Board is being reactive, not proactive.

Salem’s current priority is housing. Chair Anderswon feels there may be a better way to plan this, but he is torn between allowing housing and nitpicking. The procedure is that the Board can recommend the change to the City Council, who can vote or send it back to the Planning Board. The Board can share its concerns.

Kirt Rieder notes that the question is whether the PB recommends the change in zoning. There is no proposal, and all that is known is that it would be a PUD with residential. The PB can recommend the rezoning, with changes. This is for the City Council's consideration. Discussion points, rather than conditions, can be attached to any recommendation. Helen Sides notes that it is important that there be a requirement that the developer build the front lot; technically this is setting aside the lot for commercial to take place, but changing the requirements of zoning is something that needs to happen. When a PUD comes before the PB, would be the time to address this.

The Board's concerns should be brought to the City Council. Matt Venio comments that developing this as a PUD gives the Board the right to weigh in on those concerns. This needs to be about more than square footage, and can be addressed in SPR/PUD.

How to move forward is discussed. The Board could recommend the change w/ a caveat re: concerns w/ street edge development in ECOD, location of commercial, and parking. It is unclear to what end a recommendation today would be, because issues will need to be addressed in SPR anyway, presuming that that is how they will proceed. Kirt Rieder wonders, if the Board recommends and Council approves, and zoning is changed, then the developer flips to someone who wants businesses on these lots, how can the Board caution that this is a possibility? This will, regardless, require a zoning change, but the neighbors prefer it to be restricted to residential even as commercial corridors are already getting gradually eroded. People who do not live in the Highland Ave. area think that commercial belongs on Highland Ave. Commercial on Bridge St. is of another type.

Matt Venio suggests editorializing in favor, expressing that the Board struggles w/ outdated zoning; this proposal further highlights this struggle. Zoning is not adequate to meet the City's needs. This is a policy need, also after so much chipping away the three different zones on this parcel do not make any sense. It is a patchwork. Helen Sides comments on the amount of housing under development. People want to know "where is the City's plan for all this housing?" There is none; rather it's an "all of the above" approach, which is the problem. Transit and flooding are major considerations; how do we build where transit is accessible and it will not flood? Matt Venio is a proponent of downtown retail and density, but notes that Salem doesn't want to be seen as a "precious" community with "utilitarian" commercial relegated to areas outside of City limits. Spaces are needed for larger, utilitarian retail; we don't want to send people to Peabody or Danvers for that. For example, the Canal St. developer wanted to put in two drive throughs, but the PB nixed that plan, aiming to have that area become more pedestrian/neighborhood, and it will after a while. But Highland Ave. will never feel that way. This is a place we can put larger format, car-dependent commercial, so from a comprehensive Plan view, that sort of thing should still go there. By pushing residential here and not elsewhere, we lose the ability to plan.

Chair Anderson agrees but notes it has already been eroded. Traders Way is more like suburban housing, but is in a big commercial corridor, which is more symbiotic than having dense single family homes in an urban context. The strip along Highland Ave. is the most appropriate area for large format commercial.

Kirt Rieder notes that the proposed zoning change is for 7 parcels; the Applicant does not own all the way back but is hoping that the paper road (Cedar Rd.) gets extended. Conservation land is not shown and Kirt Rieder wonders where it is. This is a SPR/PUD topic; Mason Wells points out the wetland.

Kirt Rieder suggests that, in the absence of a strategic plan, the Board recommend proceeding with rezoning as proposed. "In the absence of a strategic plan, we will react non-strategically," quips Noah Koretz. Comments may be added; Noah Koretz is torn on what is the best solution. If issues such as this one repeatedly come up and are not addressed, and the Board keeps repeating this process, the issues will never be resolved and there is no pressure to resolve them from a planning point of view; this will result in frustration. The issue needs to be addressed strategically, but that is not happening. Developers and the City will say "we can't keep doing it this way, we must

look at it holistically.” A denial could be seen as a protest vote, however there are serious planning concerns as the PB is tasked with faithfully interpreting these issues.

Helen Sides notes that these issues have only intensified, and it is more and more apparent that City zoning needs to be addressed. Noah Koretz has been on Board for 6 years and this came up in his first meetings; Helen Sides notes they have tried and failed to change Bridge St. multiple times. The City is at the point where almost all residential neighborhoods are nonconforming. Zoning does not reflect reality; cities that have proactively addressed this such as Somerville (where it was determined to be ridiculous to have a city full of nonconforming triple deckers) have looked at the reality and made zoning code fit with their actual neighborhoods, rather than standard practice, ‘60’s era suburban zoning which doesn’t fit. That is the underlying issue, in addition to that of the question of residential/commercial interface on arterial roads.

Chair Anderson asks Mason Wells for the Planning Dept perspective on what is the best way to address the PB’s concerns with the zoning ordinance. Mason Wells feels that making their concerns known to City Council, in a formal setting, with a germane issue such as this, would be ideal. Helen Sides comments that it would be good to make it a larger issue in discussions by the Planning Board, and to keep returning to it so that the protest vote becomes a stopping vote. The City will have to take leadership of this issue; the PB’s job is to react to what comes before the Board, not opine on the overall Planning strategy of the City, but when what comes before the PB shows that there is no underlying planning strategy, or that work on one is not being done, the overall structure is lacking.. There is a lot of division in City, and it is no secret that the politics of development are combative; this is b/c there is no rhyme or reason to zoning.

If the City had a new master plan with updated zoning, then the City Council, Mayor, and neighborhood groups could point to a public process w/a document to back it up, created to reflect PB comments, that would be a blueprint. Without that, everyone has an individual idea of what’s best for the City, and there is no comprehensive process to deal with that. The situation will get more contentious the longer this goes on, without some sort of comprehensive, unifying document.

Kirt Rieder notes his initial comments in which he was concerned that this is one applicant looking to rezone in order to maximize the acreage of disturbance for development vs. keeping some sort of balance (which, in contrast, is what the code has in mind). Facilitating rezoning would allow the Applicant to maximize impermeable surfaces. This works to the detriment of all residents of the City. That this is a thoroughly stripped/denuded site, is regrettable but not the fault of this Applicant. It used to be a nursery and wooded lot; Kirt Rieder feels that in the future, the City should not allow Applicants to strip a site until they have a project permitted. This is difficult to encapsulate on an individual project basis but could be done in a comprehensive Plan.

It is noted that the Applicant has designed a project they could develop as of right on the site, however it was financially infeasible and not presented. Kirt Rieder comments that SPR should ensure that coverage of the lot is reasonable.

How to express the Board’s concerns to the City Council is discussed.

Vote to recommend the above zoning change to City Council:

Chair Ben Anderson - Yes

Kirt Rieder - No

Matt Veno - No

Helen Sides - Yes

Noah Koretz - No

The Planning Board votes NOT to recommend this change in zoning, 3 to 2 against.

Absent:

DJ Napolitano, Bill Griset, Matt Smith, Carole Hamilton (4)

Concerns of the Board are to be expressed in a letter to the City Council. Helen Sides is in favor of the housing aspect so voted in favor but is still very concerned. Matt Venio notes that the process is “backwards.” This was all about facilitating this project and its specific impact on the immediate abutting properties, which is not what zoning is about. Noah Koretz notes that people are showing up angry at public meetings, and even where he does not agree with them, there can be truth to the concerns voiced. There is frustration because people feel that, as a development comes up, that is their opportunity to express their view of what their City should be. If there is anger/consternation about development overall, this means we need a master plan that includes a zoning overhaul so that all those concerned about development, feel their voices can be heard during the development of said document shaping how the City moves forward. If the public had something proactive to funnel their knowledge and concerns, it would bring them together rather than pit them against sides of each development. The time to develop this is now. Zoning would come out of a vision having a significant public process, that people have bought into.

Chair Ben Anderson is in support of the zoning change but will comment, reiterating in the letter what was discussed earlier, the importance of the use corridor overlay and commercial zone along Highland Ave. His hope is that the developer will look at that closely. It may seem odd right against the street edge, depending on what they do. He supports the project but is concerned about how it addresses the Highland Ave. street edge. He is not concerned enough to vote against, but change is warranted in this situation. The project has the potential to be good, but the Board must be laser focused during the PUD process.

Matt Venio comments that what the developer did is laudable, engaging residents on abutting parcels, and he can see how they supported the project and will be disappointed in the recommendation of PB. He feels bad about that as the residents have legitimate concerns, however that is not the right process or scope of vision for the PB to be considering a zoning change.

Noah Koretz understands that the cineplex would represent an escalation of intensity from the previous use re traffic, etc. However, he notes that residents did buy houses on Highland Ave., a commercial area. Also houses behind in the back are concerned, notes Chair Anderson. Noah Koretz replies that this is a City and that the residents concerned do not own houses abutting a quiet area, though Kirt Rieder points out there is some conservation land. There are R3 lots in the back, and BPD in front, notes the Chair, so they are adjacent to some residential lots.

Kirt Rieder wonders how to condition this. He supports housing with a mix of commercial; this can be addressed during SPR. His “no” vote was due to concerns about rezoning specifically to minimize constraints in a dramatic fashion, from 50% to zero, for a specific project.

Helen Sides comments that, for other PUD projects (for example, Salem Oil & Grease) the Board was working with a percentage for commercial, where the percentage got dramatically reduced in the process. The PB must be vigilant with how conceptual design is considered and insist that percentages are understood.

Noah Koretz comments that this goes back to effective zoning; the Board is treating PUD’s as the same across the City, when in reality they can be vastly different. He opines that the North River Canal Corridor (NRCC) is bad zoning. He cites the development on Goodhue St. There, the developer was forced to have commercial on a one-way, neighborhood scale street that gets almost no foot traffic (Kirt Rieder counters that it will in the future). The

convenience store there failed, and the other retail space remains unoccupied. Yet the requirement to build commercial space was treated the same in that location just as it would be on a site fronting Highland Ave. There is even a difference between Highland Ave. and two blocks off of it, such as the Traders Way development. There, he was in favor of shrinking the commercial space there as there is no market for retail; he feels there is no way there will be a neighborhood coffee shop there. It is bad zoning to have a requirement like that, which creates conditions we don't want to see, when all zoning is, is a tool to accomplish the division of the City. If it is not doing that, it must be changed.

Chair Anderson recommends adding a discussion of Zoning to the agenda when all Board members will be present.

Mason Wells notes that the 94 Washington Square East HVAC mock units have been put up for PB review to decide on potential screening. Board members can drive by on their own and check it out. This will be discussed at the next meeting; an email will be sent including photos from the street.

IV. APPROVAL OF MINUTES

Regular Planning Board meeting minutes for October 17, 2019.

A motion to approve the minutes of the Regular Planning Board meeting from October 17, 2019, with minor corrections, is made by Helen Sides, seconded by Matt Veno, and the motion carries.

Helen Sides shows a dark, semi-transparent screening that would be an option in the future.

III. ADJOURNMENT

A motion to adjourn is made by Kirt Rieder, seconded by Helen Sides, and the motion carries.

The meeting ends at 8:10PM.

For actions where the decisions have not been fully written into these minutes, copies of the decisions have been posted separately by address or project at: <https://www.salem.com/planning-board/webforms/planning-board-2019-decisions>

Respectfully submitted,
Stacy Kilb, Recording Clerk

Approved by the Planning Board on XX/XX/2019

Know your rights under the Open Meeting Law M.G.L. c. 30A § 18-25 and City Ordinance § 2-2028 through § 2-2033.