

**City of Salem Planning Board
Meeting Minutes
Thursday, November 19, 2015**

A regularly scheduled meeting of the Salem Planning Board was held on Thursday, November 5, 2015 at 7:00 p.m. at City Hall Annex, Room 313, 120 Washington Street, Salem, Massachusetts.

Chairman Anderson opened the meeting at 7:07 pm.

Roll Call

Those present were: Ben Anderson, Chair, Matt Veno, Vice Chair, Helen Sides, Kirt Rieder, Dale Yale, Noah Koretz and Carole Hamilton. Absent: Bill Griset.

Also present: Amanda Chiancola, Staff Planner, and Pamela Broderick, Planning Board Recording Clerk.

Approval of Minutes

October 15, 2015 Regular Meeting Minutes

Chair Anderson tabled review of the minutes until the next meeting, December 3, 2015.

Regular Agenda

Location: 14 and 16 ALMEDA STREET (Map 14 Lot 116 and Map 14 Lot 117)

Applicant: TOWN AND COUNTRY HOMES, INC.

Description: A public hearing for a Definitive Subdivision to construct a roadway to serve two existing undeveloped lots.

Chair Anderson reported that the applicant has requested a continuance to the December 17, 2015 regular scheduled meeting. Chair Anderson noted that public comment had been received, but it will be read into the record on December 17, 2015.

ROLL CALL Motion and Vote: Helen Sides made a motion to continue the public hearing to December 17, 2015, seconded by Dale Yale. The vote was unanimous with seven (7) in favor (Mr. Anderson, Mr. Veno, Ms. Sides, Mr. Rieder, Ms. Yale, Mr. Koretz and Ms. Hamilton) and none (0) opposed.

Location: CLARK AVENUE (Map 6, Lots 7, 8 and 9)

Applicant: NSD REALTY TRUST

Description: A public hearing for a Definitive Subdivision Plan in accordance with the Salem Subdivision Regulations and a Cluster Residential Development Special Permit per Sec. 7.2 Cluster Residential Development of the Salem Zoning Ordinance to allow the construction of a roadway to serve twenty-six (26) residential lots.

Chair Anderson reported the applicant has requested a continuance of the public hearing.

ROLL CALL Motion and Vote: Noah Koretz made a motion to continue the public hearing to December 3, 2015, seconded by Helen Sides. The vote was unanimous with seven (7) in favor (Mr. Anderson, Mr. Veno, Ms. Sides, Mr. Rieder, Ms. Yale, Mr. Koretz and Ms. Hamilton) and none (0) opposed.

Location: 401 BRIDGE STREET (Map 25, Lot 74) and 44 Boston Street (Map 15, Lot 305)
Applicant: HIGH ROCK BRIDGE STREET, LLC
Description: Continuation of the public hearing for the petition for amendments to the approved 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. The applicant requests the following Special Permit associated with the North River Canal Corridor Neighborhood Mixed Use District (NRCC) Sections 8.4.5 and 8.4.13 North River Canal Corridor Neighborhood Mixed Use District). Specifically, the applicant requests a Special Permit per Sec. Sec 4.0 of the NRCC to allow a multi-story arrangement of a multi-family residential use. The applicant requests amendments to the following approved Special Permits of the NRCC: A Special Permit per Sec. 8.4.12 Retail Use of the NRCC to allow ground level retail use to be amended from the original decision to exceed the 3,000 gross square feet for one retailer. A Special Permit per Sec. 6.0 to be amended from the original decision to allow an eating and drinking place on the premises to reflect the new plan. The applicant proposes to construct two separate buildings including the Community Life Center, a two-story building, and a five-story mixed-use residential/retail on the corner of Boston and Bridge Street with an associated revised parking and landscape layout.

Documents and Exhibitions:

Slide Presentation entitled “Environmental Factors Gateway Center, Salem, MA”.

Atty Joseph Correnti, 63 Federal Street, Salem, presented for the applicant. Other presenters included:

- Frank Vetere P.E., Associate Principal, GZA GeoEnvironmental, Inc., 372 Merrimac Street, Newburyport 01950. Mr. Vetere is the LSP (licensed site professional) for this project.

Atty Correnti advised since the last meeting the Planning Board had a site visit to better understand the specifics including the property line with property owners on Federal Street. The City peer reviewers continue to work with the applicant’s experts. This appearance before the Board is to address environmental factors around the site. Mr. Vetere is the LSP (licensed site professional) for this project and will be reviewing the history in detail.

Mr. Vetere introduced himself and noted that he has been working on this project since 2010. Mr. Vetere used a slide presentation to review the history of the site. Before presenting the specifics of this site, he reviewed the role and regulations that govern the work of LSPs. The role of the LSP is a

profession that was established in 1993. The role of an LSP is to assess sites to determine if the site complies with regulations, and to determine what is necessary to bring a site to a condition of no significant risk to the users of that property.

LSPs are empowered by the state to make decisions on cleanup, e.g. whether a site is closed, needs more work, less work and what limitations are required to make a site useable. Everything the LSP does must comply with State Regulations and are subject to an audit by the Department of Environmental Protection (DEP) within 5 years. A State Board regulates the conduct of LSPs and work done by LSPs, thus they are held to a high professional standard.

LSP activities include:

- Define contamination
- Determine work needed to clean up a site
- Ensure actions taken to address contaminated property:
 - Comply with Massachusetts regulations
 - Protect public health, safety, welfare and the environment
 - Must comply with the Massachusetts Contingency Plan (MCP). The MCP developed guidance/regulations for risk assessments. LSP is subject to said regulations
 - LSP opinions are subject to an audit process by the state Department of Environmental Protections.
 - DEP typically audits when there is an AUL on a site

Before 1993 site cleanup meant residential standards, residential standards with groundwater. However, in industrial cities such as downtown Salem, no one is drinking groundwater. These were overly stringent requirements, so the MCP uses “risk based” cleanup.

They look at soils and groundwater are evaluated based on; 1) accessibility, 2) frequency, and 3) intensity of the use at the particular site. Then they evaluate three characteristics of groundwater; 1) is it a drinking water resource, 2) will there a building be constructed over a volatile organic compound which could cause vapor intrusion, 3) and is there an issue where surface water is contaminated.

Indoor air is the key issue at the Gateway site. The acceptance criteria are based on the usage and restrictions you can put on the usage to comply. If you do put limitations it would have to be recorded with the deed as an “area use limitation” (AUL).

You can build on a site that does not meet the unrestricted standards with an AUL. The AUL lists what is permitted, what is prohibited and the obligations of the owner. There are 57 sites with AULs in Salem. In 2010 there were 86 AULs in Salem. A number of AUL sites is normal for a city with an industrial history, and there is a vehicle to clean up those sites so that they can be usable.

Mr. Vetere shifted his presentation to focus on the specifics of this site. He pointed out the approximate location on the site with the AUL using an aerial photo of the site.

The subject property was a wetland, and then it was filled in at some point (probably around 1890). There were tanneries on this site from 1890-1916. Thee ceased operations in the 1990s. Environmental history of the site:

- No. 4 fuel oil tank removed in 1992, No. 4 is heavier than No. 2 as it is more viscous.
- No. 2 fuel oil tank and contaminated soil removed in 1994
- Subsequent studies found groundwater contamination and residual soil contamination
- GZA issued an AUL in 1999, risk assessment was performed to support the AUL
 - 2002 DEP audited the AUL. They questioned a 20'x20' area which became known as the hot spot
 - DEP audit in 2002 resulted in hot spot designation and an amended AUL
- The AUL was modified to evaluate risk assessment of Senior Center
 - DEP audited the site again in 2004 and found no issues with the revised AUL

Site activities:

- Grade has been raised about 4-6 feet
- High Rock excavated the hot spot and removed 60 tons of contaminated soil
- Although not environmental, the soil is soft clay. So they had placed a surcharge on the soil to reload foundation; to result in a lower cost foundation
- Imported 2-6 feet of soil for surcharge
 - Removed old building foundations

2015 Risk Assessments per LSP:

- Completed a couple of months ago
- Acceptable risks from soils for trespassers, children, construction, utility and facility workers
- Suitable for multi-family residents if there is a Vapor Barrier
 - Vapor Barrier eliminates the possibility of vapor entering the building. It is very effective on sites with higher concentrations of solvents than this site.
- Considerations for contaminants:
 - Dermal contact (touching the soil)
 - Inhalation (breathing the soil)
 - Ingestion (eating the soil)
- Removed hot spot designation with revised AUL in 2015
- Any construction work below a depth of three feet requires a health and safety plan, and soils management plan (to protect the risk to future construction workers and abutters in the area)
- Allow adults and children to use the facilities with no risk to health safety or welfare.
- Added additional measures including:
 - Installation of a vapor barrier and sub-slab venting system
 - Along with construction safeguards
 - Plan that determines which soils go off site, where they go and how they go offsite

Most of what is there is historic fill comprised of coal ash. Coal ash was used as fill across Massachusetts from the mid-1800s until the mid-1900's. Ash alone is not a reportable site, it is considered background fill and contact with it must be limited—usually by burying it and covering it.

Beryllium is an ongoing concern so six analyses were done finding 0.48ppm to 1.1ppm against a standard of 100ppm for unrestricted residential use. Beryllium is not a concern at this site due to the very low levels and steps taken to cover soil that may have low levels of contamination.

Mr. Rieder asked Mr. Vetere to clarify whether the six analyses are standard for how many areas of analysis must be done. Mr. Vetere explained that the level of analysis is determined by the LSP, who looks at the site history to determine what to look for. In the 1990s they did 6 borings based on the site history of what they used. Mr. Rieder asked where the borings are concentrated (under the building or outside the building footprint). Mr. Vetere stated that in the 1990s when the testing was done, there was not building, they were looking to close the site from a standpoint of an empty lot. But if he were testing now, from a risk standpoint he would test in the yard area since the inside of the building will be removed or covered. But all the soil removed will be tested anyway.

LSP Conclusions:

- Adults and children may use the proposed facility without risk to health, safety and their welfare.
- Ensuring safety via isolation.
 - Soil contamination will be isolated (originally about 3 feet below grade, now it is about 6 feet)
- Ground water contamination will be isolated with vapor barrier.
- Construction below groundwater requires HASP and soil management plan to protect construction workers and abutters.

Board Discussion:

- Board asked for specifics regarding excavation of the 20 X 20 foot hot spot. Mr. Vetere replied the excavation was ten (10) feet in depth. They permanently removed soil that was visibly contaminated (going down ten feet) in the amount of 60 tons.
- Board asked if foundations of the new building would go below 3-feet and enter the contamination zone. Mr. Vetere advised the new building will be on aggregate piers sunk into holes so no further soil will be removed or will come to the surface to establish the pilings.
- Mr. Vetere clarified the final grade will be at elevation eleven (11), which is the base floor level.
- The Board asked what the depth for safe exposure is. Mr. Vetere explained the DEP requires 3 feet if it is not paved.
- The Board asked Mr. Vetere to provide a general overview of who hires him and the LSP requirements to the state.
 - The LSP is hired by the private property owner
 - The MCP has a phased approach. Report the site, then within a year must do complete a Phase I- define what is there via an initial risk assessment. At that point you could close the site with a permanent solution or determine more work is required;
Phase II- more detailed evaluation. Characterize the site through a conceptual model of the site;
Phase III- a remedial action plan, determined what are the options for the cleaning the site;
Phase IV- remedy implementation plan where you design the system you will be using, e.g. groundwater treatment system.
Phase V- remedy the operation, actual cleanup of the site.
- Without extensions you have 5 years from reporting.
- This site was closed in the 1990s but there was an AUL because residential was not proposed at the time. But work to clean up the site has been ongoing.

- There are many different options to work on a site. In the scheme of things, this site is not heavily contaminated.

Chair Anderson read into the record written public comment received:

- Lynda Coffill, Chairperson Council on Aging, 56 Belleview Avenue; in favor of changing the building orientation by 90 degrees but does not want this change to delay the project. Current plan does not offer enough handicapped spaces. New fencing should be installed. Low-impact lighting, facing down is important. Suggested the arch-diocese be approached to provide easement or a gift of land to access the property from Bridge or Flint Streets.
- Gary Kinley, President Chestnut Street Associates; neutral position on the proposed Gateway Center and Community Life Center (CLC).
- Barbara Cleary, 104 Federal Street; correction to minutes of 10/15/2015. First two sentences correct, then “People did not want to see big box residential standalone buildings in this area and the Master Plan and Zoning clearly reflect that. The “urban village” referred to on the Plan (the fold out “Illustrative Plan”) is on the Flynttan site and is clearly smaller scale townhouse residential buildings.”
- Meg Twohey 12 Federal Street; does not agree with the City Planner’s characterization of the Gateway project as fully compliant with the North River Canal Corridor Master Plan and Zoning.

Chair Anderson opened the meeting to public comment:

- Jane Arlander 93 Federal Street; had questions for Mr. Vetere, thanked him for coming and providing a summary of the site. She has contact with seniors and many are concerned about the environmental hazards that existed on the site. Why is the vapor barrier needed if the AUL has been removed and the contaminated soil has been removed?
 - Vetere replied:
 - The petroleum contaminated soil was removed, but the AUL has not been removed.
 - The AUL requires Vapor barrier required to protect against some contaminants that are still in the groundwater.
 - Proposed AUL change would allow multi-family, not single family buildings.
- Ms. Arlander explains that she is concerned about contaminates shifting underground, previous buildings had documented flooding and reportedly were sinking.
 - Clay settles at a slower rate than sand, the surcharge has dealt with the sand nearest the surface. The piers will reach down deep into the clay which is firmer and moves very slowly.
- Ms. Arlander asked if there will be a peer reviewer on the environmental issues. Mr. Vetere advised the peer reviewer is essentially the state Department of Environmental Protection (DEP).
 - Ms. Arlander asked if any soils removed from the site have to be tested for Beryllium, or any other containment. Mr. Vetere explained that there are a number of metals, ph-organics etcetera that need to be tested for, but he is not sure if Beryllium is required in the test.
- Ms. Arlanders questioned whether coal ash is a hazardous material. Mr. Vetere replied that coal ash is a solid waste. It is generally not soluble in water and so it does not tend to move. On this site the coal ash is not in the ground water, but above it. Very rarely will you see dissolved metals or phs in ground water.

- Mary Madore 31 Forrester Street; Asked how many test pits dug for heavy metals or hydrocarbons and were they within acceptable limits? Mr. Vetere said about twenty (20) borings, the chemistry meets the MCP requirement for below grade, isolated from contact.
 - Ms. Madore asked what is the lifetime of the vapor barrier and where will it be located. Mr. Vetere replied the paved parking lot will last approximately ten years but will need maintenance. The building barrier will last forever (as long as the building is there), every square inch of the building, including the CLC will have a barrier.
 - Ms. Madore asked where will air conditioner units be— she is concerned about venting sucking in volatile solvents contaminants. Chair Anderson replied that building code requirements would preclude this from happening.
 - Ms. Madore was an ICU nurse and was on the Board of Health. She suggests caution in dealing with Beryllium.
- Meg Twohey 122 Federal Street; would like a copy of the current AUL and the LSP reports. Mr. Vetere advised the AUL can be found online at DEP website. He will forward his reports to the Planning Department.
 - Director of Planning Lynn Duncan suggested he send link to the AUL to the Planning Department so it can be made available.
- Pamela Jendrysik 3 Hamilton Street; expressed concern about contamination coming up through grassy areas. Mr. Vetere said grass will have three (3) feet of new soil under it.
 - The idea is to prevent contact.
 - Board member Mr. Rieder observed that trees and some plantings will be planted deeper than three (3) feet. Mr. Vetere advised there will be requirement of handling instructions for construction/landscape/utility workers- per the AUL which is filed with the deed.
- Chuck von Bruns 3 River Street; asked for construction method clarification with regard to surcharge and piers—he understood the project was not going to use piers once the surcharge had done its job of compression. Mr. Vetere confirmed piers on aggregate pile (not a driven pile) have always been part of the construction plan. Settlement is caused by both fill and building loads.
- Tim Jenkins 18 Broad Street; asked why there is no surcharge on the CLC site, and how long does compression take? Mr. Vetere said compression takes about eight (8) months. There are plans to add surcharge to the CLC site, authorization is pending.
- Lou Siranni 6 Botts Court; heard there may be layout and design changes and asked for clarification. He spoke in favor of design changes, and asked if any changes would delay the project. He spoke against the current drawing with the CLC parallel to Bridge Street. Advocate of moving the entrance and turning the layout. Atty Correnti advised the applicant has nothing to present this evening. Chair Anderson advised the Planning Board has no information at this time.
- Heather Famico 195 Essex Street, Ward 2 City Councillor; asked for an update on project financing. Atty Correnti advised the project is getting more expensive by the month and delays are a concern as all costs are increasing. This project is fully financed.
- Joyce Wallace 172 Federal; asked how does the AUL application relate to the DEP review? Atty Correnti clarified her reference as the appeal filed by residents regarding the Conservation Commission Order of Conditions (issued for this site), Ms. Wallace affirmed, yes. Atty Correnti advised the appeal to the order of conditions is separate from the LSP work.

Additional Board Discussion

- Board member Carole Hamilton asked if the DEP AUL change request which allows for multi-family use has submitted, and how long does it generally take to receive approval. Mr. Vetere said no submission has been filed yet and the process does not include a formal approval from DEP. LSP submittals are considered official at the time of submission, the DEP allow themselves up to five (5) years to audit.
 - Director Community Planning and Development Lynn Duncan asked Mr. Vetere to clarify AUL status. Mr. Vetere said 2010 is available online; the 2015 is not yet public information. Ms. Duncan advised this is what City and residents want to review as the current AUL for the site does not allow multi-families.
 - Atty Correnti provided an overview of the process. Because AUL's are attached to property title at the Registry of Deeds, they are not filed and recorded until a project is finalized. It is inappropriate to record an AUL prematurely. The AUL is shaped to the final, approved project.
 - Ms. Duncan accepted this technical aspect but emphasized the Planning Board must have visibility to the proposed language of the revised AUL to be able to complete their site plan review and special permitting process.
 - Atty Correnti suggested the Planning Board should reply on representations and assurances from the LSP of the key components of the revised AUL, and any decision can be issued with a condition of the revised AUL. He also advised a condition in the decision regarding compliances with MCP conditions is common and acceptable to the client.
- Chair Anderson reminded the Board to use the City guidelines for site plan review and special permit review as they assess the project.
- Meg Twohey 122 Federal Street; observed the Design Review Board (DRB) has not met on this project since August and asked to know when the project will appear on the DRB agenda. Atty Correnti advised he does not have a specific date but certainly it will need to be soon. He also thanked the Board and the attending public for the ongoing interest in the project.

Motion and Vote: Kirt Rieder made a motion to continue the public hearing to December 3, 2015, seconded by Helen Sides. The vote was unanimous with seven (7) in favor (Mr. Anderson, Mr. Veno, Ms. Sides, Mr. Rieder, Ms. Yale, Mr. Koretz and Ms. Hamilton) and none (0) opposed.

Old/New Business

- **2016 Planning Board Meeting Schedule**
The Board agreed to review and vote at the next meeting.
- **Gate at 28 Goodhue Street**
Staff Planner Amanda Chiancola reported the removal of the post will be costly. In addition due to the two existing bollards, the post does not impact the use the trail and therefore, there is not a nexus to require the removal of the post. The board contended that the post is in violation of their Decision and discussed whether an opinion should be from the City Solicitor of the City Building Inspector. Chair Anderson requested the Planning Department to ask the building inspector to bring this site into compliance. Ms. Chianola will report at the next meeting.
- **Yin Yu Tang Transformer**

Ms. Chiancola reported the zoning enforcement officer spoke with electrician on the PEM project. This was a temporary installation to provide power to museum during an expansion. The expansion has been put on hold, so the transformer will stay until the expansion restarts and is completed.

Board noted the location of this temporary installation was ill-advised and now the City is stuck with the eyesore for an extended period of time. It was noted there was no appropriate review for this temporary installation.

Adjournment

Motion and Vote: Helen Sides made a motion to adjourn the meeting, seconded by Kirt Rieder. The vote was unanimous with seven (7) in favor (Mr. Anderson, Mr. Veno, Ms. Sides, Mr. Rieder, Ms. Yale, Mr. Koretz and Ms. Hamilton) and none (0) opposed.

Chairman Anderson adjourned the meeting at 9pm.

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: <http://www.salem.com/node/2186/minutes>

Respectfully submitted,
Pamela Broderick, Recording Clerk

Approved by the Planning Board on 12/03/2015

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