



CITY OF SALEM PLANNING BOARD

Decision

2015 SEP -9 A 11: 12

FILE #
CITY CLERK SALEM MASS.

Amendment to a Planned Unit Development Special Permit, Site Plan Review, Flood Hazard District Special Permit, and Stormwater Management Permit

9-11 DODGE STREET, 217-219 & 231-251 WASHINGTON STREET
(Map 34, Lots 403, 405, and 406)

9/9/2015
Dodge Area, LLC
17 Ivaloo Street, Suite 100
Somerville, MA 02143

RE: Amendments to a Planned Unit Development Special Permit, Site Plan Review, Flood Hazard District Special Permit, and Stormwater Management Permit Decision for the proposed development at 9-11 Dodge Street, 217-219 & 231-251 Washington Street.

On July 30, 2015, the Planning Board of the City of Salem (hereinafter referred to as the "Planning Board" or "the Board") opened a public hearing regarding the application of DODGE AREA LLC (hereinafter referred to as the "Applicant" and/or "Owner") for an amendment to the previously approved Planned Unit Development Special Permit, Site Plan Review, Flood Hazard District Special Permit, and Stormwater Management Permit Decision for the property located at 9-11 Dodge St., 217-219 Washington St., and 231-251 Washington St. (Map 34, Lots 0403, 0405, and 0406).

The approved project included two possible use programs: A) Base Program the new construction of an approximately 190,000 square foot mixed- use development with 111 hotel rooms, 84 residential units (including live/work units), and approximately 20,000 square feet of commercial space; and Program B: Commercial/Residential Mixed-Use: 190,000 square foot mixed-use development with no hotel and 145 residential units (including live/work units), and approximately 28,000 square feet of commercial space. Both use programs included a minimum of 245 parking spaces of which a minimum of 38 parking spaces will be made available to the public.

Specific amendments proposed are the following:

- Remove the top floor of the West/South Building (residential mixed-use).
- Remove the deepest portion of the underground parking garage
- Increase the depth of the in-line retail along lower Washington Street.

As amended, the applicant proposes two possible use programs: A) Base Program the new construction of an approximately 178,000 square foot mixed- use development with 111 hotel rooms, 68 residential units (including live/work units), and approximately 23,000 square feet of commercial space; and Program B: Commercial/Residential Mixed-Use: 178,000 square foot mixed-use development with no hotel and up to 116 residential units (including live/work units), and approximately 30,000 square feet of commercial space. Both use programs include 212 parking spaces of which a minimum of 38 parking spaces will be made available to the public.

The public hearing was continued to September 3, 2015 and closed on this date.

The Planning Board, after a public hearing and review of submitted materials and testimony, hereby finds that the proposed amendment to the previously approved project meets the provisions of the City of Salem Zoning Ordinance, Sec. 7.3 Planned Unit Development, as follows:

7.3.1 Purpose –Planned unit development is designed to provide various types of land use which can be combined in compatible relationship with each other as part of a totally planned development. As proposed, the Planned Unit Development (PUD) incorporates a precise development plan for two use programs; Base Program A: 178,000 square foot new-mixed use development with 111 hotel rooms, 68 residential units (including live-work units), and approximately 23,000 square feet of commercial space; and Program B: Commercial/ Residential Mixed-Use: 178,000 square foot mixed-use development with no hotel and up to 116 residential units (including live-work units), and approximately 30,000 square feet of commercial space (Program “A” and Program “B”). Both use programs provide a mix of uses that are compatible with each other, thereby meeting the purpose and intent of good zoning practices and the master plan of the City of Salem.

7.3.2 Applicability – The proposed development parcel is at least five (5) times the required minimum lot size of 2,000 square feet in the B5, Central Development District. The lot size is 65,173 square feet +/- substantially exceeding the requirement of 10,000 square feet. The underlying zoning district of the proposed development parcel is B5 Central Development District, which is eligible for PUD treatment.

7.3.3 Uses – The proposed uses, as included in Program A and Program B, as described in this decision in Section 7.3.1, are allowed in a PUD development.

7.3.3.1 - Both proposed Planned Unit Development use programs contain multi-family residential development that is compatible with adjacent existing residential development and potential development of the surrounding neighborhood because adjacent parcels are either zoned B5 or R3 (across the street).

7.3.3.2 - The applicant has submitted a plan for the total property and has in clear detail by engineering and architectural specifications and drawings shown the area to be developed and the means that will be employed to protect the abutting property and the health safety, and welfare and privacy enjoyed thereon.

The project and both use programs have been peer reviewed by civil and traffic engineers who have confirmed that there will not be negative impacts on abutting property subject to conditions contained within this decision.

The Planning Board hereby makes the following findings pertaining to the Planned Unit Development Special Permit application:

1. The proposed amendment to the previously approved planned unit development is in harmony with the purpose and intent of this ordinance and the master plan of the City of Salem as this project will add vitality to the downtown, provide a mix of residential units and commercial spaces, improve the streetscape, improve pedestrian accessibility, and generate tax revenue for the City.
2. The mixture of uses in the planned unit development is determined to be sufficiently advantageous to render it appropriate to depart from the normal requirements of the district. Specifically, this is a significant mixed-use development of approximately 178,000 square feet that will greatly enhance this section of the downtown. The mix of housing, including live-work space, commercial use, and a potential hotel will add to the vibrancy, vitality, and aesthetics of downtown, providing substantial public benefit.
3. The planned unit development would not result in a net negative environmental impact, based on the information from the Environmental Impact Statement and plans, and the review of the project by the Planning Board's civil and traffic engineering consultants.

The Planning Board hereby makes the following findings pertaining to the Flood Hazard District Special Permit Application:

1. The proposed uses comply in all respect to the uses and provisions of the underlying zoning district and the Planned Unit Development provision.
2. A portion of the site is within the 100-year FEMA coastal floodplain. There are 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 lots(s) caused by either the overspill from water bodies or high runoff. In the case of a 100-year flood, the upper parking deck will remain accessible during a flooding event. The regrading of Dodge Street will allow circulation to the other areas of the site. Adequate drainage will be constructed to drain the lowest level of the garage should it fill during a flood event. Additionally, the Development Plan includes raising a portion of the site, so that the finished floor level is located above the 100-year FEMA coastal floodplain elevation.

3. All 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. The Development Plan and project narrative indicate that all utilities and essential equipment will be located above floodplain level.
4. The proposed development will not be located within a coastal high hazard area (Zone VE on the FEMA Flood Insurance Rate Maps).

At a regularly scheduled meeting of the Planning Board held on September 3, 2015, the Planning Board voted by a vote of eight (8) in favor (Mr. Anderson, Mr. Clarke, Mr. Rieder, Ms. Yale, Mr. Griset, Mr. Veno, Mr. Koretz and Ms. Hamilton), and none (0) opposed to approve the proposed amendments subject to the following conditions:

1. Conformance with the Plan

Work shall conform to the plans entitled "Salem Gateway: Washington and Dodge Street Infrastructure Improvements, Salem, MA Plans 13-107" C1.0 to C7.1 prepared by Design Consultants, Inc. dated July 10, 2014 (Revised October 6; November 4), "North Building Residential/ Commercial Schematic Plan" dated December 3, 2014, prepared by RCG LLC, Landscape Plans L-1 to L-11 prepared by Landworks Studio, and Lighting Plans LC1a and LC1c prepared by Available Light; Architectural plans AA100.1-106, 300-303 prepared by Khalsa Design, Inc. revised on July 1, 2015.

2. Original Decision

All conditions set forth in the original decision for Site Plan Review, Planned Unit Development Special Permit and Flood Hazard District Special Permit dated December 11, 2014 shall remain and be adhered to by the applicant, unless explicitly eliminated or amended in this decision.

3. Amendments

Any amendments to the site plan shall be reviewed by the City Planner and if deemed necessary by the City Planner, shall be brought to the Planning Board. Any waiver of conditions contained within shall require the approval of the Planning Board.

4. Construction Practices

All construction shall be carried out in accordance with the following conditions:

- a. Exterior construction work shall not be conducted between the hours of 5:00 PM and 8:00 AM the following day on weekdays or at any time on Sundays or Holidays. Any interior work conducted during these times will not involve heavy machinery which could generate disturbing noises.
- b. All reasonable action shall be taken to minimize the negative effects of construction on abutters. Advance notice shall be provided to all abutters in writing at least 72 hours prior to commencement of construction of the project.

- c. Drilling and blasting shall be limited to Monday-Friday between 8:00 AM until 5:00 PM. There shall be no drilling or blasting on Saturdays, Sundays, or holidays. Blasting shall be undertaken in accordance with all local and state regulations.
- d. All construction vehicles shall be cleaned prior to leaving the site so that they do not track silt on public ways.
- e. 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.
- f. All construction vehicles left overnight at the site, must be located completely on the site or parked at another off-street parking lot.
- g. A Construction Management Plan and Construction Schedule shall be submitted by the applicant to the City Planner for review and approval prior to the issuance of a building permit. Included in this plan, but not limited to, shall be information regarding how the construction equipment will be stored, a description of the construction staging area and its location in relation to the site, and where the construction employees will park their vehicles.
- h. A Traffic Management Plan shall be submitted to the City Planner and Police Department for review and approval prior to issuance of a building permit. The Traffic Management Plan shall include the proposed communication methods, including notification to the Building Salem Coordinator, to keep the public informed regarding activities affecting vehicular and pedestrian circulation during construction.
- i. All sidewalks, roadways, utilities, landscaping, etc. damaged during construction shall be replaced or repaired to their pre-construction condition, or better.

5. Fire Department

All work shall comply with the requirements of the Salem Fire Department in accordance with the applicable fire prevention regulations. The locations of all fire hydrants shall be approved by the Fire Department prior to the issuance of any building permit.

6. Building Inspector

All work shall comply with the requirements of the Salem Building Inspector consistent with the current version of the State Building Code, Massachusetts Architectural Access Board regulations and Massachusetts Energy Codes.

7. 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 certifies that soil and ground water on the entire site meets the DEP standards for the proposed use. Since there are individual parcels combined into one site only that parcel(s) that is issued a DEP tracking Number is expected to meet this condition
- c. The developer shall adhere to a drainage plan as approved by the City Engineer.
- d. The developer shall employ a licensed pesticide applicator to assess and exterminate pests in the area prior to construction, demolition, and/or blasting and shall send a copy of the exterminator's invoice to the Health Agent. A pest control management plan shall be developed and submitted to the Health Agent prior to the start of any demolition work.
- e. The developer shall maintain the area free from rodents throughout construction.
- f. The developer shall submit to the Health Agent a written plan for dust control and street sweeping which will occur during construction.
- g. 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.
- h. The Fire Department must approve the plan regarding access for firefighting.
- i. 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.
- j. The developer shall disclose in writing to the Health Agent the origin of any fill material needed for the project.

- k. The resultant establishment(s) shall dispose of all waste materials resulting from its operations in a sound manner as described to the Board of Health and in compliance with existing Federal, State and Local laws.
- l. The developer shall notify the Health Agent when the project is complete for final inspection and confirmation that above conditions have been met.
- m. In developments of 10 or more units, the developer shall develop a grease management plan to prevent grease from entering the city sewers that is in compliance with the requirements of the City Engineer
- n. Salem sits in a Radon Zone 1 and the risk of radon entering buildings is extremely. Therefore, the installation of radon mitigation systems is strongly recommended.

8. Department of Public Services

All work shall comply with the requirements of the Department of Public Services.

8. Conservation Commission

All work shall comply with the requirements of the Conservation Commission as the proposed site is located partially within the FEMA flood zone.

9. Lighting

- a. Any light used to illuminate parking area shall be arranged as to reflect light away from adjacent parcels or adjacent rights of way.
- b. A final lighting plan shall be submitted to the City Planner for review and approval prior to the issuance of a building permit.
- c. After installation, lighting shall be reviewed and approved by the City Planner prior to the issuance of a Certificate of Occupancy. Notwithstanding the foregoing, to the extent the construction on the Project or portions of the Project are completed such that a Certificate of Occupancy could be issued prior to completion of all exterior lighting, for a portion of the Project or the Project in its entirety, the applicant may provide a performance bond or surety in an amount and form subject to approval of the City Planner to ensure that the work is completed within a reasonable timeframe. The applicant may submit requests to the City Planner for partial releases of said surety based on work completed.

10. HVAC

If an HVAC unit is located on the roof or site, it shall be visually screened. The method for screening the unit shall be submitted to the City Planner for review and approval prior to installation.

11. Noise

HVAC units shall be sufficiently buffered and the applicant shall take steps to further mitigate noise emanating from the HVAC units(s) if the Board of Health receives any complaints. Notwithstanding the foregoing, the guideline for reviewing such noise is that the broadband sound level should not increase by more than 10 dB(A) above the ambient levels measured at the property line.

12. Landscaping

- a. All landscaping shall be done in accordance with the approved set of plans.
- b. Trees shall be a minimum diameter of 3 ½" dbh (diameter breast height).
- c. Maintenance of all landscaping, excepting street trees that will become property of the City of Salem, shall be the responsibility of the applicant, his successors or assigns. The applicant, his successors or assigns, shall guarantee all trees and shrubs (including street trees) for a two (2) year period.
- d. Final completed landscaping shall be subject to approval by the City Planner prior to the issuance of a Certificate of Occupancy. Notwithstanding the foregoing, to the extent that the construction is finished such that a Certificate of Occupancy could be issued for a portion of the Project or the Project in its entirety and that the weather conditions (e.g., late fall, winter or early spring) are such that the landscaping cannot reasonably be finished, the applicant may provide a performance bond or surety in an amount and form subject to approval of the City Planner to ensure that the work is completed within a reasonable timeframe. The applicant may submit requests to the City Planner for partial releases of said surety based on work completed.

13. Maintenance

- a. Refuse removal, ground maintenance and snow removal shall be the responsibility of the developer, his successors or assigns. "Refuse removal" includes recycling, which shall be the responsibility of the owner, his 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. For clarity, this provision does not apply to publicly owned rights of way and streets.
- b. The developer, his successors or assigns shall be responsible for the shoveling and/or snowplowing of the sidewalk for all building frontage along Dodge Street, Washington Street, and Dodge Street Court.
- c. Winter snow in excess of snow storage areas on the site shall be removed off site.

14. As-built Plans

As-built Plans, stamped by a Registered Professional Engineer, shall be submitted to the Department of Planning and Community Development and Department of Public Services prior to the issuance of the Certificate of Occupancy.

The As-Built plans shall be submitted to the City Engineer in electronic file format suitable for the City's use and approved by the City Engineer, prior to the issuance of the Certificate of Occupancy.

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.

To the extent that construction work has been completed sufficient for a Certificate of Occupancy to be issued for a portion of the Project or the Project in its entirety but that the As-Built plans have not yet been fully completed (for said portion of the Project or the Project in its entirety), the applicant may provide a performance bond or surety in an amount and form subject to approval of the City Planner to ensure that the As-Built Plans are completed within a reasonable timeframe.

15. Clerk of the Works

A Clerk of the Works shall be provided by the City, at the expense of the applicant, his successors or assigns, as is deemed necessary by the City Planner. Notwithstanding the foregoing, the parties acknowledge the Project shall be subject to controlled construction, which requires oversight by licensed engineers and architects. Accordingly, it is the understanding of the Board, the City Planner and the Applicant that the Clerk of the Works is expected to oversee and review all civil/site improvements related to the project located within the public way, including all utility connections to publicly owned infrastructure. It is also mutually understood that the expense associated with a Clerk of the Works shall be for a reasonable number of hours and at a customary rate for such service.

16. Violations

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.

17. Special Conditions

a. Stormwater Management Permit

Applicant to revise Stormwater Management Report with O&M Plan to incorporate appropriate detention and groundwater infiltration system, and submit to City Engineer for review and approval prior to issuance of a Foundation or Building Permit. Revised design to detain roof runoff must demonstrate that groundwater recharge and pre and post runoff rates meet requirements of Stormwater Standards for non-tidal discharge.

b. Existing Utility Relocation

1. Applicant to revise site plans to include replacement of remaining Dodge Street drain pipe and submit to the City Planner and City Engineer for review and approval prior to issuance of a Building Permit.
2. Prior to issuance of a Building Permit, applicant to complete additional field investigations on the interceptor sewers and South River drainage conduit, and revise the utility relocation plans to include the location of all utilities to be relocated and/or installed between the proposed building and the South River conduit with adequate plan, profile, and cross-section views with sufficient detail to demonstrate to the satisfaction of the City Engineer that the utilities may be relocated and are constructible within the proposed utility corridor. Plans shall include additional detail of water replacement and connections to existing water main at each end of proposed relocation for adequate valving and thrust restraint to the satisfaction of the City Engineer, and also delineate and formalize the proposed easement layout and language for utilities to be located on Applicant's property.
3. Applicant to submit additional information from their geotechnical engineer to the City Engineer regarding proposed vibrations from pile foundation adjacent to Dodge Street interceptor sewer and modify the foundation design or protect/rehabilitate/replace sewer prior to issuance of a Foundation Permit. Applicant to complete CCTV pipeline inspection of the Dodge Street interceptor sewer before and after completing foundation work and submit to City Engineer, and, if required, protect/rehabilitate/replace sewer line to address deficiencies or defects observed.

c. Utilities

Applicant to submit additional information to the City Planner and City Engineer once architectural plans are finalized, to demonstrate the proposed fire hydrants and connections meet requirements of Salem Fire Department and that proposed sewer, drain, and water service connections are in agreement between the architectural and civil plans, and that the design will collect rainfall runoff and detain water as modeled in the revised Stormwater Management Report, prior to issuance of a Building Permit.

d. Site Development Plans

Applicant to submit additional information to the City Engineer on the number and location of all existing utility services to all buildings, and revise plans to identify the number and location of all utilities to be capped or plugged. Applicant is to complete the abandonment of the service connections prior to issuance of a Demolition Permit.

e. Traffic

1. Applicant to install a Rectangular Rapid Flash Beacon (RRFB) system, or Pedestrian Hybrid Beacon, to supplement the proposed mid-block crosswalk across Washington Street at Dodge Street. A detailed design and specifications, including but not limited to system layout, number of beacons, push button locations, conduit and pull box layout, post and foundation information, power source, and system operations shall be provided to the City Planner for review and approval prior to issuance of a Building Permit. Installation to be completed prior to issuance of a Certificate of Occupancy.
2. In addition to the Washington Street north leg crosswalk, the proponent is proposing to upgrade the existing crosswalk across the east leg of Washington Street. This crosswalk to be enhanced with Pedestrian Warning signs (W11-2, W16-7p), similar to the other proposed crosswalks. Installation to be completed prior to issuance of a Certificate of Occupancy.
3. At the intersection of Dodge Street and Dodge Street Court, the proposed Pedestrian Warning signs (W11-2, W16-7p) are not necessary for the Dodge Street Court approaches since they are Stop sign controlled and are to be eliminated.
4. Pedestrian Warning signs (W11-2, W16-7p) must be provided for the crosswalk across Dodge Street and installation to be completed prior to issuance of a Certificate of Occupancy.
5. The Applicant to install crosswalks that meet the City standard, which is an inlaid preformed thermoplastic asphalt pavement marking system. The proponent shall coordinate with the City Engineer in regard to the exact specifications. The Applicant to coordinate with the City Planner regarding the specific pattern.
6. It is expressly noted that certain proposed parking and roadway circulation changes are subject to approval of Council in accordance with the Salem Traffic Ordinance.

f. Salem Redevelopment Authority

All work shall comply with the requirements of the Salem Redevelopment Authority.

g. Notification

Prior to the issuance of a Building Permit, the applicant shall notify the City of Salem and all abutters within 300 feet if the development proceeds with alternate use program "B" as described in this decision in Section 7.3.1.

h. Future Changes

Once the final Certificate of Occupancy is issued, the approval of the alternate program of uses shall expire and the Zoning Ordinance will govern any proposed change of use.

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 Anderson/ES
Ben Anderson, Chairman