



KIMBERLEY DRISCOLL  
MAYOR

# CITY OF SALEM, MASSACHUSETTS

## BOARD OF APPEALS

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**October 28, 2022**

### **Decision**

### **City of Salem Board of Appeals**

1 LEEFORT TERRACE (Map 41, Lot 249), 2 LEEFORT TERRACE (Map 41, Lot 242)

The petition of BC LEEFORT TERRACE LLC at 1 LEEFORT TERRACE (Map 41, Lot 249) and at 2 LEEFORT TERRACE (Map 41, Lot 242) (R2 Zoning District), for a Comprehensive Permit pursuant to M.G.L. Chapter 40B, to construct one hundred twenty-four (124) new units, Fifty (50) of those units will be replacing the current units at Leefort Terrace.

### **Statement of Facts:**

1. In the petition date stamped April 11, 2022, the petitioner requested a Comprehensive Permit pursuant to M.G.L. c. 40B to construct one hundred twenty-four (124) new units, where fifty (50) of those units will replace the existing fifty (50) units at Leefort Terrace.
2. A public hearing on the above Petition was opened on May 16, 2022 pursuant to M.G.L Chapter 40B and was continued to June 15, 2022, July 27, 2022, August 17, 2022, September 14, 2022, and October 24, 2022. The public hearing was closed on October 24, 2022 with the following Salem Board of Appeals members present: Mike Duffy (Chair), Peter Copelas (Vice Chair), Carly McClain, and Paul Viccica.
3. The petitioner is seeking a comprehensive permit to construct one hundred twenty-four (124) new units, where fifty (50) of those units will replace the existing fifty (50) units at Leefort Terrace. This is in compliance with the Commonwealth of Massachusetts Department of Housing and Community Development's ("DHCD") project eligibility determination for the project and the statutory affordability requirements for approval under M.G.L. c. 40B, §§20-23

and the provisions of 760 CMR 56.00 et seq. and with a Subsidy<sup>1</sup> provided through the Federal Low Income Housing Tax Credit ("LIHTC") Program administered in Massachusetts by the Massachusetts Department of Housing and Community Development (DHCD), State Low-income Housing Tax Credits, and DHCD soft funds.

4. The site has direct access to the waterfront at Collins Cove, along with close proximity to historic downtown Salem amenities and transit. It is a ½ mile to the jobs and to the amenities of downtown Salem. It is also a ½ mile to a ferry with connections to Boston, and exactly 1 mile to the Salem commuter rail stop on the Newburyport/Rockport line
5. The petitioner proposes a structure where the west wing of the building will consist of forty-seven (47) 1-bedroom apartments and twelve (12) 2-bedroom apartments. The east wing of the building will have fifteen (15) 1-bedroom apartments, twenty-six (26) 2-bedroom apartments and there will be twenty-four (24) 3-bedroom apartments. There will be approximately +/- 789 square feet for a community space as well as approximately +/- 501 square feet for a wellness space. In addition, there will be approximately +/- 471 square feet for a fitness center and approximately +/- 190 square feet for a computer lounge. The proposed structure will be approximately +/- 33,416 square feet.
6. The project includes the replacement of the existing 50 units with the new construction of 124 units, 100% of which will be subsidized, deed restricted affordable housing for 99 years. All units will be affordable to households earning 60% AMI or less, with thirteen percent (17 units) set aside for households earning under 30% of AMI.
7. 1 and 2 Leefort Terrace are located in the R2 Zoning district. The parcels for 1 and 2 Leefort Terrace are located in the Flood Hazard Overlay District (FHOD)
8. The petitioner was represented during the hearings by Attorney Scott Grover of Tinti and Navins, P.C; Ben Phillips of Beacon Communities, LLC; Courtney Koslow of Beacon Communities, LLC; Michelle Apigian of Icon Architecture (architect); Mark Wixted of Bohler Engineering (civil engineer); Monique Hall of BSC Group (landscape architect); Giles Ham of Vanasse and Associates, Inc. (traffic engineer).
9. The City of Salem retained Bobrek Engineering and Construction to provide civil peer review. The peer reviewers reviewed the conditions and proposals for 1 and 2 LEEFORT TERRACE.

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<sup>1</sup> Note that terms which are capitalized in the Application are as defined under the State's 40B Rules at 760 CMR 56.00 et seq. unless otherwise stated herein.

10. The petitioner is proposing to provide approximately .81 parking spaces per unit. This equates to one hundred (100) parking spaces, of which eighty-three (83) will be covered parking spaces and seventeen (17) will be uncovered surface parking spaces. Of the total spaces, six (6) will be accessible spaces.
11. Although the City of Salem meets the required 10% of affordable housing units, the applicant and the City both have demonstrated that there is a continued need for more affordable housing units.
12. According to the ACS 2019 Census estimates for the City of Salem about 48% of households have low/moderate income, meaning they make less than the median income. Further 42% of renters across the City are considered cost burdened whereby households are spending more than 30% of their income on rent.
13. The Leefort Terrace project is consistent with several goals and needs identified including in the Salem Housing Needs and Demand Analysis (2015) and the draft Salem Housing Roadmap (2022).
14. The Salem Housing Needs and Demand Analysis (2015) by MAPC projects there will be an increase in demand of approximately 1,800 new housing units by 2030 for people who earn below 80% of area median income. The Leefort Terrace project will provide housing opportunities for this target population.
15. The plans and other submission material were reviewed by the Zoning Board of Appeals. Throughout its deliberations, the Zoning Board of Appeals 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.

#### **Waivers and Exceptions:**

The property is located in the R2 zoning district where multi-family residential use is not allowed under Section 3.1.4. The existing multi-family residential use is legally non-conforming under Section 3.3.1 and therefore can be altered or extended by Special Permit under Section 3.3.2. The applicant is requesting a waiver of use prohibition in Section 3.1.4 and the Special Permit requirement in Section 3.3.2.:

<b>Salem Zoning Ordinance:</b>	<b>Zoning Board Requirements:</b>
Section 3.1.4, 3.3.1, 3.3.2	Multi-family residential use is legally nonconforming under Section 3.3.1 and therefore can be altered or extended by Special Permit under Section 3.3.2. The applicant is requesting a waiver of use prohibition in Section 3.1.4 and the

	Special Permit requirement in Section 3.3.2.
Section 4.1- Dimensional Standards- All dimensional requirements including minimum lot area, minimum lot area per dwelling unit, minimum lot frontage, minimum lot width, minimum lot coverage, minimum front, rear and side setbacks and maximum height of buildings (in both feet and stories).	All dimensional requirements as described are waived and the building will comply in accordance with the dimensions shown in the approved plans.
Section 5.1 Parking- The applicant is requesting a waiver of the parking requirements for the residential and commercial uses in the R2 zoning district to allow the proposed development as conditioned through and governed by the Comprehensive Permit.	The zoning board has waived/denied the parking requirements. Parking spaces shall comply in accordance with the dimensions, design and number of parking spaces as shown in the Approved Plans.
<b>Salem City Ordinance</b>	<b>Zoning Board Requirements:</b>
Section 8.1- Flood Hazard Overlay District Special Permit- The applicant is requesting a waiver of the Planning Board review and requirements of the Flood Hazard Overlay District.	The Zoning Board has waived/denied the requirements of the Flood Hazard Overlay District to the extent the requirements are inconsistent with the Approved Plans submitted as part of Petitioner's approval.
Section 9.1 – Site Plan Review- The applicant has requested a waiver of the Site Plan Review Special Permit from the Planning Board.	The Zoning Board of Appeals has waived/denied the requirement for a site plan review special permit from the Planning Board. The Planning Board has provided comments to the Zoning Board of Appeals for consideration.

<p>Part III. Chapter 2. Section 2-702- Board of Health-The applicant is requesting a waiver of any procedures, rules, regulations and requirements of the Board of Health adopted pursuant to City Ordinances to allow the proposed development as conditioned by the Comprehensive Permits and as requested by the Massachusetts State Sanitary Code M.G.L. c. 111, Section 128C and regulations thereunder to the extent applicable to the proposed development.</p>	<p>The Zoning Board of Appeals hereby waives/denies the rules, regulations and requirements of the Board of Health to the said rules, regulations and requirements or local requirements. However, the petitioner shall comply with the “Board of Health” conditions set forth in the Special Conditions Section below.</p>
<p>Part III. Chapter 2. Section 2-1572- Demolition of Buildings- The applicant is requesting a waiver of the ordinance prohibiting the demolition of any building more than 50 years old to allow for the existing buildings 1 and 2 Leefort to be razed. Such a waiver is typically within the authority of the Salem Historic Commission.</p>	<p>The Zoning Board of Appeals hereby waives/denies Petitioner’s requested waiver of the demolition delay ordinance requirement.</p>
<p>Part III. Chapter 4, Section 4 –Signage- The applicant is requesting a waiver of any approvals required by City Ordinances to erect signs in connection with the proposed development, such signage to be conditioned through and governed by the Comprehensive Permit.</p>	<p>The Zoning Board of Appeals hereby waives/denies the requirements of the City Ordinance for the approval of Signage. However, the Petitioner shall submit proposed signage to the Department of Planning and Community Development which shall review and administratively approve Petitioner’s proposed signage, in their reasonable discretion, using the design guidelines set forth in the Sign Ordinance.</p>
<p>Part III. Chapter 50 –Wetlands- The applicant is requesting a waiver of the provisions of the City Ordinance governing the protection of certain wetland resource areas. To the extent the proposed development affects any such areas as defined in Chapter 131, §40 and regulations hereunder, the Conservation Commission of the City of Salem will maintain its jurisdiction to ensure that appropriate conditions are imposed on the proposed development to safeguard protected areas.</p>	<p>To the extent the proposed development affects any such areas defined in Chapter 313, s. 40 and regulations thereunder, the Conservation Commission of the City of Salem will maintain its jurisdiction to ensure that appropriate conditions are imposed on the proposed development to safeguard protected areas</p>

Part III. Chapter 37 - Storm water Management- The applicant is requesting a waiver of the provisions of the City Ordinance governing stormwater management to allow the proposed development as conditioned through and governed by the Comprehensive Permit.	The Zoning Board of Appeals hereby waives/denies the requirements of the City Ordinance for storm water management. Subject to the terms of the special conditions of the Comprehensive Permit.
<b>Salem City Ordinance</b>	<b>Zoning Board Requirements:</b>
Filing Fees, Bond and Security and Related Requirements- To the extent applicable to the proposed development the applicant requests a waiver of any fees, bonds and related security requirements.	The Zoning Board of Appeals waives/denies the request to waive the fees, bonds and related security requirements.

The Salem Board of Appeals, after careful consideration of the evidence presented at the public hearing, and after thorough review of the petition, including the application narrative and plans, and the Petitioner's presentation and public testimony, makes the following **findings** that the proposed project meets the provisions of M.G.L c. 40B, § 20-23:

### **Jurisdictional Findings and Rulings**

1. The Petitioner is eligible to receive a subsidy from the DHCD (the "Subsidizing Agency") after a Comprehensive Permit has been issued and which, unless otherwise governed by a federal act or regulation, complies with the requirements of the Subsidizing Agency relative to a reasonable return on the Project as evidenced by the project eligibility letter dated April 5, 2022, issued by the Department of Housing and Community Development of the Commonwealth of Massachusetts and submitted to the Board. The letter of approval indicates that the proposed project complies with the requirements of the Subsidizing Agency relative to reasonable return on the Project. The applicant may assign the Comprehensive Permit Decision issued to a single purpose entity in order to facilitate the Applicant's receipt of Project funding, including, but not limited to Low Income Housing Tax Credit funding.
2. The Project is fundable by a Subsidizing Agency within the meaning of Section 56.04(1)(b) of the Chapter 40B Regulations since the Subsidizing Agency, DHCD, issued a written Determination of Project Eligibility, dated April 5 2022, under a Low or Moderate Income Housing subsidy program.
3. The Massachusetts Department of Housing and Community Development will be the Subsidizing Agency within the meaning of Section 56.02 of the Chapter 40B regulations (760 CMR§ 56.02).

4. The applicant controls the site and qualifies as a recipient of a Comprehensive Permit for this Project as required under Section 56.04(1)(C) of the Chapter 40B Regulations.
5. Although the City of Salem meets statutory minima set forth in M.G.L. Chapter 40B that low income and moderate-income housing units in Salem do exceed 10% of Salem's total housing units, the Board finds that there is still a significant city-wide need for affordable housing. Further, the development as proposed in the Application and other supporting documentation is consistent with local needs within the meaning of M.G.L Chapter 40B, Section 20 and Section 56.02 of the Chapter 40B Regulations (760 CMR 56.02).

**Special Conditions:**

**1. Conformance with the Plan**

- a. Work shall conform with the set of plans entitled, "Leefort Terrace", prepared by Icon Architecture, Bohler Engineering and BSC Group dated July 27, 2022 and revised September 8, 2022.

<b>Drawing Title</b>	<b>Sheet No.</b>	<b>Prepared By</b>	<b>Issued</b>
Cover	G-000	Icon Architecture	9.8.2022
Project Data and Unit Matrix	G-002	Icon Architecture	9.8.2022
Existing Conditions	Sheet 1-3	Feldman Geospatial.	09.8.2022
Overall Site Plan	C-301	Bohler Engineering	10.12.2022
Grading and Drainage Plan	C-401	Bohler Engineering	10.12.2022
Utility Plan	C-501	Bohler Engineering	10.12.2022
Soil Erosion and Sediment Control Plan	C-601	Bohler Engineering	10.12.2022
Erosion and Sediment Control Notes and Details	C-602	Bohler Engineering	10.12.2022
Detail Sheet	C-901	Bohler Engineering	10.12.2022
Illustrative Plan and Landscape Drawing List	L-100	BSC Group	10.12.2022

Landscape General Notes	L-102	BSC Group	10.12.2022
Landscape Materials Plan	L-201	BSC Group	10.12.2022
Landscape Materials Plan	L-202	BSC Group	10.12.2022
Landscape Lighting Plan and Details	L-301	BSC Group	10.12.2022
Landscape Planting Plan	L-401	BSC Group	10.12.2022
Landscape Planting Plan	L-402	BSC Group	10.12.2022
Landscape Details	L-501	BSC Group	10.12.2022
Landscape Planting Details	L-502	BSC Group	10.12.2022
Garage & Level 1 Overall Floor Plan	A-101	Icon Architecture	10.12.2022
Level 2 & Level 3 Overall Floor Plan	A-102	Icon Architecture	10.12.2022
Level 4 & Roof Overall Floor Plan	A-103	Icon Architecture	10.12.2022
Overall Elevations	A-200	Icon Architecture	10.12.2022
Overall Courtyard Elevations	A-201	Icon Architecture	10.12.2022
Building Sections	A-301	Icon Architecture	10.12.2022
Floor, Roof and Wall Assemblies	A-401	Icon Architecture	10.12.2022
Enlarged Unit Plan 1-bedroom	A-501	Icon Architecture	10.12.2022



Enlarged Unit Plan 1br/2br Group 2	A-502	Icon Architecture	10.12.2022
Enlarged Unit Plan 2br	A-503	Icon Architecture	10.12.2022
Enlarged Unit Plan 2br	A-504	Icon Architecture	10.12.2022
Enlarged Unit Plan 3br	A-505	Icon Architecture	10.12.2022
Enlarged Unit Plan 3br	A-506	Icon Architecture	10.12.2022
Enlarged Unit Plan 3br Group 2	A-507	Icon Architecture	10.12.2022
Kitchen Plans and Elevations	A-510	Icon Architecture	10.12.2022
Bath Plans and Elevations	A-512	Icon Architecture	10.12.2022
Bath Plans and Elevations	A-513	Icon Architecture	10.12.2022
Exterior Perspective Rendering – Szetela Lane	A-950	Icon Architecture	10.12.2022
Exterior Perspective Rendering – Courtyard	A-951	Icon Architecture	10.12.2022
Exterior Perspective Rendering – Fort Avenue	A-952	Icon Architecture	10.12.2022
Exterior Perspective Rendering – From Bentley School on Szetela Lane	A-953	Icon Architecture	10.12.2022

## 2. Amendments

- a. Any amendments to the approved plans shall be reviewed by the City Planner and if deemed necessary by the City Planner in consultation with the Building Commissioner, shall be brought to the Zoning Board of Appeals for review. Any request for an amendment to the conditions of

this Decision or changes to the approved plans shall require the approval of the Zoning Board of Appeals.

**3. Fire Department:**

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

**4. Building Inspector:**

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

**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 Board in writing of the new owner's name and address. The terms, conditions, restrictions, and/or requirements of this decision shall be binding on the Owner and its successors and/or assigns.

**6. Site Specific Conditions**

- a. The project includes the replacement of the existing 50 units with the new construction of 124 units, 100% of which will be subsidized, deed restricted affordable housing for 99 years. All units will be affordable to households earning 60% AMI or less, with thirteen percent (17 units) set aside for households earning under 30% of AMI.

**7. Pre-Construction Conference**

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

**8. Traffic & Circulation**

- a. The owner shall tender \$62,000 to the City of Salem Transportation Enhancement fund (TEF) prior to issuance of a Certificate of Occupancy. The TEF will be used by the city for transportation network services relating to infrastructure and or operation of the transportation network.

## **9. Landscaping**

- a. An as built landscaping plan accompanied with a letter from a Registered Landscape Architect or certified arborist certifying compliance of the landscaping with the approved plan shall be submitted to the City Planner prior to issuance of the Certificate of Occupancy.

## **10. Maintenance**

- a. Refuse removal, ground maintenance, and snow removal shall be the responsibility of the applicant. "Refuse removal" includes recycling, which shall be the responsibility of the owner, successors, or assigns. The owner shall provide adequate facilities to ensure all users are able to recycle their trash. Owner is to enter into a contract with a company of the owner's choice to arrange pick-up of recyclable material. A copy of this contract is to be submitted to the City Engineer.
- b. Winter snow in excess of snow storage areas on the site shall be removed off-site.

## **11. Fire Department**

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

## **12. Building Inspector**

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

## **13. Board of Health**

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

- a. The individual presenting the plan to the Board of Health must notify the Health Agent of the name, address, and telephone number of the project (site) manager who will be on site and directly responsible for the construction of the project.
- b. If a DEP tracking number is issued for this site under the Massachusetts Contingency Plan, no structure shall be constructed until the Licensed Site Professional responsible for the site meets MA DEP standards for the proposed use.
- c. A copy of the Licensed Asbestos Inspector's Report must be sent to the Health Agent.
- d. A copy of the Demolition Notice sent to MA DEP, Form BWPAO6, must be sent to the Health Agent.
- e. The developer shall adhere to a drainage plan as approved by the City Engineer.
- f. The developer shall employ a licensed pesticide applicator to exterminate the area prior to construction, demolition, and/or blasting and shall send a copy of the exterminator's invoice to the Health Agent.

- g. The developer shall submit a plan for rodent control and maintain the area free from rodents throughout construction.
- h. The developer shall submit to the Health Agent a written plan for dust control and street sweeping which will occur during demolition and construction.
- i. The developer shall submit to the Health Agent a written plan for containment and removal of debris, vegetative waste, and unacceptable excavation material generated during demolition and/or construction.
- j. In accordance with Board of Health Regulation #7, the developer must ensure that the trash contractor offer mandatory recycling to the development.
- k. The Fire Department must approve the plan regarding access for firefighting.
- l. Noise levels from the resultant establishment(s) generated by operations, including but not limited to refrigeration and HVAC systems, shall not increase the broadband sound level by more than 10 dB(A) above the ambient levels measured at the property line.
- m. The developer shall disclose in writing to the Health Agent the origin of any fill material needed for the project.
- n. The resultant establishment shall dispose of all waste materials resulting from its operation in an environmentally sound manner as described to the Board of health.
- o. The developer shall notify the Health Agent when the project is complete for final inspection and confirmation that above conditions have been met.

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

##### **A. Water**

- a. Prior to Engineering Department sign-off of a building permit, applicant shall provide the required letter confirming adequate water flow, adequate water pressure, and water main capacity for proposed demand. Additionally, applicant shall provide the required letter from a licensed plumber stating that the condition of the existing water service to the property is adequate to be reused for the proposed development. If any of the investigations and/or reporting find inadequacies in the existing property or supporting City infrastructure, the applicant shall submit their engineer's recommended repairs/replacements to the Engineering Department for review and acceptance. Appropriate mitigation measures or improvements to the property and/or City infrastructure shall be completed at the cost of the applicant. Refer to "Engineering Rules & Regulations for Site Plan Review & Building Permit Routing Slip Sign Off" for letter(s), documentation and requirements.
- b. Applicant shall coordinate with Salem Fire Department for site hydrant requirements. Prior to Engineering Department sign-off on the building permit, the applicant will be required to demonstrate Salem Fire

Department acceptance of the proposed fire protection appurtenances on site. The demand for these appurtenances must be included in the applicant engineering's calculations for the site demand.

- c. Prior to Engineering Department sign-off of a building permit, applicant shall provide their plumbing engineer's design plans, including detailed information on the water meter location in the building that demonstrates clear access for future maintenance and that no other connections (tees) exist before the City's main meter and the location of the containment backflow preventor device.
- d. Prior to Engineering Department sign-off of a building permit, applicant shall provide information regarding fire sprinkler engineering design and backflow preventer information.
- e. Prior to Engineering Department sign-off of a building permit, applicant shall provide the irrigation system design, including location of backflow preventor.
- f. Prior to Engineering Department sign-off of a building permit, applicant's Licensed Plumber and/ or Fire Protection Engineer shall complete and submit a separate Backflow Prevention Device Design Data Sheet for each proposed device using the online permitting system, VPC, with associate fee (\$100).
- g. Prior to Engineering Department sign-off of a building permit, applicant shall provide information on proposed source of water for demolition and construction activities. Note that temporary hydrant use is only allowed for demolition or short construction periods (less than 1 month). For water use longer than 1 month, a temporary connection will be required.
- h. Prior to Engineering Department sign-off of a building permit, applicant shall provide documentation from a Licensed Plumber evaluating the proposed potable water demand (for fire protection, and domestic service) and recommended appropriate size(s) for meter(s). Existing meters not proposed for reuse shall be returned to the Engineering Department with corresponding sending units (MIU).

#### **B. Sewer**

- a. Prior to Engineering Department sign-off of a building permit, applicant shall provide the required CCTV and letter confirming adequate condition and capacity of the sewer. See Attachments for the extents of the required CCTV. If any of the investigations and/or reporting find inadequacies in the existing property or supporting City infrastructure, the applicant shall submit their engineer's recommended repairs/replacements to the Engineering Department for review and acceptance. Appropriate mitigation or improvement measures to the property and/or City infrastructure shall be completed at the cost of the applicant. Refer to "Engineering Rules & Regulations for Site Plan Review & Building Permit Routing Slip Sign Off" for letter(s), documentation and requirements.

**C. Other Utilities**

- a. Prior to Engineering Department sign-off of a demolition permit, applicant shall provide a utility conflict table, or utility profiles, demonstrating no conflicts between utilities as well as confirmation that civil design standards and practices have been met.
- b. Prior to Engineering Department sign-off of a building permit, the applicant shall coordinate with the Salem Tree Warden for the plantings on City property. Also, applicant has agreed to provide positive drainage toward existing catch basins to mitigate ponding in Szetela Lane along roadway where existing curb cuts are closed. Applicant to provide plans demonstrating positive drainage in roadway.
- c. Prior to Engineering Department sign-off of a building permit, applicant shall provide the conduit and handhole locations electric plan. Note that a petition for grant of location through the City Council is required for all relocation, size increase or new electrical and telecommunications conduits within the City right-of-way.
- d. Prior to Engineering Department sign-off of a building permit, applicant shall provide the information on how dewatering of utility trenches will be handled during construction, including treatment and location of potential discharge.
- e. Prior to Engineering Department sign-off on a final certificate of occupancy, the applicant shall submit as-built drawing(s) including all utilities and infrastructure.

**D. Drainage**

- a. Prior to Engineering Department sign-off of a building permit, applicant shall provide buoyancy calculations. All structures within the City of Salem right-of-way (including sidewalks) shall include extended bases and shall be H-20 rated.
- b. Prior to Engineering Department sign-off of a building permit, applicant shall provide the required groundwater recharge letter. Refer to "Engineering Rules & Regulations for Site Plan Review & Building Permit Routing Slip Sign Off" for letter and documentation requirements.
- c. Prior to Engineering Department sign-off of a building permit, applicant shall provide the required Drainage Alteration Permit. Provide documentation as required by City Ordinance Chapter 38, Article VI.
- d. Prior to Engineering Department sign-off of a building permit, applicant shall provide information to connect to the City drainage system including but not limited to CCTV and cleaning of the existing drainage system to verify adequate capacity and condition. Refer to "Engineering Rules & Regulations for Site Plan Review & Building Permit Routing Slip Sign Off" for requirements.
- e. Prior to Engineering Department sign-off of a building permit, applicant shall provide test pit information.

- f. Prior to Engineering Department sign-off of a building permit, applicant shall provide a detail for the 24" perforated HDPE drainage pipe trench.
- g. Prior to Engineering Department sign-off of a building permit, applicant shall provide the O&M log storage requirements in the O&M plan.
- h. The Board of Health shall review the Long-Term Pollution Prevention Plan. Prior to Engineering Department sign-off of a building permit, the applicant will be required to demonstrate BOH acceptance to the City of Salem Engineering Department.
- i. Prior to Engineering Department sign-off of a building permit, applicant shall provide a signed Illicit Discharge Compliance Statement.
- j. The Board of Health shall review the Spill Prevention and Response Procedures. Prior to Engineering Department sign-off, the applicant will be required to provide BOH acceptance to the City of Salem Engineering Department.

#### **E. Site & Materials Plan**

- a. Prior to Engineering Department sign-off on a demolition permit, applicant to provide a demolition plan that includes the location of the cutting and capping of all existing utilities that will not be reused. All services shall be cut and capped at the City mains in the street.
- b. Prior to issuance of a Street Opening & Trench permit, applicant to provide the cutting and capping information for all existing utilities. This information should be clearly indicated on the demolition plan.
- c. Prior to Engineering Department sign-off on a demolition permit, the applicant will be required to cut and cap all utilities not proposed and accepted for reuse according to the demolition plan.
- d. Prior to Engineering Department sign-off of a building permit, applicant to provide the asphalt impacts and proposed restoration.
- e. Prior to Engineering Department sign-off of a building permit, applicant to provide existing curb cut measurements on the existing conditions plan.

#### **15. General Conditions**

- a. Applicant to submit construction plans and associated technical letters to the Department of Planning Community Development, Building Department and Engineering Department that demonstrate adequate capacity and conditions for all City-owned infrastructure to be used, prior to Engineering Department sign-off of a building permit. The City may request an additional civil peer review, at the applicant's expense, to confirm the adequacy of condition and capacity for each system. Any deficiency in the construction plans shall be corrected by the applicant, at the applicant's expense, to the satisfaction of the Engineering Department. Any deficiency in capacity and/or condition of each system, which the applicant plans to utilize as part of this development, shall be improved at the expense of the applicant and be in accordance with the construction

plans submitted and accepted by the City Engineer prior to Engineering Department sign-off of a building permit.

- b. All work shall comply with the standard requirements of the City Engineer including any findings from peer reviews.
- c. Drawings, specifications, calculations, checklists, etc. must be stamped, signed, and dated by a Professional Engineer registered in the Commonwealth of Massachusetts by the designing discipline.

#### **16. Sidewalks & Roadways**

- a. Applicant shall provide documentation (drawings, details, specifications, testing, letters, etc.) to the Engineering Department demonstrating that all City requirements have been met relative to sidewalks and roadways prior to Engineering Department sign-off of a building permit.

#### **17. Clerk of the Works**

- a. A Clerk of the Works shall be provided by the City, at the expense of the Applicant, their successors or assigns, as it is deemed necessary by the City Engineer. Accordingly, it is the understanding of the Board, the City Planner, the City Engineer, and the Applicant, that the Clerk of the Works is expected to oversee and review all civil and site improvements related to the Project, including, but not necessarily limited to:
  - i All utility cut and caps related to City's Demolition Permit;
  - ii All utility installations;
  - iii All connections to, extensions of, or improvements to publicly owned infrastructure both on the Applicant's site or within the City's right of way and any on-site stormwater or wastewater systems;
  - iv All new installations or modifications to existing pavement, sidewalk, and curbing, and
  - v All conditions placed on the project by an Order of Conditions from the Salem Conservation Commission.
- b. The Clerk of the Works shall review and coordinate all proposed changes to the original Zoning Board of Appeals decision pursuant to paragraph 2 (Amendments) in this Comprehensive Permit.
- c. The Applicant shall submit a construction plan that includes a detailed sequence and schedule of all construction activities related to the Clerk of the Works' purview. Once the construction plan is approved, it shall be used to create a Task Order for the Clerk of the Works.
- d. No work, including blasting, demolition, excavation, and grading shall start before an approved task order for the Clerk of the Works' services has been agreed upon by all parties.

#### **18. Rock Crushing**

- a. All rock crushing shall be carried out in accordance with federal and state blasting permit law and regulations.



## **19. Drilling and Blasting**

- a. All drilling and blasting for roadways, utility trenches, service trenches and/or structures, whenever they are built, shall be carried out in accordance with federal and state blasting permit law and regulations.

## **20. Construction Practices**

- a. All construction shall be carried out in accordance with the following conditions:
  - i. All provisions in the City of Salem's Code of Ordinance, Chapter 22, Noise Control, shall be strictly adhered to.
  - ii. All reasonable action shall be taken to minimize the negative effects of construction on abutters. Advance notice shall be provided to all abutters in writing at least 72 hours prior to commencement of demolition and construction of the project.
  - iii. All construction and staging will occur on site. No construction will occur or be staged within City right of way. Any deviation from this shall be approved by the Department of Planning & Community Development prior to construction.
  - iv. Prior to issuance of a demolition, foundation, or building permit, the Applicant shall provide a detailed construction vehicle access, schedule, and traffic plan for review and approval by the Director of Traffic & Parking
  - v. Any roadways, driveways, sidewalks, or landscaping damaged during construction shall be restored to their original condition by the applicant.
  - vi. All construction vehicles shall be cleaned prior to leaving the site so that they do not leave dirt and/or debris on surrounding roadways as they leave the site.
  - vii. All construction shall be performed in accordance with the Rules and Regulations of the Zoning Board, and in accordance with any and all rules, regulations and ordinances of the City of Salem.
  - viii. All construction vehicles left overnight at the site, must be located completely on the site.
  - ix. Should contaminated materials be encountered onsite, all construction shall take place under the direction and supervision of a Licensed Site Professional in compliance with the rules and regulations of the Massachusetts Department of Environmental Protection.
  - x. The applicant shall promptly notify the Board of Health of any environmental condition encountered during construction that may adversely impact the abutters to the site.

## **21. As-built Plans**

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

Department of Planning and Community Development and Department of Public Services prior to the issuance of the final Certificate of Occupancy.

- b. The As-Built plans shall be submitted to the City Engineer in an electronic file format suitable for the City's use and approved by the City Engineer, prior to the issuance of the final Certificate of Occupancy.
- c. A completed tie card, a blank copy (available at the Engineering Department) and a certification signed and stamped by the design engineer, stating that the work was completed in substantial compliance with the design drawing must be submitted to the City Engineer prior to the issuance of the final Certificate of Occupancy; as well as any subsequent requirements by the City Engineer.

## **22. Violations**

- a. Violations of any condition contained herein shall result in revocation of this permit by the Zoning Board of Appeals unless the violation of such condition is waived by a majority vote of the Zoning Board of Appeals.

## **Record of Vote**

The following members of the Zoning Board of Appeals voted four (4) in favor (Mike Duffy(Chair), Peter Copelas (Vice Chair), Carly McClain and Paul Viccica and none (0) opposed to approve the Comprehensive Permit application subject to the above-stated terms and conditions.

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 Zoning Board of Appeals. The 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. The owner or applicant, his successors or assigns, shall pay the fee for recording or registering.

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Mike Duffy/ Chair  
Zoning Board of Appeals

A COPY OF THIS DECISION HAS BEEN FILED WITH THE PLANNING BOARD AND  
THE CITY CLERK.

Appeal from this decision, if any, shall be made pursuant to Section 17 of the Massachusetts General Laws Chapter 40A, and shall be filed within 20 days of filing of this decision in the office of the City Clerk. Pursuant to the Massachusetts General Laws Chapter 40A, Section 11, the Variance or Special Permit granted herein shall not take effect until a copy of the decision bearing the certificate of the City Clerk has been filed with the Essex South Registry of Deeds.