



CITY OF SALEM PLANNING BOARD

2011 JUL 25 AM 10:30

July 26, 2011

Decision – 405-419 Highland Avenue Amendment to Form C – Definitive Subdivision

Paul Ferragamo
405-419 Highland Avenue
Salem, MA 01970

Re: Amendment to 405-419 Highland Avenue Subdivision

On May 19, 2011, 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 Paul Ferragamo (hereinafter referred to as the "Applicant" and/or "Owner") to allow an amendment to the approved definitive subdivision plan for the property at 405-419 Highland Avenue (Map 3, Lots 74, 75 and 76) and associated roadways and utilities. The subdivision contains eleven (11) residential lots.

The hearing was continued to June 16, 2011, July 7, 2011, and July 21, 2011. At the regularly scheduled Planning Board meeting on July 21, 2011 the public hearing was closed with the following Board members in attendance: Chuck Puleo, Tim Kavanagh, Tim Ready, Helen Sides, Randy Clarke, Nadine Hanscom, and Mark George. The Board voted by a vote of six (6) in favor (Puleo, Kavanagh, Ready, Sides, Clarke and George in favor), Hanscom abstaining and none (0) opposed approve the Form C-Definitive Subdivision, subject to the following conditions:

1. Conformance with the Plan

Work shall conform to the set of plans containing sheets 1 through 11, titled, "#405-427 Highland Avenue, Salem, Mass.," prepared by Patrowicz Land Development Engineering, 14 Brown Street, Salem, MA 01970, dated April 20, 2011 and last revised July 20, 2011.

2. Endorsement of the Plans

Following the statutory twenty (20) day appeal period, the Planning Board will endorse the original subdivision plans, subject to conditions of this decision, which shall be recorded at the South Essex Registry of Deeds. The applicant must submit the following for the Planning Board's approval prior to endorsement of the plans:

- a. A Covenant to secure the construction of ways and installation of municipal services, including required description of mortgages and assents of mortgagees.
- b. Acceptable form of grants of easements, if applicable.

- c. This decision shall be referenced on the original plans prior to the endorsement by the Planning Board; the decision shall be recorded with the plans at the South Essex Registry of Deeds.

3. Amendments

Any modification to the approved plans must receive the prior approval of the Planning Board unless deemed insignificant by the City Planner. Any waiver of conditions contained within this decision shall require the approval of the Planning Board.

4. Subdivision Regulations

The Subdivision shall be constructed in accordance with the requirements of the Subdivision Rules and Regulations and any other applicable regulations as affected by this decision.

5. Transfer of Ownership

Within five (5) days of transfer of ownership of the subdivision, the Owner shall notify the Board in writing of the new owner's name and address. This shall not include the sale of lots within the subdivision in the ordinary course of business, but only a sale of the entire subdivision. The terms, conditions, restrictions and/or requirements of this decision shall be binding on the Owner and its successors and/or assigns.

6. Security (Section III(B)(5) of the Subdivision Regulations)

Prior to the release of any lots for sale or building, the Planning Board shall require that an acceptable form of surety is posted along with a proposed schedule of releases. If partial release of surety is to be requested, the Planning Board may, at its discretion, require deposits to be broken down in amounts of anticipated requests for release. The applicant agrees to complete the required improvements in accordance with Section V of the Subdivision Regulations for the subdivision. Such construction and installation is to be secured by one and/or in part by the other of the following methods which may from time to time be varied by the applicant with the reasonable approval of the Planning Board:

a. Endorsement of approval with covenant

The Owner shall file a covenant, prior to endorsement by the Planning Board, executed and to be duly recorded with the Subdivision Plans by the owner of record, which instrument shall with the land, and shall state that such ways and services shown on the approved plans shall be provided to serve any and all lots before any lot may be built upon or conveyed, other than by mortgage deed; and/or

b. Endorsement of approval with bonds, surety or tri-party agreement

The Owner shall either file a performance bond, a deposit of money or negotiable securities, or a tri-party agreement in an amount determined by the Board to be sufficient to cover the cost of all or any one phase of the sub-division of the improvements. Surety, if filed or deposited, shall be approved as to form and manner of execution by the City Solicitor and, as to sureties by the City Treasurer, and shall be

contingent on the construction of the roadway through binder course. The amount of the surety shall be reasonably determined by the City of Salem Engineering Department and shall include an additional 10% to cover the cost of inflation or maintenance for eighteen (18) months after completion of the phase and release of surety.

The Owner may file a covenant to secure the construction of ways and services for the entire sub-division and said covenant may be partially released for phases of the sub-division by bond, surety or tri-party agreement being filed for any phase or phases of the subdivision by execution of a recordable instrument so stating by the Planning Board.

c. Timeframe

The construction of all ways and the installation of all required municipal services shall be completed within 18 months from the date of receipt of bond or surety by the Board or within two years of the date of approval of the Definitive Plan, whichever is earlier. Failure to do so shall automatically rescind approval, unless an extension is granted by the Planning Board.

7. Homeowner's Association

- a. A Draft Home Owners Association or Home Owner's Trust Documents shall be submitted to the Department of Planning and Community Development, for reasonable review as to form and content prior to the issuance of any Certificates of Occupancy for the proposed dwellings. These documents shall include the following responsibilities:
 - i. Ownership and/or maintenance of the storm water management system, including all stormwater management BMPs, whether in a public or private way. The Homeowner's Association is to notify the City Engineer within thirty (30) days of each of the required bi-annual maintenance/cleanings of the stormwater management system. Each maintenance is to occur at least five (5) months apart.
 - ii. Ownership and/or maintenance of any walls or gates located in the subdivision that are not situated on the lots in the sub-division;
 - iii. Responsibility for snow removal on the proposed new road on the submitted plans until such time as the street is accepted as a public way by City Council.
- b. The City of Salem reserves the right to enforce the responsibilities and requirements of the Homeowner's Association documents.

8. Salem Conservation Commission

- a. All work shall comply with the requirements of the Salem Conservation Commission.

9. Street Trees

The species of street tree is to be determined by the City's Director of Public Services.

10. Lighting

- a. The Owner shall coordinate with the electric company and the City Electrician regarding the installation of street lighting within the Subdivision.
- b. The street lighting shall be the responsibility of the Owner until such time as the City accepts the streets.
- c. A final lighting plan shall be submitted to the City Planner and the City Electrician for review and approval prior to the issuance of any building permits for the proposed dwelling units.

11. Water and Sewer

- a. The project is subject to reasonable mitigation recommended by the City Engineer relative to the capacity of the Ravenna Avenue sewer pump station to service the proposed homes.
- b. The applicant is to provide field verification (subject to approval by the City Engineer) that no virgin or over-blasted bedrock exists within two (2) feet of any proposed infiltration BMPs, prior to endorsement of the plans.
- c. Construction of all drainage infrastructure in the roadway layout, drainage easement, and Parcel A, as well as the "on-lot" drainage infrastructure including the catch basins, piping, and driveway Cultec units, are to be constructed per approved plans and verified before issuance of the first Certificate of Occupancy.
- d. Applicant is to provide field verification that the proposed 2-foot minimum limits of "over blasting" are constructed as designed prior to backfill.
- e. Construction of the remaining "on-lot" drainage infrastructure on each parcel (including roof leaders, piping, ponds, berms, swales, etc.) are to be constructed per approved plans and verified before issuance of the Certificate of Occupancy on each respective parcel.
- f. The City will exercise the water gates in Highland Avenue, in the vicinity of the proposed connection to the subdivision. If they do not operate effectively, new gates may be required at the location of the proposed connection, to provide effective emergency shut-off of the system and ensure the subdivision may still receive water if a portion of the City's system is shut down. The developer is to install the new gates on either side of the proposed tie-in, if requested by the City Engineer, prior to issuance of the first Certificate of Occupancy.
- g. Applicant is to add the 7/20/11 detention basin berm details to the drawings, subject to review and approval by the City Engineer, prior to final endorsement of the plans.
- h. Applicant is to retain a licensed engineer or surveyor during construction to confirm utilities and drainage (structural and non-structural) infrastructure are constructed in accordance with the approved plans. Applicant is to provide as-built drawings to document same.
- i. Applicant is to revise the Homeowner's Association documents to include provisions that an Operations and Management Plan (on all common and on-lot

drainage infrastructure) will be submitted to the Department of Planning and Community Development for records, prior to final endorsement of the plans.

- j. Applicant to receive approval of plans and drainage report from Mass DOT prior to commencement of construction.

12. Office of the Building Commissioner

All work shall comply with the requirements of the office of the Salem Building Commissioner as affected by this decision.

13. Office of the City Engineer

The applicant, his successors or assigns shall comply with all requirements of the City Engineer

14. Fire Department

- a. All work shall comply with the requirements of the Salem Fire Department as affected by this decision.
- b. Houses are to be sprinklered. Sprinkler systems are to be installed and tested in compliance with NFPA 13D (sprinkler systems for one and two-family dwellings).

15. Health Department

All work shall comply with the general requirements of the Salem Health Department as affected by this decision.

16. Board of Health

All requirements of the Board of Health shall be strictly adhered to, including the following conditions set forth in its decision of January 12, 2010:

- 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 the 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 the DEP, Form BWPA06, must be sent to the Health Agent.
- e) A radon remediation kit shall be installed and operational in each below grade dwelling unit.

- f) A radon test shall be conducted following installation and operation of the remediation kit.
- g) The developer shall adhere to a drainage plan as approved by the City Engineer.
- h) 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.
- i) The developer shall maintain the area free from rodents throughout construction.
- j) The developer shall submit to the Health Agent a written plan for dust control and street sweeping which will occur during construction.
- k) 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.
- l) The Fire Department must approve the plan regarding access for fire fighting.
- m) 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.
- n) The developer shall disclose in writing to the Health Agent the origin of any fill material needed for the project.
- o) 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.
- p) The drainage system for this project must be reviewed and approved by the Northeast Mosquito Control and Wetlands Management District.
- q) The developer shall notify the Health Agent when the project is complete for final inspection and confirmation that above conditions have been met.

17. Pre-Construction Conference

Prior to the start of work on the approved subdivision, a pre-construction conference shall be scheduled with the City Planner, the City Engineer (or his designee), the Building Commissioner, the Health Agent, and any other departments that may be necessary. The Owner shall submit a construction schedule at the time of the pre-construction conference.

18. Construction Practices

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

- a. The operation of tools or equipment used in construction or demolition work shall occur in accordance with Salem Ordinance Section 22-2 (5): Construction and Blasting and between the hours of 8:00 AM and 5:00 PM on weekdays and Saturdays. No work shall take place on Sundays or holidays. The Planning Board will agree to changes in the starting time, at the request of the applicant and if approved by a formal vote of the City Council, as per the ordinance.
- b. Any blasting, rock crushing, jack hammering, hydraulic blasting, or pile driving shall occur in accordance with Salem Ordinance Section 22-2 (5): Construction and Blasting and be limited to Monday-Friday between the hours of 8:00 AM and 5:00 PM. There shall be no blasting, rock crushing, jack hammering, hydraulic blasting, or pile driving on Saturdays, Sundays, or holidays.
- c. Blasting shall be undertaken in accordance with all local and state regulations.
- d. All reasonable action shall be taken to minimize the negative effects of construction on abutters. Advance notice shall be provided by the applicant to all abutters in writing at least 72 hours prior to commencement of construction of the project.
- e. All construction vehicles and equipment shall be cleaned prior to leaving the site so that they do not leave dirt and/or debris on surrounding roadways as they exit the site.
- f. The applicant shall abide by any and all applicable rules, regulations and ordinances of the City of Salem.
- g. All construction vehicles and equipment left overnight at the site must be located completely on the site.
- h. No Street shall be closed without prior approval of the Department of Planning and Community Development, unless deemed an emergency by the Salem Police Department.

19. Blasting

The applicant or agent shall distribute the flyers titled, "Facts for Massachusetts Property Owners About Blasting" to all abutters within three hundred (300) feet of the blasting area.

20. Construction Traffic

- a. With the exception of off-site improvements required as part of this decision, all construction will occur on site; no construction will occur or be staged within City right of ways. Any deviation from this shall be approved by the Department of Planning & Community Development prior to construction.

- b. A construction traffic management plan and schedule shall be submitted to the Department of Planning & Community Development for review and approval prior to the start of construction.
- c. Any roadways, driveways, or sidewalks damaged during construction shall be restored to their original condition by the Owner.
- d. The Owner shall clean construction vehicles before they exit the construction site, and clean and sweep all streets affected by their construction truck traffic as necessary.

21. Progress Reports

Upon the request of the Planning Board, the owner shall submit reports of the progress of the subdivision's completion.

22. Clerk of the Works

The services of a consultant to serve as 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. Inspection shall include, but not be limited to, examining the depth of over-blasting of ledge, installation of crushed stone and filter fabric, perforated drains, and construction of swales.

23. Utilities

Any utility installation for housing lots shall be reviewed and approved by the City Engineer prior to the issuance of a Building Permit. All utilities shall be installed underground.

24. As-built Plans & Street Acceptance Plans

As-built plans and Street Acceptance 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 final Certificate of Occupancy for the subdivision and/or the acceptance of any streets. The plan shall include, at a minimum, the locations and elevations of all stormwater management conveyances, structures and best management designs. Additionally, the applicant shall submit a letter from a Registered Professional Civil Engineer certifying compliance of the property with the approved plans and accompanying conditions, prior to issuance of any 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 final Certificate of Occupancy for the subdivision and/or the acceptance of any streets.

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 for the subdivision and/or the acceptance of any streets; as well as, any subsequent requirements by the City Engineer.

25. Violations

Violations of any condition shall result in revocation of this permit by the Planning Board, unless the violation of such condition is cured within fourteen (14) days, or waived by a majority vote of the Planning Board.

I certify that a copy of this decision and plans has been filed with the City Clerk and copies are on file with the Board. The decision 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 or is recorded on the Owners Certificate of Title if Registered Land. The owner or applicant, his successors or assigns, shall pay the fee for recording or registering.



Charles M. Puleo
Chair