



CITY OF SALEM PLANNING BOARD

Site Plan Review, Planned Unit Development Special Permit, and Flood Hazard District Special Permit Decision (Corrected Decision)

**1, 3 & 5 Harmony Grove Road and 60 & 64 Grove Street
Map 16, Lots 236, 237 239, 377 & 378**

FILE #
CITY CLERK, SALEM, MASS.
2012 OCT 26 A 11: 20

October 26, 2012

MRM Project Management, LLC
P.O. Box 388
Beverly, MA 01915

RE: Site Plan Review, Planned Unit Development Special Permit, and Flood Hazard District Special Permit Decision for Legacy Park at Harmony Grove Apartments

On February 2, 2012, the Planning Board of the City of Salem opened a Public Hearing under Section 7.3, Planned Unit Development, Section 9.5, Site Plan Review, and Section 8.1, Flood Hazard Overlay District (FHOD), of the City of Salem Zoning Ordinance, at the request of MRM Project Management, LLC, for the properties located at 3 Harmony Grove Road and 60 & 64 Grove Street, (Map 16, Lots 236, 237 and 239). The proposed project includes construction of three multi-family residential buildings (total of 141 units), re-use of an existing 17,000 square foot commercial office building, associated parking and landscaping, and a bicycle path providing public access to the North River Canal.

The Public Hearing was continued to February 16, 2012 (but was not heard on that date), March 1, 2012 (but was not heard on that date), March 15, 2012, April 5, 2012, April 19, 2012 (but was not heard on that date), May 3, 2012, May 17, 2012, June 7, 2012, June 21 (but was not heard on that date), July 5, 2012, July 19, 2012 (but was not heard on that date), September 6, 2012 (but was not heard on that date), September 11, 2012, September 20, 2012 (but was not heard on that date), October 1, 2012, and October 18, 2012.

At the hearing on October 1, 2012, the applicant presented a plan showing the addition of two adjacent parcels to the Planned Unit Development, 1 and 5 Harmony Grove Road (Map 16, Lots 377 and 378). The continued public hearing on October 18, 2012 and revised project with additional parcels was properly re-advertised and additional abutters notified.

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

- 1) 7.3.1 Purpose – The proposed Planned Unit Development (PUD), which incorporates a mix of housing, commercial space and open space, meets the purpose of Planned Unit Development, Section 7.3, to ensure compliance with the Master Plan of the City of Salem, *Neighborhood Master Plan of the North River Canal Corridor*, and good zoning practice. The proposed Planned Unit Development will promote the purpose of Section 7.3 by redeveloping a contaminated, blighted brownfield site and bringing it into productive reuse. The 1996 Master Plan emphasizes the presence of vacant industrial properties as one of the most important land use issue facing the City of Salem (*City of Salem Master Plan Update and Action Plan*, 1996, page 23), and highlights the difficulty of redeveloping these properties, particularly those with environmental contamination.

While the property is not within the NRCC neighborhood or zoning district, it is adjacent to it, and shares many of the characteristics of the former industrial parcels in the NRCC. The *Neighborhood Master Plan for the North River Canal Corridor* (2003) promotes constructing a waterfront pathway along the banks of the North River (Section 2.8), providing waterfront access along the canal, unlocking redevelopment north of Bridge Street, and improving the image of the canal edges (Section 3.3).

Further, 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 districts. The mixture of residential, commercial and open space/recreational uses proposed is appropriate, and the departure from strict provisions of zoning classifications, specifically residential use in the Business Park Development zoning district, is justified by the cleanup of the formerly contaminated and dangerous property, rehabilitation of a blighted site, location of new housing near the Salem MBTA commuter rail station, and construction of a multi-use path along the canal that continues the walking and biking trail system proposed for the North River Canal Corridor in its neighborhood master plan and in other NRCC development projects.

The Planned Unit Development would not result in a net negative environmental impact. The project requires remediation of a property contaminated from its former industrial use. The cleanup of the site, introduction of controlled drainage infrastructure, and erosion prevention measures will result in improvements to the natural environment on the site and surrounding it, including the water quality in the North River Canal.

- 2) 7.3.2 Applicability – The proposed PUD meets the minimum size requirement of 60,000 square feet; the development parcels total 362,000 square feet. The underlying zoning districts of the proposed development parcels are largely Business Park Development, with a small portion of Industrial; both are eligible zoning districts for PUD treatment. A portion of 64 Grove Street, which is mostly zoned Business Park Development, is zoned Residential Two-Family, which does not allow PUD. However, the PUD development does not extend more than 30 feet into this more restrictive zoning district, and so is allowable under the Salem Zoning Ordinance (Section 2.4, *Lot Split by Boundary Line*).

- 3) 7.3.3 Uses – All proposed uses, including residential multi-family and commercial, are allowed in a PUD development.
- 7.3.3.2 – A commercial use (office space) is proposed within the PUD project site. However, it is not directly adjacent to a residential zoning district.
 - 7.3.3.3 – In the Business Park Development district, residential uses and associated improvements cannot exceed 50% of the land area of the parcel. The residential development, including associated improvements such as driveways, parking and landscaping, comprise less than 50% of the total land area of the project site.
- 4) 7.3.4 Dimensional Requirements:
- 7.3.4.1. Bulk, yards, parking and loading needs were evaluated by the Planning Board and found to be adequate.
 - 7.3.4.2. No individual house lots are proposed. The Planning Board finds the amount of frontage provided on the project site to be adequate and appropriate to the surrounding neighborhood.
 - 7.3.4.3. No individual house lots are proposed. The Planning Board finds the amount of usable and accessible open area within the total development is adequate.
 - 7.3.4.4. No proposed residential building on the site exceeds four (4) stories, as determined by the Salem Building Commissioner/Zoning Officer.
- 5) 7.3.5 Open Space – the applicant/project owner will provide an easement along the proposed bicycle path and directly adjacent areas to allow for public access and recreational use by residents of the City as a condition of this application (see Conditions, below).

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

1. The proposed use will comply in all respects to the uses and provisions of the underlying district in which the land is located.
2. 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 lot(s) caused by either overspill from waterbodies or high runoff.
3. Utilities, including gas, electricity, fuel, water and sewage disposal, shall be located and constructed so as to protect against breaking, leaking, shortcircuiting, grounding or igniting or any other damage due to flooding.

At a regularly scheduled meeting of the Planning Board held on October 18, 2012, the Planning Board voted by a vote of eight (8) in favor (Chuck Puleo, Tim Kavanagh, Randy Clarke, Lewis Beilman, Tim Ready, Mark George, Helen Sides, and George McCabe), none opposed, and one abstaining (John Moustakis) to approve the Site Plan Review, Planned Unit Development Special Permit, and Flood

Hazard District Special Permit, subject to the following conditions:

1. Conformance with the Plan

Work shall conform to the plans entitled, "Site Plan for Mixed-Use Development: Legacy Park Apartments at Harmony Grove, 60 & 64 Grove Street and 3 Harmony Grove Road, Salem, MA December 2011," prepared by Griffin Engineering Group, LLC, LeBlanc Survey Associates, Beauds Art, Inc., Sebege Technics, WLS Lighting Systems, for MRM Project Management, LLC, including pages **N-1, C-1, C-2, C-3A-C, C-5A-C, C-6, C-7, C-8, 1 of 1 (Landscaping Plan), 1 of 1 (Photometric Plan), A.1.1, A2.2**, dated December 2011 and last revised June 20, 2012; page **A2.1**, last dated July 2, 2012; **C-4A-C** and **C-8**, last dated September 10, 2012, and pages **C-3** and **C-9**, last dated October 1, 2012.

2. Amendments

Any amendments to the site plan shall be reviewed by the City Planner and if deemed to be a significant change 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.

3. Project Delays

The developer, his successors or assigns shall notify the Department of Planning and Community Development if work on the site ceases for any reason for a period of six (6) months. In this event, the applicant shall be required to appear before the Planning Board and report to the Board the reason(s) why work has ceased at the project and a schedule of when work will begin again at the site, as well as a date of final project completion. If substantial work has not commenced on the site, as deemed by the Board, and such work is not anticipated to begin within two (2) years of the date of the Planning Board's original decision, the applicant shall notify the Board and, prior to the two-year anniversary of the issuance of the permit, shall request an extension of the permit from the Board. Applicant shall provide in such request any and all materials the Board may require to make a determination on the extension request, including but not limited to: studies, reports or new plans, at the applicant's expense, as requested by the Board and deemed necessary by the City Planner.

4. Landscaping

- a. All landscaping shall be done in accordance with the approved set of plans.
- b. Maintenance of all landscaping shall be the responsibility of the applicant, his successors or assigns. The applicant, his successors or assigns, shall guarantee all trees and shrubs for a two- (2) year period.
- c. Any street trees removed as a result of construction shall be replaced. The location of the trees shall be approved by the City Planner prior to replanting.
- d. Final completed landscaping shall be subject to approval by the City Planner prior to the issuance of a Certificate of Occupancy.

5. Signage

All proposed signage shall be reviewed and approved by the City Planner in accordance with the City of Salem sign ordinance prior to the issuance of a sign permit. Approval of the site plans does not represent approval of proposed signage.

6. Lighting

- a. No light shall cast a glare onto 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 for the residential buildings.
- c. After installation, lighting shall be reviewed and approved by the City Planner, prior to the issuance of a Certificate of Occupancy.

7. Construction Practices

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

- a. All provisions in the City of Salem's Code of Ordinance, Chapter 22, Noise Control, shall be strictly adhered to.
- b. Drilling and blasting shall be limited to Monday-Friday between 8:00 AM until 5:00 PM. There shall be no drilling, blasting or rock hammering on Saturdays, Sundays, or holidays. Blasting shall be undertaken in accordance with all local and state regulations.
- c. 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.
- d. 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 leave the site.
- 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.
- g. All sidewalks, roadways, utilities, landscaping, etc. damaged during construction shall be replaced or repaired to their pre-construction condition, or better.
- h. A construction traffic/phasing management plan and schedule shall be submitted to the Department of Planning & Community Development and Police Department for review and approval prior to the issuance of a building permit.

8. Health Department and Board of Health

All work shall comply with the requirements of the Salem Health Department and Board of Health, including but not limited to the following:

- a. The units must comply with all the requirements of Chapter II of the State Sanitary code: 105CMR410 including but not limited to:
 - Screens for windows
 - Adequate trash disposal facilities
 - Adequate ventilation
 - Provide heating during the heating season at the required temperatures
- b. Provide a mosquito control plan for the catch basins.
- c. All units that are rented must be granted a certificate of fitness by the Board of Health prior to occupancy. A copy must be provided to the renter.
- d. If the units are sub-metered, then the owner must fill sub-metering affidavit for each individual unit prior to renting unit. If the affidavit is not filed, tenant cannot be charged for water.
- e. Applicant must submit a trash disposal plan to ensure there is adequate capacity for storage of trash onsite, including contingencies to address tenant changeovers and other high trash disposal events.
- f. Building owner is required to ensure that adequate contingencies are in place to address pest control/remediation. Specifically:
 - A pest control survey is to be done prior to commencement of construction.
 - There is to be a pre-baiting program in place.
 - There is to be an ongoing pest monitoring program and a program to respond to complaints from abutters.
 - Applicant is to submit a written description of the program and ongoing results of pest control site visits has to be available for inspection.
 - Reports must include any rodent activity and actions taken. The locations should be mapped and activity identified by location of stations.

9. Office of the City Engineer

The applicant, his successors or assigns shall comply with the requirements of the City Engineer, including but not limited to the following:

- a. Applicant is to provide a completed NOI and SWPPP to the Planning Department prior to any land disturbance, and in any event, prior to issuance of a building permit.
- b. Applicant is to provide a completed and signed Illicit Discharge Compliance Statement to the Planning Department prior to obtaining a building permit.
- c. Applicant is to provide detailed design plans stamped by a Massachusetts Registered Professional Engineer for the proposed retaining walls for review and approval by the City Engineer prior to obtaining a building permit.
- d. Applicant is to provide a step-backwater analysis for the 10-, 50- and 100-year flood events for both existing and proposed conditions to demonstrate the adequacy of the hydraulic opening, structure depth and profile of the access road, for review and approval by the City Engineer prior to obtaining a building permit for the residential buildings or the bridges.
- e. Applicant is to provide a detailed structural, geotechnical and hydraulic design for the bridges for review and approval by the City Engineer prior to obtaining a building permit for the residential buildings or vehicular bridge. Applicant is to provide a detailed

structural, geotechnical and hydraulic design for the pedestrian bridge for review and approval by the City Engineer prior to obtaining a Certificate of Occupancy.

- f. Applicant is to provide detailed hydraulic flow and design calculations for the proposed domestic and fire water services for review and approval by the City Engineer prior to obtaining a building permit or commencing land disturbance activities.
- g. Applicant is to coordinate with the City to obtain access to the valve at Beaver Street in order to evaluate its condition and to determine if it will need to be replaced prior to obtaining a building permit for the residential or commercial buildings. Applicant shall coordinate this inspection with the City Engineer.
- h. Applicant is to add the MDC traps to the operation and maintenance plan, schedule and log form. The operation and maintenance plan should include at a minimum the frequency of inspections, cleaning and pumping.
- i. Applicant will be responsible for replacing the sewer service if it proves to be in unsatisfactory condition. Applicant shall be responsible to coordinate the inspection of the existing sewer lines with the City Engineer.
- j. Applicant shall inspect and repair as necessary the 12-inch drainage pipe from Harmony Grove Road to the North River Canal that is located on the 1 Harmony Grove Road parcel. The work is subject to review and approval by the City Engineer. If a different size pipe or other repair is needed, the applicant shall be responsible for the work.

10. Fire Department

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

11. Office of the Building Commissioner

All work shall comply with the requirements of the Salem Building Commissioner.

12. Conservation Commission

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

13. Utilities

- a. Utility installation shall be reviewed and approved by the City Engineer prior to the issuance of any Building Permit. The applicant shall have an engineer certify the utility plans for review by the City Engineer, prior to the issuance of any Building Permit.
- b. All electrical utilities for the site shall be underground.

15. HVAC

- a. The HVAC equipment located on the building roofs shall be visually screened by parapets, as shown on the submitted plans.
- b. 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.

16. 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, 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.

- b. Winter snow in excess of snow storage areas on the site shall be removed off site.

17. As-built Plans

- a. 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 any Certificate of Occupancy.
- b. 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 any 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 any Certificate of Occupancy; as well as, any subsequent requirements by the City Engineer.

18. 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.

19. Affordable Housing

The Petitioner shall place an Affordable Housing Restriction on the development ensuring that at least fourteen (14) of the one hundred and forty-one (141) units shall be affordable. The form of the restriction is to be approved by the City Planner and recorded with the Essex South Registry of Deeds. The affordable housing restriction is to be in accordance with the eligibility criteria for the Commonwealth Department of Housing and Community Development's Subsidized Housing Inventory for the purpose of ensuring that at least fourteen (14) dwelling units will be restricted as affordable housing for households whose annual incomes are eighty percent (80%) or less of area median income with rents affordable to low and moderate income households, by standards established by the Department of Housing and Urban Development, for a period of ninety-nine (99) years from the date of the first occupancy permit.

20. Special Conditions:

- a. The parcel located at 1 Harmony Grove Road, if developed in the future, is to be developed for a commercial use. Such future development shall be considered an amendment to the Planned Unit Development and is subject to Planning Board review and approval.
- b. The Planning Board encourages commercial development on the property in the future. The Planning Board will require only 172 spaces on the site to be dedicated to residential use. The remaining 43 spaces may be dedicated to commercial use in the future.
- c. Applicant is to submit revised plans to the Planning Board demonstrating that the parcels identified as 5 Harmony Grove Road and 1 Harmony Grove Road are included in the overall Planned Unit Development site, prior to issuance of a building permit for the residential buildings. The inclusion of these parcels helps ensure that the overall residential uses and associated improvements do not exceed 50% of the land area comprising the PUD site.

- d. Applicant is to provide an easement running to the City for a multi-use path on the parcel located at 5 Harmony Grove Road. The easement is to be recorded at the Registry of Deeds prior to issuance of a Certificate of Occupancy.
- e. Applicant is to provide an easement running to the City of Salem for public access and recreational use of the multi-use path shown on the site plans. This easement is to extend the entire length and width of the multi-use path, as well as the areas between the path and the Canal, and the path and five feet from the front of Buildings 2 and 3 (not including any area shown as residential land area on the site plan). The easement is to be reviewed and approved by the City Planner and recorded at the Registry of Deeds prior to issuance of a building permit for the residential buildings shown on the Plan.
- f. Elevation drawings showing renovation of the existing commercial building on 60 Grove Street, along with a description of the proposed use, are to be submitted to the City Planner for review and approval prior to issuance of a building permit for 60 Grove Street.
- g. Traffic Mitigation:
 - The applicant agrees to donate \$100,000 to the City of Salem for traffic improvements in the area in and around Harmony Grove Road, Mason Street, Grove Street, Boston Street, Bridge Street and Goodhue Street for traffic mitigation prior to the issuance of a building permit for any of the new residential buildings shown on the Plan.
 - Subject to all necessary permitting and approvals from the City of Salem, the applicant is to make the following improvements, as described in the submitted *Traffic Impact and Access Study, Proposed Legacy Apartments at Harmony Grove, Salem, MA*, prepared by Vanasse & Associates, Inc., dated December 2011:
 - ❖ Sidewalks are to be upgraded to the City's standard concrete sidewalks along the frontages of 3 Harmony Grove Road and 60 and 64 Grove Street, to the satisfaction of the City Engineer, prior to issuance of any Certificate of Occupancy. Any existing bituminous concrete sidewalks along 1 and 5 Harmony Grove Road are to be repaired to the satisfaction of the City Engineer, prior to issuance of any Certificate of Occupancy.
 - ❖ Existing signage and markings at the Grove Street railroad crossing are to be updated to comply with current standards of the US Department of Transportation Manual on Uniform Traffic Control Devices (MUTCD), as amended, prior to issuance of any Certificate of Occupancy.
 - ❖ At the intersection of Grove Street, Beaver Street and Goodhue Street:
 - i. Provide pavement markings to delineate travel lanes
 - ii. Install stop signs on the Grove Street northbound approach at Goodhue Street, the Beaver Street westbound approach at Grove Street and the Beaver Street eastbound approach at Goodhue Street
 - iii. Provide appropriate signage to enforce one-way traffic flow on Goodhue Street
 - ❖ At the intersection of Grove Street at Harmony Grove Road and Mason Street:
 - i. Install a stop sign at the Grove Street northbound right-turn movement
 - ii. Upgrade signs and pavement markings at the intersection
 - ❖ During months when vegetation is in leaf, as indicated in the submitted Traffic Impact and Access Study, vegetation must be kept trimmed back to ensure adequate driveway sight lines and sight triangles for vehicles exiting the site.

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.

A handwritten signature in cursive script, reading "Charles M. Puleo", is written over a horizontal line.

Charles M. Puleo, Chair