

**City of Salem Planning Board  
Meeting Minutes  
Thursday, December 18, 2014**

A regularly scheduled meeting of the Salem Planning Board was held on Thursday, December 18, 2014 at 7:00 p.m. in Room 313, Third Floor, at 120 Washington Street, Salem, Massachusetts.

Chairman Puleo opened the meeting at 7:07 pm.

**Roll Call**

Those present were: Chuck Puleo, Chair, Ben Anderson, Vice Chair, Helen Sides, Randy Clarke, Bill Griset, Matthew Venio and Noah Koretz. Absent: Dale Yale and Kirt Rieder.

Also present: Erin Schaeffer, Staff Planner, Lynn Duncan, City Planner and Pamela Broderick, Planning Board Recording Clerk.

**Approval of Minutes**

**December 4, 2014 Regular Meeting Minutes**

A minor correction was made by the Planning Board members.

**Motion and Vote:** Helen Sides made a motion to approve the revised December 4, 2014 Regular Meeting Minutes, seconded by Ben Anderson. The vote was unanimous with seven (7) in favor and none (0) opposed.

**Regular Agenda**

**Location:** Osborne Hills/Strongwater Crossing  
**Applicant:** Osborne Hills Realty Trust  
**Description:** A request for Surety Bond Release for Phase IIB.

**Documents and Exhibitions:**

Correspondence from Mr. DiBiase dated December, 22, 2014.  
Correspondence from Jim Rivard, Senior Engineer December 7, 2014 -Fay, Spofford & Thorndike, Inc.; 5 Burlington Woods, Burlington MA (clerk of works on project)

Paul DiBiasi, Trustee of Osborne Realty Trust, spoke on behalf of the applicant. They have substantially completed phase 2 of the project; the final pavement of roadway and sidewalks remains to be completed. They request approval for a partial release of surety funds.

### **Board Discussion**

Board asked if paving will be done in spring, Mr. DiBiasi advised the sidewalks will be done in the spring. The roadway has held up quite well, but additional truck traffic is expected. They are willing to pave now if requested by the City engineer.

Mr. DiBiasi confirmed the request is to reduce the surety bond by \$100,230. The remaining balance will be \$44,123. This is a tri-party agreement that includes the bank. The remainder is enough to cover the final paving/ sidewalks.

**Motion and Vote:** Ben Anderson made a motion to approve the partial release of \$100,230.00 in surety bond funds, seconded by Helen Sides. The vote was unanimous with seven (7) in favor (Mr. Puleo, Mr. Anderson, Ms. Sides, Mr. Clarke, Mr. Griset, Mr. Veno and Mr. Koretz) and none (0) opposed.

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<b>Location:</b>	<b>9-11 Dodge Street, 217-219 &amp; 231-251 Washington Street (Map 34, Lots 0403, 0405 &amp; 0406)</b>
<b>Applicant:</b>	<b>Dodge Area, LLC</b>
<b>Description:</b>	A public hearing of the application for Site Plan Review, a Planned Unit Development Special Permit, a Flood Hazard Overlay District Special Permit and a Stormwater Management Permit for the construction of an approximately 190,000 square foot mixed-use development with residential units, commercial space including a potential hotel, a parking structure, associated landscaping, and pedestrian and transportation improvements.

### **Documents and Exhibitions:**

- City of Salem Memorandum dated November 20, 2014, RE: Legal Opinion—RCG Dodge-Area Planned Unit Development
- Draft Decision and Special Conditions

Matthew Picarsic, Managing Principal for RCG, LLC (developer) presented for the applicant. Other proponent presenters/ speakers included:

- Jonathan Ofilos; Tinti, Quinn, Grover & Frey, PC, 27 Congress Street
- Seth Zeren, Development Manager, RCG, LLC.

Mr. Picarsic reviewed the current status of the application. The developer has added a schematic plan for the alternate program use with more residential space and no hotel. The engineers in the presence of city engineers have completed the additional investigation work to determine the manhole has been accurately rendered on the submitted plans.

Chair Puleo read into the record the letter from the City Solicitor regarding the applicant's request for approval of two program use plans, one being an alternate plan.

**Board Discussion:**

Board agreed they have an adequate understanding of the details of the two different plans being presented.

Lynn Duncan advised there is a single Development Plan with two different program uses:

Program Use A (base program): 111 hotel, 84 residential, 20K sf space

Program Use B: 0 hotel, 145 residential units and approximately 28K sf commercial space.

Both programs are based on the same development size of approximately 190,000 sf, 2xx parking spaces.

The Board explored at length four key areas of concern:

1. Does the Board have the ability to approve two separate program use plans for one parcel, what are the precedents and current legal opinion.
2. Appropriate notice in the event of a change from Program Use A to Program Use B
3. As two sets of building plans will be required Program Use Plan A and Program Use Plan B) should the Planning Board issue two separate decisions for this project.
4. Frame the decision in such a manner as to require the developer to appear before the City again in the event of a significant change in program use, such as conversion of the hotel to residential use.

Board asked for clarification, are two votes required for each separate program use? Ms. Duncan advised no, the development plan is the same for both; in addition to a single set of development plan drawings there are two program use plans included in the application. The draft decision is currently crafted as one decision detailing a development plan, and two program uses.

Board asked if the traffic conditions are different based on the two different program uses. Ms. Duncan referenced the report from AECOM (traffic peer reviewer). The reviewer reported no hotel program use and an increase in residential use will not generate a significant increase in trips over the plan including a hotel —not enough to study. She also read from the civil engineering peer review opinion from Mr. Ross of New England Civil Engineering. Essentially his report indicated no engineering difference was identified when reviewing the two usage plans.

**The Board requested the drawing of the alternate usage plan B be included in the Decision.**

Mr. Anderson observed a PUD requires a specific development plan. He was concerned with multi-program uses and previously raised a concern which the City Solicitor has addressed. The developer has been clear and responsive. The draft decision is specific enough in his opinion.

**Josh Turiel Ward 5 Councillor, 238 Lafayette Street**—spoke in favor of the project. He acknowledged two program uses might affect pedestrian traffic levels. City recognizes differences in tax revenues depending on the final usage; the City has more to gain tax-wise from hotel and commercial vs. residential and commercial. However the entire project represents a substantial improvement to the current use of the parcel.

**Jennifer Firth, 3 Carpenter Street**—spoke in favor of a program use plan that includes a hotel. She does not support a residential/commercial use plan without hotel.

**William LeGault City Councillor-At-Large, 2 Orne Street;** hotel option was presented to City Council as preferred option but not guaranteed. Even without a hotel he is in favor of the project due to the package of improvements and benefits the project represents.

**Alex Steinbergh, manager Dodge LLC, principal RCG;** indicated the developer's preference from the beginning has been to include a hotel as part of this mixed use project. The company has a letter of intent with a hotel group and is bringing in a national brand. The developer is raising equity for the next phase of the project and must have a fall-back in the event a hotel deal falls through. If the only program use plan approved includes a hotel and the developer must return to Planning Board if it falls through, the developer is severely hampered now in recruiting equity partners. They need to be able to move ahead with an alternate program use plan to secure financing.

**Josh Turiel Ward 5 Councillor, 238 Lafayette Street—**spoke in favor of the project and both Program Use A and B. He observed this is a blighted block and while Program Use A (hotel) is preferred by most, Program Use B is a net positive for the city. Spoke in support of flexibility for the developer—but also emphasized the public needs to know if the project program use changes in mid-stream. Would prefer people not learn Program Use B implemented by reading it in the paper. If hotel structure is built and decision is made to change its program use, then there should be a mechanism for public hearing. Perhaps the decision can encompass this idea.

Various members of the Planning Board spoke in favor of flexibility of program use for the developer, but gave careful attention to the need to inform the public about changes in program use, noting the general expectation at present is for a hotel to be built. The Board discussed various mechanisms in the process that could trigger notice- -and who should be notified:

- General public

- Abutters

- Planning Board and City Planning Department

The Board also gave consideration to the longer term possibility: that a hotel is built, occupancy permit issued and used as such for a period of years. Then market conditions change and the decision is made to repurpose the building as residential. The Board collectively believed it to be important that such a change in program use go through the Planning Board and not be allowed without another appearance before the City, based on this decision.

Ms. Duncan spoke in favor of adding notification to the draft decision. Suggested the Planning Board condition the decision to require the developer send out notice to both the Planning Board and abutters of which program use plan (A or B) is detailed on the building permit at the time the application is filed.

Mr. Picarsic suggested the developer would be willing to add a condition to the PUD approval that if there is a program use change after construction (from hotel to residential), the project must return to the Planning Board for approval as per current zoning requirements. In reply to Board inquiry, Ms. Duncan clarified that a PUD approval has a two-year lifespan. An unexecuted PUD would expire. Mr. Picarsic refined his suggested condition to state that in the event a hotel is constructed, the approved Program Use B (residential) plan would expire.

Atty Ofilos observed that if the character of the neighborhood changes over the longer term (10+ years) then the City can change the zoning. Zone B5 allows both of these uses now. He is concerned about the enforceability of two decisions from the Planning Board when the application is for a single decision. In his opinion the Board can craft a single decision to comply with the City Solicitor opinion by approving one specific plan and PUD with two specific program uses, a base program use plan and an alternate. In the event of a use change, the PUD approval would not trump the underlying zoning requirements.

Ms. Duncan noted that currently the statute allows conversion from residential to a hotel by right.

Mr. Zeren, Development Manager, RCG LLC cautioned that change in use be carefully worded to avoid encumbering normal use changes in a mixed use project such as to/from restaurant/retail.

**Motion and Vote:** Ben Anderson made a motion to close the public hearing, seconded by Helen Sides. The vote was unanimous with seven (7) in favor (Mr. Puleo, Mr. Anderson, Ms. Sides, Mr. Clarke, Mr. Griset, Mr. Veno and Mr. Koretz) and none (0) opposed.

**Board Deliberations:**

Chair Puleo read into the record the draft decision. Collectively the Board edited the following sections:

- Added 3H traffic management plan to Police and Planning departments
- Added Special Conditions G & H
  - G: Notification prior to issuance of a building permit, applicant to notify all abutters in the event B program use is implemented.
  - H. Future changes—once the final certificate of occupancy is issued the approval of the alternate program of shall expire and the zoning ordinance will govern any proposed change in use.
- 7.3.1 define as Program Use A and B.
- 7.3.3 define Program Use A and B. (edit the draft to be consistent in defining/referencing Program Use A & B)

**Motion and Roll Call Vote:** Matt Veno made a motion to approve the Site Review Plan application, the Planned Unit Development Special Permit, the Flood Hazard Overlay District Special Permit and the Stormwater Management Permit subject to all conditions as itemized in the attached decision, seconded by Helen Sides. The vote was unanimous with seven (7) in favor (Mr. Puleo, Mr. Anderson, Ms. Sides, Mr. Clarke, Mr. Griset, Mr. Veno and Mr. Koretz) and none (0) opposed. The decision is hereby incorporated and made a part of these minutes.

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**Location:** 72 FLINT STREET AND 67-71 MASON STREET (Map 26, Lots 91, 95 & 97)  
**Applicant:** RIVERVIEW PLACE LLC  
**Description:** Continuation of the public hearing for an application for an Amendment to the previously approved Site Plan Review decision, North River Canal Corridor District Special Permit, and Flood Hazard District Special Permit. Specifically, the application proposes changes to the proposed buildings, landscaping, and parking, primarily in order to meet the requirements of the required Ch. 91 License issued by the MA Dept.

of Environmental Protection. The number of residential units and square footage of commercial space remains the same.

**Documents and Exhibitions:**

Riverview Place Site Plans, revised December 12, 2014  
Riverview Place Landscape Plan, revised November 6, 2014  
Comparative Drainage Analysis Riverview Place, revised September 21, 2014  
Riverview Place Parking Connection Plan SK-1, dated October 24, 2014  
Stormwater Report for Riverview Place, dated September 21, 2014  
3D Model of Site Plan (video), presented December 18, 2014

Atty Scott Grover of Tinti, Quinn, Grover & Frey, 27 Congress Street, presented for the applicant.  
Additional presenters included:

- Richard Williams, MSCE, P.E.; Williams & Sparages, 189 North Main Street Suite 101, Middleton, MA (civil engineering)
- James K. Emmanuel Associates, 22 Carlton Road, Marblehead, MA (landscape architecture)
- Jonathan Stone; Project Manager, O'Sullivan Architects, 580 Main Street, Reading, MA
- Steven Feinstein; Director of Finance, Symes Associates, 50 Dodge Street, Beverly, MA
- Landers Symes; President, Symes & Associates, 50 Dodge Street, Beverly, MA

Atty Grover introduced developers Landers Symes and Steve Finestein; and professional consultants Rich Williams, Jon Stone and James Emmanuell. Atty Grover advised the applicant appeared before the Design Review Board (DRB) on December 17, 2014, and received a unanimous vote to approve the design aspects of the project.

Mr. Williams reviewed minor changes made in the site plan in response to feedback from the Planning Board:

- Sidewalk in front of Building 3 adjacent Mason St will be constructed to match adjacent sidewalk.
- Water line that goes into Mason Street, revised to add 2 more gates to enable system to be isolated.
- 2 sections of sewer existing on the lot, previous plan was to reuse, now will remove and rebuild with new manholes. Prior to foundation permit the status of the system that discharges to the trunk system will be checked.

Mr. Emmanuell reviewed the requested fencing details on the updated Landscape Plan.

The Planning Board requested the applicant consider providing compost pickup. Mr. Symes advised the problem is finding a vendor who will pick-up from this type of larger scale facility. Applicant is willing to look into the request.

Mr. Clarke strongly encouraged the Planning Board to look for this accommodation on all appropriate projects going forward.

Mr. Stone presented a 3D model of the site plan (video).

Mr. Feinstein advised next steps after Planning Board decision include:

- MEPA comments are due January 9, 2015
- Need to file Chapter 91, working their timetable.
- Both these steps will go faster when the applicant is able to submit to them a decision from the Planning Board.

***Chair Puleo opened the meeting to public comment:***

**Jennifer Firth, 3 Carpenter Street;** stated the Design Review Board (DRB) did a great job in working with the applicant on this project. Basic comment from those who will overlook this location, the scale is simply too large. She asked to know the square footage of the site and percent of the site covered by impervious material.

- Rich Williams advised the proposed impervious area is 130,000 square feet, about 3 acres. The site is 4.4 acres total.

**Motion and Vote:** *Helen Sides made a motion to close the public hearing, seconded by Randy Clarke. The vote was unanimous with seven (7) in favor (Mr. Puleo, Mr. Anderson, Ms. Sides, Mr. Clarke, Mr. Griset, Mr. Veno and Mr. Koretz) and none (0) opposed.*

***Board Deliberations:***

Chair Puleo read the amended draft decision into the record which reiterates all of the details of the original April 19, 2009, decision. The draft includes feedback from the DRB meeting on December 17, 2014.

The Board carefully reviewed each section of the draft and made the following edits:

- P2 # 1, Design Review Board add date 12/17/2014
- 5g updated to new standard language from City Planning Department
- #28 Maintenance updated to new standard language from City Planning Department to include language stating the applicant will investigate composting services.
- #9 f edit language to convey that if City decides not to build traffic signal applicant will contribute an equal amount toward traffic mitigation. Value to be agreed upon by applicant and city engineer.
- #9 g traffic island, specify at the intersection of Flint and Oak streets.
- P3 Flood Hazard findings, #1 to read:  
“The proposed uses comply in all respect to the provision of the North River Canal Corridor Zoning District.”
- P3 Flood Hazard findings, #2, line 4 edit needed:  
“... The event of flooding of the lots(s) or adjacent lots(s) caused by either overspill from...”

**Motion and Vote:** *Randy Clarke made a motion to approve the Amendment to the previously approved Site Plan Review Decision (dated April 17, 2009), North River Canal Corridor District Special Permit, Flood Hazard District Special Permit and Stormwater Management Permit, seconded by Noah Koretz. The vote was unanimous with seven (7) in favor (Mr. Puleo, Mr. Anderson, Ms. Sides, Mr. Clarke, Mr. Griset,*

Mr. Veno and Mr. Koretz) and none (0) opposed. The amendment is hereby incorporated with the original decision and made a part of these minutes.

#### **Old/New Business**

None

#### **Adjournment**

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

Chairman Puleo adjourned the meeting at 10:15pm.

For actions where the decisions have not been fully written into these minutes, copies of the decisions have been posted separately by address or project at: [http://www.salem.com/Pages/SalemMA\\_PlanMin/](http://www.salem.com/Pages/SalemMA_PlanMin/)

Respectfully submitted,  
Pamela Broderick, Recording Clerk

*Approved by the Planning Board on 3/19/2015*

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