

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

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

Chairman Puleo opened the meeting at 7:04 pm.

**Roll Call**

Those present were: Chuck Puleo - Chair, Ben Anderson - Vice Chair, Helen Sides, Randy Clarke, Kirt Rieder, Dale Yale, Bill Griset, Matthew Veno and Noah Koretz. Absent: None.

Also present: Dana Menon, Staff Planner, and Pamela Broderick, Planning Board Recording Clerk.

**Approval of Minutes**

**September 4, 2014 Meeting Minutes**

The votes of new member Noah Koretz need to be added to the minutes.

**Motion and Vote:** Ben Anderson made a motion to approve with revisions the September 4, 2014 Meeting Minutes, seconded by Kirt Rieder. The vote was unanimous with nine (9) in favor and none (0) opposed.

**September 11, 2014 Joint Public Hearing with City Council Meeting Minutes**

No comments or corrections were made by the Planning Board members.

**Motion and Vote:** Ben Anderson made a motion to approve the September 11, 2014 Joint Public Hearing with City Council Minutes, seconded by Kirt Rieder. The vote was unanimous with nine (9) in favor and none (0) opposed.

Chair Puleo noted the order of business has been slightly adjusted with the agreement of all presenting parties.

**Regular Agenda**

**Location:** 162 & 150 Federal Street (Map 26, Lots 2 & 96)  
**Applicant:** Renewal Ventures, LLC, Assignee of rights granted to William Wharff  
**Description:** Board discussion and vote on the request for a six (6) month extension to commence construction authorized by the September 25, 2012 Site Plan Review and Flood Hazard District Special Permit Planning Board Decision for conversion of a former convent to eight (8) residential units.

**Documents and Exhibitions:**

- Letter from Attorney George W. Atkins, III requesting a six (6) month extension, dated September 3, 2014

- Correspondence dated September 2, 2014 from Atty Scott Grover of Tinti, Quinn, Grover & Frey, PC; on behalf of original permittee William Wharff.
- Copy of Planning Board Decision approving Site Plan Review and Flood Hazard District Special Permit for 162 & 150 Federal Street, dated September 25, 2012.

Attorney George Atkins, III, of Ronan, Siegel & Harrington 59 Federal Street; presented for the applicant. Atty Atkins reminded the Board the original decision by the Planning Board was made 2 years ago, the Zoning Board decision dates to 2009. He advised the original permittee, William Wharff, has assigned the development rights to Renewal Ventures, LLC. In 2012 there was a judgment entered in Superior Court, the appeal is pending.

The sellers of the property have not yet completed environmental remediation of the site. The action required by the state Department of Environmental Protection is expected to be completed within the requested extension period. At that time the transfer of the properties will proceed and construction can begin. They expect to return to the Planning Board with an ANR plan before the end of the six months.

Chair Puleo read into the record the letter from Atty Scott Grover, representing William Wharff, dated September 2, 2014. The letter states that the Variances and Special Permits issued by the Salem Planning Board and Salem Zoning Board of Appeals are subject of an Assignment Agreement between Mr. Wharff and Renewal Ventures, LLC. The letter also states consent to the request by Renewal Ventures, LLC to extend the term of the Variances and Special Permits obtained.

**Motion and Vote:** Matt Veno made a motion to authorize a six (6) month extension to commence construction previously authorized by the September 25, 2012 Site Plan Review and Flood Hazard district Special Permit Planning Board Decision, seconded by Helen Sides. The vote was unanimous with nine (9) in favor (Mr. Puleo, Mr. Anderson, Ms. Sides, Mr. Clarke, Mr. Rieder, Ms. Yale, Mr. Griset, Mr. Veno and Mr. Koretz) and none (0) opposed.

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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:**

- Letter dated September 17, 2014 from Attorney Scott M. Grover, representative of the applicant, requesting to continue the public hearing to the Board's October 16, 2014 regular meeting.

**Board Discussion:**

Chair Puleo read into the record the letter September 17, 2014 letter from Attorney Scott Grover requesting the continuance.

**Motion and Vote:** Dale Yale made a motion to continue the public hearing to the Board's October 16, 2014 meeting, seconded by Ben Anderson. The vote was unanimous with nine (9) in favor (Mr. Puleo, Mr. Anderson, Ms. Sides, Mr. Clarke, Mr. Rieder, Ms. Yale, Mr. Griset, Mr. Veno and Mr. Koretz) and none (0) opposed.

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**Location:** 9-11 Dodge Street, 217-219 & 231-251 Washington Street  
(Map 34, Lots 0403, 0405 & 0406)

**Applicant:** Dodge Area, LLC

**Description:** Continuation of the public hearing of the application for Site Plan Review, a Planned Unit Development Special Permit, and a Flood Hazard Overlay District Special 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:**

- Slide presentation entitled Washington at Dodge Development Proposal, dated Sep 18, 2014
- Photometric plans, titled "Calc Study" "Parking Garage – Lower Level"; "Parking Deck and Light Trespass Study"; "Parking Garage – Upper Level", dated 17 September 2014, drawn by Available Light, 10 Derby Square #3, Salem, MA 01970.
- "Shadow Studies" sheet, by Khalsa Design Inc. , Sheet No. A-910.

Matthew Picarsic, Managing Principal for RCG, LLC (developer) presented for the applicant.

Other presenters included:

- Seth Zeren, Development Manager, RCG, LLC
- David Giangrande, PE, MS; President, Design Consultants Inc., 120 Middlesex Avenue, Somerville, MA ( civil engineering and land surveying)
- Matthew Zelkowitz, IALD, LC; Principal, Available Light, 10 Derby Square, Salem MA.
- Jai Singh Khalsa, Khalsa Design Inc., 17 Ivaloo St #400, Somerville, MA

Mr. Picarsic noted there is additional information to share with regard to: architectural context, shadow study, photometric plan, some elements of signage and landscaping, bike infrastructure, HVAC systems, and truck circulation. They are still waiting for resolution regarding peer reviews with regards to traffic and utilities; the city peer reviewers and developer consultants will be meeting to work through details.

Mr. Picarsic presented renderings of the site plan to re-orient members to the key elements; including a new rendering showing a long view of the site from approximately 120 Washington Street, looking south.

### **Shadow Study (A910) Drawings:**

Jai Singh Khalsa, Khalsa Design Group, presented key elements of the shadow study, which shows that most of the shadows fall within the site due to the north-south orientation of the site. The plan shows some street shading on Washington, Dodge Street and Dodge Street Court as the day lengthens; especially at summer solstice. Fall/spring equinox indicates shadows casting onto Walgreens. Generally not casting shadows on property owned by someone else; the shadows are cast either within this site or adjacent property owned by same owner.

### **Photometric Plans and Lighting**

Matt Zerkowitz from Available Light presented the photometric and lighting plans. Drawings represent the three main levels of the development. The plan does not include City street lighting.

- **Parking Court:** average of 3.4 foot candles on the surface of the parking deck. The plan exceeds the LEED guideline at the entry from the street into the parking area. The Board asked about Dodge Street Court lights on the façade of the building and was advised they are very narrow; there is no light trespass along Dodge Street Court. The light poles on the parking deck have all downlight fixtures, no uplights.
- **2<sup>nd</sup> Level:** average of 8.0 foot candles in the upper garage level. The Board asked if the plan is to mechanically ventilate the garage? Proponent representatives advised yes; the garage is enclosed except for the entrances on Dodge Street Court. The Board asked to know how dramatic the difference is between inside/outside light levels when entering/exiting garage. Mr. Zerkowitz pointed out an adaptation zone at the garage entrance, and confirmed this has been considered and planned to promote safety.
- **Lower Level:** lower level garage lighting employs the same strategy and fixtures.

During the truck access discussion (see below) The Board raised a question regarding some details of the photometric plan. Specifically the plan needs to show the fixture at the southwest corner of the site in its correct position in relation to the sidewalk, and adjust the foot candles on the plan.

Also during the truck access discussion, the Board explored a concern about excessive light spillover onto residential apartments adjacent the parking deck entrance. Mr. Zerkowitz advised the light spill goes west toward Washington Street and the Canal Street intersection. They will add a house-side shield to protect the apartments.

### **Signage**

Seth Zeren from RCG provided an overview, and noted that ultimately the Salem Redevelopment Authority (SRA) and Design Review Board (DRB) will have final approvals on any signage.

- Tenant signage—final signs will be determined when tenants are selected.
- Way-finding signage—the proponent expects to seek a waiver from the Zoning Board of Appeals (ZBA) for hotel signage as highly visible signs are very important for this business to succeed. The proposed plan has specs outside current zoning parameters.
- Seeking Planning Board support for their general signage plan to take to the ZBA.
- The Board clarified the vertical banners (Sunbrella-type fabric) are intended to not be color-block but will have text/corporate entity; Mr. Zeren confirmed, yes. Ms. Sides advised the DRB

(Design Review Board) will be addressing the size, fabric type and maintenance of any proposed signage. The Board expressed a concern for appearance as these banners age.

- The Board asked if the proponent must return to the DRB for new signage approval in the event a specific hotel deal falls through and that signage was approved. Ms. Sides confirmed the proponent would need to seek new approval for a new hotel tenant unless the original approval was for a generic design.
- The Board expressed their concern regarding scale of the signage and urged the proponent and DRB members not to be pushed into something too large.
- The Board encouraged the DRB to not allow a generic hotel sign, but to wait for the brand entity before issuing any approval.
- Several members of the Board noted that the parking “P” way-finding signs as depicted on the renderings are too big.

Chair Puleo advised the Planning Board will not be able to endorse the signage concept at this time. Signage needs to be considered in full context and the Board is waiting for more discussion on traffic issues.

### **Landscaping Elements**

Mr. Picarsic continued the presentation and offered the following:

- Willing to replace existing street trees with Valley Forge Elm along Dodge St Court.
- Defer final paver selection for loading area on Dodge Street Court to coordinate with hotel interior design with review by SRA and DRB.

### **Bicycle Facilities**

Mr. Zeren continued the presentation. Storage in lower garage for residential tenants; providing spaces for approximately 30 bikes. Developer’s experience with other residential projects has been that planned bike storage has been under-utilized. Bike facilities could be expanded into the garage in non-secure spaces, if demand required.

- Developer likes the idea of a bicycle repair station—will try to fit it in.
- In addition to garage storage, there are spaces for 60 bikes situated at various locations around the site. Design will be post with circle/standard U, not a primary color but something more subtle that will complement the building exterior.
- City is examining bike-share options along Washington Street.

The Board suggested the developer consider storage for retail employees/office employees in the lower garage too or somewhere on the property.

### **HVAC Systems**

Mr. Picarsic continued the presentation.

- Rooftop units will be screened and/or set back to minimize impact.
- North building will use individual PTAC units with central cooling tower on the roof, central boiler for common areas.
- Commercial spaces will have chases to the roof for venting and individual units on the roof for space conditioning; emergency generator.
- South/West Building apartments will have cooling from a central cooling tower above the main lobby (the connector). There is an area created by building height variation that was identified for locating and screening this equipment.

The Board inquired about the noise concerns for HVAC. Mr. Khalsa advised that the roof setbacks are not for noise impact but for visual impact. Generators will be natural-gas fired. The Board asked the height of the cooling tower and service access. Mr. Khalsa advised about 8-feet. These are now made of plastic which doesn't rust. Service access will be provided via elevator and staircase to the roof.

### **Truck Access**

Mr. Picarsic continued the presentation.

- The straightening of Dodge Street from Lafayette to Washington Streets will provide more access for delivery trucks. A right turn from Washington onto Dodge Street will add new access.
- A turn from New Derby onto Dodge Street Court (one-way) will be much easier.
  - The Board asked if proponent has actually talked to the printing company that expressed concern about truck loading off of Dodge Street Court in the proposed plans. The proponent indicated that they had not yet. The Board encouraged proponent to show this proposed plan to the business owner.
- David Giangrande of Design Consultants recalled the owner stated that delivery trucks come in from Lafayette Street onto Dodge Street Court. The new design will prohibit exiting via Dodge Street Court back to New Derby, but trucks will be able to continue along and go straight out Dodge Street to Washington Street. All turning movements have adequate space. Making Dodge Street Court one-way will not prohibit deliveries to the printer.
- Raised elements on Dodge Street to discourage cut-through traffic.

### ***Board Discussion:***

The Board asked for information about the exterior material palette. Mr. Picarsic confirmed material boards will be presented at next meeting.

The Board asked how the timeline for the laying of new National Grid line impacts the timeline for this project. Mr. Picarsic stated the developer cannot start this project until this transmission cable is finalized and have timeline from National Grid. Latest understanding is to start removing cable in spring 2016 and will do the section on Washington Street first. New installation must be complete before old cable can be removed. The jobs must be sequential, they cannot be concurrent:

New cable installed,  
Old cable removed,  
Start this project.

### ***Chairman Puleo opened the hearing to the public for comment:***

Josh Turiel—Ward 5 City Councilor, 238 Lafayette Street; provided his latest understanding of the National Grid relocation. The utility expects final state approval in early Nov 2014. The work will take an estimated 16-18 months total time. Early 2016 is a good estimate to be able to start this project.

Mr. Clarke raised the matter of the proponent's request for approval of a range of program options, and asked the chair when the Board should take up this matter

Ms. Menon advised the matter has been brought to the City Planner Lynn Duncan, who has sought an opinion from the City Solicitor. This opinion will be relayed to the Planning Board.

Chair Puleo indicated his understanding is that if a hotel is not part of the final programming, the proponent will need to resubmit alternatives to the Planning Board for approval.

Mr. Picarsic indicated the proponent expects some discussion at the next Planning Board meeting that takes up this subject.

Chair Puleo advised the next meeting should include peer review experts.

**Motion and Vote:** Randy Clarke made a motion to continue the public hearing to the next regular Planning Board meeting on October 16, 2014, seconded by Kirt Rieder. The vote was unanimous with nine (9) in favor (Mr. Puleo, Mr. Anderson, Ms. Sides, Mr. Clarke, Mr. Rieder, Ms. Yale, Mr. Griset, Mr. Veno and Mr. Koretz) and none (0) opposed.

## Old/New Business

**Continued Board discussion and vote on a recommendation to the City Council regarding the proposed amendment to the City of Salem Zoning Ordinance to add a definition for “Urban Agriculture”, “Hens”, “Run”, “Coop”, “Livestock”, and “Customary agricultural, horticultural and floricultural operations” under Section 10; to amend the Table of Principal and Accessory Use Regulations under Section 3.0 to add a new “Urban Agriculture” use, to be allowed by-right in RC, R1, R2, R3, B1, B2, B4, B5, I, and BPD zones; and to add a Section 3.2.7 “Urban Agriculture” under Section 3.2 Accessory Uses. This Board discussion is open to the public, but is not a Public Hearing.**

### **Documents and Exhibitions:**

Draft Ordinance prepared by City planning staff; previously presented to the City Council and Planning Board.

Chair Puleo reminded audience the public hearing on the proposed Ordinance amendment had been closed; members of the public may observe Board deliberations. City Council has 90 days from close of public hearing to make first passage. He then summarized that some of the main concerns identified by members of the public and Planning Board: setback requirements and whether existing keeping of hens will be “grandfathered”.

Chair Puleo clarified the Board of Health (BoH) regulation is a draft; that Board of Health is still receiving public comment and will make revisions prior to their next meeting. The original Board of Health draft was provided to the Planning Board for information and context.

Several Board members indicated they found the Board of Health Regulation draft too prohibitive and punitive. The Board discussed how they should consider the Board of Health regulations draft. Collectively the Planning Board expressed their concern that the Board of Health regulations stepped into zoning matters. It was suggested the letter to the City Council might be the best place to express the Planning Board’s collective concern with regard to Board of Health over-reach into zoning definitions.

Ms. Menon advised people would have to conform to both sets of regulations (Board of Health regulations and the zoning ordinance), and so the most restrictive would prevail. The City Solicitor is

looking into the appropriate division of responsibility and legal separation of the roles of the Zoning Ordinance and the Board of Health on this issue.

Several members of the Board voiced the need to protect abutting property owners from runoff, debris/waste blow-over and visual impact. The Board discussed at some length concerns about compliance and considered a range of restrictions that could be added to the ordinance to ensure the protection of abutters. Ultimately the Board determined the City already has mechanisms to follow-up on non-compliance: neighbors may call the Board of Health, the building inspector or other appropriate authorities in the event of a dispute.

After an extensive discussion about grandfathering, the Board collectively agreed it is not necessary to add grandfathering language to the draft ordinance, as it is already intrinsically allowed by law. People should have to apply for variances or inspection to provide a public forum for discussion with neighbors and/or abutters. There is already provision in the zoning code for existing coops to meet the definition of a preexisting non-conforming use. If these owners make significant changes to their coops/runs, then they must conform or seek a variance.

Varying opinions on the matter of setbacks and coop height:

- Everyone agreed a coop/run should be considered an accessory structure.
- Some Board members stated that keeping chickens is not a right of citizenship. It has a larger impact on abutters than other “accessory structures” like tool sheds. Salem is a densely populated area.
- Some Board members stated that a coop should conform to the same setback requirements currently required for any accessory structure.
- All agreed that setback requirements are needed. The current Zoning ordinance calls for accessory structures to be set back 5-feet from any side/ rear lot line or 10-feet from any other building on same lot or abutting lot.

Clear differences among the individual Board members were apparent:

- Mr. Clarke and Ms. Sides were in favor of setting setbacks, but in general believe that the existing regulatory agencies should handle this matter, and the City should keep the ordinance broad.
- Mr. Anderson and Mr. Griset, while not opposed to chicken-keeping, expressed concern for the rights of non-chicken abutters, property values and that the issue is being driven by a small minority of very vocal citizens. The Board and City Council have not heard enough from citizenry that does not keep chickens.

Chair Puleo conducted a review of the current draft ordinance clause by clause to determine the key areas of disagreement:

Section 1 definitions—no disagreement

Section II table of use—no disagreement

- It was noted that Councilor Segal’s concern about allowing hen keeping by-right in the BPD zone may be addressed by the fact that the draft ordinance states that only properties in residential use may keep hens.

Section III, Item 2.



- A, b, c, and d - no disagreement, just change the word “may” in items a) and d) to “shall” for consistency of language.
- Item e) needed further discussion regarding setback requirements
- Item f) after brief discussion of the height limit of six feet (complementing the height limit of fencing), the Board concluded the maximum height of the coop should be revised to eight feet, matching the height limit of accessory buildings.
- Item g), h), and i) - after brief discussion the Board agreed these should be deleted from the draft.

Chair Puleo focused the discussion on the matter of setbacks. The Board quickly reached agreement to add language to include an abutting principal building in the setback requirement.

The setback requirement of side/rear lot lines at 15 feet was debated. The final straw poll of opinion was:

- In favor of amending to 5 feet to be consistent with the existing setback for accessory buildings: (Ms. Sides, Mr. Clarke, Ms. Yale)
- In favor of amending to 8 feet to provide more separation because these are live animals not a tool shed: (Mr. Puleo, Mr. Griset, Mr. Rieder, Mr. Koretz and Mr. Venno)
- Mr. Anderson indicated he was willing to compromise from the original 15 feet to 10 feet but no less.

After extensive discussion the Board generally agreed to the following edits of the draft ordinance:

- Section 3.2.7, 2: items “a” and “d”; replace the word “may” with “shall”.
- Section 3.2.7, 2e: amended with italicized text: “No coop or run shall be located nearer than ten (10) feet to *any principal building including the principal building on an abutting lot*, and no coop or run shall be located nearer than *eight (8)* feet to any side or rear lot line. Side lots in this instance refer to a projected line starting from the front lot line, terminating at the rear lot line parallel *eight (8)* feet from the side lot line ...
- Section 3.2.7.f: inserted “or 1% of the lot area, whichever is greater” and adjusted the allowed height of the coop from six to eight feet. The amended sentence now reads: “Coops and runs shall not exceed *eight (8)* feet in height, and shall have a combined area of no more than 120 square feet *or 1% of the lot area, whichever is greater...*”
- Section 3.2.7.g should be deleted, this matter best left to the Board of Health
- Section 3.2.7.h should be deleted, this matter best left to the Board of Health
- Section 3.2.7.i should be deleted.
- A section should be added clarifying the grandfathering of existing hen keeping.

**Motion and Vote:** Randy Clarke made a motion to recommend the City Council adopt the draft ordinance with revisions, subject to review by the City solicitor, seconded by Dale Yale. The vote of eligible members was five (5) in favor (Mr. Puleo, Ms. Yale, Mr. Clarke, Mr. Rieder and Mr. Griset) and one (1) opposed (Mr. Anderson).

**Board Nomination and Vote for the Planning Board representative to the Complete Streets Working Group.**

Chair Puleo advised the Board that Mr. Clarke, previously appointed, has regretfully had to decline the appointment due to other commitments.

After discussion it was clear that Planning Board members cannot commit without having more specifics on when the meetings will be. Planning Board members have no availability on Thursday nights.

Ms. Menon was asked to get more information including length of term and meeting schedule. The Board will attempt to identify an appointee via email.

### **Adjournment**

**Motion and Vote:** Randy Clarke made a motion to adjourn the meeting, seconded by Matt Veno. The vote was unanimous with nine (9) in favor (Mr. Puleo, Mr. Anderson, Ms. Sides, Ms. Yale, Mr. Clarke, Mr. Rieder, Mr. Griset, Mr. Veno and Mr. Koretz) 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 10/16/2014*