



CITY OF SALEM PLANNING BOARD

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FILE #
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Site Plan Review, Flood Hazard Overlay District Special Permit, and Planned Unit Development Special Permit Decision

Salem Waterfront Hotel & Suites, LLC

19 & 23 Congress St; 223-231 & 235 Derby Street; Congress Street Map 34, Lot 408; the Remaining Land of Pickering Wharf Condominium Trust, Map 34, Lot 408, and 25 Peabody Street (B5).

July 23, 2014

Salem Waterfront Hotel & Suites, LLC
C/o George W. Atkins III
Ronan, Segal & Harrington
59 Federal St.
Salem, MA 01970

RE: Application of The Salem Waterfront Hotel & Suites, LLC for a Site Plan Review, Planned Unit Development Special Permit, and a Flood Hazard District Special Permit for the property located at 19 & 23 Congress St; 223-231 & 235 Derby Street; Congress Street Map 34, Lot 408; the Remaining Land of Pickering Wharf Condominium Trust, Map 34, Lot 408, and 25 Peabody Street (B5).

On Thursday, February 20, 2014 the City of Salem Planning Board opened a Public Hearing under Section 9.5 *Site Plan Review*, Section 7.3 *Planned Unit Development*, and Section 8.1 *Flood Hazard Overlay District* of the City of Salem Zoning Ordinance, at the request of The Salem Waterfront Hotel & Suites, LLC, for the property located at 19 & 23 Congress St; 223-231 & 235 Derby Street; Congress Street Map 34, Lot 408; the Remaining Land of Pickering Wharf Condominium Trust, Map 34, Lot 408 (B5); and the parking lots at 13-15 Herbert Street (R2) and 25 Peabody Street (B5). Specifically, the application proposed the demolition of the existing Marina Building and the redevelopment of that site to include an expansion of the existing Salem Waterfront Hotel & Suites with associated parking and landscaping, and off-site parking at 13-15 Herbert Street and 25 Peabody Street.

The Public Hearing was continued to April 3, 2014 (but was not heard on that date), April 17, 2014, May 1, 2014, May 15, 2014 (but was not heard on that date), May 29, 2014, June 5, 2014, June 19, 2014 (but was not heard on that date), and July 17, 2014. The public hearing was closed on July 17, 2014.

At the May 29, 2014 meeting, the applicant stated their intention to revise their application to: omit the off-site parking lot at 13-15 Herbert Street, eliminate the proposed bridge connecting the existing hotel building to the proposed new hotel building, reduce the number of stories of the proposed new hotel

building from six (6) to five (5), eliminate the 14 dwelling units originally proposed to be included in the proposed new building, and add 10 hotel units to the proposed new building, for a total of 42 new hotel units. Revised drawings reflecting these changes were submitted at the June 5, 2014 meeting.

In considering approval of the Flood Hazard Overlay District Special Permit, the Planning Board hereby finds that the proposed project meets the provisions of the City of Salem Zoning Ordinance Section 8.1 *Flood Hazard Overlay District*, as follows:

1. The proposed uses comply in all respects to the uses and provisions of the underlying districts in which the land is located.
The underlying district is B5, however, the provisions for Planned Unit Development Special Permits, as laid out in Section 7.3 of the Salem Zoning Code, allow the Planning Board to approve a project that is in "... compliance with the master plan and good zoning practices, while allowing certain desirable departures from the strict provisions of specific zone classifications."
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 water bodies or high runoff.
According to the Flood Insurance Rate Map (FIRM) for Essex County (Panel 419), the base flood elevation is 10 feet. The project site is above this elevation.
3. Utilities, including gas, electricity, fuel, water and sewage disposal, shall be located and constructed so as to protect against breaking, leaking, short-circuiting, grounding or igniting or any other damage due to flooding.
The applicant will comply with State Building Code, including provisions of 780 CMR 120.G – Flood Resistant Construction.
4. Where the proposed use will be located within a coastal high hazard area (Zone VE on the FEMA Flood Insurance Rate Maps), the Planning Board shall also find the following conditions to be fulfilled:
 - a. New structures or substantial improvements shall be located landward of the reach of mean high tide.
 - b. The support of new structures or substantial improvements shall not be, in whole or in part, by the use of fill.

N/A: There are no proposed uses within the VE zone as mapped by FEMA on the site.

In considering approval of the Planned Unit Development Site Plan Review, the Planning Board hereby finds that the proposed project meets the provisions of the City of Salem Zoning Ordinance Section 7.3 *Planned Unit Development*, as follows:

1. The proposed planned unit development is in harmony with the purposes and intent of this Ordinance and the master plan of the City of Salem and that it will promote the purpose of this section.

The proposed Planned Unit Development (PUD), which incorporates a mix of housing, commercial space and recreation space, promotes the purpose of Planned Unit Development, Section 7.3 of the Salem Zoning Ordinance, and is in harmony with the purposes and intent of the master plan of the City of Salem. The 1996 City of Salem Master Plan Update specifically targets waterfront development: "Although Salem's historic prosperity derived from its waterfront location, for many decades the City tended to neglect its waterfront. Visual and physical access to the water is poor, especially downtown. Waterfront development can link the City's tourist attractions, bringing economic benefits, while providing recreation for City residents." (pp7-8). The Master Plan reiterates the importance of making aesthetic and recreational improvements to Salem's waterfront. The proposed hotel, restaurant, and function space included in this development will activate a waterfront parcel that is currently mostly occupied by a parking area. Additionally, when this project receives its Chapter 91 License, completion of a public harborwalk along the waterfront of the project area will be required. The Master Plan also highlights Pickering Wharf as an economic development asset, and specifically identifies a lack of sufficient tourist lodging as negatively impacting tourist spending within Salem (p22). The development of a convention hotel is specifically listed in the Strategies for economic development (p25).

2. The mixture of uses in the planned unit development is determined to be sufficiently advantageous to tender it appropriate to depart from the normal requirements of the district.
The mixture of uses in the planned unit development is sufficiently advantageous to render it appropriate to depart from the normal minimum distance between buildings and required number of loading bays requirements of the B-5 (Central Development) district. The mixture of residential, commercial and recreational uses proposed is appropriate.
3. The planned unit development would not result in a net negative environmental impact.
The Planned Unit Development would not result in a net negative environmental impact. The project includes construction of a new building over a portion of an existing parking area. The water quality of the runoff from this area will be improved, as the runoff source will be from the proposed building's roof rather than from the existing area of parking lot. In addition, the redevelopment of the site includes improvements to stormwater management. This will result in net improvements to the natural environment on the site and surrounding it, including water quality in Salem Harbor.

At the regularly scheduled meeting of the Planning Board held on July 17, 2014, the Planning Board voted eight (8) in favor (Chuck Puleo, Dale Yale, Ben Anderson, Kirt Rieder, Tim Ready, Helen Sides, Randy Clarke, and Bill Grisette), and none (0) opposed, to approve the Site Plan Review application, the Wetlands and Flood Hazard District Special Permit, and the Planned Unit Development Special Permit for the proposed new five-story hotel building with 42 hotel units, subject to the following conditions:

1. Conformance with the Plan

Work shall conform to the following plans:

- "Salem Waterfront Hotel Expansion" prepared by Symmes Maini & McKee Associates (SMMA), 1000 Massachusetts Ave, Cambridge, MA 02138; James K. Emmanuel Associates, 22 Carlton Road, Marblehead, MA 01945; Patrowicz Land Development Engineering, 14

Brown St, Salem, MA 01970 - dated July 17, 2014, inclusive of sheets: "Site Plan Aerial View", "Site Plan Existing Conditions", "Site Plan Locus: 40-Scale", "Site Plan PUD Site Area", "Site Plan Parking & Traffic Circulation", "Site Plan Layout Dimensions" "Site Plan Grading (earthwork)", "Site Plan Utilities", "Site Plan Notes & Details" and "Site Plan Details" dated 1/6/2014 and revised 6/28/2014; Sheet A-101a, A-102a, A-201, A-202, A-203, and A-204 dated 7/17/2014; Sheets L-1 and L-2 dated 7/17/2014; Sheets ES110-112 dated 7/17/2014.

2. Required Revisions to the Plans

The applicant shall submit to the City Planner, for review and approval, annotated plans specifying the locations of "one-way, do not enter" signs (or similar) at the exits and intersections of the ways proposed to be changed to one-way traffic within the site area. Sign locations shall be:

- The eastern terminus (at Wharf Road/Union Street) of the proposed one-way east-bound hotel entry drive running from Congress Street to Wharf Road/Union Street.
- The northern terminus (at Derby Street) of the proposed one-way north-bound hotel and condominium access drive, which runs north-south immediately behind (east of) the existing hotel building.

These plans shall be approved by the City Planner prior to the issuance of a building permit for the new building proposed for the site.

3. Amendments

Any insignificant changes to the site plan shall be reviewed by the City Planner and if deemed necessary 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.

4. Construction Practices

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

- a. Exterior construction work shall not be conducted between the hours of 5:00 PM and 8:00 AM the following day on weekdays or at any time on Sundays or Holidays. Any interior work conducted during these times will not involve heavy machinery which could generate disturbing noises.
- b. 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 construction of the project.
- c. Drilling, blasting, and rock hammering 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.
- d. All construction vehicles shall be cleaned prior to leaving the site so that they do not leave dirt and/or debris on surrounding roadways as they leave the site.

- 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. A Construction Management Plan and Construction Schedule shall be submitted by the applicant. This plan shall include, but not be limited to, information regarding how the construction equipment will be stored, a description of the construction staging area and its location in relation to the site, and where the construction employees will park their vehicles. The plan and schedule shall be reviewed and approved by the City Planner prior to the issuance of a Building Permit.
- h. All sidewalks, roadways, utilities, landscaping, etc. damaged during construction shall be replaced or repaired to their pre-construction condition, or better.
- i. Applicant with its contractor to attend a pre-construction meeting with appropriate city departments.
- j. No Street shall be closed without prior approval of the City Planner, unless deemed an emergency by the Salem Police Department.

5. Clerk of the Works

A Clerk of the Works shall be provided by the City, at the expense of the Applicant, its successors or assigns, as is deemed necessary by the City Planner.

6. Fire Department

All work shall comply with the requirements of the Salem Fire Department prior to the issuance of any building permits.

7. Building Inspector

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

6. Board of Health

- a. The individual presenting the plan to the Board of Health must notify the Health Agent of the name, address, and telephone number of the project (site) manager who will be on site and directly responsible for the construction of the project.
- b. If a DEP tracking number is issued for this site under the Massachusetts Contingency Plan, no structure shall be constructed until the Licensed Site Professional responsible for the site certifies that soil and ground water on the entire site meets the DEP standards for the proposed use.
- c. The developer shall adhere to a drainage plan as approved by the City Engineer.

- d. 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.
- e. The developer shall maintain the area free from rodents throughout construction.
- f. The developer shall submit to the Health Agent a written plan for dust control and street sweeping which will occur during construction.
- g. 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.
- h. The Fire Department must approve the plan regarding access for firefighting.
- i. 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.
- j. The developer shall disclose in writing to the Health Agent the origin of any fill material needed for the project.
- k. The resultant establishment(s) shall dispose of all waste materials resulting from its operations in an environmentally sound manner as described to the Board of Health.
- l. The developer shall notify the Health Agent when the project is complete for final inspection and confirmation that above conditions have been met.
- m. The developer shall install grease traps, to contain grease in gray water, prior to it entering the city sewer system in developments with 10 or more units and in compliance with the requirements of the City Engineer.
- n. Salem sits in a Radon Zone 1 and the risk of radon entering buildings is extremely high. Therefore, the installation of radon mitigation systems is strongly recommended.

7. Utilities – Existing Storm Drain

- a. Upon completion of the site building demolition, the Applicant shall expose the existing drain, and the Applicant and City Engineer shall visually inspect the existing drain and its location.
- b. In the event the inspection determines that the proposed hotel is to be located above the existing drain, the Applicant shall prepare an engineered drain relocation plan, at no less than 1"=40' scale, with generally accepted utility construction industry standard information and details describing the proposed relocation, hereinafter referred to as the "Plan" for review and approval by the City Engineer prior to the issuance of a building permit. The Plan shall describe how the Applicant will relocate the drain around the proposed hotel to Congress

Street and how the drain line would be reconnected to the drain system in Congress Street by the City

- c. The Applicant's contractor shall construct the relocation of the pipe and extension through the sheet pile wall as described on the Plan.
- d. The Applicant shall provide the sum of \$100,000.00 to the City as a contribution to City costs for reconnection of the drain pipe if necessary and any permitting and licensing requirements prior to the issuance of a building permit. In the event, the cost to the City for the drain connection work is less than \$100,000.00, the Applicant shall be reimbursed the difference.
- e. At the conclusion of construction, any portion of City drain (existing or relocated) on the Applicants property shall be described in an easement granted by the Applicant to the City, approved by the City Engineer and City Solicitor, not less than 15 feet wide, centered on the relocated drain, for future access, maintenance, and replace by the City.
- f. The City Engineer shall be responsible for seeking all permits and licenses required for the construction of the Plan, and the City shall act in a reasonable timeframe so as to not impede or delay Applicant's permitting and construction of the Hotel.

8. Department of Public Services

The applicant, his successors or assigns shall comply with all requirements of the Department of Public Services.

9. Parking

- a. The Applicant, its successors, and assigns shall exercise its options to extend the Lease Agreement with Massachusetts Electric Company, its successors, and assigns, for the use of the parking lot located at 25 Peabody Street, Salem, MA in its entirety, to provide parking for patrons of The Salem Waterfront Hotel & Suites, the associated restaurant and function halls, and marina users, for periods of five (5) years, through to March 31, 2030 without interruption, and shall provide documentation of such extension to the City Planner prior to the expiration of each intervening five (5) year Lease period.
- b. Prior to March 31, 2030, the Applicant, its successors, and assigns shall make all good-faith efforts to enter into an additional Lease period with the owners of 25 Peabody Street, Salem, MA for continued long-term use of the parking lot in the manner described above. Documentation of this effort shall be provided to the City Planner prior to March 31, 2030. Failure to pursue in earnest an additional Lease beyond March 31, 2030, shall require the Applicant, its successors, and assigns to appear before the Planning Board in order to appropriately address the parking demands of the Salem Waterfront Hotel & Suites, the associated restaurant and function halls, and the marina.
- c. There shall be no traffic blockade, temporary or permanent, erected between the Derby Street parking lot entrance and the Congress Street exit drive north of the bank (currently Eastern Bank) for a "trial period" of six months. This trial period shall start after occupancy of the

new proposed building, and shall be conducted during the peak season for the hotel. If the petitioner believes that the inability to erect a traffic blockade at this location creates a negative impact on the site and site users, and if the petitioner wishes to be able to erect a traffic blockade in the above-described area, the applicant shall appear before the Planning Board within or upon conclusion of the six-month "trial period" to present data and observations in support of their request. The Planning Board will then make a determination as to whether the petitioner shall be allowed to erect traffic blockades in that area in future. The Planning Board may require additional data and observations to be submitted prior to issuing their determination, if the Board feels that the information presented is incomplete.

10. Congress Street Crosswalk

The Applicant agrees to contribute \$15,000 toward the construction of a new crosswalk with ADA-compliant ramps on Congress Street, at a location to be finalized by the City Planner. Such payment shall be made to the City prior to issuance of a building permit for the construction of the new building proposed for the site.

11. Stormwater

- a. Prior to start of site activity, the applicant shall submit to the Conservation Commission an Illicit Discharge Compliance Statement per Standard 10 of the Massachusetts Department of Environmental Protection *Checklist for Stormwater Report*.
- b. All stockpiling of debris, fill and excavated material shall occur outside the resource areas and buffer zones. This condition may be waived on a case by case basis upon written determination by the Conservation Agent that a stockpile area includes measures to adequately protect the resource areas or buffer zone.
- c. Below-grade excavation shall be limited to the minimum necessary to construct the building and related infrastructure.
- d. Any existing drainage components to be reused must be inspected prior to their reuse.
- e. Prior to start of construction of the new building, condition the drain line referenced as *Item #5* in William Ross's June 27, 2014 peer review letter addressed to Dana Menon, shall be assessed. The condition of said drain line and a plan to address it shall be reported to the Conservation Agent. The Conservation Agent will determine whether work associated with this drain line requires further review by the Conservation Commission.
- f. The parking lot shall be cleaned with a street sweeper at least four times per year.
- g. The work shall conform to the following plans: "SITE PLAN TO ACCOMPANY A NOTICE OF INTENT APPLICATION" (sheets 1 through 11), dated June 26, 2014, signed and stamped by Scott Ian Patrowicz, on file with the City of Salem Conservation Commission; "Stormwater Report" dated May 12, 2014, signed and stamped by Scott Ian Patrowicz, on file with the City of Salem Conservation Commission.

12. Signage

The proposed signage shall be reviewed and approved the City Planner and the Building Inspector prior to obtaining a Sign Permit.

13. Lighting

- a. No light shall cast a glare onto adjacent parcels or adjacent rights of way.
- b. After installation, lighting shall be reviewed and approved by the City Planner, prior to the issuance of any Certificate of Occupancy.

14. HVAC

All HVAC units located on the roof of the proposed building or on the site shall be visually screened per the plans and details approved by the Planning Board.

15. Landscaping

- a. Trees shall be a minimum diameter of 3 ½" dbh (diameter breast height).
- b. Maintenance of landscape vegetation shall be the responsibility of the developer, his successors or assigns.
- c. Any street trees removed as a result of construction shall be replaced. The location of any replacement trees shall be approved by the City Planner prior to replanting.
- d. The applicant shall contribute \$5,000 to the City of Salem toward the purchase and installation of five (5) additional street trees along Congress Street and Derby Street adjacent to the project site, locations and species to be finalized by the City Planner and the City Tree Warden, prior to issuance of a certificate of occupancy for the new building proposed for the site.

16. Maintenance

- a. Refuse removal, recycling, ground maintenance and snow removal shall be the responsibility of the developer, his successors or assigns.
- 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, from issuance of the Certificate of Occupancy.
- c. Winter snow in excess of snow storage areas on the site shall be removed off site.
- d. A plan for trash receptacle location and maintenance shall be submitted to the City Planner for review and approval prior to issuance of a Building Permit.


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

Violation 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.

I hereby certify that a copy of this decision has been filed with the City Clerk and is 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.


Charles M. Puleo
Chairman