



KIMBERLEY DRISCOLL  
MAYOR

**CITY OF SALEM, MASSACHUSETTS**

BOARD OF APPEAL

120 WASHINGTON STREET, 3RD FLOOR  
SALEM, MASSACHUSETTS 01970

TELEPHONE: 978-745-9595  
FAX: 978-740-9846

CITY OF SALEM, MA  
CLERK'S OFFICE

2007 NOV -2 A 11:04

November 2, 2007

Decision

City of Salem Zoning Board of Appeals

**Petition of Riverview Place LLC requesting Variances to allow for a minimum lot area of 1,440 square feet per dwelling unit, common building entrances, and to allow construction within the 50 foot buffer area for the properties located at 72 FLINT STREET AND 67-69 & 71 MASON STREET [NRCC].**

A public hearing on the above Petition was opened on August 22, 2007 and continued to September 19, 2007, and October 17, 2007 pursuant to Mass General Law Ch. 40A, §§ 11. The public hearing was closed on October 17, 2007 with the following Zoning Board members present: Robin Stein, Bonnie Belair, Elizabeth Debski, Rebecca Curran, and Steven Pinto.

Petitioner seeks variances pursuant to section § 7-21 of the Salem Zoning Ordinance specifically from: minimum lot area per dwelling unit § 7-21 (k)(1), separate first floor entrances § 7-21 (e)(2)(a)(3), and buffer areas § 7-21 (m)(1)(c).

**Statements of fact:**

1. The locus in is in the North River Canal Corridor (NRCC) District and includes 72 Flint Street (3.69 acres), 71 Mason Street (0.34 acres), and 67-69 Mason Street (0.11 acres) for a total of 4.14 acres (the "Locus"). Salem Suede, Inc. owns 72 Flint Street. The R.L.B. Realty Trust owns 67-69 and 71 Mason Street.
2. Plans accompany the Petition include the site plan prepared by Eastern Land Survey, entitled "Site Development Permit Plan", dated October 9, 2007, and elevations prepared by H.H. Morant & Co., Inc. Architects, entitled "Riverview Place: Schematic Roof Plan & Elevations", dated September 26, 2007.
3. A Traffic Impact & Assessment Study prepared by Earth Tech, Inc. was submitted with the Petition. EarthTech, Inc. was previously involved with the North River Canal Corridor Master Plan. The study estimates 871 new vehicle trips on a daily basis including 56 additional trips during the morning peak traffic period and 87 additional trips during the evening peak traffic period.
4. The petitioner proposes to erect three new structures with a total of 130 dwelling units on the 4.14 acre site (1,440 sf per dwelling unit). The Mason Street building will contain 5,540 sf of commercial space on the first floor with residential

apartments on the upper floors. Thirteen (13) units are to be affordable. The original Petition proposed 164 residential units in addition to the proposed commercial space.

5. The project will provide 309 parking spaces of which, 260 parking spaces will be allotted to the residential units (2 spaces per dwelling unit), 37 parking spaces will serve the commercial space and 12 spaces will be reserved for residents of Flint Street.
6. The Locus has historically been used as a tannery. The existing buildings will be razed and extensive remediation will be undertaken to clean up the site prior to new construction.
7. Conditions of the Locus, including soil conditions are unique to it and not present other properties in the district.
8. Several City residents spoke saying they were not opposed to the request to allow common building entrances.
9. Approximately 10% of the structure on the Bonfanti site, 10% of one (1) structure on the Salem Suede site, and a portion of the roadway and parking on the western side of the Locus are within the 50 foot buffer zone. The existing industrial building is much closer to the abutting residences than will be the proposed new structure.
10. Several City residents voiced opposition to the proposed density variance; many felt it deviated from the intent of the Zoning Ordinance. Many of these residents participated in the development of the NRCC Master Plan and Zoning Ordinance.
11. Several City residents spoke in support of the project; many of these residents felt it was an opportunity to change a blighted area.
12. At the August 22, 2007 meeting, the petitioner submitted a petition in support of the proposed plan with sixteen (16) signatures of residents from Flint, Mason, School, and Larchmont Streets.
13. At the October 17, 2007 meeting, the petitioner submitted forty-eight (48) petitions, signed by neighborhood residents, in support of the redevelopment plans. The petitions, prepared by Riverview Place LLC, state "by signing below, I wish to express my support for this proposed project described above and I urge the Board of Appeals to grant the relief from the City's Zoning Ordinance necessary to allow the project to proceed. I consider this to be a valuable opportunity to improve two properties that are a substantial blight to my neighborhood. I believe that the redevelopment of these properties will not only be beneficial to me as part of the immediate neighborhood, but also to the City as a whole".

14. Letters of support were also submitted by John Hoskins (22 Larchmont Rd), James Scanlan (13 Bayview Circle), and At-Large Councilor Thomas Furey.
15. A letter was submitted by Howard and Maryellen Sullivan (1 Orchard Street) requesting decisions be made in concordance with the NRCC Master Plan.

The Board of Appeal, after careful consideration of the evidence presented at the public hearing, and after thorough review of the plans and petition submitted, makes the following **findings**:

1. The variances requested are not contrary to the public interest and, owing to special conditions; a literal enforcement of the provisions of the City of Salem Zoning Ordinance would result in unnecessary hardship.
2. There are circumstances including soil conditions and use and condition of the existing buildings which especially affect the Locus but do not affect generally the zoning district in which the Locus is located. The contaminated soil must be remediated prior to redevelopment of the Locus.
3. A literal enforcement of the provisions of the ordinance would involve substantial hardship, financial or otherwise to the petitioner.
4. The proposed development complies with the goals of the NRCC Neighborhood Mixed Use District and the requirements set forth in § 7-21 (a) to achieve these goals, as follows:
  - a. The Locus is being redeveloped for housing and commercial uses
  - b. Public pedestrian access to and along the North River Canal will be provided.
  - c. A public-private partnership to provide enhanced maintenance trees, sidewalks, benches, along the canal will be developed.
  - d. The streetscape along Mason Street will be enhanced.
  - e. The project is designed to enhance solutions to neighborhood traffic, including the granting of an easement to the City of Salem to allow it to construct an extension of the Commercial Street public roadway across the development site. Further the applicant will work with the City to incorporate reasonable recommendations from the Earth Tech, Inc. traffic study to improve travel along Flint Street.

For these reasons, desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the ordinance.

On the basis of the above findings of fact and all evidence presented at the public hearing including, but not limited to, the Plans, Documents and testimony, the Zoning Board of Appeals **concludes**:

1. To enable the proposed development, the petitioner may vary the following terms of the North River Canal Corridor Zoning District § 7-21:
  - minimum lot area per dwelling unit may be reduced to 1440 sf/dwelling unit (from the 3,500 sf/dwelling unit required) § 7-21 (k)(1),
  - common building entrances can be used instead of having separate exterior entrances for each unit § 7-21 (e)(2)(a)(3)
  - a small percentage of two buildings, and a portion of the roadway and parking on the western side of the Locus are within the 50 ft buffer zone, therefore construction may take place in the buffer zone § 7-21 (m)(1)(c).
2. In permitting such change, the Board of Appeals requires certain appropriate conditions and safeguards as noted below.

In consideration of the above, the Salem Board of Appeals voted, six (5) in favor (Stein, Debski, Belair, Pinto, and Curran) none (0) opposed, to grant petitioner's requests for variances subject to the following **terms, conditions, and safeguards**:

1. Petitioner shall comply with all city and state statutes, ordinances, codes and regulations.
2. All construction shall be done as per the plans and dimensions submitted to and approved by the Building Commissioner.
3. All requirements of the Salem Fire Department relative to smoke and fire safety shall be strictly adhered to.
4. Petitioner shall obtain a building permit prior to beginning any construction.
5. A Certificate of Occupancy is to be obtained.
6. Petitioner shall obtain street numbering from the City of Salem Assessor's Office and shall display said number so as to be visible from the street.
7. Petitioner is to obtain approval from any City Board or Commission having jurisdiction including, but not limited to the Planning Board.
8. The Petitioner shall place an Affordable Housing Restriction on thirteen (13) of the one hundred and thirty (130) units in the form of a deed rider approved by the City Planner and registered with the Essex South Registry of Deeds. The affordable housing restrictions are 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 thirteen (13) dwelling units will be restricted as affordable housing for households whose annual incomes are eighty percent (80%) or less of area median income ("low income households") with a sales price affordable to low income households for a period of ninety-nine (99) years from the date of the first occupancy permit.

9. Twelve (12) on site parking spaces are to be reserved for the sole use of Flint Street residents. The proposed mechanism for reserving the spaces is to be submitted and approved by the Department of Planning and Community Development prior to issuance of any Certificate of Occupancy.
10. The applicant, upon taking title to the premises, will grant to the City of Salem and easement to construct an extension of the Commercial Street public roadway across the site in the location shown on the site plan at any time within a ten (10) year period after all necessary approvals for the project become final. Upon such construction, such easement shall automatically become a full and permanent easement to use and maintain the easement area as a public way in the City of Salem.

 /s/

---

Robin Stein, Chair  
Salem Zoning Board of Appeals

A COPY OF THIS DECISION HAS BEEN FILED WITH THE PLANNING BOARD AND THE CITY CLERK

Appeal from this decision, if any, shall be made pursuant to Section 17 of the Massachusetts General Laws Chapter 40A, and shall be filed within 20 days of filing of this decision in the office of the City Clerk. Pursuant to the Massachusetts General Laws Chapter 40A, Section 11, the Variance or Special Permit granted herein shall not take effect until a copy of the decision bearing the certificate of the City Clerk has been filed with the Essex South Registry of Deeds.



## CITY OF SALEM

# DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT

Kimberley Driscoll  
MAYOR

LYNN GOONIN DUNCAN, AICP  
DIRECTOR

120 WASHINGTON STREET • SALEM, MASSACHUSETTS 01970  
TEL: 978-619-5685 • FAX: 978-740-0404

### MEMORANDUM

**To:** Board of Appeals  
**From:** Lynn Duncan, AICP, Director *LD*  
**Re:** Riverview Place  
**Date:** October 17, 2007

I thought it would be helpful to you in your review and deliberations on the Riverview Place project if I outlined the permitting process for this project going forward. After a decision by the Board of Appeals, there is still independent review required by three boards, the Planning Board, Design Review Board, and the Conservation Commission.

The project requires both a Special Permit for use and Site Plan Review approval from the Planning Board. Through Site Plan Review the Planning Board will analyze such issues as traffic, site layout, parking and circulation, drainage, landscaping, and building design. As part of the North River Canal Corridor zoning, the developer is required to go through the Design Review Board (DRB). In this case, the DRB serves as an advisory board to the Planning Board, and will make recommendations to that body, which may then be incorporated in their decision. Specifically, the DRB will review the project at a public meeting and make a recommendation to the Planning Board based on the Urban Design Criteria of the Urban Renewal Plans East and West.

A peer review of the traffic study will be completed by the Planning Board's traffic consultant, Beta Group. While the traffic report was submitted to the Board of Appeals so that there could be a general understanding of the potential traffic impact, specific mitigation measures will be determined as the project goes through a detailed peer review process.

The project will also require an Order of Conditions from the Conservation Commission.

It is important to note that while the Board of Appeals may grant variances, such as a variance for density, the Planning Board will conduct its own review judging the projects on engineering and other site performance standards. Additional revisions to the plan may be warranted when it is subjected to this finer grained review. This is true for the Conservation Commission review, as well.

# SP ENGINEERING, INC.

P.O. Box 848 • Salem, Massachusetts 01970 • Telephone: 978-745-4569 • Fax: 978-745-4881

August 20, 2007

Mr. Michael O'Brien  
6 Cider Mill Road  
Peabody, MA 01960

**Re: Remediation of subsurface conditions  
at the former Salem Suede Inc. 72 Flint Street, Salem, Ma.**

Dear Mr. O'Brien,

I am pleased to prepare this general estimate for site remediation and soil removal at 72 Flint Street, Salem. A Phase One subsurface investigation conducted by SP Inc. in 2005 has indicated levels of tannery landfill constituents that would have to be removed for residential development. This is a historical condition dating back to the early 1900s, as lagoons were shown at the rear of the property in the 1912 Sanborn map. These tannery sludges and landfilled leather wastes were not deposited by the current owner and have been buried since before Leach and Heckel built part of the existing building in 1920. The current conditions of the property do not pose a risk to human health because the metal impacted wastes requiring remediation are contained under pavement. Previous testing of soils located around the former oil tank and evaluation of preliminary risk assessment needs have indicated that some oily soils may be encountered under the front footings. Once the demolition is completed the determination as to whether any soils can remain in place would have to be demonstrated by a Method Three Risk Assessment. Therefore, this proposal is limited to soil removal in the rear lot, and in the front lot beside the mix tank and around the sludge tanks. The contaminated soil beside the sludge tanks will have to be excavated, dewatered next to the hole and transported to the rear of the property to be contained in plastic for characterization. After acceptance at a secure landfill the soil will be loaded and transported for disposal.

There are other aspects of site remediation and clean-up that are not subject to the 21E and MCP regulations, but are regulated by other DEP departments such as; wetlands ( Con Com.-200' setback ) , solid waste ( demo. debris, asbestos removal ) and emergency spill response, Fire Dept.,NERO, ( oil in

**RIVERVIEW PLACE**  
**SUMMARY OF PROJECT CHANGES**

1. The Number of units has been reduced from 148 (originally 164 were proposed) to 130. Despite this reduction in density, the petitioner will maintain 13 affordable units.
  
2. The structures or those portions of structures in the Transitional Overlay District (i.e., the building on the Bonfanti site and the wing of the building parallel to Flint Street) have been reduced to three stories and forty (40) feet in accordance with the requirements of the Overlay District.



SCHEDULE A

ZONING RELIEF REQUESTED BY

RIVERVIEW PLACE, LLC

Proposal is for construction of three 4-story buildings to contain 148 residential dwelling units (including 13 affordable units), with 296 off-street parking spaces, and including about ~~3,500~~<sup>3,540</sup> sf of commercial space on the first floor of the building facing on Mason Street, all on a site of about 4.4 acres of contiguous land between Mason Street, Flint Street and the North River.

The project will be located in the NRCC District regulated by Section 7-21(a) of the Zoning Ordinance, and seeks the following zoning relief by variance or otherwise:

1. variance for **minimum lot area per dwelling unit** under Section 7-21(k) from 3,500 sf/dwelling unit to ~~1,500~~<sup>1,440</sup> sf/dwelling unit, which will allow a total of ~~130~~<sup>136</sup> dwelling units, including 13 affordable units;

~~X~~ variance from **parking** requirements to allow ~~300~~<sup>309</sup> on-site parking spaces (2/dwelling unit) to serve the dwelling units and the commercial space located on first floor of the building to be constructed along Mason Street;   
 260 residential 49 other = 309  
 37 commercial 12 neighbors

~~X~~ variance under Section 21(m) (1) for the **number of stories and height** of each of the three (3) buildings, which are located in the Transitional Zone, to allow them to be constructed as 4-stories and 50 feet in height, where the ordinance would limit that buildings to a height to three (3) stories and forty (40) feet;

4. variance to allow the residential dwelling units located in any portion of a building located within One Hundred Feet of abutting residences located in a different zoning district (those contained in the Industrial District along Flint Street or otherwise) to **utilize common building entrances**, where Section 7-21(e) would otherwise require each such unit to have its own separate first-floor entrance;

5. variance to allow certain portions of the buildings, site work, and landscaping to be constructed within the 50-foot **buffer zone** required under Section 7-21 (m) between the project and certain residentially zoned or used parcels, in accordance with the final plans approved by the Board.

6. **any other** variance or zoning relief as the Board may find necessary to allow the construction of the project as proposed in accordance with approved the plans file with and approved by the Board.

7. as a **condition** of the proposed relief, the applicant proposes that in consideration of the payment of One Dollar, the applicant, upon taking title to the premises, will grant to the City of Salem **an easement to construct an extension of the Commercial Street public roadway across the site** in the location shown on the final plans filed with, and approved by the Board, at any time within a ten (10) year period after all necessary approvals for the project become final, and upon such construction, such easement shall automatically become a full and permanent easement to use and maintain the easement area as a public way in the City of Salem.

## CHAPTER 5

### GENERAL BUILDING LIMITATIONS

#### 780 CMR 501.0 GENERAL

**501.1 Scope:** The provisions of 780 CMR 5 control the *height* and *area* of all structures hereafter erected, and *additions* to existing structures based on the type of construction, use group, frontage on open space providing exposure protection and access to structures for fire-fighting purposes, and the presence of an *automatic sprinkler system*.

#### 780 CMR 502.0 DEFINITIONS

**502.1 General:** The following words and terms shall, for the purposes of 780 CMR 5 and as used elsewhere in 780 CMR, have the meanings shown herein.

**Area, building:** The *area* included within surrounding exterior walls (or exterior walls and fire walls) exclusive of vent *shafts* and *courts*. Areas of the building not provided with surrounding walls shall be included in the building area if such areas are included within the horizontal projection of the roof or floor above.

**Basement:** That portion of a building which is partly or completely below grade (see "*Story above grade*").

**Grade plane:** A reference plane representing the average of finished ground level adjoining the building at all exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the *lot line* or, where the *lot line* is more than six feet (1829 mm) from the building, between the building and a point six feet (1829 mm) from the building.

#### Height

**Building:** The vertical distance from *grade plane* to the average height of the highest roof surface.

**Story:** The vertical distance from top to top of two successive tiers of beams or finished floor surfaces; and, for the topmost story, from the top of the *floor finish* to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

**Mezzanine:** An intermediate level or levels between the floor and ceiling of any story with an aggregate floor area of not more than 1/3 of the area of the room in which the level or levels are located (see 780 CMR 505.0).

**Story:** That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above (also see "*Mezzanine*").

**Story above grade:** Any story having its finished floor surface entirely above grade except that a *basement* shall be considered as a story above grade where the finished surface of the floor above the *basement* is:

1. More than six feet (1829 mm) above *grade plane*;
2. More than six feet (1829 mm) above the finished ground level for more than 50% of the total building perimeter; or
3. More than 12 feet (3658 mm) above the finished ground level at any point.

South  
West

#### 780 CMR 503.0 GENERAL HEIGHT AND AREA LIMITATIONS

**503.1 General:** The *heights* and *areas* of all buildings and structures between exterior walls or between exterior walls and *fire walls*, shall be governed by the type of construction and the use group classification as defined in 780 CMR 3 and 6 and shall not exceed the limitations fixed in Table 503, except as specifically modified by 780 CMR 5 and the following sections:

Section	Subject
402.7	Covered mall buildings
403.3.3.1	High-rise buildings
414.2	Airport traffic control towers
416.3	HPM facilities
418.3.1.1	Grain elevators
426.0	<i>Bulk Merchandizing Retail Buildings</i>
3103.3.5	Membrane structures

**503.1.1 Special industrial occupancies:** All buildings and structures designed to house low-hazard industrial processes that require large *areas* and unusual *heights* to accommodate craneways or special machinery and equipment, including, among others, rolling mills, structural metal fabrication shops and foundries, or the production and distribution of electric, gas or steam power, shall be exempt from the *height* and *area* limitations of Table 503.

**503.1.2 Open parking structures:** Open parking structures shall conform to the *height* and *area* limitations specified in 780 CMR 406.4.

**503.1.3 Buildings on same lot:** Two or more buildings on the same *lot* shall be regulated as separate buildings or shall be considered as portions of one building if the height of each building and the aggregate area of all buildings are within the limitations of Table 503 as modified by 780 CMR 504.0 and 506.0. The provisions of 780 CMR applicable to the aggregate building shall be applicable to each building.

## Amy Lash

---

**From:** Lynn Duncan  
**Sent:** Thursday, August 23, 2007 12:10 PM  
**To:** Amy Lash  
**Subject:** FW: Salem Suede Development

Please forward to ZBA members and keep copy in the file.

Lynn Goonin Duncan, AICP  
Director  
Department of Planning & Community Development  
City of Salem  
120 Washington Street  
Salem, MA 01970  
T: 978-619-5685  
F. 978-740-0404

---

**From:** Howard [mailto:howard.sullivan@verizon.net]  
**Sent:** Wednesday, August 22, 2007 4:36 PM  
**To:** Lynn Duncan  
**Cc:** Paul Prevey  
**Subject:** Salem Suede Development

Regretably, we will be unable to attend tonights meeting. However, we would like you to understand that we, like many of our neighbors, want to see that the decisions made regarding new development are in concordance with the NRCC Master Plan. Any appeals for variances should be considered with the same thoughtfulness and respect for the neighborhood as was given to drafting the NRCC Master Plan.

Thank you for attention and your efforts.

Cordially,

Howard and Maryellen Sullivan  
1 Orchard Street  
Salem Ma. 01970