Haverhill

Economic Development and Planning
Phone: 978-374-2330 Fax:978-374-2315
wpillsbury@cityofhaverhill.com

Doc 71-2011

April 20, 2012

TO: City Council President John A. Mitchitson and members of the Haverhill City Council

FROM: William Pillsbury, Jr. Economic Development and Planning Director

SUBJECT: Special permit for River Street- 5 units

At its meeting of March 14, 2012 the Haverhill Planning Board voted a conditional favorable recommendation to the City Council for the proposed special permit. The minutes of the public hearing are attached for your review.

The role of the Board was to conduct a public hearing to make a recommendation to the city council relative to the special permit to locate a project proposed to be 5 units of housing on a vacant lot on River Street.

Reports were received from city departments and are in your packages for your review. No major objections were received and any requirements of the city departments should be contained in the approval as conditions to the special permit to be implemented in the definitive plan.

Specifically, pursuant to zoning ordinance Ch. 255-76 (as applicable) the following findings must be made relative to the project:

> the request meets all pertinent conditions listed in article XI of the ordinance; the request is desirable to the public convenience or welfare;
>
> the request will not impair the integrity or character of the district or adjoining zones nor be detrimental to the health, morals or welfare and will be in conformity with the goals and policies of the master plan;
>
> The requested use provides for the convenience and safety of vehicular and pedestrian movement within the site and in relation to adjacent streets;

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The requested use provides for adequate methods of disposal for sewage refuse and other wastes and adequate methods for storm water and drainage;

The requested use provides for adequate off street loading and unloading of service vehicles;

The requested use preserves historical buildings and uses.

Proposed conditions and stipulations:

I offer the following recommended conditions be made part of the special permit approval:

Require that the developer comply with all of the additional requirements of the City's subdivision regulations for water and sewer and drainage improvements as contained within those regulations and further detailed in the attached letters from the departments. These items shall be reflected in the definitive plan to be filed with the Planning board.

Recommendation

As Planning Director, I concur with the favorable recommendation based on an assumption that all items in the letters from the City Departments along with all requirements for special permits would be made part of the special permit for the project.

This project with the incorporation of the recommended conditions is generally in conformity with the City's master plan as well as providing sufficiently for traffic, public safety and other utility considerations. The project as proposed appears to conform to all other special permit requirements. On the basis of adopting the proposed conditions/stipulations, I recommend that the council act favorably on this project.

CITY OF HAVERHILL
MASSACHUSETTS 01830

PLANNING BOARD

CITY HALL, ROOM 201
FOUR SUMMER STREET
HAVERHILL, MASSACHUSETTS 01830
TELEPHONE 374-2330
FAX 374-2315

City Council President John A. Mitchitson
& City Councilors
City of Haverhill

March 15, 2012

RE: <u>Special Permit for River Street—(aka Riverhill condominium)</u>
Applicant: MCL Contracting, Michael Lefevre; Owner, Joseph DiPrimo; Merrimack Engineering Services prepared the plans

Members Present: Timothy Connors, Celeste Hynick, Roy Wright, James Cronin, Jack Everette, Joseph Sullivan, Bob Driscoll, and Paul B. Howard
Members Absent: none
Also Present: William Pillsbury, Director of Economic Development & Planning
Lori A. Woodsum, Office Mgr./Board Clerk, Planning Department

Dear City Council President and City Councilors:

The Haverhill Planning Board at its meeting held on 3/14/12, Wednesday Evening, at 7:00 p.m. in Room 202, Haverhill City Hall reviewed the above-cited petition for Special Permit for River Street which was continued from the 1/11/12 planning board meeting. Member Jack Everette read the rules into the record. Chairman Paul B. Howard chaired the meeting and asked the petitioner to come forward.

Attorney James Waldron, of 70 Bailey Boulevard came forward to represent the applicant, MCL Contracting & Joseph DiPrimo. It was noted that this hearing was continued to this meeting in January to give the applicant an opportunity to get new plans and engage the services of an architect, which has been done. He informed the board members and the people in the audience that they retained a registered architect to prepare the architectural plans for the cited special permit. Said plans were now signed by a registered architect. They had quite a talk after the last meeting and thought that they heard enough to decide that they should probably make some changes in the project. He explained that what they finally came down with was a 5 unit townhouse project, which seemed to have eliminated some of the concerns that were heard about two months ago regarding the buildings meeting the character of the neighborhood. They spent quite a bit of time on that and now have an opinion from the building inspector that yes he felt that this building does meet the character of the neighborhood. It was substantially smaller from the original filing of 11 units which was over a year ago. He felt this change made quite an impact on the project. They changed the plans to a 5 unit townhouse. The department reports that were received were quite a bit different from what they had for the 9 unit building. They did not see any significant issues in the reports that were raised by the department heads, which he was

sure that the planning director would reference when he speaks. The building inspector in his report to the board reported that the owner/applicant met all the zoning requirements in regards to meeting the character of the neighborhood and the fact that it was zoned properly. He thought that they made the right decision in doing that.

The city engineer in his report submitted to the board noted that the drainage, the retaining walls, the design and the review of that will be done at the definitive plan process which is the place for it. That process will not be done until after the City Council meeting and of course if the City Council approves it then they will have to come back before the planning board and have a full public hearing on the design of that property. He explained that was the reason that they did this because it saved the applicant from going through a tremendous expense that is involved in having a special permit. You get the permit first then go back before the planning board and it has worked very well.

Attorney Waldron also referred to the reduction of the number of units from 11 to 5 which has resulted with new plans that closely conforms with the special permit the general provisions that include the uses allowed in the RU Zone, which is the zone this property is located for a multifamily housing with a special permit with a recommendation from the planning board to the City Council. The attorney noted that the City Council hearing was scheduled for the first week of April. It also provided that the developer shall be in harmony with the character of the neighborhood and they felt that it was and they have the opinion of the building inspector that it is also in character of the neighborhood. It increased the open space on the site and decreases the amount of soil removal and minimizes the tree and soil removal as well as changes in grade. The project will also provide a significant increase in real estate taxes. It was noted that they received a letter from the city treasurer noting monies due however he wanted to inform the board that it was paid and he now had the receipt for proof of payment and submitted the receipt to the clerk for the file to show that those taxes have been paid.

Attorney Waldron noted that the property was assessed at $37,000 dollars and does not bring in much revenue. After talking to the people in the Assessor's Office on these multi-family properties it appeared that this 5 unit building would produce over a million to two million dollars in taxes and would also provide jobs for the construction which is important for the city. He thought those benefits should be weighed in addition to the requirements of your special permit. The last thing he wanted to mention was that the project must be serviced by public water and public sewer and it will be served by both. The Water Department sent a letter around to the board in which they have pointed out some things that they have to do with respect to hooking up each unit with its own water and also allowing them to tie into some other water but those things will all be done at the time of the definitive plan if and when they get to that stage. They did have a long hearing two months ago and covered a lot of the items and was not going to repeat all of those this evening. He wanted to ask Steve Stapinski from Merrimack Engineering to briefly go over the plan with the changes that are different from what was shown on the original plan.

Mr. Steve Stapinski from Merrimack Engineering came forward to speak. It was noted that the new submitted plan is for 5 townhouse units set parallel to River Street. Each of the town houses will have its own garage unit so there would be one parking space in each unit and then behind the garage there will be another parking space and we have two visitor

spaces so there is seven spaces total on the site and five garages. So each unit has two dedicated spaces and then two visitor spaces. The water service that Attorney Waldron mentioned by the water department explained that because these were townhouses they preferred individual services to each. They will meet with the Water Department regarding each unit and noted that they actually designed it with the main service coming into a mechanical room in one of the units with the idea that they were trying to eliminate as much excavation of destruction of the River Street right of way as possible. The will meet with them and come up with a design solution that works per their recommendations. Other than that the most important thing, he thought, was the grading... they actually did a proposed grading plan, met with Conservation staff to review that and the city engineer to review it and the two walls that you'll see on the plan will be about 8' high and will be either block or brick. (Inaudible) ...block or the larger (Inaudible) ...block of walls. It was noted the with the reduction in the height and the amount of grading and excavation necessary he thought it was certainly an improvement and addresses the concerns that he thought all the board members had previously. He would be happy to answer any questions that the board has and noted that Attorney Waldron was here as well.

Member Celeste Hynick asked if he had addressed the issues that were relative to the architectural access... (Inaudible) ...and the plan of the drawings of the building.

Mr. Stapinski noted that he did not know in terms of the architectural access... (Inaudible)... these are townhouse units and was not really sure what the requirements are and noted that maybe Attorney Waldron could address that question.

Attorney Waldron presumed that the building plans would be much more... the actual plans that go with the building permit will have all of that taken care of because he was sure that a registered architect was familiar with that.

Member Hynick was only raising the point because she did not believe these plans met the requirements of the MAB regarding them being group one dwelling units. It was noted that under 521 CMR, Section 9, for multiple dwelling units it's considered to be buildings containing 3 of more dwelling units. Group one dwelling units are required in multiple dwelling units that are rent, (Inaudible)... lease or sale but are not equipped with an elevator in those buildings only the units on the ground floor must be constructed as group one dwelling units. She was not a building inspector and she did not work for the MAB either but took that to believe since all of these units and their entrances are on the ground floor that they need to be in compliance with this and need to be group one dwelling units and these are not since their garages were located on the first floor.

Attorney Waldron would be happy to assure the board that they have the building plans designed by a registered architect and his experience is that they know that code very, very well.

Member Hynick noted that her experience as an architect... She noted that this discussion is so confusing...

Attorney Waldron informed the board members that were all they could do was to have an architect. The architect would be tell them and he would certify to the building inspector that those plans do meet and if the building inspector says that they do not then they would have to change them or he would not get a building permit.

Planning Director Pillsbury asked Attorney Waldron if he could clarify that between now and the City Council hearing. He actually had some information here from Ron Albert, and he knew that he was the architect on record now. The planner thought that may be Ron Albert could provide that information regarding compliance as to what category is required and therefore what complies.

Attorney Waldron noted that he would have him at the hearing with the City Council. He asked if that helped Member Hynick.

Member Hynick would feel better knowing in advance of being able to say that she could vote for this or was in favor of this herself.

Attorney Waldron was open to suggestions. He wanted to know if she would like a letter from him that he could secure within a week that says that the plans complied because that is what he got hired for. It was the architect's position to determine the accessibility of the handicap units.

Member Hynick would rather have something from the AAB or the building Inspector.

Attorney Waldron did not know if that was required. He has never done that and noted that they provided the plans that were required by the special permit.

Chairman Paul Howard noted that we take comments from the department heads and we're allowed to make our recommendation with conditions on it. You could make that part of the condition.

Member Hynick answered okay.

Attorney Waldron noted that he was not familiar with that board. He never practiced before it and noted that he had situations where he used attorneys that were familiar with that. He wanted to know if the board would actually look at a set of plans and approve them.

Member Hynick noted that they did not approve them but…

The planner noted that you basically have an interpretation from the building inspector. The building inspector would make the call that it is compliant but generally the architectural access board was there to grant relief if someone wanted to propose something that is not which was his understanding. If a set of plans is presented to the city it was not going to be the architectural access board that was going to have anything to do

with it unless there was an appeal of some type. Really it was the building inspector and as of right now the building inspector's review of this plan is that it is consistent with the submission requirements for the special permit. He did not believe that he has had a red flag on that as of yet. But he thought because that we are on a timeframe to get this to the City Council and noted it had been continued several times with the council and probably not wise to be doing that and felt if the board was in a position to move forward it would certainly be appropriate for... the City Council is going to decide on this and then it would come back before the board for the definitive plan. It would be appropriate to provide that information as a condition to the City Council prior to their hearings so they have that information. He thought that they should have it confirmed by the building inspector so that issue was not... (inaudible) ...requires a modification if in fact the plans as shown were not compliant and then you would have to decide what you would want to do at the council hearing but that information could be submitted at the council... that would be one option of the board to pursue.

Attorney Waldron would be happy to do that and noted that he would have Mr. Albert at the City Council meeting as well.

The planner noted that in the meantime he requested that they generate a letter in response to any issues relative to the architectural classification of the unit. He thought that would be helpful and maybe submit that to the building inspector just for his review so that the building inspector could write a letter to the council so to close that loop between now and the council hearing.

Attorney Waldron noted that they would have plenty of time. The council meeting was not until April 24th he believed. He asked if that was satisfactory.

Member Hynick noted so long as it did not change the footprint of the plan in such an extent that what they were approving today is different than what would be approved with the City Council.

Attorney Waldron answered all right... we'll see what happens.

Chairman Paul Howard with zoning you do not even require to have seven parking spaces any how so if something had to happen with the garage... you are only required one and a half spaces per unit, correct?

Mr. Steve Stapinski came forward to speak on this matter. He thought the way that the building inspector has looked at the townhouses in the past is that they are individual dwelling units, and because they do not go to a common area there isn't a need for the elevator because each unit has its own separate entrance and there is a fire wall between the units so they are actually considered individual units. He is a licensed construction supervisor and knows somewhat about the code but he was not 100% on that. He did not want to second guess what you were saying but he believed that because it was not a common entrance and they are individual entrances and individual units they are

considered their own separate unit. If they were in a garden style, for example, then the elevator would be necessary if you had 3 more units in a garden style. He thought that was the way that they interpreted it because he has been doing townhouses here for several years in several communities in the Merrimack Valley similar and it has never been an issue. He thought that was how the building officials have been interrupting it.

Member Hynick noted that she was not an authority and was not acting as one here. She was just raising the question.

Mr. Stapinski hoped that clarification helped a little in terms of... it sort of makes sense if you had a garden thing you would need it but...

Attorney Waldron noted that would complete their presentation.

The chairman asked the board members if they had any questions. There were no other questions raised by the board members. The chairman asked if there was anyone in the audience that wanted to speak either in favor or in opposition. No one else came forward to speak in favor and no one came forward to speak in opposition. The public portion of the hearing was closed and turned it over to comments from the planning director.

Planning Director William Pillsbury referred to the application and noted as presented by Attorney Waldron the plan has been revised to 5 units and the assessment has been reviewed by the various city departments. The city department letters are in the board packages this evening. There were some concerns raised by the departments in suggested conditions that have been identified in those packages specifically the Fire Department, City Engineer, Water/Wastewater have raised issues in their letters and all of these items would need to be responded to and addressed by the applicant at the appropriate time. None of those issues were significant enough to warrant us to request for a tabling of a further continuance tonight. It was suggested by the planner to forward a conditional recommendation to the City Council with the conditions being the incorporation of the city department letters and additionally the specific condition dealing with these architectural values issue that be clarified by the project architect and the applicant and to do that with the building inspector prior to the City Council hearing and as well as responding to any of the other conditions in the city letters by the City Council hearing if possible. Some of those things he knew would relate to the definitive plan stage. He thought at this point it was his recommendation to forward a conditional favorable recommendation with the conditions being the incorporation of the city department letters and the item raised by the board this evening.

MOTION
After board consideration, Member Joseph Sullivan motioned to forward a conditional favorable recommendation to the City Council for the River Street Special Permit as recommended by the planning director. Member Bob Driscoll seconded the motion. Members that voted in favor of the continuance were the following: Timothy Connors, Celeste Hynick, Roy Wright, James C. Cronin, Jack Everette, Joseph Sullivan, Bob Driscoll

and Paul B. Howard. No members were absent. **Motion passed to forward a conditional favorable recommendation to the City Council**.

Signed,

Paul B. Howard

Paul B. Howard
Chairman

Cc: River Street Special Permit
Owner/Applicant
James Waldron, Esquire
William D. Cox, City Solicitor
City Council
City Clerk
City Engineer John Pettis—Room 214