



CITY OF HAVERHILL, MASSACHUSETTS

NOTICE OF DECISION

YOU ARE HEREBY NOTIFIED OF THE DECISION OF THE CITY COUNCIL ON THE APPLICATION OF:

RISE DEVELOPMENT LLC

APPLICANT AND OWNER (IF DIFFERENT)

for property located at:

86 ESSEX ST.
SITE LOCATION, ASSESSOR'S MAP, BLOCK, PARCEL NUMBERS

which was filed with the City Clerk on May 26 2021 as signified by the City Clerk's date stamp.
DATE

The Council, as authorized by Section 15, Chapter 40A of the MGL held a PUBLIC HEARING on:

MAY 11, 2021
DATE OF HEARING (CONTINUANCE IF APPLICABLE)

The Council voted to **GRANT** / ~~DENY~~ said application.

Vote on Special Permit **WITH** / ~~WITHOUT~~ Conditions

	YES	NO	ABSENT
PRESIDENT BARRETT		x	
COUNCILLOR LePAGE			x
COUNCILLOR BEVILACQUA	x		
COUNCILLOR MICHITSON	x		
COUNCILLOR SULLIVAN	x		
COUNCILLOR JORDAN	x		
COUNCILLOR MCGONAGLE	x		
COUNCILLOR DALY O'BRIEN	x		
COUNCILLOR MACEK			x

See attachments for reasons for decision of the City Council.*

An appeal of this Decision shall be made pursuant to Section 17 of Chapter 40A, MGL, and shall be filed with Superior or District Court within twenty (20) days after the date of filing of the above cited decision with the Office of the City Clerk. Procedural appeals shall be taken in accordance with Section 17 of Chapter 40A, MGL.

May 26 2021
DATE

Melinda E. Barrett
CITY COUNCIL PRESIDENT

*Record of evidence and detailed record of proceedings of the City Council hearing have been filed with the City Clerk and are incorporated herein by reference and considered a part hereof.



City of Haverhill, MA

03/26/2021

CCSP-21-6

City Council Special Permit

Status: Active**Date Created:** Mar 10, 2021**Applicant**

kyle Tornow
ktornow@fishbrook.com
52 Wingate St
Haverhill, ma 01832
617-378-5354

Location

86 ESSEX ST
Haverhill, MA 01832

Owner:

HAVERHILL 86 LLC
580 WASHINGTON ST, UNIT 412
BOSTON, MA 02111

Important: Please Read Before Starting Your Application**Applicant Information****What is Your Role in This Process?**

Attorney/Agent

Applicant Business/Firm Name

Fishbrook Design Studio

Applicant Business/Firm Phone

978-914-6876

Applicant Business/Firm Address

52 Wingate St

Applicant Business/Firm City

Haverhill

Applicant Business/Firm State

MA

Applicant Business/Firm Zip

01832

Client Name

RISE Construction

Client Business Name

RISE

Client Phone

617-905-9010

Client Email

IN CITY COUNCIL: March 30 2021
Hearing scheduled for May 11 2021,

Client Address

<https://haverhillma.viewpointcloud.io/>

Attest:  City Clerk

3/26/2021

IN CITY COUNCIL: May 11 2021

COUNCIL PRESIDENT BARRETT STATED THAT THE PERMIT WILL REFLECT THAT THERE ARE 55 PARKING SPACES IN THE MVRTA PARKING GARAGE WITH 3 HP SPACES IN THE REAR OF THE BUILDING and

ON MOTION OF COUNCILLOR MCGONAGLE WITH SECOND BY COUNCILLOR SULLIVAN TO ADD CONDITIONS THAT THE DEPARTMENT HEAD LETTERS AND RECOMMENDATIONS OF THE PLANNING DIRECTOR LETTER DATED MAY 7, 2021 BE INCLUDED; THE MVRTA LEASE TO REFLECT THE NAME OF RISE DEVELOPMENT AND BE IN PERPETUITY; FURTHER, THAT RESIDENTS AT 86 ESSEX STREET CAN NOT REQUEST PARKING PASSES and

MOTIONS PASSED and
PASSED AS AMENDED

Attest:  Acting
City Clerk



Haverhill

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

May 7, 2021

TO: City Council President Melinda Barrett and members of the Haverhill City Council

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

SUBJECT: Special permit for 86 Essex Street- 42 Mixed Income Rental units. (80 % market Rate; 20% Affordable as required by the 40R District) and ground floor commercial space.

The proposed project is for the rehabilitation of 86 Essex Street into 42 Residential Units and ground floor commercial space. The property which is a vacant former industrial building, represents one of the last major remaining vacant mill structures in the downtown area.

The proposed mixed-use project is consistent with the building stock and reuse of mill structures in the surrounding neighborhood and represents the opportunity to have an infill mixed use project that will serve to bring additional stability to the area by improving conditions and property values. The project is completely consistent with the 40R District -Downtown Smart Growth Overlay District (DSGOD) established by the council several years ago.

The role of the city council under Chapter 40R as Plan Approval Authority (PAA) is to conduct a hearing and pursuant to section 9 .8.14 (2) Plan review, review the plan for consistency with the purpose and intent of the article and such plan review shall be construed as an as-of-right review and approval process as required by and in accordance with the enabling laws

Specifically, pursuant to zoning ordinance Ch. 255- 9.8.14 (3) and (4)(as applicable) the following findings must be made relative to the project:

3. Plan Approval. Plan Approval shall be granted where the PAA finds by majority vote of the members present that:

- a. The applicant has submitted the required fees and information as set forth in this section; and
- b. The project and site plan meet the requirements and standards set forth in this section, or a waiver has been granted therefrom; and
- c. Extraordinary adverse potential impacts of the Project on nearby properties have been adequately mitigated.

4. Plan Disapproval. A site plan may be disapproved only where the PAA finds that:

- a. The applicant has not submitted the required fees and Information as set forth in this section; or
- b. The project and site plan do not meet the requirements and standards set forth in this section, or a waiver has not been granted therefrom; or
- c. It is not possible to adequately mitigate significant adverse project impacts on nearby properties by means of suitable conditions.

I have conducted a detailed review of the proposed project and believe that the project is totally consistent with the purpose and objectives of the 40R District and further meets to the greatest extent possible the general (section 9.8.10) and subzone (section 9.8.11) applicable design standards.

The applicant requests and I recommend approval of the density waiver to clarify that 42 units is appropriate for the subzone. While I believe the project complies with the density requirement, the request is to eliminate any confusion as to the language of the ordinance relative to density. The building structure clearly supports a density of 42 units plus commercial space over 8 floors.

Comments were requested from city departments and no objections were received. I recommend that their comments and letters be made part of the approval by the city council.

Proposed conditions and stipulations:

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

Require that the developer when filing for development review, comply with all of the additional requirements of the City's regulations for water and sewer and drainage improvements as contained within those regulations and further detailed in the attached letters from the departments.

As Planning Director, I recommend approval of the project for the reasons stated above and based on an assumption that all items in the letters from the City Departments along with all requirements of the ordinance would be made part of the approval decision 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 requirements of the ordinance. On the basis of adopting the proposed conditions/stipulations, I recommend that the council act favorably on this project.

RECOMMENDATION: Approve the project with the inclusion of any city department comments and the above stipulations being included in the council decision.

CITY COUNCIL

MELINDA E. BARRETT

PRESIDENT

COLIN F. LEPAGE

VICE PRESIDENT

JOSEPH J. BEVILACQUA

JOHN A. MICHITSON

THOMAS J. SULLIVAN

TIMOTHY J. JORDAN

MICHAEL S. MCGONAGLE

MARY ELLEN DALY O'BRIEN

WILLIAM J. MACEK



CITY HALL, ROOM 204
4 SUMMER STREET
HAVERHILL, MA 01830
TELEPHONE: 978 374-2328

www.cityofhaverhill.com
citycncl@cityofhaverhill.com

CITY OF HAVERHILL HAVERHILL, MASSACHUSETTS 01830-5843

DOC. 43 SUMMARY MINUTES OF A SPECIAL PERMT HYBRID HEARING HELD ON MAY 11, 2021 FOR PETITION FROM KYLE TORNOW FOR CLIENT RISE CONSTRUCTION FOR RESTORATION OF EXISTING 7-STORY BUILDING AT 86 ESSEX STREET; TO HAVE 42 RENTAL APARTMENTS. GROUND FLOOR WILL HAVE SOME COMMERCIAL SPACE IN DOWNTOWN SMART GROWTH OVERLAY

SUBJECT: Doc. 43 – Petition for Special Permit CCSP 21-6, from Kyle Tornow for client RISE Construction for restoration of existing 7-story building at 86 Essex Street; to have 42 rental apartments and ground floor will have some commercial space in Downtown Smart Growth Overlay

Present: President Melinda Barrett, Councillor Joseph Bevilacqua, Councillor John Michitson, Councillor Thomas Sullivan, Councillor Timothy Jordan, Councillor Michael McGonagle, and Councillor Mary Ellen Daly O'Brien.

Absent: Council Vice President Colin LePage and Councillor William Macek

City Clerk Linda Koutoulas: Document 43 - Petition for Special Permit CCSP 21-6, from Kyle Tornow for client RISE Construction for restoration of existing 7-story building at 86 Essex st; to have 42 rental apartments & ground floor will have some commercial space in Downtown Smart Growth Overlay; *Favorable recommendation and conditions from Planning Director Department approvals with conditions.*

President Barrett announced that a phone number will scroll for people to call into the City Council office to voice their opinion.

President Barrett opened the hearing.

Attorney Donald Borenstein represented the applicant RISE Development LLC. He introduced team members, Matt Juros, architect, Jim Hanley, civil engineer, and two representatives from rise, Zouck Mo and Jeremy Henry. The building is across from Maria's Restaurant. It was built in 1910 and has been sitting derelict. It is the last remaining undeveloped building. It will have 42 residential units. The building is located in the IG general business district. Most importantly, it is in the Downtown Smart Growth Overlay District. 20% of units will be set aside for affordable housing/moderate income. They comply with all density requirements in Subzone A. They are proposing a café on the first floor and want to use the basement for storage. They do require a rooftop waiver. They have substantial letters of support from the restaurant community.

Mr. Zouk Mo spoke glowingly about his attraction to the city, the community feeling, and the architecture of the building. The units will attract those without cars as it is close to transit.

Matt Juros, Fishbrook Studios, gave an overview of the project. 3 handicap spaces will be in the rear of the building. They will preserve what's historic. They will be using federal National Historic Tax Credit which also has a state tax piece. They will restore parts that have decay and have become dangerous. The

restoration will be historically accurate. The exterior brickwork will be repointed and repaired. All the windows will be replaced. There will be two art nouveau canopies for entry ways. The front portion of the building will be open to the public as a working area and coffee shop. There will be no cooking. The back area is really the back lobby. The basement will have a dog washing area and amenity space with clubroom and bike storage. There will be a unit mix, primarily studios and one bedroom. There will be 7 two bedrooms. The exiting pattern requires a new stairway. The roof deck is modest in size. The roof deck cannot be seen from the street. The rail station is 100 yards away. There will be 55 leased parking spaces in the MVRTA parking garage with 3 HP spaces in the back of the building.

Attorney Borenstein informed that the team did business to business and person to person outreach. In conclusion he asked for the Council's plan approval.

Andrew Herlihy, spoke on behalf of the Planning Director and informed that the project has the Director's support for this 40R district project as the city needs market rate and affordable housing. No one spoke against the project.

President Barrett closed the hearing.

On motion of Councillor Sullivan with second from Councillor Daly O'Brien to move for passage. Councillors expressed concern about parking and wanted the name on the lease to specify RISE Development. Mr. Jeremy Henry explained that they will be switching over the name on the lease rental. The lease period is 10 years with an option for an additional 10 years. Councillors indicated that the lease option needs to be longer and will make that a condition of approval. Rental rates will be between \$1,800 -\$2,200 for market rate units. The affordable units will be just under \$1,000. The neighboring rates are \$2,700 a month. There will be an enclosed dumpster located on site. President Barrett stated that the permit will reflect that there are 55 parking spaces in the MVRTA parking garage with 3 HP spaces in the rear of the building.

On motion of Councillor McGonagle with second by Councillor Sullivan to add conditions that the department head letters and recommendation of the Planning Director letter dated May 7, 2021 be included; the MVRTA lease to reflect the name of RISE Development and be in perpetuity; further, that residents at 86 Essex Street cannot request parking passes for on street parking and/or municipal parking lots.

Clerk Koutoulas: Councillor Bevilacqua-yes, Councillor Michitson-yes, Councillor Sullivan-yes, Councillor Jordan-yes, Councillor McGonagle-yes, Councillor Daly O'Brien-yes, President Barrett-no
Yeas 6, Nays 1, Absent 2

President Barrett: Passed with conditions

Respectfully submitted,



Barbara S. Arthur
Administrative Assistant
Haverhill City Council

May 26, 2021

CITY COUNCIL

MELINDA E. BARRETT

PRESIDENT

COLIN F. LEPAGE

VICE PRESIDENT

JOSEPH J. BEVILACQUA

JOHN A. MICHITSON

THOMAS J. SULLIVAN

TIMOTHY J. JORDAN

MICHAEL S. MCGONAGLE

MARY ELLEN DALY O'BRIEN

WILLIAM J. MACEK



CITY OF HAVERHILL
HAVERHILL, MASSACHUSETTS 01830-5843
REASON FOR VOTE - DOCUMENT 43
86 Essex Street
Special Permit – May 11, 2021

CITY HALL, ROOM 204
4 SUMMER STREET
HAVERHILL, MA 01830
TELEPHONE: 978 374-2328
www.cityofhaverhill.com
citycouncil@cityofhaverhill.com

2021 MAY 25 AM 11:00
CITY OF HAVERHILL
CITY COUNCIL

President Barrett: I voted against the special permit. The project was dependent on the renting of 55 parking spaces in the MVRTA parking garage. I believe that there is inadequate parking available in that garage for 24/7 parking.

Councillor Bevilacqua: The project was for the rehabilitation and adaptive reuse of a 100-year-old vacant existing building on an existing site and did not propose exterior additions. The project met the special permit requirements with the conditions of city departments. Parking was provided in adjacent garage.

Councillor Michitson: I voted in favor because it met the requirements.

Councillor Sullivan: I voted in support because the project met all the requirements of the Smart Growth Overlay District and will be a benefit to the downtown area providing much needed housing and und unique commercial space.

Councillor Jordan: I voted in favor of the project at 86 Essex Street as it had approval from all of the department heads. It is a good reuse of an old building in our downtown area. I was impressed with all of the support of neighbors and neighboring businesses. I'm happy that the project includes both market-rate and 20% affordable housing units. The fact that of the 42 units only 7 are two bedrooms should result in a small impact to our near capacity school buildings.

Councillor McGonagle: I voted in favor of the Special Permit based on the recommendations of the Economic Department Director and the positive effect it will bring to the City.

Councillor Daly O'Brien: I voted yes for this special permit because the project met the requirements and standards for a 40R District Downtown Smart Growth Overlay District. It will add much needed workforce housing and it also represents a substantial investment in a now vacant building.



City of Haverhill, MA

05/11/2021

CCSP-21-6

Water Supply Review

City Council Special Permit

Status: Complete

Became Active: 05/06/2021

Assignee: Robert Ward

Completed: 05/10/2021

Applicant

kyle Tornow
ktornow@fishbrook.com
52 Wingate St
Haverhill, ma 01832
617-378-5354

Location

86 ESSEX ST
Haverhill, MA 01832

Owner:

HAVERHILL 86 LLC
580 WASHINGTON ST, UNIT 412 BOSTON, MA
02111

Comments

Robert Ward, May 10, 2021

The project is not located within any of the City's public water supply watersheds.



City of Haverhill, MA

05/11/2021

CCSP-21-6

Water Department Review

City Council Special Permit

Status: Active**Became Active:** 05/06/2021**Assignee:** Robert Ward**Completed:**

Applicant

kyle Tornow
ktornow@fishbrook.com
52 Wingate St
Haverhill, ma 01832
617-378-5354

Location

86 ESSEX ST
Haverhill, MA 01832

Owner:

HAVERHILL 86 LLC
580 WASHINGTON ST, UNIT 412 BOSTON, MA
02111

Comments

Glenn Smith, May 11, 2021

This property is proposed for the conversion of a 7 Story Commercial building into a 42 Unit Residential Complex

- 1) This property has an updated Fire Sprinkler System tied into the 12" Water Main in Essex Street.
- 2) There is a separate 2" Domestic Water Service with a single water meter and backflow preventer.
- 3) This will have to be upgraded to a DOUBLE METER and BACKFLOW system to allow for uninterrupted water service during Testing, Repairs or Maintenance



City of Haverhill, MA

05/07/2021

CCSP-21-6

Conservation Department Review

City Council Special Permit

Status: Complete

Assignee: Robert Moore

Became Active: 05/06/2021

Completed: 05/07/2021

Applicant

kyle Tornow
ktornow@fishbrook.com
52 Wingate St
Haverhill, ma 01832
617-378-5354

Location

86 ESSEX ST
Haverhill, MA 01832

Owner:

HAVERHILL 86 LLC
580 WASHINGTON ST, UNIT 412 BOSTON, MA
02111

Comments

Robert Moore, May 7, 2021

NA



City of Haverhill, MA

05/06/2021

CCSP-21-6

Fire2 Department Review

City Council Special Permit

Status: Complete**Became Active:** 05/06/2021**Assignee:** Michael Picard**Completed:** 05/06/2021

Applicant

kyle Tornow
ktornow@fishbrook.com
52 Wingate St
Haverhill, ma 01832
617-378-5354

Location

86 ESSEX ST
Haverhill, MA 01832

Owner:

HAVERHILL 86 LLC
580 WASHINGTON ST, UNIT 412 BOSTON, MA
02111

Comments

Michael Picard, May 6, 2021

The planning, design and construction of new buildings, renovation of existing buildings and structures to provide egress facilities, fire protection and built-in fire protection equipment shall be in accordance with 780 CMR; and any alterations, additions or changes in buildings required by the provisions of 527 CMR which in the scope of 780 CMR, 9th edition, shall be made in accordance therewith. (527 CMR 1.04(4) and 780 CMR 101.2). Additionally, 780 CMR (901.2.1) Document Submittal Process will be required.

Plans approved by the fire department are approved with the intent they comply in all respects to MSBC, 780 CMR 527 CMR 1.00, MGL Chapter 148 and any City of Haverhill ordinance. Any omissions or errors on the plans do not relieve the applicant of complying with applicable requirements.

Additional requirements :

A third party review of the Fire Protection Systems will be required for this project
An impairment plan will be required



City of Haverhill, MA

05/06/2021

CCSP-21-6

Building Inspector Review

City Council Special Permit

Status: Complete**Became Active:** 03/10/2021**Assignee:** Tom Bridgewater**Completed:** 05/06/2021

Applicant

kyle Tornow
ktornow@fishbrook.com
52 Wingate St
Haverhill, ma 01832
617-378-5354

Location

86 ESSEX ST
Haverhill, MA 01832

Owner:

HAVERHILL 86 LLC
580 WASHINGTON ST, UNIT 412 BOSTON, MA
02111

Comments

Maria Bevilacqua, Apr 5, 2021

Waiting for your review

kyle Tornow, Apr 5, 2021

Hi Maria. Are these reviews done in order? Most of the departments have already offered their commentary in the PPR process. Are these to be copied over? Thanks for clarification of the process,

Tom Bridgewater, May 6, 2021

I concur with the zoning opinion written by attorney Donald Borenstein

**JOHNSON &
BORENSTEIN, LLC**
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Of Counsel
Robert W. Lavoie (MA, NH)

Paralegals
Karen L. Bussell
Lianne Patenaude
Ellen M. Melvin
Tina M. Wilson

March 8, 2021

***Via First Class Mail
and ViewPoint Cloud Application Portal***

City Council
City of Haverhill
c/o Barbara S. Arthur
4 Summer Street
Haverhill, MA 01830

**Re: Property — 86-92 Essex Street, Haverhill, Massachusetts
 Owner — Haverhill 86 LLC
 Applicant — Rise Development LLC
 Smart Growth Zoning Analysis and List of Anticipated Waiver Requests**

Dear Council President Barrett and City Council Members,

I have been retained to represent Rise Development LLC (“Rise”), in connection with its proposal to convert the existing, former mill building located at 86 Essex (“Property”), from defunct industrial space to a modern mixed-income residential development (“Project”). In this context, I write this letter to provide the Council with a summary of the Project and the zoning provisions applicable thereto, as well as a list of the waivers I believe Rise is likely to require from the Council to complete the Project as planned.

I. Property & Project Background

The existing building on the Property is an unoccupied, eight-story, brick and timber mill structure (“Building”) which was constructed in 1910 and comprises 41,520 square feet of gross floor area. Although architecturally impressive, the empty Building does little presently to contribute value to the residents of the City or their quality of life.

By way of the Project, Rise proposes to convert the defunct Building into a vibrant and modern mixed-income residential development, with a restored brick exterior and metal cornice details, which will supply the City with 42 new residential housing units, 20% of which will be restricted as moderate-income affordable housing, as well as commercial space available for lease and open to the public on the Building's ground floor.

II. Summary of Applicable Zoning

A. The Zoning Provisions Relating to the City's Smart Growth Overlay District Supplant Zoning Provisions Relating to Underlying Zoning Districts

The Property is located within the City's General Business ("IG") zoning district, as well as its Downtown Smart Growth Overlay District – Subzone A ("DSGOD-A").

Per § 9.8 of the City's Zoning Ordinance ("Ordinance"), "It is the purpose of . . . a Downtown Smart Growth Overlay District . . . to encourage smart growth in accordance with the purposes of M.G.L. Chapter 40R, and **to foster a range of housing opportunities along with a mixed use development component . . .**" **Emphasis added.**

As such, § 9.8.3.4 of the Ordinance provides, "The DSGOD is an overlay district superimposed on all underlying zoning districts. When a building permit is issued for any Project approved in accordance with this Section, **the provisions of the underlying district(s) shall no longer be applicable to the land** shown on the site plan which was submitted pursuant to this Section for such Project." **Emphasis added.** Similarly, § 9.8.4 of the Ordinance adds, "In accordance with the provisions of M.G.L. Chapter 40R and 760 CMR 59.00, **an Applicant for a Project located within the DSGOD may seek Plan Approval in accordance with the requirements of this Section. In such case, then notwithstanding anything to the contrary in this Zoning Ordinance, such application shall not be subject to any other provisions of this Zoning Ordinance . . .**" **Emphasis added.**

In accordance with the above-reproduced provisions of the Ordinance, Rise seeks Plan Approval for the Project in accordance with the DSGOD-A provisions of the Ordinance and, as a result, the requirements of the underlying IG District are made inapplicable. For a table of zoning dimensional requirements, please see the Project's site plan filed with the Plan Approval application materials filed with the City Council.

B. Applicant's Proposed Use for the Property is Allowable As-of-Right in the DSGOD-A

Under § 9.8.5 of the Ordinance, "The following uses are **permitted as of right** in the DSGOD Subzones. . . 1. **Multifamily development** in Subzones A, B, C, and D only. 2. **Mixed Use Development** in all subzones; provided, however, that in Subzones A, B and C, the proportion of residential to nonresidential uses within a Mixed Use Development shall be as follows: a. At least 75% of the gross floor area of the structure shall be residential; b. Not more than 5% of the gross floor area of the structure shall be nonresidential and all such nonresidential uses shall be located on the first floor only." **Emphasis added.**

C. General Requirements for Smart Growth Projects Under the Ordinance & List of Anticipated Waiver Requests

- 1) Per § 9.8.7.2 of the Ordinance, “For all Projects, not less than 20% of housing units constructed shall be Affordable Housing. For purposes of calculating the number of units of Affordable Housing required, any fractional unit of 0.5 or greater shall be deemed to constitute a whole unit.”

A) Rise will not request any waiver regarding § 9.8.7.2 of the Ordinance.

- 2) Per § 9.8.8.1 of the Ordinance, “The density in Subzone A shall be **220 dwellings as of right per acre**. In the alternative, where an existing building is rehabilitated, the density (number of dwelling units) shall be the gross square feet contained in the existing building, minus 25%, divided by 1,200 square feet.” **Emphasis added.** Per § 9.8.5 of the Ordinance, commercial use is permitted on the first floor subject to certain mixed-use limitations.

- A) The Project contemplates the rehabilitation of an existing building. Under § 9.8.8.1 of the Ordinance, the unit density calculation for the Project is therefore apparently $41,520 \text{ s.f.} \times .75 / 1,200 \text{ s.f.}$ This calculation produces a result of 25.95 dwelling units.

Following consultation with City officials, it is Rise’s understanding that § 9.8.8.1 of the Ordinance should be interpreted to require a minimum of 25.95 dwelling units for the Project, in accordance with the general principle that smart growth development should be high density. However, considering that the language of the Ordinance could be subject to differing interpretations, and considering Rise’s plan is to construct 42 dwelling units under the Project, Rise will request the Council grant a waiver from the language of § 9.8.8.1 of the Ordinance to the extent the same could be interpreted to establish a maximum number of allowable dwelling units. Such waivers are clearly within the authority of the City Council, as discussed below.

Importantly, should Rise have proposed new construction on the Property, which comprises roughly .21 acres of land, Rise apparently would have been entitled to construct 46.55 dwelling units as-of-right under § 9.8.8.1 of the Ordinance. As such, with 42 units proposed, Rise has not proposed a Project considered by the Ordinance to be too dense for the “High Density” DSGOD-A.

A small portion of the basement level, 140 s.f., is proposed as a “back of house” area to support a potential café use to be housed primarily on the first floor. A waiver is requested from § 9.8.5 of the Ordinance to permit such limited commercial use at the basement level, as supporting permitted commercial use located primarily on the first floor.

- 3) Per § 9.8.9.2 of the Ordinance, “Minimum Off-Street Parking Space Requirements. a. Residential Use: 1.2 spaces per one-bedroom unit; 1.4 spaces per two-bedroom and three-bedroom unit. b. Such off-street parking spaces shall be established no further than 800 feet from the premises to which they are appurtenant.”

Per § 9.8.9.3 of the Ordinance, “The use of shared parking to fulfill parking demands noted above that occur at different times of day may be considered by the [Council]. Minimum parking requirements above may be reduced at the discretion of the [Council] if the applicant can demonstrate that shared spaces will meet parking demands by using accepted methodologies (e.g., the Urban Land Institute Shared Parking Report, ITE Shared Parking Guidelines, or other approved studies). **The applicant is encouraged to use the public parking facilities available in the downtown area and to lease those facilities in non-peak hours.**” **Emphasis added.**

Per § 9.8.9.4 of the Ordinance, “**The required amount of parking may be reduced at the discretion of the [Council]** upon a showing that the lesser amount of parking will not cause excessive congestion, endanger public safety, or that lesser amount of parking will provide positive environmental or other benefits. The [Council] may consider: a. The availability of surplus off-street parking in the vicinity of the use being served and/or the proximity of a bus or an MBTA transit station; b. The availability of public or commercial parking facilities in the vicinity of the use being served; c. Shared use of off-street parking spaces serving other uses having peak user demands at different times; d. Age, income or other characteristics of the likely applicants which are likely to result in a lower level of auto usage; e. Such other factors as may be considered by the PAA, including whether the reduction of the parking requirement is likely to encourage the use of public transportation or encourage a proposed development to be more pedestrian friendly.” **Emphasis added.**

- A) Under the calculation called for in § 9.8.9.2 of the Ordinance, Rise’s Project must provide $36 \times 1.2 + 6 \times 1.4$ parking spaces. This calculation produces a result of 51.6 parking spaces.

Rise proposes to provide 52 parking spaces for the Project. Five such spaces – three handicapped spaces and two unrestricted spaces – will be provided on the Property, while the remaining 47 parking spaces will be provided in the Granite Street public parking garage pursuant to a lease agreement; said garage is located less than 800 feet from the proposed Project.

Therefore, it is Rise’s understanding that, under §§ 9.8.9.2, 9.8.9.3, and/or 9.8.9.4 of the Ordinance, Rise will not require a waiver for the Project parking. However, should the Council take a different interpretation of the Ordinance, Rise will request the Council to grant such a waiver from § 9.8.9.2 of the Ordinance.

- 4) Per § 9.8.11.1 of the Ordinance, “Existing structures within the High Density 220 – Subzone A are eight-plus story mill structures. It is anticipated that housing production within Subzone A will take place entirely as redevelopment of existing buildings. a. Some mixed use is required on the first floor, restricted to allowed nonresidential uses, where oriented towards the street. No mixed use shall take place other than on the first floor. Not more than 5% of the

gross floor area of the structure shall be devoted to such mixed use. b. Maximum height of the building shall be no greater than the height of the existing structure in the subzone."

- A) Rise proposes to construct a deck on the roof of the Building for the exclusive use of its tenants. While Rise is not certain whether the language of § 9.8.11.1.b of the Ordinance will apply to such a deck, it will request the Council grant a waiver to the extent said § 9.8.11.1.b could be interpreted to apply to the proposed deck.

D. The Council Has Extremely Broad Waiver Authority

Lastly, it is important to note that the Ordinance vests broad waiver authority with the Council in the Plan Approval process. Under § 9.8.13.1 of the Ordinance, "Except where expressly prohibited herein, **upon the request of the Applicant, the [Council] may waive dimensional and other requirements of this Section** in the interests of design flexibility and overall project quality, and upon a finding of consistency of such variation with the overall purpose and objectives of the DSGOD, or if it finds that such waiver will allow the Project to achieve the density, affordability, mix of uses, and/or physical character allowable under this Section." **Emphasis added.**

Should you have any questions or concerns regarding this letter in advance of the Council's hearing on this Plan Approval application, I would be happy to provide additional information or materials. Thank you for your attention to this matter.

Very truly yours,

JOHNSON & BORENSTEIN, LLC

Donald F. Borenstein
Donald Borenstein

DFB

Cc: Rise Development, Inc.
Matt Juros, RA
James Hanley, P.E.

OWNER'S AUTHORIZATION

Re: Property – 86-92 Essex Street, Haverhill, MA 01832
Owner – Haverhill 86 LLC

The undersigned, owner of the above-referenced Property, hereby authorizes Johnson & Borenstein, LLC to file and pursue permits, applications, petitions, and appeals with the City of Haverhill, its City Council, Zoning Board of Appeals, Planning Board, Conservation Commission, and Building Inspector, related to the above-referenced Property.

Owner:

HAVERHILL 86 LLC

DocuSigned by:

Sharon Wang

C0379BE01B36434...

By: Sharon Wang
Its: Manager

Dated: ____ March_6th_____, 2021



10 March, 2021

To Whom it may concern

The Essex at 86 Essex Street is an existing seven story brick and timber building completed in 1910. Our project will restore the brick exterior and metal cornice details. The already gutted interior will contain 42 studios, 1- and 2-bedroom dwelling units. 80% of the units will be market rate; 20% will be affordable. The ground floor will have both commercial leased spaces, open to the public and exclusive tenant amenity space. The basement will have storage and other amenity spaces reserved for the exclusive use of tenants. We will build a roof deck for the exclusive use of tenants. Off-street parking will be accommodated on site (wheelchair accessible spaces) and in the parking garage located on Granite Street, adjacent to our project.

Matthew E. Juros, RA.

FISHBROOK DESIGN STUDIO

52 Wingate Street
Haverhill, MA 01832
voice: 978-914-6876
cell: 252-245-2011

Thank you,

MATT.

Matthew E. Juros, AIA, NCARB

FISHBROOK DESIGN STUDIO

Matthew E. Juros, A.I.A.
52 Wingate Street Haverhill, MA 01832
v: 978-561-3009 e: matt@fishbrook.com

w: www.fishbrook.com



MVRTA Advisory Board Officers
Mr. Daniel Rivera, Chair
Ms. Allison Heartquist, Vice Chair
Mr. James Ryan, Secretary

Joseph J. Costanzo
Administrator

March 24, 2021

Mr. Ryan Denver, President
Select Demo Services, LLC
7 Industrial Way, Suite 3
Salem, New Hampshire 03079-2817

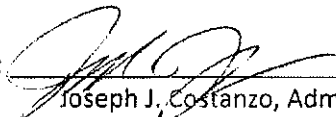
Re: Parking Spaces in MVRTA Parking Facility for 86 Essex Street

Dear Mr. Denver:

In response to your request to lease fifty-five (55) parking spaces for the units being created at 86 Essex Street, a summary of lease terms follows:

- Landlord: MVRTA
- Tenant: Select Demo Services, LLC
- Lease Execution Date: TBD
- Number of Parking Spaces: 55
- Initial Term: Ten (10) Years
- Renewal Options: One (1) extension period of ten (10) years
- Rent Commencement Date: Date upon which a certificate of occupancy is issued for Tenant's residential conversion of the building at 86 Essex Street
- Use: 24 hour access
- Base Rent: \$85/space/month, Increased annually based on percent increase of annual operating expenses; Proportionate share (55/315 = 17.5%) of monthly Operating Expense
- Formal Lease 90 days prior to occupancy, a formal Lease Agreement will be prepared between Landlord and Tenant.

Sincerely,
Merrimack Valley Regional Transit Authority

By: 
Joseph J. Costanzo, Administrator

JJC/pc

