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Planning Board

Town of Salisbury
238 Lafayette Road
Salisbury, MA 01952

Planning Board:

Don Egan, *Chairperson*

John "Marty" Doggett,

Vice Chairperson

Gil Medeiros, *Clerk*

Lou Masiello

Deborah Rider

John Schillizzi, *Associate*

MINOR SITE PLAN APPROVAL

March 12, 2021

Town Clerk

Town of Salisbury

Salisbury, MA 01952

RECEIVED
TOWN CLERK
TOWN OF SALISBURY
2021 MAR 12 P 12:44

RE: Minor Site Plan Review Application

Applicant: **Li Realty Trust**

Address of Applicant: **139 Elm Street [Map 9, Lot 18], Salisbury, MA 01952**

Address of Project: SAME

Owner: SAME

Address of Owner: SAME

Zoning District: **Commercial (C), Office Park (C-3), Wireless Communication - C Overlay District,
and Medical Marijuana Overlay District.**

Deed Book & Page Number: **Southern Essex District Registry of Deeds Book 35504, Page 584**

To the Town Clerk:

This is to certify, at a duly noticed public meeting of the Salisbury Planning Board in regard to a Minor Site Plan for Review, which opened on November 13, 2019, continued to December 11, 2019, January 22, 2020, February 12, 2020, March 11, 2020, April 8, 2020, April 22, 2020, May 27, 2020, June 10, 2020, June 24, 2020, July 22, 2020, August 26, 2020, September 23, 2020, and closed on October 14, 2020, by a motion duly made and seconded, it was voted:

“We, the Salisbury Planning Board, as requested Li Realty Trust, under the provisions of Article XVIII of the Zoning By-Laws of the Town of Salisbury, considered Site Plan approval for a proposal at a property addressed at 139 Elm Street [Assessors Map 9, Lot 18] as shown on plans (“The Plans”) entitled:

Plan of Land in Salisbury, MA showing Proposed Parking Improvements at 139 Elm Street, for Li Realty Trust, 139 Elm Street, Salisbury, MA 01952, dated August 28, 2019, rev thru 09/16/2020, prepared by Millennium Engineering, 62 Elm Street, Salisbury, MA 01952 consisting of seven (7) sheets;

and hereby vote to approve the Minor Site Plan review, with conditions as noted”.

MINOR SITE PLAN APPROVAL

Hearing no further testimony, on a motion by Board member Louis Masiello, with second by Board member Gil Medeiros, the Planning Board voted unanimously to close the public hearing.

The Planning Board, next on a motion by Board member Gil Medeiros, with second by John “Marty” Doggett, voted to approve the Minor Site Plan review for the request to expand the existing parking lot to create an additional 20 (twenty) parking spaces, and the associated infrastructure improvements for a new stormwater management system and lighting, with the following condition:

1. That the east side of the parking lot be restriped.

Vote **Passed** five (5) – zero (0)

MATERIALS

(Included, but not limited to:)

1. Plan set entitled: Plan of Land in Salisbury, MA showing Proposed Parking Improvements at 139 Elm Street, for Li Realty Trust, 139 Elm Street, Salisbury, MA 01952, dated August 28, 2019, rev thru 09/16/2020, prepared by Millennium Engineering, 62 Elm Street, Salisbury, MA 01952 consisting of seven (7) sheets:
 - Existing Conditions
 - Site Plan
 - Grading Plan
 - Site Details
 - Drainage Details
 - Wetland Replication Details

- Erosion Control Details

Plan of Land is Salisbury, MA showing Proposed Parking Improvements at 139 Elm Street, for Li Realty Trust, 139 Elm Street, Salisbury, MA 01952, dated August 28, 2019, rev thru 09/16/2020, prepared by Millennium Engineering, 62 Elm Street, Salisbury, MA 01952 entitled: Fire Truck Movement Plan [Sheet F-1]; and

Site Lighting Layout at 139 Elm Street, Salisbury, MA, dated 10/23/2019, prepared by Heidi G. Connors, Visible Light, Inc, 24 Stickney Ter, Ste. 6, Hampton, NH 03842;

2. Site Plan Review Filing Checklist; received by Town Clerk October 24, 2019;
3. Letter of Submittal prepared and signed by applicant's agent, Christopher York, P.E., Millennium Engineering; received by Town Clerk October 24, 2019;
4. Site Plan Review Application, received by Town Clerk October 24, 2019;
5. Requirements and Waiver Request Form, received by Town Clerk October 24, 2019;
6. Project Narrative, received by Town Clerk October 24, 2019;
7. Stormwater Management Report dated August 28, 2019, rev September 16, 2020;
8. Certified Abutters List prepared by Assessor August 26, 2019;
9. Review comments from Joseph Serwatka, P.E., Consulting Engineer for the Planning Board dated September 28, 2020;
10. Response Comments from applicant's agent, Christopher York, P.E., Millennium Engineering, dated September 18 and September 30, 2020;
11. Site Plan Review Interdepartmental Checklist;
12. Town Departments' Letters of Review:
 - a. Chief Thomas W. Fowler, Police Department dated July 10, 2020;
 - b. Assessor's Office acknowledgement dated 09/03/2019;
 - c. Tax and Betterment Certification acknowledgement by Treasure dated 08/27/2019;
13. Request by Applicant's Agent, Millennium Engineering, for case continuance [Case opened November 13, 2019, December 11, 2019, January 22, 2020, February 12, 2020, March 11, 2020, April 8, 2020, April 22, 2020, May 27, 2020, June 10, 2020, June 24, 2020, July 22, 2020, August 26, 2020, September 23, 2020, and case closed October 14, 2020]

FINDINGS

1. The Site Plan contains a design that is sufficiently developed to provide the basis for Planning Board's determinations regarding the requirements, standards and guidelines of the Salisbury Planning Board's Rules and Regulations.
521 CMR 23.00: PARKING AND PASSENGER LOADING ZONES

2. Currently 139 Elm Street, the proposed site, is a restaurant use. Situated in the Town's Commercial (C), Office Park (C-3), Wireless Communication - C Overlay District, and Medical Marijuana Overlay District, the site's improvements will provide additional parking for the business use.
3. The Existing Conditions show fifty-three (53) parking spaces, which include two (2) handicap spaces. Notes on this plan state eight (8) spaces will be removed, reducing the number of spaces to forty-five (45). After construction, total parking spaces available for the restaurant use will be sixty-five (65). As stipulated under 521 CMR 23.00: PARKING AND PASSENGER LOADING ZONES, the business will require a minimum of three (3) ADA accessible spaces.
4. The applicant petitioned for waivers for: Landscaping Plan showing proposed landscaping; Architectural plans showing floor plans and elevations; and Utility Plans showing a water and sewer connection.
5. The parking and traffic design of the site shall meet the requirements of the public safety departments [Police and Fire] for the Town of Salisbury, MassDOT, and 521 CMR Rules and Regulations of the Architectural Access Board.
6. The Planning Board has been advised through Town staff and consultants that utilities and public works as existing are satisfactory.
7. Consistency with Salisbury Master Plan:

The Salisbury Master Plan was the result of 18 months of work by the Planning Board, town officials and associated volunteers. The vision statement of the Master plan (created with extensive community involvement) states that:

- I. New development is sustainable, conserves land, protects resources, and balances current and future needs
- II. Neighborhoods are safe, affordable and pleasant, meeting the needs of all Salisbury's residents
- III. The town's open space system is well maintained and includes a diversity of facilities and resources to meet the needs of all residents
- IV. Expanded commercial development contributes to a high quality built environment and creates a stable financial base to fund municipal facilities and services

The following Conditions shall be required at the Applicant's sole expense, unless otherwise noted:

Other than restriping of the east side of the parking lot, there are no other conditions stipulated by the Planning Board pertaining to the Master Plan elements.

GENERAL CONDITIONS

1. This approval shall apply to any successor in interest or successor in control of the property subject to this approval and to any contractor or other person performing work.
2. This approval is not final until all administrative appeal periods from this approval have elapsed, or if such an appeal has been taken, until all proceedings have been completed.
3. The work shall conform to the plans and conditions referenced in this approval. No change to an approved plan shall be made until the applicant receives written permission from the Planning Board.
4. Applicant must obtain compliance with all zoning requirements before a building permit is issued.
5. Snow shall be stored on site per plan and the snow shall not block roadways, sidewalks/pathways, parking areas, turnarounds, or stop the drainage from properly functioning. If the snow storage areas are at capacity, snow is to be carted off site. This will be the responsibility of the applicant.

PRIOR TO ANY SITE WORK

6. One week before the pre-construction meeting, the Applicant shall provide a bond, in the form of cash, surety, or in another form acceptable by Town Counsel, for the amount determined necessary by the Town Engineer in order to cover the site improvement costs, which shall be posted for the purpose of insuring that the final as-built plan showing the location of all on site utilities structures, curb cuts, stormwater treatment system, parking spaces, sidewalks, topography, landscaping and drainage facilities or any other pertinent attribute associated with this project is submitted.
7. The lastly revised plans revised thru 09/16/2020 shall be updated as Conditioned in this Decision and three (3) complete sets shall be provided to the Planning Department, properly stamped, dated and indexed. These plans shall indicate compliance with all applicable Zoning By-Laws, except where relief has been expressly given by the proper authority.
8. The Applicant shall coordinate with the Planning Department a pre-construction meeting with the Town staff **prior** to the start of any construction to review these conditions, and any and all final construction sequencing, details, and/or plans for this Project. Commencement of construction includes any site clearing or grading. The limit of work line for the particular area or phase being developed shall be demarcated at this time through the placement of temporary

snow fence material and erosion control barriers. Periodic status reports (agreed upon at said pre-construction meeting) shall be submitted to the Town outlining the general status of the construction and major milestones completed.

9. The Applicant shall provide a Construction Sequencing Plan, subject to the approval of the Town Engineering Consultant or designee.
10. The Applicant is to meet with the Planning Department and the Department of Public Works to ensure compliance with any requirements, including bonding.

PRIOR TO THE ISSUANCE OF A BUILDING PERMIT

11. No building permit shall be issued until all required bonds are posted, finalized plans are submitted to the Planning Department, and a pre-construction meeting has occurred.
12. All other requirements and permits shall be sought and received, including, but not limited to, utility connections. The Applicant shall bear the burden of ensuring all state and local permitting has been sought and received. The "Applicant" refers to the person or entity holding the fee interest to the title to the site from time to time, which can include but is not limited to the Applicant, Developer and Owner.
15. The Applicant shall provide to the Planning Board the name, address and telephone number of the person immediately responsible for supervision of all work and maintaining compliance with the approval. This person shall serve as project manager until a Certificate of Completion is issued, or until another project manager is designated. Should the project manager change during the course of the project, the Planning Board shall be notified as soon as practical of this change.
16. Inform all contractors and subcontractors of the conditions and provisions of this approval. This approval shall be included in all construction contracts and subcontracts dealing with the work and shall supersede other contract requirements.
17. The Applicant shall deliver a final set of site development plans to the Town's Engineering Consultant prior to the commencement of construction, which shall indicate labels of all wetlands boundaries, buffer zones and marsh areas.
18. The Applicant shall coordinate with the DPW Director all Town and public easements for water, drainage and sewer, if applicable.
19. The Fire Suppression System, hydrant locations and alarm design shall be subject to approval by the Fire Chief or his designee. The Final Plan as approved by the Fire Chief or his designee shall be submitted to the Town Planner.

20. The work authorized hereunder must have active development or at least substantial progress toward implementation of the approved Site Plan occurring within five years or the approval becomes void. This approval may be extended by the issuing authority for an additional two-year period if, in the opinion of the issuing authority, there is just cause to approve an extension.

DURING CONSTRUCTION

21. Hours of Construction shall be adhered to and said hours shall be posted in a conspicuous place at the entrance prior to any work on the site.

Hours of Construction Operations

Construction activity shall not take place on site or in any building contained therein except during the following hours:

Mondays through Fridays inclusive: 7:00 AM to 7:00 PM

Saturdays: 8:00 AM to 5:00 PM

Sundays and Legal Holidays: No Construction Allowed

22. Hours of construction shall be displayed by the Applicant at all construction entrances to the site.
23. This Condition is subject to stop work orders and criminal complaints enforceable by the Salisbury Police Department. The Town Manager may waive this condition, subject to 2-day advance notice to all abutters and abutters of abutters, on a limited basis where it is in the public interest to do so, and shall notify The Planning Board immediately of any such waivers.
24. Town staff or their designee shall have reasonable access to inspect the site to determine compliance with this Decision. All water, sewer and drainage facilities shall be subject to inspection by the Town, and all water and sewer facilities shall be constructed in accordance with Town specifications.
25. Construction activities shall be conducted in a workmanlike manner at all times. Blowing dust or debris shall be controlled by the Applicant through stabilization, wetting down, and proper storage and disposal methods.
26. Erosion and sedimentation control measures presented in the plan shall be adequate to retain all sediment within the site and away from wetlands, constructed wetlands, watercourses, and water bodies, both during and after construction.

PRIOR TO THE ISSUANCE OF ANY CERTIFICATE OF COMPLETION

27. Applicant shall apply for a Certificate of Completion, per §300-112.H of the Salisbury Zoning Bylaws.
28. If the construction period lasts more than two (2) years, the bond or surety may be increased to account for inflation, based on recent inflation rates.
29. The Applicant has proposed, and the Planning Board, hereby requires, that the following aspects of the development shall be and shall remain forever private, and that the Town of Salisbury shall not have, now or ever, any legal responsibility for operation or maintenance of the same:
 - I. All driveways and parking areas
 - II. Sidewalks
 - III. Stormwater management system
 - IV. Driveway and parking area snow plowing and removal
 - V. Landscaping

AFTER OCCUPANCY

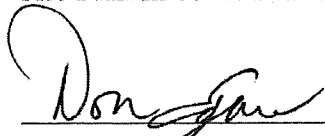
30. The Applicant or future owner shall have the responsibility of maintaining or replacing the parking area, landscaping, stormwater and septic systems, signage and lighting as indicated in the plans and shall be required to maintain a contract with professional landscaping and maintenance service provider. As determined by the Town Planner, the Applicant shall use best practices, including properly maintained and professional landscape services, to maintain the landscape in a manner that frees the plants and trees from disease, prevents the overpopulation of weeds, provides the necessary conditions to prevent drought from damaging the plants and trees, and ensures longevity by replacing the required landscaping as necessary for the duration of the use.
31. The Applicant shall ensure daily that exterior areas of the site remain clear of debris and trash on the site.
32. The Applicant shall ensure that the required parking spaces are accessible and properly lined at all times. Snow storage shall not restrict sight lines or damage landscaping.

MODIFICATION OF PLANS

The following shall be used in the event modifications to the approved plans and Decision are requested:

- a) Minor Modification – Changes to the approved Plan which, in the opinion of the Planning Board, do not substantially alter the concept of the approved Plan in terms of the qualities of the specific location, the proposed land use, the design of building form and approved building details and materials, site grading or egress points including but not limited to small changes in site layout, topography, architectural plans, landscaping plans, traffic circulation, parking, lighting plan, signage, open space or other criteria set forth in MGL must be submitted to and approved by the Planning Department.
- b) Major Modification– Substantial additions, deletions or deviations from the approved Plan including but not limited to large changes in site layout, topography, architectural plans, landscaping plans, traffic circulation, parking, lighting plan, signage, open space or other criteria set forth in MGL are subject to a Public Hearing and vote by the Planning Board.

(Note: Approval of the major modification shall be grounds for reconsideration of the Site Plan application and Special Permits. Denial of proposed major modification shall not invalidate the Site Plan in conformance with previously approved Plan.)



Don Egan, Chairperson
Salisbury Planning Board

3/12/2021

Date

APPEAL NOTICE

Appeals of this decision shall be made in accordance with the M.G.L. Ch. 40A, §17 and shall be filed within twenty (20) days of the date of filing of this decision in the Office of the Salisbury Town Clerk.

By law, this decision shall not take effect until a copy of such notice has been certified by the Town Clerk that; Twenty (20) days has elapsed since the decision was filed and no appeal has been filed.

The Petitioner shall present and record the certified decision at the Essex Registry of Deeds in Salem MA. The cost of the recording shall be borne by the Petitioner. A registered copy must then be presented to the Building Inspector in order to apply for an appropriate permit.

This Decision will lapse if Substantial use of the Petitioned Relief is not made within two (2) years for a Special Permit and the work authorized hereunder must have active development or at least substantial progress toward implementation of the approved Site Plan occurring within five years or the approval becomes void. This approval may be extended by the issuing authority for an additional two-year period if, in the opinion of the issuing authority, there is just cause to approve an extension.

Cc: Applicant,
Building Inspector,
File