

## **THE OVERLOOK ACRES TIMELINE**

**August 18, 2020, through October 17, 2023**

compiled by Not For Salem

August 18, 2020 - Conservation Commission - Developers propose 290 apartments, an 8,000 sq. ft. commercial building, and a club house - a total of 6 buildings. They are asking for permits to encroach upon the wetland buffer zone.

August 31, 2020 - Neighbors contact Not For Salem about possible contamination.

September 3, 2020 - Planning Board - Meeting attended by 60+ residents is cancelled because the Chair is not present.

September 15, 2020 - Conservation Commission (ConCom) - Developers are requesting permission to encroach inside the 100-foot buffer zone that the state recommends for wetlands. Not For Salem presents a letter from the Conservation Law Foundation supporting protections for the wetlands.

September 17, 2020 - Planning Board & ConCom meeting cancelled because of ZOOM issues.

September 29, 2020 - Conservation Commission - Neighbors address committee regarding contamination.

October 9, 2020 - Planning Board- Publishes draft decision.

It appears that the Planning Board has already made its decision regarding Overlook Acres Development. A draft decision to allow the Planned Unit Development was written before the public hearing was closed. This predetermined decision will be finalized at the 10-15-20 planning board's public hearing.

This project will encroach into the 100-foot buffer zone of our wetlands. In fact, if you look at the attached photograph of the project (OAD Photo), over 95% of the linear boundary of the buffer zone is encroached upon by this project. The encroachment into the buffer zone varies and at some points encroaches as much as 50 feet into the buffer zone.

This site has known contamination that had fill (additional contamination) placed on top of the contamination. There is no condition within the decision regarding what testing and remediation will be required for this development regarding soil contamination.

Furthermore, the decision contains some additional information regarding money being paid to the city, which appears to be a pay for play arrangement, and the project does not contain any guarantee of affordability as previously claimed by the developer.

Here are most salient points:

Project encroaches on nearly 100% of the 100-foot linear boundary.

No conditions in decision related to soil contamination testing and remediation.

Developer is not providing any guarantee of affordability.

Developer agrees to pay ~\$400K to the City's Transportation Enhancement Fund

October 13, 2020 - Not for Salem initiates a petition requesting amendments to Salem Wetland Ordinance.

October 15, 2020 - Last night the Planning Board gave conditional approval to Planned Unit Development, Overlook Acres, on Highland Ave, Barnes Rd, and Cedar.

6 votes were required for approval and the vote was 6-1 in favor. Board member Mr. Furey was against, Mr. Anderson was recused for conflict and Mr. Smith was absent.

There are still approvals needed for this project to move forward. Conservation Commission, Mass EPA, Design Review Board, Mass Dep and DOT still need to review.

In order to approve this project, the Planning Board agreed that the project does not have a net negative impact on the environment. However, roads and driveways that encroach into the buffer zone of the wetland have a negative impact. Along with that encroachment, trees and vegetation will be replaced with impervious surfaces and ~500 vehicles making multiple trips per day and depositing massive amounts of CO2 into the atmosphere. With that said, there are a few improvements that came out of this public process:

1. Developer has agreed to provide 10% affordable units at 60% AMI without conditions of receiving grants.
2. Contamination testing of the soil will be conducted and reviewed by MA DEP.
3. There will be remediation of the buffer zone and wetland which will include removal of debris, removal of invasive species and proper vegetation added.
4. All buildings have been moved out of the buffer zones.
5. Improved drainage on Barnes Road.
6. No rock crushing on site.

October 20, 2020 – Conservation Commission

February 1, 2021 - "Overlook Acres has decided to withdraw from its effort to develop the recently permitted 280-unit mixed-use PUD. This withdrawal was not a simple decision, nor our intention given the significant investments of our own time, capital and the enormous efforts of our consultant team and all of the stakeholders along the way. We are especially appreciative of the productive dialog with the Barnes Neighborhood and would like to extend our gratitude to the planning board, design review board, conservation commission and all the city administration officials."

Not For Salem believes it is more important than ever to get the protection of our wetlands in place.

February 5, 2021 - Chair Councilor Morsillo has been named Chair of the Committee on Ordinances, Licenses & Legal Affairs, we have great expectations that the amendments to our Wetland & Flood Plain Ordinance should move swiftly through the process. Our petition was initiated in October 2020, and we are anticipating there will be efficient and effective action now.

February 25, 2020 - Councilor Dominguez puts forth our petition with 1800 signatures supporting the amendment to the Floodplains and Wetlands Ordinance on the City Council agenda. The process started in September, and we have heard little feedback on its progress while new development projects continue to move forward.

February 25, 2021 - Suit filed Overlook Acres - It appears that the contamination at the Overlook Acres is real. Also, the cost to remediate the contamination is estimated at 12 to 34 million.

However, they are not quite walking away. They have filed a 32-page lawsuit against the land owners.

**THE SUIT STATES THE CONTAMINATION IS AN IMMEDIATE AND HARMFUL RISK TO THE PUBLIC AND ENVIRONMENT.**

It was NFS members who researched the documentation of the contamination, brought it to the Conservation Committee, and ultimately forced more stringent testing of this site.

March 19, 2021 – NFS starts a countdown clock at six months waiting for the wetland ordinance amendments.

March 25, 2021 - Councilor Dominguez presents an emergency vote for a temporary moratorium on reviewing development proposals in our floodplains and wetlands until the amended protection ordinance has been completed. (alterations for existing residential areas are exempt) Councilor Morsillo has been working on this ordinance since September and we want to hold off on floodplain development discussions until that work is complete.

March 30, 2021 - After a 10-1 (Madore) City Council vote on Thursday to bring the Temporary Moratorium to the OLLA committee, the chair, Councilor Morsillo did not put it on the agenda for this week's meeting. While we have held her in good faith for six months, 2 projects have been proposed for Franklin Street, and 4 large projects for the Crescent Lot, Lee Fort, Footprint, and Lafayette St. - areas highlighted by Inundation maps and a video by Salem Sound Coast Watch and the Wood Hole group. It seems that some of the members of the city council do not feel the same urgency that many of us feel after viewing them. As a non-profit, SSCW must remain impartial, but the new Woods Hole maps speak for themselves. THIS is the reason for the Temporary Moratorium. Please contact the city councilors and ask them to get this important work done and stop all the nonsense that we witnessed last Thursday and today on social media.

April 7, 2021 - Neither the Flood Plain & Wetland Ordinance nor the Temporary Moratorium have been on any agenda for the OLLA meetings chaired by Councilor Morsillo. The ordinance has been in her hands for over six months which is why we asked Councilor Dominguez to bring it to council and why we felt there was a need for a temporary moratorium. There has been no indication from Councilor Morsillo that this is a priority even though our petition indicates that 1800 residents support it.

April 16, 2021 - Here is the ruling by our City Solicitor that a Temporary Moratorium is LEGAL. It was received by all the city councilors on April 8, so there was no reason that this was not brought to the Ordinances, Licensing and Legal Affairs committee yesterday. It can easily be ready to go back to council for a vote after the language around the end date is firmed up.

April 26, 2021 - The city council voted unanimously to invest \$40,000 on a consultant to help amend the Floodplain and Wetland ordinance. After seven months of grassroots campaigning, this is a welcome outcome which indicates that the mayor, city council, the Conservation Commission and Planning Board are all in agreement that this is necessary for the future of Salem.

The next logical step would be that the Temporary Moratorium held in the Ordinances, Licensing and Legal Affairs committee should be passed.

It makes perfect sense that we put a hold on any planning and development in our floodplains until we have an updated ordinance in place. Especially since we are looking at several massive projects in these areas: Lafayette Street, Footprint, Lee Fort, and Franklin Street, the Crescent Lot.

All the councilors except for Councillor Madore supported the spirit of the moratorium and sent it to the committee to clean up the language. The City Solicitor replied to the council that this is legal action, but the end date language needed to be specific. In addition, moratoriums on development have been adopted by other cities in Massachusetts.

March 25th, 2021 - Salem City Council voted 10-1 to have the matter of a Temporary Moratorium sent to OLLA committee. According to City Solicitor for Temporary Moratorium to be legal it would need to have an end date and be tied to our housing plan. This was discussed and sent to OLLA to be worked on. Subsequent to this vote, Morsillo, the Chair of OLLA has publicly written that this matter WILL NOT be brought forward in OLLA subcommittee.

Although we often have items die in committee it is usually due to scheduling and time. Other matters that are more important or more time sensitive are dealt with first. However, in this case, Morsillo made a unilateral decision that this matter will not be brought up in OLLA and publicly announcing that she will not. We will be requesting under section 38 of City Council Rules that this matter to be discharged from her committee and brought back to Council.

May 26, 2021 – Both the Wetlands and Flood Plan ordinances and the temporary moratorium have been assigned to OLLA subcommittee. Morsillo created a private working group that is working outside of the view of the public, with funds approved to hire consultants. Plans for the work to be completed before being brought to a public meeting. An Open Meeting Law complaint was filed.

July 9, 2021 – There were 3 on-line meetings regarding a wetland ordinance that were held on 01/21/2021, 02/22/2021 and 03/10/21. The meetings were not open to the public. Not For Salem filed an Open Meeting Law complaint regarding this matter being worked on outside of OLLA, the sub-

committee it was assigned to. After our complaint, future forum meetings are now being made public regarding the wetland ordinance.

July 14, 2021 - At tonight's meeting Mayor Driscoll recommended to the City Council to NOT send the moratorium to the Planning Board for review.

This is important because the law is specific. "The board of selectmen or city council shall within fourteen days of receipt of such zoning ordinance or by-law submit it to the planning board for review."

Mayor Driscoll recommends to the Council that: "I respect the process for commentary, but at the end of the day, I urge members of the Council to reject this proposal." This recommendation violates the law.

The law is quite clear regarding what the City Council must do when a citizen petition is filed for a zoning amendment. Thankfully, the City Council did as exactly as they were required by sending it to PB for review. Our council was aware of law and sent it to the Planning Board for review by a vote of 9-0.

March 24, 2022 - The Wetlands Ordinance amendment is finally passed; however, it includes waiver criteria which creates latitude allowing developers to build on our wetlands and flood zones.

May 25, 2023 - DEP put a request for information to City of Not for SALEm

August 8, 2023 - DEP received test results. Steve Kapantais, Not For Salem asked repeatedly for this to be put on the Conservation Commission agenda to be discussed. Request ignored.

October 11, 2023 - Dominic Pangallo, Mayor of Salem and former Chief of Staff, sends a letter to the property owners asking for their cooperation through the PIP to promote community awareness and understanding of this contamination.

October 13, 2023 – *The Salem Evening News* publishes “Dirty soil, dead wetland: The death of Overlook Acres”.

October 17, 2023 - Contamination at Overlook Acres will finally be on the Conservation Commission agenda. Public comment will not be allowed.

October 17, 2023 - Conservation Commission meeting cancelled and put on the agenda for December after local elections.