

**MINUTES OF THE PROCEEDINGS OF THE
CONSERVATION COMMISSION OF THE CITY OF WORCESTER
October 23, 2017
WORCESTER CITY HALL – LEVI LINCOLN ROOM**

Conservation Commission Members Present: Joseph Charpentier, Chair
Peter McKone, Vice Chair
Jordan Berg Powers
Christian Escobar

Members Absent: Amanda Amory
Tunde Baker

Staff Present: Edmund Kochling, Department of Public Works & Parks
Stephane Cherduville, Department of Public Works & Parks
Michelle Smith, Planning & Regulatory Services Division

Call to Order

The Chair called the meeting to order at 5:35 p.m.

Requests for Continuances, Extensions of Time, Postponements, Withdrawals

1. 47R Fourth Street - Notice of Intent Application (CC-2017-052)

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Mckone the Commission voted 4-0 to continue the item until the December 4, 2017 Conservation Commission meeting.

2. 90 Barber Avenue - Notice of Intent (CC-2017-075)

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Mckone the Commission voted 4-0 to continue the item until the November 13, 2017 Conservation Commission meeting.

Unfinished Business – Notice of Intent

Public Hearings

3. 261 Clover Street (aka 175 James Street) (MBL 28-030-00001) (CC-2017-077)

Application: Notice of Intent

Applicant: Botany Bay Construction Co., Inc.

Project: To demolish the existing site infrastructure and construct 11 multi-family low-rise structures (with approximately 90 residential dwelling units) with associated parking areas, along with related utility, grading, paving, drainage, and site work.

Jurisdiction: The Massachusetts Wetlands Protection Act and the City of Worcester Wetlands Protection Ordinance – The proposal shall occur within 100’ to a bordering

vegetated wetland, associated with Kettle Brook (West), and within the stormwater protection zone

The public hearing was previously opened on October 2, 2017.

Scott Morrison, of EcoTec, Inc., appeared on behalf of the applicant. Mr. Morrison reviewed the project briefly and updated the Commission about the revisions that were made to the plans in response to staff comments and comments made by the Commission at the previous meeting.

Mr. Morrison addressed Commissioner McKone's question from the previous hearing regarding addressing oil-water separation as a pre-treatment measure by clarifying that catch-basins included proposed hoods to capture floatables which will have a similar impact on oil. Commissioner McKone requested information from MassDEP verifying that the hoods will be an acceptable measure to aid with pre-treatment at this site. Mr. Morrison indicated that he could provide that information to the Commission.

Mr. Morrison responded to DPW&P comments regarding pre- and post- drainage calculations and stated that there would not be an increase in peak runoff rates at either point that was modeled as part of the stormwater report.

Chair Charpentier inquired about the underground storage tank that was anticipated to be removed as part of the project. Mr. Morrison reviewed that work to remove the tank would be overseen by a Licensed Site Professional and that they anticipated needing to remove, hauling off-site, ~400CY of contaminated material from the site.

Mr. Morrison requested that the hearing be continued to allow for Planning Board hearing to be opened so that feedback from all Boards/Commissions with which approvals are required could be incorporated into a single revised plan.

Upon a motion by Commissioner McKone, seconded by Commissioner Berg Powers, the Commission voted to continue the hearing until the December 4, 2017 Conservation Commission meeting.

List of Exhibits:

- Exhibit A: Notice of Intent Application Materials; submitted by EBT Environmental Consultants, Inc.; received September 15, 2017.
- Exhibit B: Site Plan; prepared by Robert D. O'Neil, Jr.; last received October 16, 2017.
- Exhibit C: Memorandum from the City of Worcester Department of Public Works & Parks to the Conservation Commission; dated October 2 & 19, 2017.

4. Southerly part of 45 Crawford Street (aka 0 or 8-12 Hazel St.) (MBL 17-038-38-40) (CC-2017-081)

Application: Notice of Intent

Applicant: Anthony Bianco

Project: To construct two residential dwellings along with related grading, paving, drainage and site work.

Jurisdiction: The City of Worcester Wetlands Protection Ordinance – The proposal shall occur within the stormwater protection zone.

The public hearing was previously opened on October 2, 2017.

5. Southerly part of 45 Crawford Street (aka 0 or 8-12 Hazel St.) (MBL 17-038-38-40) (CC-2017-081)

Application: Notice of Intent

Applicant: Anthony Bianco

Project: To construct two residential dwellings along with related grading, paving, drainage and site work.

Jurisdiction: The City of Worcester Wetlands Protection Ordinance – The proposal shall occur within the stormwater protection zone.

The public hearing was previously opened on October 2, 2017

6. Enforcement Order Update: 0 (aka 10 & 12) & 8 Hazel Street (fka part of 45 Crawford Street; aka Lot 2 & 3 L&R) (CC-EO-2017-003)

Chair Charpentier called all items listed on the agenda relative the property at 0 (aka 10 & 12) & 8 Hazel Street (fka part of 45 Crawford Street; aka Lot 2 & 3 L&R) for discussion.

Robert O’Neil, Jr., Professional Land Surveyor, appeared with the applicant. Mr. O’Neil reviewed the proposed project and reviewed the revised plans which indicated that another single-family dwelling, a duplex, is now proposed on the lower lot, lot three. He explained that erosion controls had been installed and no work had been performed, other than the activities authorized under the Enforcement Order.

Mr. O’Neil addressed the DPW&P comments and explained that the plans would be revised to show an overflow from each infiltration unit connecting into the back of the catch-basin in the abutting Hazel Street right-of-way.

Commissioner McKone inquired about proposed grading that remained on the site. Mr. O’Neil stated that the final grades were very close to the present grades on lot three, and that only minor grading in the ledge area would need to take place over approximately 2 days to meet final grades. He reviewed that lot two needed to be brought back to the previous, existing, grades after the foundation was backfilled.

Bob Bilodeau, of #14 Hazel Street, appeared and asked if blasting was proposed. Mr. O’Neil indicated that no blasting would take place.

Mr. Bilodeau expressed concerns about stormwater runoff on-to his property. Mr. O’Neil indicated that each structure was proposed with a perimeter drain and infiltration unit to capture 100% of the roof-runoff and re-charge this to the ground, with an overflow to the City catch-basin.

Mr. O’Neil answered other questions clarifying that dust control would be provided from #45 Crawford St. and the foundation elevations would be the same as shown on the plan and that an as-built would be provided.

Mr. expressed concerns about dust and debris. Anthony Bianco offered installation of a 6’ fence no closer than 1’ off the property line along the eastern lot line.

Jim M, of #9 Hazel Street, expressed concerns regarding tracking of dust into the adjacent side of the roadway and asked for the other catch-basin to be protected. Mr. Kochling indicated that it did not appear to have been impacted and felt it may be a hazard for winter weather.

Upon a motions by Commissioner Berg Powers, seconded by Commissioner Escobar, the Commission voted 4-0 to close the public hearing.

Vice Chair McKone expressed concerns regarding the activities that were conducted in spite of the enforcement order previously. Mr. O'Neil expressed that no new construction activities had taken place since the previous hearing.

Mr. Kochling reviewed the activities he believed had taken place, including utility trenching.

Commissioner Berg Powers noted that he believed that only rock had been cleaned up in the area Mr. Kochling referred to.

Upon a motion by Commissioner Berg Powers, seconded by Commissioner Escobar, the Commission voted 4-0 to ratify and amend the Enforcement Order as follows:

1. Immediately (i.e. within 24 hours of receipt of this Order), the owner/violator and/or their representative(s) shall cease and desist from any and all activities. No further work shall be performed, unless it is to prevent off-site erosion and sedimentation and it is at the explicit direction of the Commission and/or its agents in association with this Order, until an Order of Conditions has been issued to regulate said work and all applicable appeal periods associated therewith have lapsed.
2. Upon the Order of Conditions for the proposed project becoming final and in effect (i.e. having been issued, recorded, and with all appeal periods having lapsed) this enforcement order shall automatically be lifted and the valid Order of Conditions shall then govern construction activities associated with the project (1 single-family & 1 duplex along with related site work) at the site;
3. Within 48 hours of receipt of this Order, the owner/violator and/or their representative(s):
 - a) Install, and entrench and/or stake, perimeter sediment controls (e.g. silt fence and haybales or straw wattles) along the lower section of the southwestern side of lot 2 (aka 8 Hazel St.) and is authorized only to remove the debris pile that is located in this corner of the lot, preventing installation of such preventative controls;
 - b) Install a 6' fence along the eastern lot line, as a dust and debris control measure, as offered by the proponent;
 - c) Surround material stockpiles with erosion and sediment controls or stabilize piles to prevent erosion and sedimentation through other means (e.g. tarps, etc.);
 - d) Monitor, inlet protection in the catch basin located within 100' of the site, adjacent to lot 3(R) in the Hazel Street right-of-way to prevent sediment accumulations therein;
4. Within 24 hours of installation of erosion and sediment controls, the owner/violator and/or their representative(s) shall contact the office of the Commission (Division of Planning & Regulatory Services) to schedule a site visit & pre-construction conference with staff and/or the Commission to inspect erosion and sediment controls installed at the site; &
5. Continually Monitor the site for dust and provide dust control as needed to prevent accumulations of dust settlement from entering the stormdrain system and prevent further erosion from the site.

Orders of Conditions were discussed at the end of the meeting. Later during the meeting, upon a motion by Commissioner Berg Powers, seconded by Commissioner Escobar, the Commission

voted 4-0 to issue an order of conditions with all standard, or general, conditions and the following special conditions:

I. Conditions to Meet Prior to and During Construction

20. Person Responsible for Compliance with the Order of Conditions* – A person shall be designated to be responsible to monitor compliance with the Order of Conditions. Their name and contact information (24/7) shall be provided to the Office of the Commission prior to start of any activity. This person shall conduct:
- a. periodic inspections to assure the adequacy and continued effectiveness of erosion and sediment controls;
 - b. inspections of said controls following 0.5-inch or greater rain events, or after a heavy snow melt.
21. Contract* - This Order of Conditions and all approved plans shall be included as part of any contract and subcontract and shall be posted in a prominently displayed location in the supervisory office on site during all phases of construction.
22. Notification* - The applicant shall notify the Office of the Commission a minimum of 48 hours prior to the start of any activity.

II. Conditions to Meet Before the Start of Any Activity

23. Revised Plans – That three (3) to-scale copies of revised plans shall be provided to the Office of the Commission, prior to commencement of work, showing the below changes. These plans shall be considered the final revised plans approved for the project -
- a) Revise plan/s to include a detail for the proposed silt fence and haybales; &
 - b) Provide a 6' fence along the eastern lot line and notate that said fencing shall be installed prior to any additional re-grading of the site.
24. Trees To Remain – All trees to remain post construction shall be marked on site as shown on the approved plan so that the Commission or its representative can verify them before any clearing takes place.
25. Demarcation of Property Lines - Prior to construction, stake out the property boundaries, every 50' on center. Stakes used for the property lines shall be distinctly different from those used to delineate the wetland boundaries and its buffers, if applicable. Said stakes shall remain throughout construction to ensure that the limit of work and project scope remain as approved.
26. Pre-Construction Conference* -
- a. The Conservation Commission or its Agents shall conduct a pre-construction conference prior to commencement of activities in each phase of the project. Phasing, if any, shall conform to the approved plans.
 - b. The property owner / applicant and any person performing work that is subject to this Order are responsible for understanding and complying with the requirements of this Order, the Wetlands Protection Act, 310 CMR 10.00 and City of Worcester Wetlands Protection Ordinance and Regulations. Said persons shall acknowledge such in writing prior to commencement of activities.

27. Inspections Prior to Site Preparation and Site Work* - Erosion and sediment controls shall be installed and verified, in compliance with final approved plans, by the Commission or its Agents prior to the commencement of any excavation, grubbing and/or stumping of vegetation, grading, construction, or other site preparation.

III. Stormwater Management System

28. Stormwater Management System Maintenance* – The stormwater management system shall be maintained in accordance with the approved design plans and Operation and Maintenance Plan on file with the Office of the Commission. This condition shall extend in perpetuity beyond the issuance of the Certificate of Compliance.

IV. Conditions to Meet During Construction

29. Limit of Work* – No removal, filling, dredging or altering of jurisdictional areas shall take place outside the approved work under this Order of Condition.
30. Work Sequencing – Activities shall take place in accordance with all phasing and sequencing shown on the plan and/or provided in the application materials on file with the Office of the Commission and shall follow any lot opening restrictions otherwise provided herein.
31. Infiltration Unit Inspection - Prior to back-filling, the applicant shall request and have conducted an inspection by the Commission or its Agents in order to verify the installation of the infiltration unit was conducted in a manner consistent with that provided on the approved plans.
32. Foundation As-Built – A copy of the as-built for the foundation will shall be provided to the Commission for review at the same time it's submitted to Inspectional Services Department; grades shall consistent with those as shown on the approved plans.
33. Erosion Stabilization -
- a. Erosion and Sediment Controls* - All erosion and sediment controls shall be monitored, maintained, and adjusted for the duration of the project to prevent adverse impacts to jurisdictional areas. Additional erosion and sediment controls may be utilized on site as needed.
 - b. Off Site Impacts* - There shall be no off-site erosion, flooding, ponding, or flood-related damage from runoff caused by the project activities.
 - c. Unanticipated Drainage or Erosion* - The applicant shall control any unanticipated drainage and/or erosion conditions that may cause damage to jurisdictional areas and/or abutting or downstream properties. Said control measures shall be implemented immediately upon need. The Office of the Conservation Commission shall be notified if such conditions arise and of the measures utilized.
 - d. Soil Stabilization due to Delay in Work* - If there is an interruption of more than 10, but less than 60 days between completion of grading and revegetation, the applicant shall sow all disturbed areas with annual rye grass to prevent erosion. If soils are to be exposed for longer than 60 days, a temporary cover of rye or other grass should be established following US Soil Conservation Services procedures, as recently amended, to prevent erosion and sedimentation. Once final grading is complete, loaming and seeding of final cover should be completed promptly.
 - e. Grading of Slopes*-

- i. >40% Slope – Slopes shall not exceed those specified in the plans approved by the Conservation Commission. Any slope equal to or greater than 40% (1 vertical to 2 1/2 horizontal) shall be stabilized with erosion control matting.
 - ii. <40% Slope – Final grades of vegetated areas shall not exceed a slope of 1 vertical to 2 1/2 horizontal (40%) and shall be stabilized to prevent erosion, particularly during the construction period.
- f. Stockpile Maintenance* - Any stockpiling of loose materials shall be properly stabilized to prevent erosion into and sedimentation of jurisdictional areas. Preventative controls such as haybales or erosion control matting shall be implemented to prevent such an occurrence.
- g. Stockpile Location – In no case shall any soil or excavated material be stockpiled within 50 feet of any wetland, floodplain, or storm drain inlet.
- h. Site Stabilization Prior to Winter* - Prior to winter, exposed soils shall be stabilized (e.g. with demonstrated vegetative growth, impermeable barriers, erosion control blankets, etc.).

34. Invasive Insects* -

- a. Plantings – No trees to be planted shall be species susceptible to the Asian Longhorned Beetle or Emerald Ash Borer.
- b. Wood Removal – All tree, brush & wood removal shall adhere to the most recently amended requirements set forth by the Massachusetts Department of Conservation & Recreation for any project located in the Asian Longhorned Beetle Quarantine Zone.

35. Dust Control* - Provisions for dust control shall be provided during all construction and demolition activities. Such provisions shall be conducted in compliance with all City of Worcester Water Use Restrictions, if in effect, during such activities.

36. Dewatering* – If dewatering is required,

- a) Notice of such activities shall be given to the Office of the Commission within 24 hours of commencement;
- b) There shall be no discharge of untreated dewatered groundwater to jurisdictional areas either by direct or indirect discharge to existing drainage systems;
- c) Any discharge to surface waters or drainage structures must be visibly free of sediment;
- d) To the maximum extent practicable, proposed dewatering activities should be located outside of the 100' buffer. If such activities must be located within the 100' buffer, they shall be monitored at all times when the pumps are running;
- e) Dewatering activities shall be confined within an area of secondary containment at all times.

37. Spill Prevention* -

- a) The applicant shall take all necessary precautions to prevent discharge or spillage of fuel, oil or other pollutants onto any part of the site to prevent pollution to the SPZ and to protect water quality;
- b) A spill kit shall be present on site at all times.

V. Conditions to Meet at Completion of Project

38. Site Stabilization* - All disturbed areas shall be properly stabilized with well-established perennial vegetation or other approved methods before the project is considered complete.
39. Erosion and Sediment Controls* - Erosion and sediment controls shall not be removed from the site until all disturbed areas have been stabilized with final vegetative cover and approval has been received from the Commission or its Agents to do so. The controls must then be removed within two weeks of receipt of that certification.
40. Certificate of Compliance* - Upon completion of the project, the applicant shall request in writing a Certificate of Compliance from the Commission. If the project has been completed in accordance with plans stamped by a registered professional engineer, architect, landscape architect, or land surveyor, certification must include a written statement by such professional certifying the same.
41. Deed Condition – Condition number 29 shall extend beyond the Certificate of Compliance, in perpetuity, and shall be referred to in all future deeds to this property.

VI. General Conditions

42. Change in Ownership* - If a change in ownership takes place while this Order is still in effect, it is the responsibility of the new owner to notify the Commission of the change and to provide the name of the person responsible for compliance with the Order.
43. Conservation Agent's Power to Act* - With respect to all conditions, except _____, the Conservation Commission designates the Conservation Agent, as its Agent with full powers to act on its behalf in administering and enforcing this Order, unless the Agent determines approval from the Commission is appropriate.
44. Right to Inspect* - A member of the Conservation Commission or its Agent may enter and inspect the property and the activity that are the subjects of this Order at all reasonable times, with or without probable cause or prior notice, and until a Certificate of Compliance is issued, for the purpose of evaluating compliance with this Order (and other applicable laws and regulations).
45. Changes to the Plan or Errors & Omissions* -
 - (a) If any plan, calculation, or other data presented to the Office of the Commission is in error or have omissions, and are deemed significant by the Commissioners or their Agents, all work will stop at the discretion of the Commission, until the discrepancies have been rectified to the Commission's satisfaction.
 - (b) The applicant must notify the Commission in writing of any changes in the plans or implementation of the proposed activity where mandated by any local, state, or federal agencies having jurisdiction over the proposed activity. If, in the opinion of the Commission, any changes in the plans or implementation of the proposed activity so require, then the Commission may modify, amend or rescind this Order in a way consistent with:
 - M.G.L. Chapter 131, Section 40,
 - 310 CMR 10.00, *Wetlands Protection*,
 - the City of Worcester's *Wetlands Protection Ordinance*, and

- the Commission's *Wetlands Protection Regulations*

If any provisions of any conditions, or application thereof is held to be invalid, such invalidity shall not affect any other provisions of this Order. If the Commission deems that a proposed change is major or substantial, a new hearing may be required.

46. Liability* - The applicant shall indemnify and save harmless the Commonwealth, the City of Worcester, the Conservation Commission, and its Agents against all sites, claims or liabilities of every name and nature arising at any time out of or in consequence of the acts of the Commission or its Agents in the performance of the work covered by this Order and/or failure to comply with the terms and conditions or this Order whether by itself or its employees or subcontractors.

List of Exhibits:

- Exhibit A: Notice of Intent Application Materials; submitted by EBT Environmental Consultants, Inc.; received September 15, 2017.
- Exhibit B: Site Plan; prepared by Robert D. O’Neil, Jr.; last received October 16, 2017.
- Exhibit C: Memorandum from the City of Worcester Department of Public Works & Parks to the Conservation Commission; dated October 2 & 19, 2017.

New Business – Request for Determination

7. 76A Tory Fort Lane (MBL 54-005-0006A) (CC-2017-083)

Application: Request for Determination of Applicability

Applicant: Michael Vray

Project: To seek determination as to whether or not the area/work, to construct an addition to an existing single-family dwelling, is subject to the Commission’s jurisdiction.

Jurisdiction: The Massachusetts Wetlands Protection Act and the City of Worcester Wetlands Protection Ordinance – The proposal may occur within the 100’ bufferzone to a bordering vegetated wetland and/or bank.

Dorothy Hanna, from Guarantee Builders, appeared on behalf of the applicant. Ms. Hanna stated that the applicant intends to construct an addition to the existing single-family detached dwelling as soon as possible. She explained that excess material would be removed from the site and that utilities would be run from the existing house.

Upon a motion by Commissioner Berg Powers, and seconded by Commissioner Escobar, the Commission voted 4-0 to is issue a negative Determination of Applicability for the proposed buffer zone work.

List of Exhibits:

- Exhibit A: Request for Determination of Applicability for 76A Tory Fort Lane; submitted by Michael Vray; received October 4, 2017.
- Exhibit B: Memorandum from the City of Worcester Department of Public Works & Parks to the Conservation Commission; 76A Tory Fort Lane - RDA (CC-2017-083); dated October 19, 2017.

8. 376 Sunderland Road (aka Redwood Hills) (MBL 34-026-00001) (CC-2017-084)

Application: Request for Determination of Applicability

Applicant: Hamilton Construction Management Corporation

Project: To seek determination as to whether or not the work to re-pave the existing driveway network and parking areas, along with related site work, is subject to the Commission's jurisdiction.

Jurisdiction: The Massachusetts Wetlands Protection Act and the City of Worcester Wetlands Protection Ordinance – The proposal shall occur within the 100' buffer to a bordering vegetated wetland and/or bank and within the stormwater protection zone.

Jared Gentilucci, Nitsch Engineering, appeared with the John Cameron, of Hamilton Construction, for the applicant and reviewed the proposed re-paving project and jurisdiction.

Mr. Gentilucci explained that the work was previously conducted and did involve resurfacing and replacement of about half of the drainage structures all of which discharge to resource areas.

Commissioner Berg Powers expressed frustration about the retroactive nature of the filing and asked why an NOI wasn't filed.

Mr. Gentilucci explained that the owner was not aware of the requirements and did install erosion controls and noted that they would be filing additional work in the coming weeks.

Commissioner Charpentier clarified that if the work had been before the prior to being conducted that he would have been inclined to issue a positive determination.

Mr. Kochling stated that there were no observed resource area impacts and that erosion controls were used.

Upon a motion by Commissioner Berg Powers, and seconded by Commissioner Escobar, the Commission voted 3-1, with Chair Charpentier voting against, to issue a negative Determination of Applicability for the work conducted provided that all catch-basins on the property were to be cleaned.

List of Exhibits:

Exhibit A: Request for Determination of Applicability for 376 Sunderland Road; submitted by Hamilton Construction Management Corporation; received October 5, 2017.

Exhibit B: Memorandum from the City of Worcester Department of Public Works & Parks to the Conservation Commission; re: 376 Sunderland Road (aka Redwood Hills) – RDA (CC-2017-084); dated October 19, 2017.

9. 1 Aurora Street (MBL 45-13A-13-16 45) (CC-2017-086)

Application: Request for Determination of Applicability

Applicant: D&I Properties, LLC

Project: To seek determination as to whether or not the area/work, to construct a single-family dwelling along with related site work, is subject to the Commission's jurisdiction.

Jurisdiction: The Massachusetts Wetlands Protection Act and the City of Worcester Wetlands Protection Ordinance – The proposal shall occur within the 100’ bufferzone to a bordering vegetated wetland and/or bank.

10. 1, 3, & 5 Aurora Street (MBL 45-13A-13-16; -13-02; & -13-03) (CC-2017-082)

Application: Notice of Intent

Applicant: D&I Properties, LLC

Project: To construct three single-family dwellings along with related grading, paving, drainage and site work.

Jurisdiction: The City of Worcester Wetlands Protection Ordinance – The proposal shall occur within the stormwater protection zone.

11. Enforcement Order Update for 1, 3, & 5 Aurora Street (CC-EO-2017-006)

Chair Charpentier took all items relating to 1, 3, & 5 Aurora Street contemporaneously.

Glenn Kravosky, of EBT Environmental, Inc., and Daniel Berthiaume, of D&I Properties, LLC, appeared for the items. Mr. Kravosky reviewed the delineation of off-site resource areas that were located within 100’ of #1 Aurora Street and summarized the project, jurisdiction, and enforcement history. He explained that they were not proposing inlet protection within the west side of the Granite Street right-of-way due to the substantial crown in the roadway.

Mr. Bertiaume stated that they would review the DPW&P comments with the Water Division staff. Mr. Kochling confirmed that there were issues with grading and treatment of slopes above the water line and that the line may not have the capacity to service the additional dwellings.

Commissioner McKone confirmed that the work in the street would be a separate project.

Chair Charpentier asked if the infiltration units were installed per the plan. Mr. Kochling stated that they were located toward the rear of the dwellings in consultation with staff, but that the installed location was not consistent with the location on the plan and that he had not been contacted for inspection prior to backfilling.

Chair Charpentier, Commissioner McKone, and Commissioner Berg Powers each expressed concern about the lack of information about the actual improvements that were made or going to be made at the site which differed from the plan that was in front of them all having been connected without appropriate permits. Mr. Kravosky clarified the permits and that they would submit a revised plan, reflecting the changed infiltration location but that the other grades were as shown on the plan or would be graded as such as construction completes.

Upon a motion by Commissioner Berg Powers, and seconded by Commissioner Escobar, the Commission voted 3-1, with Chair Charpentier voting against, to issue a negative Determination of Applicability for the work the 100’ buffer to the wetlands on Lot 1.

Upon a motion by Commissioner Berg Powers, and seconded by Commissioner Escobar, the Commission voted 3-1, with Commissioner McKone voting against, to close the public hearing for the Notice of Intent Application. Orders of Conditions were discussed at the end of the hearing and later during the meeting, upon a motion by Commissioner Berg Powers, seconded by Commissioner Escobar, the Commission voted 4-0 to issue an order of conditions with all standard, or general, conditions and the following special conditions and waiving the late application filing fees:

I. Conditions to Meet Prior to and During Construction

47. Person Responsible for Compliance with the Order of Conditions* – A person shall be designated to be responsible to monitor compliance with the Order of Conditions. Their name and contact information (24/7) shall be provided to the Office of the Commission prior to start of any activity. This person shall conduct:
 - a. periodic inspections to assure the adequacy and continued effectiveness of erosion and sediment controls;
 - b. inspections of said controls following 0.5-inch or greater rain events, or after a heavy snow melt.
48. Contract* - This Order of Conditions and all approved plans shall be included as part of any contract and subcontract and shall be posted in a prominently displayed location in the supervisory office on site during all phases of construction.
49. Notification* - The applicant shall notify the Office of the Commission a minimum of 48 hours prior to the start of any activity.

II. Conditions to Meet Before the Start of Any Activity

50. Revised Plans – That three (3) to-scale copies of revised plans shall be provided to the Office of the Commission, prior to commencement of work, showing the below changes. These plans shall be considered the final revised plans approved for the project -
 - c) Provide a detail on the plan for the proposed water main connection that meets the the City of Worcester Department of Public Works & Parks “Standard Specifications and Details”;
 - d) Show the location of the existing utilities (e.g. water main) located in Aurora Street;
 - e) Revise plans to clearly depict (i.e. bold) the final grading shown on the plan set dated 10/16/2017 and, where not depicted, show the existing grades that are to remain at the site (as of 10/23/2017) where these are to remain but were not clearly shown on the plan (e.g. re-grading in the front of lots within the Aurora St. Right-of-Way);
 - f) Revise plans to show infiltration units in the locations as installed on the properties; &
 - g) Revise plans to show erosion controls between each lot (i.e. 1, 3, & 5) and along the lot perimeter where it abuts the Aurora Street Right-of-Way.
51. Changes to Grading – Changes to final grades, unless existing on site as of 10/23/2017 or as shown on the plans dated 10/16/2017, shall require further review and consideration by the Conservation Commission (via submission of a project change request or request for determination of significance and subsequent action) *prior to* conducting such re-grading activities.
52. Stormwater Pollution Prevention Plan (SWPPP)* – That one (1) copy of the SWPPP submitted to the EPA in compliance with the NPDES permit requirements, if applicable, shall be provided to the Office of the Commission prior to commencement of work.
53. Trees To Remain* – All trees to remain post construction shall be marked on site as shown on the approved plan so that the Commission or its representative can verify them before any clearing takes place.
54. Pre-Construction Conference* -

- a. The Conservation Commission or its Agents shall conduct a pre-construction conference prior to commencement of activities in each phase of the project. Phasing, if any, shall conform to the approved plans.
- b. The property owner / applicant and any person performing work that is subject to this Order are responsible for understanding and complying with the requirements of this Order, the Wetlands Protection Act, 310 CMR 10.00 and City of Worcester Wetlands Protection Ordinance and Regulations. Said persons shall acknowledge such in writing prior to commencement of activities.

55. Inspections Prior to Site Preparation and Site Work* - Erosion and sediment controls shall be installed and verified, in compliance with final approved plans, by the Commission or its Agents prior to the commencement of any excavation, grubbing and/or stumping of vegetation, grading, construction, or other site preparation.

56. Demarcation of Property Lines - Prior to construction, stake out the property boundaries, every 50' on center. Stakes used for the property lines shall be distinctly different from those used to delineate the wetland boundaries and its buffers. Said stakes shall remain throughout construction.

III. Stormwater Management System

57. Stormwater Management System Maintenance* – The stormwater management system shall be maintained in accordance with the approved design plans and Operation and Maintenance Plan on file with the Office of the Commission. This condition shall extend in perpetuity beyond the issuance of the Certificate of Compliance.

IV. Conditions to Meet During Construction

58. Limit of Work* – No removal, filling, dredging or altering of jurisdictional areas shall take place outside the approved work under this Order of Condition.

59. Work Sequencing* – Activities shall take place in accordance with all phasing and sequencing shown on the plan and/or provided in the application materials on file with the Office of the Commission and shall follow any lot opening restrictions otherwise provided herein.

60. Infiltration Unit Inspection - Prior to back-filling, the applicant shall request - and have conducted - an inspection by the Commission or its Agents in order to verify the installation of the infiltration units was conducted in a manner consistent with that provided on the approved plans. In lieu of inspection by the Commission or its agents, photo documentation shall be provided, providing sufficient site context, to indicate the same to the Office of the Commission, to the satisfaction of the Commission or its Agents. If uncertainties arise about installation of such units based on such photo documentation, the applicant shall reveal (i.e. dig-up) the unit at the request of the Commission or its agents to satisfy compliance with this condition.

61. Erosion Stabilization -

- a. Erosion and Sediment Controls* - All erosion and sediment controls shall be monitored, maintained, and adjusted for the duration of the project to prevent adverse impacts to jurisdictional areas. Additional erosion and sediment controls may be utilized on site as needed.

- b. Off Site Impacts* - There shall be no off-site erosion, flooding, ponding, or flood-related damage from runoff caused by the project activities.
- c. Unanticipated Drainage or Erosion* - The applicant shall control any unanticipated drainage and/or erosion conditions that may cause damage to jurisdictional areas and/or abutting or downstream properties. Said control measures shall be implemented immediately upon need. The Office of the Conservation Commission shall be notified if such conditions arise and of the measures utilized.
- d. Soil Stabilization due to Delay in Work* - If there is an interruption of more than 10, but less than 60 days between completion of grading and revegetation, the applicant shall sow all disturbed areas with annual rye grass to prevent erosion. If soils are to be exposed for longer than 60 days, a temporary cover of rye or other grass should be established following US Soil Conservation Services procedures, as recently amended, to prevent erosion and sedimentation. Once final grading is complete, loaming and seeding of final cover should be completed promptly.
- e. Grading of Slopes*-
 - i. >40% Slope – Slopes shall not exceed those specified in the plans approved by the Conservation Commission. Any slope equal to or greater than 40% (1 vertical to 2 1/2 horizontal) shall be stabilized with erosion control matting.
 - ii. <40% Slope – Final grades of vegetated areas shall not exceed a slope of 1 vertical to 2 1/2 horizontal (40%) and shall be stabilized to prevent erosion, particularly during the construction period.
- f. Stockpile Maintenance* - Any stockpiling of loose materials shall be properly stabilized to prevent erosion into and sedimentation of jurisdictional areas. Preventative controls such as haybales or erosion control matting shall be implemented to prevent such an occurrence.
- g. Stockpile Location – In no case shall any soil or excavated material be stockpiled within 50 feet of any wetland, floodplain, or storm drain inlet.
- h. Site Stabilization Prior to Winter* - Prior to winter, exposed soils shall be stabilized (e.g. with demonstrated vegetative growth, impermeable barriers, erosion control blankets, etc.).

62. Invasive Insects* -

- a. Plantings – No trees to be planted shall be species susceptible to the Asian Longhorned Beetle or Emerald Ash Borer.
- b. Wood Removal – All tree, brush & wood removal shall adhere to the most recently amended requirements set forth by the Massachusetts Department of Conservation & Recreation for any project located in the Asian Longhorned Beetle Quarantine Zone.

63. Dust Control* - Provisions for dust control shall be provided during all construction and demolition activities. Such provisions shall be conducted in compliance with all City of Worcester Water Use Restrictions, if in effect, during such activities.

64. Dewatering* – If dewatering is required,

- f) Notice of such activities shall be given to the Office of the Commission within 24 hours of commencement;

- g) There shall be no discharge of untreated dewatered groundwater to jurisdictional areas either by direct or indirect discharge to existing drainage systems;
- h) Any discharge to surface waters or drainage structures must be visibly free of sediment;
- i) To the maximum extent practicable, proposed dewatering activities should be located outside of the 100' buffer. If such activities must be located within the 100' buffer, they shall be monitored at all times when the pumps are running;
- j) Dewatering activities shall be confined within an area of secondary containment at all times.

65. Spill Prevention* -

- c) No fuel, oil, or other pollutants shall be stored within 100-ft to a resource area, unless specified in this Order;
- d) No refueling shall take place within 100-ft to a resource area;
- e) The applicant shall take all necessary precautions to prevent discharge or spillage of fuel, oil or other pollutants onto any part of the site;
- f) A spill kit shall be present on site at all times.

66. Pesticides, Etc. – No pesticides, herbicides, or fertilizers, with the exception of lime, shall be used on lawn(s) within the stormwater protection zone.

67. Sand/Salt – The use of sand and salt on paved surfaces shall be kept to an absolute minimum during the winter months.

V. Conditions to Meet at Completion of Project

68. Site Stabilization* - All disturbed areas shall be properly stabilized with well-established perennial vegetation or other approved methods before the project is considered complete.

69. Erosion and Sediment Controls* - Erosion and sediment controls shall not be removed from the site until all disturbed areas have been stabilized with final vegetative cover and approval has been received from the Commission or its Agents to do so. The controls must then be removed within two weeks of receipt of that certification.

70. Certificate of Compliance* - Upon completion of the project, the applicant shall request in writing a Certificate of Compliance from the Commission. If the project has been completed in accordance with plans stamped by a registered professional engineer, architect, landscape architect, or land surveyor, certification must include a written statement by such professional certifying the same.

71. Deed Condition – Conditions numbered 31 shall extend beyond the Certificate of Compliance, in perpetuity, and shall be referred to in all future deeds to this property.

VI. General Conditions

72. Change in Ownership* - If a change in ownership takes place while this Order is still in effect, it is the responsibility of the new owner to notify the Commission of the change and to provide the name of the person responsible for compliance with the Order.

73. Conservation Agent's Power to Act* - With respect to all conditions, except _____, the Conservation Commission designates the Conservation Agent, as its Agent with full powers

to act on its behalf in administering and enforcing this Order, unless the Agent determines approval from the Commission is appropriate.

74. Right to Inspect* - A member of the Conservation Commission or its Agent may enter and inspect the property and the activity that are the subjects of this Order at all reasonable times, with or without probable cause or prior notice, and until a Certificate of Compliance is issued, for the purpose of evaluating compliance with this Order (and other applicable laws and regulations).

75. Changes to the Plan or Errors & Omissions* -

- (a) If any plan, calculation, or other data presented to the Office of the Commission is in error or have omissions, and are deemed significant by the Commissioners or their Agents, all work will stop at the discretion of the Commission, until the discrepancies have been rectified to the Commission's satisfaction.
- (b) The applicant must notify the Commission in writing of any changes in the plans or implementation of the proposed activity where mandated by any local, state, or federal agencies having jurisdiction over the proposed activity. If, in the opinion of the Commission, any changes in the plans or implementation of the proposed activity so require, then the Commission may modify, amend or rescind this Order in a way consistent with:
 - M.G.L. Chapter 131, Section 40,
 - 310 CMR 10.00, *Wetlands Protection*,
 - the City of Worcester's *Wetlands Protection Ordinance*, and
 - the Commission's *Wetlands Protection Regulations*

If any provisions of any conditions, or application thereof is held to be invalid, such invalidity shall not affect any other provisions of this Order. If the Commission deems that a proposed change is major or substantial, a new hearing may be required.

76. Liability* - The applicant shall indemnify and save harmless the Commonwealth, the City of Worcester, the Conservation Commission, and its Agents against all sites, claims or liabilities of every name and nature arising at any time out of or in consequence of the acts of the Commission or its Agents in the performance of the work covered by this Order and/or failure to comply with the terms and conditions of this Order whether by itself or its employees or subcontractors.

Upon a motion by Commissioner Berg Powers, and seconded by Commissioner Escobar, the Commission voted 4-0, to ratify the enforcement order and amend the order to reflect the following conditions:

1. Immediately (i.e. within 24 hours of receipt of this Order), the owner/violator and/or their representative(s) shall cease and desist from any and all activities other than site stabilization measures. Such stabilization measures shall include, but are not expressly limited to:
 - a) Install, and continue to monitor, inlet protection in the catch basins located downgradient of the site in the Granite Street right-of-way to prevent sediment accumulations therein;

- b) Installation of additional erosion controls on each lot, in preparation for winter and to prevent cascading of sediment downgradient;&
 - c) Surround material stockpiles with erosion and sediment controls or stabilize piles to prevent erosion and sedimentation through other means (e.g. tarps, etc.);
2. Upon the Order of Conditions for the proposed project becoming final and in effect (i.e. having been issued, recorded, and with all appeal periods having lapsed) this enforcement order shall automatically be lifted and the valid Order of Conditions shall then govern construction activities associated with the project (3 single-family homes, along with related site work) at the site;
 3. No further work shall be performed, unless it is an approved stabilization measure conducted to prevent off-site erosion and sedimentation and it is at the explicit direction of the Commission and/or its agents in association with this Order, until an Order of Conditions has been issued to regulate said work and all applicable appeal periods associated therewith have lapsed.
 4. On or before November 6, 2017, the owner/violator and/or their representatives shall loom and apply hydroseed, with tackifier, on all disturbed final grades (less than 2.5H:1V) and/or finalize application of other final stabilizing treatments (e.g. stone armoring, jute matting where steeper etc.) with the exception of areas located within an envelope of 10' around the existing foundations and driveway locations;
 5. The owner/violator and/or their representatives shall continue sweeping the asphalt apron of the Aurora Street right-of way, at its intersection with Granite Street, on a daily basis (i.e. at the end of each working day, Mon.-Sat.), and as may otherwise be necessary to prevent off-site sedimentation;
 6. Continually Monitor the site for dust and provide dust control as needed to prevent accumulations of dust settlement from entering the stormdrain system and prevent further erosion from the site.

List of Exhibits:

- Exhibit A: Request for Determination of Applicability for 1 Aurora Street; submitted by D&I Properties, LLC; received December 3, 2014.
- Exhibit B: Notice of Intent Application for 1-5 Aurora Street; submitted by D&I Properties, LLC; dated October 2, 2017.
- Exhibit C: Septic Plan for 1-5 Aurora Street; prepared by Clear Water Environmental; last revised 10/16/2017.
- Exhibit D: Memorandum from the City of Worcester Department of Public Works & Parks to the Conservation Commission; re: 1-5 Aurora Street – NOI (CC-2014-082); dated October 19, 2017.
- Exhibit E: Enforcement Order for 1-5 Aurora Street; last modified 10/5/2017.

12. Indian Lake (MBL MA-DEP-INDIA) (CC-2017-079)

Application: Notice of Intent

Applicant: City of Worcester Department of Public Works & Parks

Project: To conduct annual drawdowns in association with non-native and aquatic nuisance vegetation management.

Jurisdiction: The Massachusetts Wetland Protection Act and the City of Worcester Wetlands Protection Ordinance – The proposal shall occur within land under water, bank and bordering vegetated wetlands, the 100’ bufferzone thereto, and bordering land subject to flooding, each associated with Indian Lake.

Public Hearing Opening Deadline: WPA – 10/23/2017; WWPO – 10/23/2017

Jacquelyn Burmeister, of the City of Worcester Department of Public Works and Parks – Water Division appeared on behalf of the item. She reviewed the proposed application to renew the permit historically granted for an annual drawdown (~3-4”/day) of Indian Lake. She discussed the proposed temporary seasonal impacts to resource areas (22,500 SF of Bank & 1.2 Million SF of Land Under Water) and the environmental benefits associated with this methodology of aquatic nuisance vegetation management.

Commissioner Berg Powers and Frank Minasian of Worcester requested clarification that the proposed work was for the drawdown only. Ms. Burmeister confirmed that only work to lower the water level was proposed.

Upon a motion by Commissioner McKone and seconded by Commissioner Berg Powers, the Commission voted 4-0 to close the public hearing for the Notice of Intent Application. Orders of Conditions were discussed at the end of the meeting. Later during the meeting, upon a motion by Commissioner Berg Powers, seconded by Commissioner Escobar, the Commission voted 4-0 to issue an order of conditions, to be valid for 5-years, with all standard, or general, conditions and the following special conditions:

I. Conditions to Meet Prior to Commencement

21. Person Responsible for Compliance with the Order of Conditions* – A person shall be designated to be responsible to monitor compliance with the Order of Conditions. Their name and contact information (24/7) shall be provided to the Office of the Commission prior to start of any activity. This person shall conduct periodic inspections to assure the adequacy and continued effectiveness of the work, monitor for negative or unintended impacts and evaluate the need for any modifications of the work to prevent erosion and sedimentation;
22. Contract* - This Order of Conditions and all approved plans shall be included as part of any contract and subcontract and shall be posted in a prominently displayed location in the supervisory office on site during all phases of construction.
23. Notification* - The applicant shall notify the Office of the Commission a minimum of 48 hours prior to the start of the drawdown, each year.

II. Conditions to Meet During Work

The lake drawdown should follow the Performance Guidelines contained in Section 4.2.6.3 of "Eutrophication and Aquatic Plant Management in Massachusetts, Final Generic Environmental Impact Report," including but not limited to:

24. Depth - The annual drawdown shall be limited to a maximum of 6 feet;
25. Drawdown Timeframe –
 - a. The annual drawdown shall commence no sooner than November 1st in order to lessen impacts to wildlife;

- b. The target drawdown depth shall be achieved by December 1st in order to allow wildlife to move to deeper water, locate alternate lodge sites, or relocate food caches prior to ice formation and substrate freezing; and to minimize impacts to fish spawning and other non-target organisms that may have water level requirements for reproduction;

26. Outflow Rates –

- a. During the drawdown outflow rates shall be kept below a discharge equivalent to 4 cfs per square mile of watershed;
- b. Once the target water level is achieved, outflow rates shall match inflow rates to the greatest extent possible in order to maintain a stable water level; and
- c. Outflow during refill shall be kept above a discharge equivalent to 0.5 cfs per square mile of watershed.

27. Refill Timeframe - Full lake level shall be achieved by April 1st to lessen impacts on fish recruitment;

28. Monitoring Program – The applicant shall implement an aquatic nuisance management and monitoring program to be conducted during and after the drawdown. Monitoring shall be on-going throughout the year to minimize impacts to fisheries, shellfish, wildlife habitat, non-target native species, and/or water quality (e.g. flow, clarity, etc.) and to evaluate and maintain the effectiveness of the treatment and minimize any related impacts. Upon request by the Commission, monitoring data/reports shall be made available and provided to the Commission. At minimum annual monitoring, and associated reporting information, shall include the following:

- a. During the winter months - evaluation of dissolved oxygen to ensure successful overwintering of organisms;
- b. During the summer months – evaluation of nutrients;
- c. Address the necessity of maintaining an annual drawdown depth of 6’.

29. Contingency - A contingency plan should be available if unforeseen impacts were to occur; if such circumstances arise, the Office of the Commission shall be contacted immediately.

30. Erosion Stabilization -

- a. Off Site Impacts* - There shall be no off-site erosion, flooding, ponding, or flood-related damage from runoff caused by the project activities.
- b. Unanticipated Drainage or Erosion* - The applicant shall control any unanticipated drainage and/or erosion conditions that may cause damage to jurisdictional areas and/or abutting or downstream properties. Said control measures shall be implemented immediately upon need. The Office of the Conservation Commission shall be notified if such conditions arise and of the measures utilized.
- c. Erosion and Sediment Controls* - Erosion and sediment controls shall be implemented as needed and if implemented, shall be monitored, maintained, and adjusted to prevent adverse impacts to jurisdictional areas. Additional erosion and sediment controls may be utilized on site as needed.

III. General Conditions

31. Validity and Duration of the Order - The activities authorized hereunder shall be completed within five (5) years from the date of issuance of this Order as this special condition hereby modifies General Condition four (4) of this Order. These activities have demonstrated success in managing aquatic nuisance, non-native, and/or invasive vegetation species without adverse impacts to either resource areas or interests they protect. The Commission recognizes the long-term benefits of this recurring, annual, activity and that an extended permit duration is necessary to observe discrete improvements of overall water quality and native habitat restoration due to the lifecycles of target plant growth. For example, many aquatic nuisance vegetation and invasive species, having extended periods of seed dormancy, may continue to propagate after initial treatment, thus additional time is warranted to complete effective treatments and monitor outcomes for overall, long-term improvements to the resource area and associated waters. Therefore, the Commission finds that the recurring and maintenance nature of the proposed activities have special circumstances warranting an extended permit life in order to best serve protected wetland interests.
32. Change in Ownership* - If a change in ownership takes place while this Order is still in effect, it is the responsibility of the new owner to notify the Commission of the change and to provide the name of the person responsible for compliance with the Order.
33. Conservation Agent's Power to Act* - With respect to all conditions, except _____, the Conservation Commission designates the Conservation Agent, as its Agent with full powers to act on its behalf in administering and enforcing this Order, unless the Agent determines approval from the Commission is appropriate.
34. Right to Inspect* - A member of the Conservation Commission or its Agent may enter and inspect the property and the activity that are the subjects of this Order at all reasonable times, with or without probable cause or prior notice, and until a Certificate of Compliance is issued, for the purpose of evaluating compliance with this Order (and other applicable laws and regulations).
35. Changes to the Plan or Errors & Omissions* -
- (a) If any plan, calculation, or other data presented to the Office of the Commission is in error or have omissions, and are deemed significant by the Commissioners or their Agents, all work will stop at the discretion of the Commission, until the discrepancies have been rectified to the Commission's satisfaction.
 - (b) The applicant must notify the Commission in writing of any changes in the plans or implementation of the proposed activity where mandated by any local, state, or federal agencies having jurisdiction over the proposed activity. If, in the opinion of the Commission, any changes in the plans or implementation of the proposed activity so require, then the Commission may modify, amend or rescind this Order in a way consistent with:
 - M.G.L. Chapter 131, Section 40,
 - 310 CMR 10.00, *Wetlands Protection*,
 - the City of Worcester's *Wetlands Protection Ordinance*, and
 - the Commission's *Wetlands Protection Regulations*

If any provisions of any conditions, or application thereof is held to be invalid, such invalidity shall not affect any other provisions of this Order. If the Commission deems that a proposed change is major or substantial, a new hearing may be required.

36. Liability* - The applicant shall indemnify and save harmless the Commonwealth, the City of Worcester, the Conservation Commission, and its Agents against all sites, claims or liabilities of every name and nature arising at any time out of or in consequence of the acts of the Commission or its Agents in the performance of the work covered by this Order and/or failure to comply with the terms and conditions or this Order whether by itself or its employees or subcontractors.

IV. Conditions to Meet at Completion of Project

37. Certificate of Compliance* - Upon completion of the project, the applicant shall request in writing a Certificate of Compliance from the Commission. If the project has been completed in accordance with plans stamped by a registered professional engineer, architect, landscape architect, or land surveyor, certification must include a written statement by such professional certifying the same.

List of Exhibits:

Exhibit A: Notice of Intent Application for Indian Lake; submitted by City of Worcester – DPW&P; received September 11, 2017.

Exhibit B: Memorandum from the City of Worcester Department of Public Works & Parks to the Conservation Commission; re: Indian Lake – NOI (CC-2017-079); dated October 19, 2017.

13. 16 Bullard Avenue (MBL 46-022-00326) (CC-2017-085)

Application: Notice of Intent

Applicant: Donald Anger, of DJA Builders, LLC

Project: To construct a single-family detached dwelling, along with related utility, grading, paving, drainage, and site work.

Jurisdiction: The City of Worcester Wetlands Protection Ordinance – The proposal shall occur within the stormwater protection zone.

Public Hearing Opening Deadline: WPA – n/a; WWPO – 11/19/2017

Donald Anger, the applicant, reviewed the proposed project and discussed that he began work earlier in the fall without realization that a permit was required from the Conservation Commission and had stopped working upon notice from staff regarding the violation.

Chair Charpentier asked if soil would be brought in. Mr. Anger stated it would not.

Mr. Kochling reviewed the site conditions and highlighted that the site grading extends beyond the limit of work on the plan. Chair Charpentier stated that the revised plan would be required to show the proposed grades.

Upon a motion by Commissioner McKone and seconded by Commissioner Berg Powers, the Commission voted 4-0 to continue the public hearing to the Commission's November 13, 2017 meeting to allow for receipt of revised plans.

List of Exhibits:

- Exhibit A: Notice of Intent Application for 16 Bullard Avenue; prepared by Donald Anger; received October 9, 2017.
- Exhibit B: Definitive Site Plan for 16 Bullard Avenue; prepared by HS&T Group, Inc.; dated July 31, 2017.
- Exhibit C: Memorandum from the City of Worcester Department of Public Works & Parks to the Conservation Commission; re: 16 Bullard Avenue – NOI (CC-2017-085); dated October 19, 2017.

Other Business:

14. Request for Extension Permit - Order of Conditions for (drawdown of) Lake Quinsigamond & Flint Pond (CC-2006-075; DEP #349-912)

Ms. Smith reviewed the request for a 1 year extension of time and fee waiver, due to the public benefit.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Escobar, the Commission voted 4-0 to issue an extension permit for one year and to waive the required filing fee.

15. Request for Extension Permit & Request for Project Change (Determination of Significance and Subsequent Action) for Order of Conditions for 0 Granite Street (CC-2014-058; DEP #349-1098)

The Commission took up the two requests related to the property (items 11 b & 12 a as listed on the agenda) contemporaneously.

Scott Morrison, of EcoTec, Inc. appeared on behalf of the owner. Mr. Morrison reviewed project changes including a larger septic system and re-configuration of the two dwellings to be attached; he noted that applicable requirements of the Ordinance relating to setbacks are still respected in the revised design. Mr. Morrison requested the Commission accept the revised plans finding the change to be inconsequential as these changes were required by the Board of Health. Mr. Morrison explained that these revisions to the septic design have delayed the project from commencing since its initial approval by the Commission and requested the Commission grant an extension of time to allow his client to commence work.

Chair Charpentier clarified no changes were proposed to the wetland crossing or replication. Mr. Morrison affirmed.

Commissioner Berg Powers clarified that there was no change to the footprint of the building. Mr. Morrison affirmed.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Escobar, the Commission voted 4-0 to issue an extension permit for one year.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Escobar, the Commission voted 3-1, with Chair Charpentier voting against, to find the changes to be

inconsequential and accept the revisions as the approved plan, requiring no further action by the applicant.

16. Request for Project Change (Determination of Significance and Subsequent Action) for:

a) Order of Conditions for Blackstone Gateway Park (CC-2014-063; DEP #349-1097)

Ms. Smith reviewed the proposal, for a clean-up of litter and debris by hand - including removal of tires embedded in land under water.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Escobar, the Commission voted 4-0 to find the changes to be inconsequential, requiring no further action by the applicant.

14. Request for Project Change (Determination of Significance and Subsequent Action) for:

b) Order of Conditions for 0 & 28 Bullard Avenue (CC-2015-010)

Ms. Smith reviewed the information provided by the applicant regarding the placement of fill on the properties and associated re-grading with the deposition of additional fill. Ms. Smith reviewed the Commission's previous stipulations, including material testing, relative to concerns about contamination, regarding the same change where were not complied with. She noted that work had commenced, despite the Commission's stipulations for receipt.

Commissioner McKone requested the test results.

Mr. Kochling reviewed the results of the site inspection he performed and expressed concerns regarding the differing volumes of material.

Commissioner McKone requested information about the source of the material, the total volumes, and clarification as to whether or not the plan has been modified since its previous revision from May 1, 2017.

Ms. Smith requested affirmation that the Commission would like to see the slopes stabilized with jute matting, per the approved plans, in the interim and verified that no additional work would be permitted to take place until the deviations from the approved plan were rectified to the Commission's satisfaction. The Commission agreed.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Escobar, the Commission voted 4-0 to continue the request to the Commission's November 13, 2017 meeting to allow the applicant to respond to the Commission's requests for clarification.

15. Request for Project Change (Determination of Significance and Subsequent Action) for:

c) 13 Moreland Street & 1 Columbine Road (CC-2017-024; CC-EO-2017-005)

16. Enforcement Order Update: 13 Moreland Street & 1 Columbine Road (CC-2017-024; CC-EO-2017-005)

17. Requests for Certificate of Compliance for: 13 Moreland Street & 1 Columbine Road (CC-2017-024; CC-EO-2017-005)

The three items listed on the agenda for 13 Moreland Street & 1 Columbine Road (CC-2017-024; CC-EO-2017-005) were taken contemporaneously.

Mohammad Djamshidi, of the Professional Group and co-owner of the subject properties, appeared for the items. Ms. Djamshidi submitted photos of the site taken earlier that morning and reviewed the changes that were conducted and which are shown on the plan submitted, noting that the grades had been reduced from 11% to 7% and that runoff from the site had been reduced based on the infiltration units and installation of a swale.

Commissioner Escobar reviewed the site conditions from a site visit conducted since the previous meeting.

Commissioner McKone affirmed and stated that he also returned to the site during the day following the site visit, during a rain event. He expressed a concern about flooding conditions off-site relative to the swale.

Mr. Djamshidi disagreed and affirmed that stormwater requirements were not applicable to this house lot.

Mr. Kochling expressed concerns regarding the grading.

Mr. Djamshidi disagreed again and explained his point of view.

Commissioner Berg Powers expressed concerns regarding changes in grading and for not following the procedures set forth in the Order of Conditions when changes are proposed or required in the field. Commissioner Escobar agreed with Commissioner Berg Powers.

Commissioner McKone expressed concerns regarding off-site flooding impacts relating to stormwater management and grading resulting from unauthorized changes. He also stated that he would want to see gutters installed and connected in order to approve a Certificate of Compliance.

After much discussion, upon a motion by Commissioner McKone and seconded by Commissioner Escobar, the Commission voted 4-0 to lift the enforcement order.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Escobar, the Commission voted 3-1, with Chair Charpentier voting against, to find the changes to be minor requiring the applicant file for an Amendment to the Order of Conditions.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner McKone, the Commission voted 4-0 to continue the request for certificate of compliance to November 13, 2017.

List of Exhibits:

Exhibit A: Site photos; from Mohammad Djamshidi; submitted on 10/23/2017.

Exhibit B: Existing Conditions Plan - 13&15 Moreland Street; prepared by ASA Engineering; dated 9/20/2017.

Exhibit C: Order of Conditions issued by the Worcester Conservation Commission for 13 Moreland Street & 1 Columbine Street; dated 5/3/2017.

Exhibit D: Certificate of Compliance; from Mohammad Djamshidi; dated 10/19/2017.

18. Enforcement Order Updates:

a) 128 Alvarado Avenue (CC-2008-045 & -2017-017; DEP #349-963; CC-EO-2016-004)

No update, due to lack of quorum to hear.

b) 21 (aka 29) Quaboag Street (CC-2017-009; CC-EO-2016-005)

Mr. Kochling gave an update from the site inspection and noted that the wattles had been installed but that the silt fence still needed to be toed in. He stated that no work had commenced.

c) Country Club Acres (aka Garrison Avenue & 190 East Mountain Street; Cobblestone Lane) (fka Paradise Point) (CC-2007-025; DEP #349-931; CC-EO-2016-006).

Mr. Kochling reviewed the findings from his site visit that day. He explained that the site was untidy and that the erosion controls were non-functioning, apparently a result of work by the gas company, and needed maintenance. He noted that the site foreman stated they'd ensure the issues were taken care of before the storm event. He confirmed that an e-mail regarding the same had been sent to staff to be communicated to the owner as well.

Ms. Smith stated that a replication and restoration status report relative to plant mortality had been provided earlier that day and was submitted at staff's request.

d) 100 (fka) Goldthwaite Road (aka White Birch Commons; (fka Burncoat Gardens)) (CC-2013-057; DEP #349-1075; CC-EO-2017-001)

Mr. Kochling reviewed his findings from his site visit. He expressed concerns regarding possible non-compliance with the lot opening restrictions and confirmed a site visit was scheduled for the following day to review this, in part.

e) 9 Luther Avenue (and abutting portions of the Toronita Avenue and Luther Avenue ROWs) (CC-EO-2017-002)

Mr. Kochling reviewed that nothing had changed at the site.

f) 21 Paradox Drive (CC-EO-2017-004)

Ms. Smith reviewed an update that was provided to the Commission and noted that Thompson & Liston Associates were hired to assist with the issue and that Goddard Consulting was under contract to evaluate the wetland delineation as required by the enforcement order. She stated that staff was informed erosion controls are in the process of being installed.

Commissioner McKone stated that he went by the site and that it appeared that the work was not in the wetland.

Chair Charpentier asked if a filing would be submitted. Ms. Smith noted that a filing was required by the Order.

g) 77 Amherst Street & 90 Winifred Avenue (CC-2017-040; CC-EO-2017-007)

Mr. Kochling provided an update regarding the project and apparent deviations from the approved plans based on a site visit.

Commissioner Berg Powers stated that he'd been to the site earlier in the day and that the erosion controls needed to be properly installed. Mr. Georges stated that had been taken care of this evening.

Ms. Smith noted that the outstanding item of the enforcement order was the requirement for a project change request. She suggested the Commission review the original and revised plans provided in the packet and make a determination regarding significance of the changes.

Mr. Georges stated that the changes included the location of the driveway.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Escobar, the Commission voted 4-0 to find the changes to be inconsequential and accept the revisions as the approved plan, requiring no further action by the applicant.

h) 457 Granite Street (CC-EO-2017-008)

Kevin Quinn, Quinn Engineering, on behalf of Material Construction, appeared on behalf of the item. He reviewed the activities that were believed to have been conducted and noted that the work is believed to be bufferzone only at this time. He stated that they would be preparing

Chair Charpentier noted that he'd been to the site and requested erosion controls be installed between the resource area and limit of work and requested a plan. Mr. Quinn stated that it would be at least 1 month before plan would be submitted and that no work would be done until a plan was prepared. Chair Charpentier noted he felt additional work had taken place and reminded the owner that no work is permitted to take place.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Escobar, the Commission voted 4-0 to ratify and amend the enforcement order with the following provisions:

- 1) On or before October 30th, 2017, install, and continually maintain (e.g. replace as needed), erosion controls - downgradient of the activities conducted but up-gradient of the resource areas - to the satisfaction of the Commission and/or its agents to prevent further impacts;
- 2) Within 48 hours of installation of erosion controls, contact the Office of the Commission to schedule an inspection to verify the adequacy of the installed erosion control devices to the City's satisfaction;
- 3) As soon as possible, contact the Office of the Commission in writing to confirm that the wetlands have been delineated and flagging has been hung;

- 4) As soon as possible, prepare and submit a Notice of Intent filing with the Worcester Conservation Commission to seek approval of any conducted/proposed alterations to the 100' buffer zone and/or abutting resource area(s) and/or any work proposed within the Stormwater Protection Zone. Such application is attached hereto.

19. Requests for Certificate of Compliance:

a) 0 Eustis Street (CC-2015-012)

Mr. Kochling expressed concerns regarding changes to the site grading resulting. Ms. Smith clarified that the changes resulted in a 1.5 feet of material being held up by the erosion controls along a stockade fence at the site which could cause an erosion issue.

Mr. Georges stated that the fence is off of the property line by 3' and noted that when the haybales deteriorate that earth would just slant toward the fence. Mr. Kochling re-iterated his concerns since the area is not stabilized.

Commissioner Berg Powers suggested removing the erosion controls and re-grading and permanently stabilizing the area.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Escobar, the Commission voted 4-0 to continue the request for Certificate of Compliance to the Commission's December 4, 2017 meeting.

b) 37 (aka Lot 54N) Cheyenne Road (CC-2000-077) & (CC-1998-036)

Mr. Cherduville stated that the area was stabilized. Ms. Smith reviewed the requests are from two orders from an older subdivision.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Escobar, the Commission voted 4-0 to issue partial Certificate of Compliance for both Orders.

c) 2 (aka 4) Hillcroft Avenue (CC-2016-064)

Mr. Cherduville stated that the area was stabilized. Mr. Kochling praised efforts the developer made to accommodate on-site vegetation and install stormwater infrastructure.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Escobar, the Commission voted 4-0 to issue a complete Certificate of Compliance.

20. Communication:

- a) **Invitation to the 40th Year Anniversary Celebration (on 11/1/2017); from the City of Worcester – Advisory Committee on the Status of Women; received 10/3/2017.**
- b) **Notice of scheduled vegetation (FY18 sideline) maintenance within a transmission right-of-way for various City owned properties held in the care, custody and control of the Conservation Commission; from National Grid, received 10/6/2017 & 10/11/2017.**

- c) **Notice of scheduled vegetation (FY 18 sideline) maintenance within a transmission right-of-way for work in or near wetland resource areas; from National Grid, received 10/11/2017.**
- d) **CMRPC Quarterly Meeting – The Road to a Regional Trail Map - 11/9/2017; from Central Massachusetts Regional Planning Commission; received 10/16/2017.**

Chair Charpentier reviewed communications A-D. No action was taken.

- e) **Notice of annual drawdown for Lake Quinsigamond & Flint Pond (scheduled for 11/2/2017, per CC-2006-075; DEP #349-912); from the Lake Quinsigamond Commission; received 10/19/2017.**

Ms. Smith provided suggested edits regarding the letter relative the Conservation Commission's purview, having consulted MassDEP staff regarding the same.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Escobar, the Commission voted to request that staff notify the Quinsigamond Commission of the proposed changes to the letter for future notifications to abutters.

21. Land Management

- a) **Tree Removal (in the bufferzone) at 19 Souther Drive (near 10 Tewkesbury Road)**
- b) **Tree Removal at 29 Ellen Street (near 44 Margin Street)**

Ms. Smith provided an update to the Commission about projects entailing vegetation removal which were conducted on or near Conservation Commission properties. She reviewed that in both situations trees had fallen, and/or were in threat of falling, from City owned property, held by the Conservation Commission onto the abutting residential properties necessitating removal to prevent further property damage.

22. Discussion of Special Conditions and Issuance of Orders of Conditions

Orders of Conditions were discussed and issued, as noted in-line above.

23. Signing of Decisions

Decisions were signed for the following projects:

- Order of Conditions for the Southerly part of 45 Crawford Street (aka 0 or 8-12 Hazel St.) (CC-2017-081)
- Determination of Applicability for 76A Tory Fort Lane (CC-2017-083)
- Determination of Applicability for 376 Sunderland Road (aka Redwood Hills) (CC-2017-084)
- Determination of Applicability for 1 Aurora Street (CC-2017-086)
- Order of Conditions for 1, 3, & 5 Aurora Street (CC-2017-082)
- Order of Conditions for Indian Lake (CC-2017-079)
- Extension Permit - Order of Conditions for (drawdown of) Lake Quinsigamond & Flint Pond (CC-2006-075; DEP #349-912)

- Extension Permit for Order of Conditions for 0 Granite Street (CC-2014-058; DEP #349-1098)

Adjournment

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Escobar, the Commission voted to adjourn at 9:53 P.M.