

**MINUTES OF THE PROCEEDINGS OF THE
CONSERVATION COMMISSION OF THE CITY OF WORCESTER**

APRIL 25, 2016

WORCESTER CITY HALL – ESTHER HOWLAND CHAMBERS

Conservation Commission Members Present: Joe Charpentier
Peter McKone-
Amanda Amory
Jordan Berg Powers-Arrived Late

Member Absent: Amanda Armory

Staff Present: Stephen Rolle, Planning & Regulatory Services Division
Michelle Smith, Planning & Regulatory Services Division
Ed Kochling, Department of Public Works & Parks

Call to Order: 5:30 pm

Approval of Minutes: None

Requests for Continuances, Postponements, Withdrawals:

Unfinished Business – Notices of Intent:

- 1. 275 Harrington Way (MBL 17-032-00023) (CC-2016-007)**
Application: Notice of Intent
Applicant: Good Shephard Ghana Methodist Church
Project: For the construction of a ~6,113 SF structure, to be used as a place of worship, and associated 87 space parking area, along with associated grading, drainage, and site work, on property located at 275 Harrington Way
Jurisdiction: The City of Worcester Wetlands Protection Ordinance - The proposal shall occur within the Stormwater Protection Zone
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Upon a motion by Commissioner McKone and seconded by Commissioner Fields the Commission voted 4-0 to postpone the item until the May 16, 2016 Conservation Commission meeting and to extend the constructive grant deadline until June 7, 2016.

List of Exhibits

Exhibit A: 275 Harrington Way; submitted by Good Shepard Ghana Methodist Church; received February 25, 2016; dated February 3, 2016.

Exhibit B: Plan prepared by Summit Engineering & Survey, Inc.

2. 0 & 9 Hemans Street and part of 40 Milton Street (MBL 09-030-007-2, 09-030-00009 & 09-030-00004) (CC-2015-055)

Application: Notice of Intent

Applicant: John Boggia of JNBB, LLC

Project: The demolition of the existing structure on-site and the construction of three multi-family high-rise dwellings (a total of 93 dwelling units) and associated off-street parking along with related grading, utilities, 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 – 4/25/2016

Upon a motion by Commissioner McKone and seconded by Fields the Commission voted 4-0 to postpone the item until the June 6, 2016 Conservation Commission meeting and to extend the constructive grant deadline until June 28, 2016.

List of Exhibits:

Exhibit A: 0&9 Hemans Street; submitted by John Boggia of JNBB, LLC; received September 1, 2015; dated June 16, 2015.

Exhibit B: 0&9 Hemans Street plan; prepared by H.S.&T. Group Inc.; dated September 2, 2015.

Exhibit C: Request for Postponement dated December 10, 2015; received December 10, 2015.

Exhibit D: Request for Postponement dated January 20, 2016 and received January 26, 2016.

3. Request for Determination of Significance and Subsequent Action due to a Project Change – Avery Estates (CC-2008-019)

Upon a motion by Commissioner McKone and seconded by Commissioner Fields the Commission voted 4-0 to postpone the item until the June 27, 2016 Conservation Commission meeting and to extend the constructive grant deadline until July 28, 2016.

a. 501-505 Mill Street (CC-2001-027)

Upon a motion by Commissioner McKone and seconded by Commissioner Berg-Powers the Commission voted 4-0 to postpone the item until the July 6, 2016 Conservation Commission meeting and to extend the constructive grant deadline until June 28, 2016.

b. Avery Estates Subdivision (Avery Path, Brookline Street, & Wyola Drive) (CC-2008-019)

Upon a motion by Commissioner McKone and seconded by Commissioner Fields the Commission voted 4-0 to postpone the item until the July 27, 2016 Conservation Commission meeting and to extend the constructive grant deadline until July 28, 2016.

Public Hearings:

4. Pan Am Railways Rail Road Right-of-Way (MBL RR-ROW-000ST) from West Boylston Drive northeasterly to the West Boylston town-line (CC-2016-014)

Application: Request for Determination of Applicability
Applicant: Pan Am Railways
Project: To seek determination as to whether or not the boundaries of the resource areas depicted on the plans are accurately delineated from West Boylston Drive northeasterly to the West Boylston town-line
Jurisdiction: The Massachusetts Wetlands Protection Act - The proposal may occur within a resource area and/or within the 100' buffer to a resource area
Constructive Grant Deadline: WPA -5/5/2016; WPO - n/a

Ms. Smith stated that the applicant's representative had contacted her early in the day and informed her that he would not be able to attend the meeting so it would be up to the Commission whether they want to postpone the item or vote on the application if they felt they had enough information.

Upon a motion by Commissioner McKone and seconded by Commissioner Fields the Commission voted 4-0 to approve the Request for Determination of Applicability.

List of Exhibits

Exhibit A: RDA application received March 23, 2016 and dated March 18, 2016

Exhibit B: Letter from DPW re: RDA-Pan Am Railways dated April 22, 2016; and received April 26, 2016.

New Business – Requests for Determination of Applicability:

5. Tatnuck Brook (west of Mill Street, between 570 & 600 Mill Street), 468 Chandler Street (MBL 48-031-00001), & Patches Reservoir (aka 520 Mill Street MBL 30-29A-00002) (CC-2016-018)

Application: Request for Determination of Applicability
Applicant: Timothy Cook, of Worcester State University
Project: To seek determination as to whether or not the work associated with the installation of two stream gage stations, within Tatnuck Brook (west of Mill Street, between 570 & 600 Mill Street) and an unnamed pond located at 486 Chandler Street (Worcester State University's Campus), and of a water quality monitoring buoy, within Patches Reservoir (520 Mill Street), are 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 land under water associated with Tatnuck Brook, a perennial stream, Patches Reservoir, a pond, and an unnamed pond.

Public Hearing Opening Deadline: WPA – n/a; WPO –5/27/2016

Constructive Grant Deadline: WPA –5/3/2016; WPO – n/a

Tim Cook appeared on behalf of the application. He stated that he is interested for educational purposes in installing stream monitoring gauges in Tatnuck Brook and in the drainage from Worcester State College campus as well as a buoy in Patches Reservoir which will monitor the quantity of water coming from the stream as well as the quality and the data will be used for scientific study.

Chair Charpentier asked if there would be in disturbance of the wetland area to install the equipment.

Mr. Cook stated that the stream gauge monitor is basically a PVC pipe that is mounted in the stream channel itself and it is a pipe that is driven into the stream bed.

Upon a motion by Commissioner McKone and seconded by Commissioner Fields the Commission voted 3-0 to Negative Determination of Applicability.

List of Exhibits

New Business – Notices of Intent:

6. Properties located to the east of the Leicester/Worcester town-line, south of Stafford Street, west of Nixon Avenue, and north of Clover Street associated with a utility maintenance project (CC-2015-074)

Application: Notice of Intent

Applicant: New England Power Company

Project: To confirm resource area delineation and work associated with the replacement of utility related infrastructure (e.g. poles, wires, anchors, etc.) along with associated grading and site-work, on property located to the east of the Leicester/Worcester town-line, south of Stafford Street, west of Nixon Avenue and north of Clover Street.

Jurisdiction: The City of Worcester Wetlands Protection Ordinance – The proposal shall occur within the 100 ft. buffer zone to the bank of various bordering vegetated wetlands, perennial and intermittent streams and associated riverfront area, bordering land subject to flooding, and within the stormwater protection zone

Public Hearing Opening Deadline: WPA – n/a; WWPO – 4/25/2016

Shona Patavatis and Justin Dufrense from VHB representing New England Power Company appeared on behalf of the application. Ms. Patavatis stated that there are very limited wetland resources on the premises with a total of five bordering vegetated

wetlands and a few brooks. The project is mainly maintenance and they are just pulling out the old lines and adding new lines that are larger and in order to support the lines they will need to add new hardware but there will be no disturbance.

Commissioner McKone asked if all the material would remain on site. Mr. Dufrense stated that it would and there shouldn't be any stockpiling.

Tom Mullaney an abutter to the property asked where the access point would be.

Ms. Patavatis showed on the plan where the access point.

Mr. Mullaney expressed concern about the work.

Ms. Patavatis stated that construction of the project is scheduled to begin February 2017 and they expect work to take about four months and they will stay within the city regulations regarding noise.

Upon a motion by Commissioner McKone and seconded by Commissioner Berg-Powers the Commission voted 4-0 to close the public hearing.

a. Arboretum Village Estates (CC-EO-2016-002)

Turbidity Sampling/Monitoring Data from various dates; from EcoTec, Inc.

Scott Morrison from EcoTech, Bob Gallo and Attorney Bob Kirtsy appeared on behalf of the item.

Mr. Morrison stated that the Commission had requested a site walk and they did that last weekend and there hasn't been much change in past few months and there was some questions about the spikes in turbidity and Mr. Morrison showed on a plan the sampling site which is Honeysuckle & Sophia Road which city is petitioning to take over and they use that site as a gauge as it fully compliant with the storm water management requirement and the spike he believes there wasn't a spike as they are required to stay within 150 NTU and they were at 70 NTU and Site #2 which is Bittersweet Boulevard was alleged that the house lot at #32 caused the high turbidity but that would be impossible as the water from there flows off of catch basins and flows down and goes into a detention basin so doesn't even go to any of the sampling sites. Mr. Morrison stated with regards to DEP's latest letter regarding updating erosion control plan they will provide that information to DEP and will provide a full copy to the Commission. Mr. Morrison provided a sampling of the NTU's and showed on a plan where all the drainage for the site would be.

Commissioner McKone stated that he was at site walk and they reviewed the drainage and there was some confusion as to which catch basins had been feeding which discharge points and there had been a manhole that had been chained and diverted some of the original stuff and they had looked at Slope A and they looked at the systems up there and roadway is no longer being used as a detention pond.

Chair Charpentier asked when that change was made. Mr. Morrison stated that last week they constructed a large pond on Bittersweet and there are check dams in the roadways and the water goes off the road into the temporary basin.

Commissioner Berg-Powers stated that he went to the site on Sunday and it looks better but still has question what happened to cause the higher readings at Site #1 what contributed to the higher reading and what can be done to improve it.

Mr. Morrison stated that at sample #1 is outside the watershed of construction so the only items that contributed to #1 are roads, lawns, landscaping and area that float into the catch basins and showed where they were located on plan and he would have DPW check the deep sump catch basins and the city has an easement to #1 and they would need to clean the catch basins.

Commissioner Berg-Powers asked why there was spike at #2 location at Bittersweet. Mr. Morrison stated that any time you have a construction site the amount of precipitation and rate will cause different readings and stated that they have check dams and final berm along the bottom and the water flows through the berm into the silt saks into the swell and there are earth stop and flocculent at the discharge point.

Commissioner McKone stated there was some questions whether Honeysuckle had been accepted by the City yet and are they responsible for the cleaning out of the catch basins.

Mr. Morrison stated that the road has been petitioned but not accepted yet.

Mr. Kochling stated that on outflow #1 there is a downstream defender as the City has taken ownership of that and it was cleaned October 2, 2015 and had about a year of material in it so it surprising to see that amount of material in it in short time so they will have to be looked at and the turbidity readings at the outfall he believes it being caused by the material at the outfall area and he has taken some photos and a lot of the material is gravel and DPW only uses sand and salt so he would think that the gravel is coming from the construction material unless there is broken pipe.

Chair Charpentier asked what would be the typical scheduled for one of these downstream defenders.

Mr. Kochling stated that usually once a year but this is a problem area so they will go check and last week it was looked and there was about a half a yard in it.

Commissioner McKone asked who is responsible for the catch basins on Honeysuckle.

Mr. Kochling stated DPW is not but the catch basins are effecting the wetlands and they are researching the easement and if it is in order they will clean it as it needs to be cleaned as there is clearly gravel and there is a downstream defender that should clean 80% of the material and it was just cleaned six months ago and it already half full there must be a problem.

Mr. Morrison asked where on the photos it shows the gravel located on the outfall.

Mr. Kochling reviewed on photos. Mr. Morrison stated that is typical for any outfall.

Mr. Rolle stated that he would suggest that DPW review the outfall and report back if something definitive is found.

Chair Charpentier stated that the turbidity readings may be better if the catch basins at the outfalls were cleaned out. Mr. Morrison stated that he would suggest first that the down stream defender and catch basins were cleaned first as that removes 80% of the material.

Attorney Kirtsy stated that on the ACOP that was the time of the ULA that DEP issued and the ALO was accepted by DEP in November of 2014 and that ACOP included an erosion control sedimentation plan and did include express permission for use of the roadway for erosion controls so those structures were put there as part of plan approved by DEP and after that the Conservation Commission issued an order for compliance with monitoring of turbidity on site and Mr. Morrison has been doing that and has provided those results to the Commission and they believe that they are in compliance with ACOP and BMP's and the site is being monitored and they have best monitoring practices and they have implemented the erosion sediment plan which included the temporary water storage best management practices in the proposed right away and makes sure not NTU's over 150 and they have monitored the site and they are in compliance and when they move to next portion on the site they will keep the Commission and DEP abreast of what is happening on the site.

Chair Charpentier appreciate that the detention ponds had been pushed to the side of the road.

Mr. Morrison stated that he will keep the Commission abreast of plans and changes as they take place.

New Business – Requests for Determination of Applicability:

7. 69 Delawanda Drive (MBL 42-006-00224) (CC-2016-011)

Application: Request for Determination of Applicability

Applicant: Justin Savage

Project: To seek determination as to whether or not the work/area associated with the removal of ~20 mature trees along with associated site work, located at 69 Delawanda Drive, 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' buffer to a bordering vegetated wetland

Public Hearing Opening Deadline: WPA – n/a; WPO – 4/25/2016

Constructive Grant Deadline: WPA –5/17/2016; WPO – n/a

Justin Savage appeared on behalf of the application. He stated that he has safety concerns as he has oak trees that are extremely large and are in danger of hitting his house and technically the trees are not in the wetlands.

Chair Charpentier asked if the wetland had been delineated. Mr. Savage stated that none of the stumps will be removed and there will be no soil disturbance and the trees propose a health risk.

Chair Charpentier asked how far back he plans to remove trees.

Mr. Savage showed on a plan where the trees would be removed.

Chair Charpentier stated that he would like to do a site walk to determine whether a full NOI filing should be required.

Mr. Rolle stated that if the proposal is to take down trees that is actually on Conservation land then a new legal advertisement with abutters being notified will need to be done and staff will need to check with requirements the City would need to follow for removal of trees on city land.

Commissioner Berg-Powers stated that he would like to know what the change in water flow would occur as he would be weary of cutting down trees on Conservation land.

Upon a motion by Commissioner McKone and seconded by Commissioner Berg-Powers the Commission voted 5-0 to continue the item until the May 16, 2016 Conservation Commission meeting.

List of Exhibits.

Exhibit A: RDA Application received March 9, 2016 and dated March 7, 2016

Exhibit B: Photos of trees to be removed undated

Exhibit C: Memo from Division of Planning & Regulatory Services re: 69 Delawanda Drive & 13 Monticello Drive dated May 13, 2016.

8. 32 (aka 36) Millbrook Street & 70 Gold Star Boulevard (MBL 13-30A-05-07 & 13-30A-00002) (CC-2016-017)

Application: Notice of Intent

Applicant: Chick-fil-A

Project: To construct a 4,988 SF drive-through restaurant and accessory parking lot, along with associated utilities, grading, & site work, on property located at 32 (aka 36) Millbrook Street & 70 Gold Star Boulevard

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 - 5/20/2016

Anthony Dinato from Bohelr Engineering appeared on behalf of the application. Mr. Dinato reviewed the plan and stated that they will be proposing to construct a restaurant and there will be an increase of about 12,000 square feet of impervious area for the site and they will be doing drainage improvements.

Commissioner Berg Powers asked if the drainage would be on the building itself. Mr. Dinato stated that it would be connected to the storm water system.

Chair Charpentier asked if the all the asphalt in parking lot being removed. Mr. Dinato stated it would be removed and replaced.

Upon a motion by Commissioner McKone and seconded by Commissioner Berg Powers the Commission voted 4-0 to close the public hearing.

List of Exhibits

Exhibit A: NOI Application received April 5, 2016 and dated April 5, 2016.

Exhibit B: Plan prepared by Joshua Swerling dated March 7, 2016

Chuck Scott appeared on behalf of the application.

9. Pierce Avenue (Burncoat Gardens Phase IV) (CC-EO-2015-008)

Upon a motion by Commissioner McKone and seconded by Commissioner Berg-Powers the Commission voted 4-0 to lift the Enforcement Order on Lot 39A.

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

604 Burncoat Street (aka Burncoat Heights) (CC-EO-2015-011)

Chuck Scott appeared on behalf of the application. Mr. Scott stated that he had provided a plan that shows that the work down on the adjacent property was done outside the jurisdiction of the Conservation Commission and stated that the property held up very well over the winter due to the detention basin.

Mr. Kochling stated that he has been the site and they have done a good job of responding to their issues and the pond is virtually empty.

Upon a motion by Commissioner Berg-Powers and seconded by Commissioner Fields the Commission voted 4-0 to lift the enforcement orders on Lots #2 # #3.

Mr. Scott stated that he would like to attend the next Conservation meeting to provide the Commission with updates on other projects.

10. 0 Granite Street – Broadmeadow Brook (CC-EO-2016-003)

Ms. Smith stated that this is an enforcement order that has not been issued and a site visit was done to the location and they have provided some photos of quite a bit of yard waste in area and there is presumably a wetland in the area and they have spoken to abutters and they said a contractor did dump the waste and they would like Commission to issue the order requesting it be removed.

Chair Charpentier stated that photos showed that it clearly shows a City of Worcester no dumping sign.

Commissioner Berg-Powers asked how this was found about. Ms. Smith stated that an abutter had contacted Massachusetts Audubon who in turn contacted staff but an enforcement order has not been issued at this time.

Chair Charpentier asked if a wetland had been filled in. Ms. Smith stated that staff is not qualified to answer that as they do not have a wetland scientist on staff and do not have money to hire someone and the Commission could require that as part of the enforcement order.

Chair Charpentier stated that since the city owns the property who would they issue the enforcement order against. Ms. Smith stated that based on conversations with abutters and contractor who lives nearby who was doing work they would send to the contractor who was doing work in the area.

Mr. Rolle stated the complaint was also sent to Inspectional Services regarding illegal dumping.

Upon a motion by Commissioner Berg-Powers and seconded by Commissioner Fields to issue an enforcement order with following additional question to be conditions and question to be asked.

- No more dumping on site
- Whether any wetlands were disturbed
- Attend the May 16, 2016 Conservation Commission meeting.
- How will debris removed and where will it be removed to

Other Business:

11. Enforcement Order Updates:

- i. Update from Mass DEP re: Extension of deadline for requested information in compliance with ACOP.
 - ii. Correspondence & response pertaining to the Commission's 4/4/16 request for information from the owner.
- b. Goldthwaite Road (Burncoat Gardens Phase I & V) (CC-EO-2015-007)
 - c. 0 Granite Street – Broadmeadow Brook (CC-EO-2016-003)

12. Requests for Certificate of Compliance:

- c. Scenic Heights – Partial request for 3 Quaker Road (aka lot 61) –(DEP # 349-365)

Gary Sanguario appeared on behalf of the application.

Mr. Kochling he had gone to the site and it all stable.

Upon a motion by Commissioner McKone and seconded by Commissioner Berg-Powers the Commission voted 4-0 to lift the Partial Certificate of Compliance.

13. Communication:

- a. Notice of Foreclosure at 24 Amber Street; from City of Worcester Office of Administration & Finance – Treasurer & Collector's Division; received 3/15/2016.

Ms. Smith stated at last meeting the Commission discussed whether Conservation Commission could acquire and additional questions had come up and staff has discussed with Law Department and hope to provide an update at the first Conservation Commission meeting in June.

- b. Notice of National Grid's 2016 ROW Vegetation Maintenance; from National Grid; received 4/11/2016.
No comment.
- c. CSX Transportation, Inc.'s 2016 Yearly Operational Plan (per 333 CMR 11.00); from Amec Foster Wheeler Environment & Infrastructure, Inc.; received 4/12/2016
No comment.
- d. Notice of FEMA Risk Mapping Meeting for Nashua River Watershed on 4/27/16; received 4/11/2016.
No comment.
- e. Division of Fisheries & Wildlife – Conservation & Management Permit for the Greenwood Street Landfill – Solar Array Construction; from the Massachusetts Division of Fisheries & Wildlife; dated February 25, 2016; received 4/13/2016.
No comment.
- f. Invitation to the Green Hill Park Presentation, on 5/5/2016, of the Proposal to Remove the Forum Theater; from DPW&P; received 4/12/2016.
No comment.
- g. MACC Quarterly Newsletter – Spring 2016 Edition; from Massachusetts Association of Conservation Commissions; received 4/15/2016.
No comment.

14. Clarification regarding the conditions associated with the Negative Determination for 19 (aka 25) Quinsigamond Avenue (CC-2016-003)

Ms. Smith stated that the applicant was above the floodplain but at time there wasn't a ground survey so Commission issued Determination based on the receipt and if site was in the flood plain and a site plan was received and site it is in the flood plain and staff needs clarification on what Commission determines as negligible as that Commission voted Negative Determination if site had negligible impact.

Chair Charpentier stated that the total volume is about 100 cubic feet in the flood plain which would be needed.

Commissioner Berg-Powers stated that applicant came before a Negative Determination and would prefer applicant come back and due an Order an Conditions and Commission would decide at that time whether the work was ditminomous.

Commissioner McKone stated he would prefer to just tell them to provide the 100 feet of storage instead of having them come back.

Ms. Smith stated that they don't have a plan showing where the storage is.

Upon a motion Commissioner McKone and seconded by Commissioner Berg-Powers that the Commission voted 4-0 to continue the item until the next Conservation Commission meeting to have applicant present.

15. Review of Drafted Legislative Letters re: House Bill 3983 & Senate Bill 119

Upon a motion by Commissioner McKone and seconded by Commissioner Berg-Powers the Commission voted 4-0 to sign the letters.

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

17. Signing of Decisions

Adjournment

Approx. 8:30 P.M.