



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

Monday October 2, 2023

Worcester City Hall - Levi Lincoln Chamber,
with remote participation options available via WebEx online at
<https://cow.webex.com/meet/conservationcommissionwebex> and
call-in number 415-655-0001 (Access Code: 1609734358).

Commissioners Present: Joseph Charpentier, Chair
Devin Canton, Vice Chair
Lindsay Nystrom, Commissioner
Timothy Magliaro, Commissioner
Andrew Truman, Commissioner

Commissioners Absent: Amanda Amory, Commissioner

Staff Present: Eric Flint, Division of Planning & Regulatory Services (DPRS)
Michelle Smith, Division of Planning & Regulatory Services, *Participated remotely* (DPRS)
Olivia Holden, Division of Planning & Regulatory Services, *Participated remotely* (DPRS)

Call to Order

Due to technological issues, remote participation via WebEx was unavailable. Microsoft Teams was utilized as a workaround to allow remote participation for applicants and staff.

Chair Charpentier called the meeting to order at approximately 5:55 p.m.

Requests for Continuances, Postponements and Withdrawals

4) 121 Russell Street (aka Elm Park) – Notice of Intent (CC-2023-045 & DEP#349-13XX)

Request to Postpone to 10/23/2023

Request to Extend the Constructive Grant Deadline to 11/14/2023

5) 255 Lake Avenue – Notice of Intent (CC-2023-044 & DEP#349-1368)

Request to Postpone to 10/23/2023

Request to Extend the Constructive Grant Deadline to 11/14/2023

- 6) **265 Lake Avenue – Notice of Intent (CC-2023-055 & DEP#349-1373)**
Request to Postpone to 10/23/2023
Request to Extend the Constructive Grant Deadline to 11/14/2023
- 7) **0 Meadowbrook Road, 501 Salisbury Street, and the Meadowbrook Road Right-of-Way – Notice of Intent (CC-2023-043 & DEP#349-13XX)**
Request to Postpone to 11/13/2023
Request to Extend the Constructive Grant Deadline to 12/5/2023
- 10) **487 Park Avenue – Notice of Intent (CC-2023-058)**
Request to Postpone to 10/23/2023
Request to Extend the Constructive Grant Deadline to 11/14/2023
- 11) **34 Sherburne Avenue (aka Indian Lake Beach) – Notice of Intent (CC-2023-060 & DEP#349-13XX)**
Request to Postpone to 10/23/2023
Request to Extend the Constructive Grant Deadline to 11/14/2023

Mr. Flint read the requests for continuances, postponements, and withdrawals into the record.

Upon a motion by Commissioner Canton, Seconded by Commissioner Magliaro the Commission voted 5-0 to postpone the public hearings and extend the constructive grant deadlines to the dates noted.

New Business – Requests for Determination of Applicability

- 1) **3 Suburban Road (aka 310 Highland Street) (CC-2023-056) (MBL 11-011-00002)**

Kate O’Donnell of EcoTec Inc., on behalf of the applicant, Botany Bay Construction Co., Inc., gave an overview of the project which consists of the installation of test pits and soil bearings. The work is anticipated to take 1-2 days and will be conducted under the supervision of a licensed wetland professional.

Commissioner Canton asked for a description of the grading in the wetlands and the location for the borings; Ms. O’Donnell stated the testing will take place in the flat area relative to the wetland.

No public comment.

Upon a motion by Commissioner Canton, Seconded by Commissioner Nystrom the Commission voted 5-0 to issue Negative Determination of Applicability.

- 2) **50 Mill Street (CC-2023-057) (MBL 08-019-01+02)**

Eric Flint, Conservation Planner for City of Worcester, gave an overview of the proposal on behalf of the applicant and noted the work takes place about 66’ from the wetland and is outside of the flood zone. Staff recommends the Commission only issues a negative 3 & 6 to proceed without Notice of Intent.

No discussion amongst Commission.

No public comment.

Upon a motion by Commissioner Canton, Seconded by Commissioner Nystrom the Commission voted 5-0 to issue Negative Determination of Applicability.

3) 1180 Millbury Street (CC-2023-061) (MBL 31-023-00001)

Eric Flint, Conservation Planner for City of Worcester, gave an overview of the proposal on behalf of the applicant and explained the intent is to replace an underground fuel tank. The applicant has proposed to install straw waddle between the area of work and the wetland which is about 33' to wetland.

Commissioner Canton asked how long work will take to complete; Mr. Flint relayed that the applicant stated one day.

Chair Charpentier asked about the location of the replacement tank; Mr. Flint pointed out the area based on photos from the site visit.

Chair Charpentier noted that if soil is stockpiled on pavement, they would like to condition erosion controls around the stockpile.

Commissioner Canton asked if area would be re-seeded; Mr. Flint confirmed it would and stated the Commission could include that as a condition.

No public comment.

Upon a motion by Commissioner Canton, Seconded by Commissioner Nystrom the Commission voted 5-0 to issue Negative Determination of Applicability.

Old Business – Notice of Intent

New Business – Notice of Intent

8) 133 Granite Street (CC-2023-053 & DEP#349-13XX) (MBL 44-019-00001)

Nathaniel Bautz of Beals and Thomas, Inc., on behalf of the applicant, Balgove Limited Partnership, gave an overview of the site location and current site conditions. In preparation for construction, erosion controls, temporary sediment basins, and construction areas have been set up. The intent of the proposal is to build multi-family apartments with associated parking and landscaping, and they are seeking an Order of Conditions for the work outside of the buffer zone and for removal of sediment. The applicant is still addressing staff comments and revisions but would like to have a discussion with the Commission regarding staff comments on rainfall data.

Chair Charpentier stated he had walked the site with Mr. Flint after the Enforcement Order was issued and noted that downhill from the site is a City of Worcester property with a Conservation Restriction that leads to Broadmeadow Brook.

Commissioner Magliaro noted a 30' elevation drop from the outlet to the edge of the property and asked if the riprap on site is a temporary solution; Mr. Bautz stated it is intended to be a permanent measure to provide more stormwater dissipation and sediment removal.

Commissioner Magliaro asked if any site visits have been made since the latest rainfall and if the riprap holding up; Mr. Flint stated he had been there for the past several rain events and the outfall is currently plugged and was not actively discharging at the time but the slope appeared to be stable.

Commissioner Charpentier proposed a site walk with the Commission prior to the next meeting so they can understand the number of different drainages and concerns with the stormwater not meeting the current standard because of the potential for impact downstream.

Commissioner Canton asked if an infiltration structure was ever considered; Mr. Bautz stated he is not aware if it was ever considered.

Commissioner Canton echoed Chair Charpentier's concerns and asked if there would be any fencing; Mr. Bautz stated there would not be any fencing.

Commissioner Canton asked if all buildings would be built simultaneously or in phases; Dave LaPointe of Beals and Thomas approached the Commission and stated the intent is to construct the buildings from left to right with the construction of the second building starting after a certain point in construction for the first and plans to start leasing prior to beginning construction of the next buildings with parking areas created as the buildings are constructed.

Commissioner Canton asked about the timing of completing the parking areas and driveways; Mr. LaPointe stated they will also pave from left to right and the road is graded but they will not begin paving until subsequent buildings are constructed.

Chair Charpentier stated they should level and re-seed the area now if it's going to be years before construction takes place; Mr. Flint confirmed they have plans to re-seed within the next few weeks.

Commissioner Canton asked about the dumpster location; Mr. Bautz stated the intent is to keep it in a central location from the beginning.

Commissioner Magliaro asked if they plan to install drainage as buildings come online; Mr. Bautz stated all drainage has been installed.

No Public Comment.

Mr. Flint stated all staff and DPW comments have been addressed.

Upon a motion by Commissioner Canton, Seconded by Commissioner Magliaro the Commission voted 5-0 to continue to the 10/23/23 meeting.

9) 173 Lake Avenue North (CC-2023-054 & DEP#349-1372) (MBL 46-009-00317)

Zac Couture of H.S.&T. Group, Inc., on behalf of the applicant, George Laconte, gave an overview of the existing conditions. The applicant seeks to demolish the existing single-family dwelling, divide the land into 4 lots and construct 2 duplexes with 4 total units. The driveway connections to the building are in the 100' buffer so they have been combined to reduce curb cuts. Roof runoff will drain into stormwater infrastructure. Mr. Couture provided details on the construction entrances, stockpile areas, and erosion controls. Some trees will be removed but 8 new trees will be planted in their place.

Chair Charpentier asked if the owner has a permitted dock on Lake Quinsigamond; Mr. Couture stated he does not know but doesn't believe there is one; Chair Charpentier stated that the conditions should include removal of the dock if it is not permitted.

Commissioner Magliaro asked about stabilizing the construction entrance on the side of the lake in lieu of erosion controls; Mr. Couture stated that sheet 2 of 3 on the erosion control plan shows that they have proposed straw waddles and that during rain events, a composite sock will be placed.

Commissioner Magliaro asked Mr. Flint if catch basins are in the vicinity that will need to be silt sacked; Mr. Flint relayed that he will need to visit the site to confirm but the Commission can condition that silt sacks be placed on catch basins within 100' of the site.

Commissioner Canton asked if there is any additional grading to be done toward rear of building by the stockpile; Mr. Couture stated no, the site is relatively flat so there is not a need for grade change.

Commissioner Canton noted a grade change toward the neighboring structure and asked if that has been assessed; Mr. Couture stated that the soils on the site are great and as long as the owner keeps the gutters clean there shouldn't be issues with runoff.

No public comment.

Upon a motion by Commissioner Canton, Seconded by Commissioner Magliaro the Commission voted 5-0 to close the public hearing.

Mr. Flint described staff recommended conditions which include silt sock be laid on guard rail across the street, any unpermitted structures be removed prior to construction in conjunction with appropriate city department to ensure it's done in a way to protect resources, erosion controls be placed around the stockpile area, conditions #26, #38 (with note for silt sacks on catch basins), #45, #52, #65, with deeded conditions #40 and #65, in addition to the standard conditions.

Upon a motion by Commissioner Canton, Seconded by Commissioner Magliaro the Commission voted 5-0 to issue an Order of Conditions as discussed.

Item 17t taken out of order due to emergency for applicant

17t) 0 Mcavey Way & 1393 Grafton Street (CC-EO-2023-003)

Mr. Flint gave an overview of the Enforcement Order which was in regard to tree removal within the 100' buffer, however, no direct resource area impacts were observed. At the direction of staff, silt fence and straw waddles have since been installed. The owner was conditioned to file a Notice of Intent with the Commission and they still have not to date.

Gronia Mcavey, owner, stated they have reached out to the contractor to file the NOI with the Commission but has not had any luck with getting them to file. They are working to have the land re-surveyed and they intend to file the NOI once they know what the current state of the site is.

Chair Charpentier asked if the site is stable; Mr. Flint stated the site is all packed down dirt with erosion controls in place so there does not appear to be any immediate threat but the work ultimately needs to be permitted.

Chair Charpentier recommended stabilizing the site with wood chips or grass; Ms. Mcavey asked for time to get the survey together and come back to the Commission at a later date beyond the next meeting.

Upon a motion by Commissioner Canton, Seconded by Commissioner Magliaro the Commission voted 5-0 to ratify the Enforcement Order to remove the filing deadline.

New Business – Request for Amended Order of Conditions

12) 378 Plantation Street (CC-2023-059 (CC-2022-079) & DEP#349-1339) (MBL 46-001-00008)

Chris Anderson of EcoTec, Inc., on behalf of the applicant, UMass Memorial Health Care, Inc., gave an overview on the status of the healing garden, accessible parking, and land clearing plans. The project is about a third of the way through construction with plans to open in January 2025.

Derek Masionis of GHB, gave an overview of the previously approved site plan relative to work within the buffer zone. The modifications include an expanded limit of work adjacent to the upper parking at Plantation Street. The proposal includes pulling the tree line back and clearing a ½ acre and berming the area with a seeded erosion control mix and shade tolerant shrubs. The proposal also intends to raise the grade for potential parking expansion in the future. The proposed healing garden amenity crosses 20' over the resource area and 30' off of the buffer area.

Scott Morrison of EcoTec, stated they reached out to the Worcester Fire Department and in attempt to reduce the width of the access way for the WFD in order to reduce impacts to the wetlands but the request was denied. Overall, the impacts under this proposal are still less than original proposal which was 500' of temporary impact.

Commissioner Canton asked for the applicant to speak more about how they would access and install the footbridge; Mr. Morrison stated it would be a pre-fabricated structure with a track machine used for installation on the westerly side of the stream.

Commissioner Canton asked if the introduction of light will impact wildlife; Mr. Morrison stated the site does have a stream but it also has a hospital, highway, and roadway nearby so any impacts would be minimal.

Commissioner Truman asked if there is a way to dispose of excess fill offsite; Mr. Masionis stated there is potential within the empty building onsite for an increased bed count so, from a sustainability standpoint, it makes sense to use the material to grade the site for a future potential parking area and leaving the contaminated soil on site as it is at present.

Chair Charpentier speculated the placement of the stockpile area and its proximity to the resource area; Mr. Magliaro agreed with these concerns but stated that it is a temporary measure and the proposal plans to come back and expand the parking lot up to the 30' buffer; Mr. Anderson stated it is a placeholder, they do not have approval to put in more beds at this time but the fill shown on the plans is intended to depict worst case scenario.

Chair Charpentier asked if the current alignment of the roadway was approved by Fire with extra handicapped parking space; Mr. Masionis stated that is correct and the limit of work is roughly 5' off the wetland flags.

Mr. Flint asked if the additional parking is contingent on getting approval for the additional beds; Mr. Anderson stated there is additional construction needed that is not funded and they need Public Health approval.

Mr. Masionis added that the landscape includes additional shrubs and plantings for the healing garden; Mr. Flint noted the revised plans were just received this afternoon and the Commission has not been able to review them.

Commissioner Canton asked if any trees will be removed; Mr. Morrison stated a few saplings and invasives like bittersweet may be removed but nothing major.

Chair Charpentier stated he is not comfortable voting on a plan he hasn't reviewed yet and suggests that the Commission does a site walk to understand what they are being asked to approve; Mr. Masionis stated they are open to continuing the item until the next meeting.

Upon a motion by Commissioner Magliaro, Seconded by Commissioner Canton the Commission voted 5-0 to continue to the next meeting.

Other Business

13) Requests for Certificates of Compliance

a. 585-587 Burncoat Street (CC-2018-071 & DEP#349-1221)

Mr. Flint gave an overview of the Order of Conditions that were issued. Upon a site visit, the site seemed to be stable and markers were in place.

Upon a motion by Commissioner Canton, Seconded by Commissioner Magliaro, the Commission voted 5-0 to issue the Certificate of Compliance.

b. Hospital Drive (CC-2019-040)

Mr. Flint stated the item would be tabled to a future meeting pending resolution of remaining items to be addressed.

c. 248 Mill Street (CC-2022-020 & DEP#349-1323)

Mr. Flint stated they received the as built site plan from engineer and there are deviations from the approved plan, including a further encroachment in the play area, and riprap apron draining into the BVW.

Chair Charpentier asked what the outfall is draining; Dave Faist of CNG stated it is for the roof drainage. Mr. Faist continued to relay that during construction, the contractor got overzealous with riprap and replaced the approved 3" pipe with 8" pipe for roof drainage and stated they can remove some of the riprap.

Commissioner Truman state it should be removed; Chair Charpentier agreed and noted that it would have to be removed by hand.

Sharon MacDonald stated they will talk with the contractor tomorrow and get a sense of timeframe for removal.

Mr. Flint suggest continuing to next meeting; Mr. Faist agreed.

Chair Charpentier asked if the Commission is willing to issue the COC for the play area project change; Mr. Morrison stated it was extended for licensing requirements at 75 SF per child.

Commission confirmed no concerns.

Upon a motion by Commissioner Canton, Seconded by Commissioner Nystrom, the Commission voted 5-0 to continue to next meeting.

d. 63 Marjorie Street (CC-2020-042 & DEP#349-1279)

Mr. Flint stated the site had received a complaint that the retaining wall was closer to the 30' buffer and the contractor immediately moved wall outside of 30' buffer.

Chair Charpentier asked if permanent markers were required; Mr. Flint stated they were not.

Upon a motion by Commissioner Canton, Seconded by Commissioner Magliaro, the Commission voted 5-0 to issue the Certificate of Compliance with condition that erosion controls be removed.

14) Requests for Extension of Time

a. Southwest Cutoff (CC-2019-028 & DEP#349-1247)

Mr. Flint reviewed the completed work and stated the applicant is requesting a one-year extension.

Upon a motion by Commissioner Canton, Seconded by Commissioner Nystrom, the Commission voted 5-0 to grant the one-year extension through 10/10/24.

b. Hawden Park Boardwalk (CC-2019-008 & DEP#349-1236)

Mr. Flint stated this was for the construction of a boardwalk that received damage from trees during a storm while under construction and therefore are requesting a one-year extension.

Upon a motion by Commissioner Canton, Seconded by Commissioner Magliaro, the Commission voted 5-0 to grant the one-year extension through 10/8/24.

15) Emergency Certifications

a. Southwest Cutoff (CC-EC-2023-004)

Mr. Flint stated the Emergency Certification was issued by staff to allow the installation of a Pond Leveler (aka Beaver Deceiver) to alleviate flooding resulting from beaver activity.

Commissioner Magliaro asked if the intent is to pump the water down before the breach of the dam; Mr. Flint stated they would only breach the portion needed in order to install a flow pipe.

Upon a motion by Commissioner Canton, Seconded by Commissioner Nystrom, the Commission voted 5-0 to ratify the Emergency Certification Issued.

16) Communications

a. Notification of ROW Herbicide Application; from MassDOT; received 9/21/23

No discussion.

17) Enforcement Order and Violation Updates

a. 217 Lake Avenue (CC-EO-2020-004)

Mr. Flint gave an overview of the origin of the Enforcement Order

Upon a motion by Commissioner Canton, Seconded by Commissioner Magliaro, the Commission voted 5-0 to lift the Enforcement Order.

- b. 449 Massasoit Road (CC-EO-2020-006)**
- c. Across from 133 North Lake Avenue – East side of Lake Avenue North Right-of-Way (between Dominion Road & Belcourt Road) and Lake Quinsigamond (CC-EO-2020-007)**
- d. Across from 175 North Lake Avenue – East side of Lake Avenue North Right-of-Way (between Belcourt Road & Sonoma Drive) and Lake Quinsigamond (CC-EO-2020-008)**

Mr. Flint stated that staff suggests voting to remove items 17 c - d from the agenda and revisiting them once clear direction is provided from DPW.

Chair Charpentier confirmed the EO will remain in force.

Upon a motion by Commissioner Canton, Seconded by Commissioner Magliaro, the Commission voted 5-0 to remove items 17 c - d from the agenda until DPW provides clear direction.

- e. 99 Wildwood Avenue (CC-EO-2020-009)**
- f. 166 Moreland Street (CC-EO-2020-011)**
- g. 522 Grove Street (CC-EO-2020-014)**
- h. 0 Myrick Avenue (CC-EO-2020-015)**
- i. 75 Harrington (CC-EO-2021-003)**

Mr. Flint stated the shed is sill in place about 6' from the stream. A NOI was required but never filed, therefore, staff is seeking guidance from the Commission on how to proceed.

Chair Charpentier stated the structure is not permanent and suggests that staff tries reaching back out to request the structure be removed from the 15' or 30' buffer.

Commissioner Magliaro stated he believes removing it will cause more disturbance than just leaving it alone.

Commissioner Canton noted that it would be helpful to know what is being stored inside of it.

Upon a motion by Commissioner Canton, Seconded by Commissioner Nystrom, the Commission voted 5-0 to instruct staff to require the violator attend the 10/23/23 meeting.

- j. 40 June Street Terrace (CC-EO-2021-004)**
- k. 12 AKA 0 Balis Avenue (CC-EO-2021-005)**
- l. 269 James Street (CC-EO-2021-007)**
- m. 90 AKA 100 Camelot Street AKA Farber Field (CC-EO-2021-008)**

Mr. Flint stated the outfall seems to be stabilized but vegetation hasn't fully established yet and sediment is still visible in BVW.

Chair Charpentier stated that the wetland scientist noted there was sediment still to be removed.

- n. Providence & Worcester Railroad (0 Tobias Boland Way)**
- o. 70 North Parkway AKA Burncoat Park (CC-EO-2022-002)**
- p. 3 Aster Place (CC-EO-2022-005)**
- q. Hospital Drive ROW (CC-EO-2022-006)**
- r. 215 Lake Avenue (CC-EO-2022-007)**
- s. 4 Tiffany Avenue (CC-EO-2023-001)**

Mr. Flint provided and updated and stated he conducted a site visit and saw that the restoration of the site has been mostly completed. The mesh has been removed and most of the stones are gone. The owner will work to have the trees and shrubs planted during the fall season.

- t. **0 Mcavey Way & 1393 Grafton Street (CC-EO-2023-003)**
- u. **255 Lake Avenue (CC-EO-2023-005)**
- v. **265 Lake Avenue (CC-EO-2023-006)**
- w. **133 Granite Street (CC-EO-2023-007)**
- x. **0 Harrington Way (CC-EO-2023-009)**

There was no discussion of items 17 b, e-h, j-l, n-r, or t-x.

18) Approval of Minutes – 10/5/2020; 9/11/2023

No discussion.

19) Open Space Discussion

20) Policies and Procedures

Mr. Flint asked Commission to discuss availability for site walks in upcoming weeks.

Adjournment

Upon a motion by Commissioner Magliaro, seconded by Commissioner Truman, the Commission unanimously voted to adjourn at approximately 8:10 PM.