

**.MINUTES OF THE PROCEEDINGS OF THE  
CONSERVATION COMMISSION OF THE CITY OF WORCESTER  
March 23, 2015  
WORCESTER CITY HALL – LEVI LINCOLN ROOM**

**Conservation Commission Members Present:** Stefanie Wood, Chair  
Peter McKone  
Joseph Charpentier  
Jordan Berg Powers

**Member Absent:** Jack Donahue

**Staff Present:** Christopher Gagne, Department of Public Works & Parks (DPW&P)  
Stephen Rolle, Division of Planning & Regulatory Services  
Michelle Smith, Division of Planning & Regulatory Services  
Luba Zhaurova, Division of Planning & Regulatory Services

**Approval of the Minutes** – None

**Requests for Continuances, Extensions of Time, Postponements, Withdrawals**

**Unfinished Business – Notice of Intent**

**1. 79 Joppa Road (MBL 47-004-00060) & Rockrimmon Road Right-Of-Way (CC-2015-006)**

Application: Notice of Intent

Applicant: James Spahiu

Project: Construct two single-family detached dwellings along with associated grading, paving, site work, and landscaping on property located at 79 Joppa Road. Roadway work is also proposed to extend the Rockrimmon Road right-of-way ~90 ft. southerly beyond the existing edge-of-pavement

Jurisdiction: Massachusetts Wetlands Protection Act and City of Worcester Wetlands Protection Ordinance – the proposal shall occur within 30-ft wetland buffer zone to Bordering Vegetated Wetland and within the Stormwater Protection Zone

Public Hearing Opened: 3/2/2015

Upon a motion by Commissioner Charpentier and seconded by Commissioner McKeon, a motion was made to continue item until the April 13, 2015 Conservation Commission meeting and to extend the constructive grant deadline until May 5, 2015 per applicant's request.

**List of Exhibits**

**Exhibit A** Notice of Intent Application for 79 Joppa Road with plans submitted by James Spahiu; received February 11, 2015.

**Exhibit B** Proposed Road Extension Plan for 79 Joppa Road; prepared by Finlay Engineering Services; dated January 29, 2015; last revised March 9, 2015; last received March 16, 2015.

**Exhibit C** Memorandum from the City of Worcester Department of Public Works & Parks to the Conservation Commission; re: 79 Joppa Road -NOI- (CC-2015-006); dated February 25, 2015.

**New Business – Requests for Determination of Applicability**

**2. 200 Mill Street aka Coes Pond Beach (MBL 51-016-00003) (CC-2015-009)**

Application: Request for Determination of Applicability

Applicant: The City of Worcester Department of Public Works and Parks

Project: Seek determination as to whether the work related to the proposed removal of vegetation (invasive species), annual beach maintenance, installation of a sign, construction of a lifeguard chair tower, along with associated site work and landscaping on property located at 200 Mill Street aka Coes Pond Beach, is subject to the jurisdiction of the Massachusetts Wetlands Protection Act and City of Worcester Wetlands Protection Ordinance

Jurisdiction: Massachusetts Wetlands Protection Act and City of Worcester Wetlands Protection Ordinance – The proposal shall occur within land subject to flooding, within the 15-ft buffer zone to a Pond, an Inland Bank, and Land Under Water, each associated with Coes Pond

Public Hearing Opening Deadline: WPA – N/A; WWPO – 4/20/2015

Cesar Valiente from the City of Worcester Department of Public Works and Parks appeared to present the project. He stated that on April 11, 2015 a clean-up at Coes Beach is scheduled for the following:

Area A

- Removal of primarily herbaceous vegetation within historic/use limits of beach sand area. No removal of trees or non-invasive woody materials is proposed.
- The use of backhoe that would scrape the surface of the beach sand area where heavy vegetation exists (by the bathroom).
- Vegetation removal within the beach area will be by hand and hand tools.
- Import and hand spread additional beach sand.
- Install a 4x8 construction sign, advertising the work, which would require installing two 4x4 posts, sign would be located at back of sidewalk along Mill Street.
- Build and install one movable wooden lifeguard chair.
- Removal of trash.

Area B

- Removal of invasive species vegetation or Vista pruning of invasive species vegetation.

- Removal of trash.

Chair Wood asked with regards to the lifeguard chair whether it be on the sand or was pad already present. Mr. Valiente stated that it was a moveable chair with chain locked around it and no pad was proposed; that it probably would be constructed off-site, and would be stored at the location.

Chair Wood asked if the backhoe would be used in Area B. Mr. Valiente stated no.

Commissioner Charpentier asked if vegetated area had been beach in the past or regular soil. Mr. Valiente stated that it had always been vegetated as far back as he could verify.

Commissioner McKone asked what types of invasive species are there. Mr. Valiente stated he did not know the specific types of invasive species and noted that no official wetland flagging had been done.

Commissioner McKone stated that he would prefer invasive species be removed and appreciated this group doing the cleaning up.

Peter Coffin, Blackstone River Coalition, stated that they are working to revitalize the beach and lake will be back before Commission with a full Notice of Intent when proposing to do more work at the pond.

John Read, Tatnuck Watershed Association, said they have large groups of college students working on this project.

Upon a motion by Commissioner McKone and seconded by Commissioner Charpentier, the Commission voted 3-0-1 (Commissioner Berg Powers abstained) to issue a Negative Determination of Applicability.

### **List of Exhibits**

**Exhibit A:** Request for Determination of Applicability for 200 Mill Street with plans submitted by The City of Worcester Department of Public Works and Parks; received March 6, 2015.

**Exhibit B:** Memorandum from the City of Worcester Department of Public Works & Parks to the Conservation Commission; re: 200 Mill Street- NOI- (CC-2015-009); dated March 18, 2015.

### **3. 10 Lake Avenue North aka Regatta Point State Park (MBL 57-005-00002) (CC-2015-013)**

Application: Request for Determination of Applicability

Applicant: Commonwealth of Massachusetts Department of Conservation and Recreation

Project: Seek determination as to whether the work related to the proposed construction of a 1,600 SF rain garden with two underdrains connected to the existing parking lot drainage system, and a new trench drain within the existing paved driveway, along with associated site work, on the southeastern side of the existing northern parking area at property located at 10 Lake Avenue North, aka Regatta Point State Park, is subject to the jurisdiction of the Massachusetts Wetlands Protection Act and/or City of Worcester Wetlands Protection Ordinance

Jurisdiction: Massachusetts Wetlands Protection Act and City of Worcester Wetlands Protection Ordinance – The proposal shall occur within the 100-ft buffer zones to a Lake, an Inland Bank, and Land Under Water, each associated with Lake Quinsigamond

Public Hearing Opening Deadline: WPA – N/A; WWPO – 4/20/2015

Peter Coffin, Blackstone Headwaters Coalition, on behalf of the applicant, stated that his organization received a grant from the Mass Environmental Trust a few years ago to construct rain gardens in the City. They have done a couple, including one at Midland Street School. DCR approved the design of the rain garden at Regatta Point State Park two years ago. Last fall they met with a new team of state park engineers who also requested that some of the sidewalk water runoff is also captured by the rain garden. As a result, the originally proposed shallower rain garden will be excavated deeper by DCR and overflows with drains will be installed going to the existing catch basin.

The overall rain garden area will be about 800 sf (reduced from originally proposed 1,600 sf) consisting of 230-ft radius circles connected by narrow strips. Overflow will go into 2 catch basins connected to the existing catch basins. Originally, no forebays were proposed because the water was meant to be captured from the yard and grassy areas. DCR wanted to add 12-inch trench drain and grate along the sidewalk to catch the sediment into 8 inch pipe with a flared end to capture water runoff from the sidewalk, which is currently causing erosion at the lake's shore. Because of this additional sediment and in response to the DPW comment, some settling basin/forebay is now needed to filter out the water before it enters the rain garden. He stated that the plans will be amended accordingly.

Mr. Coffin stated that in response to DPW's other comment "Consider adding a geotextile fabric to protect 3/4" crushed stone layer from soil fines," their contractor is recommending a layer of peastone on top of the base stone, instead of geotextile.

Mr. Gagne stated that before they proceeded he needed clarification as to whether the applicant is proposing a rain garden or an infiltration basin. Mr. Gagne stated that it appears an infiltration basin is being proposed, with a primary purpose of groundwater recharge. Mr. Coffin stated that his primary goal was water quality improvements, and that's why he called it a rain garden, but that DCR's primary goal appears to be water recharge.

Mr. Gagne asked if the trench drain will be under a walkway or a driveway. Mr. Coffin corrected his earlier statement and said it would be under a driveway, next to the sidewalk.

Mr. Gagne stated that the forebays would have to be sized accordingly to the flow volume, and discussed proposed elevations of the rain garden and the catch basins. Mr. Gagne suggested the applicant discusses the details with DPW prior to submitting final plans.

Chair Wood asked if DCR is taking responsibility for long term maintenance. Mr. Coffin stated that after the first growing season, DCR will assume responsibility for the rain garden including the trench drain. Chair Wood requested a letter from the DCR stating that it will accept responsibility for maintenance of the trench drains.

Commissioner Berg Powers asked if there would be signs educating people about the garden and preventing them from getting into it. Mr. Coffin stated that if they can have rain garden plants donated to them (which seems promising), then there would be enough funds left for public education signs.

Larry Fried, former member of the Lake Quinsigamond Commission, expressed support for the project and stated that it would contribute to the efforts to improved water quality of Lake Quinsigamond, a great community asset.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Charpentier, the Commission voted 4-0 to continue the item until the April 13, 2015 Conservation Commission meeting per applicant's request to allow time to revise plans and submit a revised letter from DCR with regards to maintenance of trench drains.

### **List of Exhibits**

- Exhibit A:** Request for Determination of Applicability for 10 Lake Avenue North submitted by Commonwealth of Mass DCR; received March 6, 2015.
- Exhibit B:** Proposed Rain Garden Plan for Regatta Point Park; prepared by Dataprint Corp; not dated.
- Exhibit C:** Memorandum from the City of Worcester Department of Public Works & Parks to the Conservation Commission; re: 10 Lake Avenue North – RDA- (CC-2015-013); dated March 18, 2015.

### **New Business – Notices of Intent**

#### **4. 20 (aka 10) & 24 (aka 28) Rockdale Street (MBL 12-028-09+9A & 12-030-00004) (CC-2015-007)**

Application: Notice of Intent

Applicant: Elias Hanna, of Rockdale Brooks, LLC

Project: To demolish the existing southernmost structure at 24 Rockdale Street and to construct a ~13,000 SF parking area with 18 accessory off-street parking spaces, to be used in association with an educational use at 20 Rockdale Street, along with associated grading, paving, drainage, and site work on the southern portion of the 24 Rockdale Street property and the northern side of the 20 Rockdale Street property

Jurisdiction: Massachusetts Wetlands Protection Act and City of Worcester Wetlands Protection Ordinance – The proposal shall occur within the Riverfront Area, the 15-ft buffer zone to an Inland Bank, Land Under Water, and a Stream, each associated with Weasel Brook, and within the Stormwater Protection Zone

Public Hearing Opening Deadline: WPA – 3/11/2015; WWPO –4/4/2015

Mike Loin appeared on behalf of the applicant and stated that the application is for two parcels which three separate buildings on the site and there is a building on property that has already been razed due to damage from snow. He stated that there was an issue with work proceeding without permitting and that now it is known that no excavation or digging could take place on the site until Conservation Commission's approval.

Mr. Loin stated that the entire area was impervious for many years and along the rear of the property, near the river and associated bank, there is a 1-2 foot earth berm behind an 8 foot chain link fence with vegetation behind. Mr. Loin stated that the project will also be in front of the

Planning Board for parking plan approval. He stated that the site is proposed to be used by the Central Massachusetts Special Education Collaborative for a school. He stated that they have no plans to work on the brook side of the fence. He stated that the brook does meander along the back of the building as the water travels south behind the existing building and there is some concern that the brook may overflow above the existing berms and into the existing building proposed parking lot. Mr. Loin stated that they sought to extend the berm, using seeded geotextile fabric, along the bank to prevent flooding and that erosion and sedimentation controls are proposed along the chain-link fence during construction and that a greenspace buffer is proposed between the brook and the parking lot.

Mr. Loin discussed the proposed drainage, and stated that they would be replacing the trench drain with a drain manhole, per comments from the DPW and noted that two parking spaces would be dedicated for snow storage.

Chair Wood asked Mr. Kochling to give an update on what he saw when he viewed the property. Mr. Kochling stated that the building at 24 Rockdale was being demolished and he observed debris on site and he went to the back of building and there was debris in the brook and it was not very tidy and he was able to contact a construction supervisor and was told it would be cleaned up. There is also a catch basin on site and a load of sand was placed over it.

Mr. Loin stated that the sand was now removed and there was a board over the catch basin to protect it and the area has been swept clean. He stated that the project team will inspect the condition of the catch basin as looks like it has never been cleaned. He stated that the debris blew from the storm the other week and contractor has now cleaned it up. With regard to the building being demolished, he spoke with the contractor and they are now aware that the earth work cannot be done until the Conservation Commission approves the work, with any conditions as applicable.

Chair Wood stated that building demolition is within the Commission's jurisdiction due to the building's location close to the brook and one of the reasons for that is to protect this resource area from debris during construction. She stated that she has no faith in the contractor until the Commission conducts a site walk and sees the site preparation.

Chair Wood asked if any of the site could possibility be contaminated. Mr. Loin stated that there is clean 21E on both parcels. He stated that barrels with trash, old piping and fencing were removed from the site.

Chair Wood stated that she understands that they are creating some green space and considering it is going to be a school was there any consideration to create a playground or area that could reduce the amount of impervious area or add a rain garden. Mr. Loin stated that this would be a special school for high school aged children with addiction problems that cannot be left alone so there is no need for that type of facility at the site, the client did not request that. He stated that children don't go out to recess. Chair Wood reiterated that there is an environmental benefit to having more green space and would be a benefit to people going through difficult times. Mr. Loin responded that there is a constraint on site with respect to having a turnaround area for the busses, but if it was a "make-or-break" position for the Commission, it is something he could provide – i.e. no impervious area in the 30-ft buffer.

Commissioner McKone asked questions about existing and proposed fencing and silt fencing and asked that the silt fence is moved onto the property.

Mr. Loin responded to questions about infiltrations (roof run offs on the existing building exempt from the Stormwater regulations because of the redevelopment status), the gazebo that they plan to keep and is not attached to the ground, and stated that including a rain garden is not required by the

regulations and would create a maintenance issue for the school. Commissioner Berg Powers stated that despite the proposed improvement to the site, he believes it can be further improved with respect to increasing pervious surfaces.

Commissioner Charpentier asked that the two parking spaces are removed from the 30 foot buffer to the resources area. Mr. Loins agreed to make this change.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner McKone the Commission voted 4-0 to continue the item until the April 13, 2015 Conservation Commission meeting per applicant's request to allow time for a site visit.

#### **List of Exhibits**

**Exhibit A:** Notice of Intent of Application for 20- 24 Rockdale Street submitted by Rockdale Brooks, LLC; received February 18, 2015.

**Exhibit B:** Proposed Parking Plan for 24 Rockdale Street; prepared by Bertin Engineering; dated February 2, 2015; revised March 31, 2015; last received April 13, 2015.

**Exhibit C:** Memorandum from Department of Public Works & Parks to Conservation Commission; re: 20- 24 Rockdale Street – NOI- (CC-2015-007); dated March 18, 2015.

#### **5. 655 & 661 Salisbury Street (MBL 50-022-00001 & 50-022-00002) (CC-2015-008)**

**Application:** Notice of Intent for an Ecological Restoration Limited Project

**Applicant:** Judith Vander Salm

**Project:** To monitor, assess, and conduct an aquatic management program to remove vegetation, control non-native plant and algae growth using registered herbicides and algaecides, in a Pond, on the southwestern portion of the property located at 655 Salisbury Street and the northeaster portion of property located at 661 Salisbury Street

**Jurisdiction:** Massachusetts Wetlands Protection Act and City of Worcester Wetlands Protection Ordinance – The proposal shall occur within Land under Water and an Inland Bank

**Public Hearing Opening Deadline:** WPA – 3/23/2015; WWPO –4/16/2015

Matthew Salem and Domenic Merlingo from Aquatic Control Technology presented the application. Mr. Salem stated that they are before the Commission seeking an Order of Conditions for an Aquatic Management program at the pond located at 655 Salisbury Street to control nuisance and non-native plant and algae growth utilizing treatment with USEPA/MA state registered aquatic herbicides, algaecides and other Best Management Practices. Mr. Salem stated that the pond about an acre in size, impounded at the southern end by a dam, and at the time of the survey last summer the water weeds were growing throughout 75% of the water column. He stated that likely due to the flow restrictions, filamentous algae were growing densely throughout the pond. Therefore, it has been concluded, that this growth adversely affected the habitat, recreation and public safety at the pond. The proposed project has been filed as a Limited Project under 310 CRM 10.53 (4) and will protect the interest of the Wetland Protection Act by controlling nuisance species and slowing pond eutrophication through integrated program that includes the prudent use of USEPA/MA DAR registered herbicides and algaecides. Reward and cover-based algaecide in late May – early June to

manage cover growth, and copper based algaecide in as-needed basis throughout the rest of the summer.

They also seek approval for other US and Mass registered products pending change of the vegetation composition in the pond. They all have favorable toxicologies and limited water use restrictions. Copper algaecides are used in water drinking reservoirs throughout the country.

He stated that will have to file with MassDEP following approval by the Commission. He stated that the herbicides will be applied at the time of low flow to avoid it traveling downstream.

Chair Wood expressed concern with potential negative affect on the potential vernal pool and a well located downstream. Chair Wood asked if the treatment would be done beyond the breeding season. Mr. Salem stated that they could contact Natural Heritage to get a determination on what is located downstream and how it would be affected.

Chair Wood asked if the applicant knows who uses the well south of the pond. Mr. Salem was not sure and that he will look into it. Chair Wood expressed the support for the project to remove nuisance vegetation for the pond but stated that potential downstream recipient should be notified and informed of it so that they would not use the water following a treatment.

Mr. Salem stated that he has spoken to the community center adjacent to the pond running a summer camp and decided to time treatments during camping season to Friday afternoons to limit any potential exposure and for any persistence of the herbicide or algaecide to have time to dissipate into the water over the weekend.

Chair Wood asked what the flow rate was in the pond. Mr. Salem responded that it depends on the seasonal runoff from the hill above it. The treatments will be done after the spring's heavy rains but when the vegetation is already growing.

The Commission discussed MassDEP restriction for bodies of water with respect to water fresh mussels and fish and what similar restrictions apply to ponds that don't have these animals.

Commissioner Charpentier asked about the chemical Flumioxazin and if there was any period of no flow out of the pond. Mr. Salem stated that it depends on rain events. Last August, after a dry summer, there was a minimal flow.

Mr. Vander Salem stated that there is bass, catfish and blue gill but hasn't seen a trout in over ten years. He stated that his mother, the applicant, wants to make this a place that is hospitable to recreational use and the fauna, and is very sensitive to the questions asked by the Commission.

Commissioner McKone stated that the Indian Lake Association used similar chemicals for a similar project with good results and used the same company. Chair Wood stated that Aquatic Control works with Lake Quinsigamond and they are well versed in what they are doing.

Upon a motion by Commissioner McKone and Commissioner Charpentier, the Commission voted 3-1 to close the Public Hearing with Chair Wood voting against stating that the reason for voting no is because of the non-community well downstream from the pond. Mr. Salem stated that he will look into it and will get back to the Commission. Chair Wood stated that order of conditions for the project will be discussed at the end of the meeting.

## **List of Exhibits**

**Exhibit A:** Notice of Intent Application for 655 Salisbury Street prepared by Aquatic Control Technology; received March 2, 2015.



**Exhibit B:** Memorandum from Department of Public Works & Parks to Conservation Commission; re: 655 Salisbury Street – NOI- (CC-2015-008); dated March 18, 2015.

**6. 28 Bullard Avenue (MBL 46-022-00331) (CC-2015-010)**

Application: Notice of Intent

Applicant: Enilton Lisboa

Project: To construct three single-family detached dwellings on three lots along with associated drainage, grading, paving, site work, and landscaping on property located at 28 Bullard Avenue

Jurisdiction: City of Worcester Wetlands Protection Ordinance – The proposal shall occur within the Stormwater Protection Zone

Public Hearing Opening Deadline: WPA – N/A; WWPO –4/20/2015

Jeff Howland appeared on behalf of the application. He stated that the proposal is to construct three single-family detached dwellings. He noted the existing site drains to the rear. Mr. Howland stated that that the water runoff from the driveways will drain toward the road but the runoff from the houses will drain to the rear and each new structure will have a dry well. Commissioner Berg Powers asked if there would be any net increase in runoff. Mr. Howland indicated he would add the increase in runoff to the revised drainage calculations, but that the increase was minimal.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner McKone, the Commission voted 4-0 to close the public hearing pending receipt of the drainage information.

**List of Exhibits**

**Exhibit A:** Notice of Intent Application for 28 Bullard Avenue submitted by Enilton Lisboa; received March 6, 2015.

**Exhibit B:** Definitive Site Plan for Bullard Avenue; prepared by JH Engineering Group; dated January 23, 2015; last received March 17, 2015.

**Exhibit C:** Memorandum from Department of Public Works & Parks to Conservation Commission; re: 28 Bullard Avenue – NOI- (CC-2015-010); dated March 18, 2015.

**7. 0 Eustis Street (MBL 32-021-104-2) (formerly part of 56 Darrow Street) (CC-2015-012)**

Application: Notice of Intent

Applicant: Enilton Lisboa

Project: To construct a single-family semi-detached dwelling (duplex) along with associated drainage, grading, paving, site work, and landscaping on property located at 0 Eustis Street

Jurisdiction: City of Worcester Wetlands Protection Ordinance – The proposal shall occur within the Stormwater Protection Zone

Public Hearing Opening Deadline: WPA – N/A; WWPO – 4/20/2015

Jeff Howland stated this project was a duplex and the jurisdictional catch basins under the Ordinance are ~50-60 feet from the lot line. He stated that it is vacant lot now and there will be separate dry wells for each unit and water and sewer from Eustis as well as some minor grading to the rear.

Commissioner Berg Powers asked Mr. Howland to review the drainage and flow path. Mr. Howland reviewed the drainage and stated that runoff will not go onto abutting properties it's directed away and the roof drains will be picked up with dry wells. He clarified that the site will drain from the rear around the side of the building to the front of the lot.

Daniel Romero, 56 Darrow Street and direct abutter, stated that the lot sits higher than his so water goes on to his lot and there is a retaining wall that goes across that attaches to the foundation of his house and has concerns the proposal will negatively effect his home in terms of flooding.

Mr. Howland stated that there are several retaining walls on-site and they will ensure the grading is completed in a way and that the runoff would not go onto the abutters' property the way the grades are proposed. He stated that they plan to cut the retaining wall off a few feet from the property line. Chair Wood asked if Mr. Howland could provide a plan to Mr. Romero. Mr. Howland stated that he could.

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

### **List of Exhibits**

- Exhibit A:** Notice of Intent Application for 0 Eustis Street submitted by Enilton Lisboa; received March 6, 2015.
- Exhibit B:** Definitive Site Plan for Eustis Street; prepared by JH Engineering Group; dated January 23, 2015; received March 6, 2015.
- Exhibit C:** Memorandum from Department of Public Works & Parks to Conservation Commission; re: 0 Eustis Street – NOI- (CC-2015-012); dated March 18, 2015.

### **8. 67 Heywood Street (MBL 35-007-002+4) (CC-2015-011)**

Application: Notice of Intent

Applicant: Pino Ritacco

Project: To construct a single-family detached dwelling along with associated drainage, grading, paving, site work, and landscaping on property located at 67 Heywood Street

Jurisdiction: City of Worcester Wetlands Protection Ordinance – The proposal shall occur within the Stormwater Protection Zone

Public Hearing Opening Deadline: WPA – N/A; WWPO – 4/20/2015

Jeff Howland appeared on behalf of the applicant. He stated this is for a single family home which has frontage on Heywood Street & Rosamond Street. He stated that it will have drive-under garage with a driveway that will go out to Rosamond Street. He noted that he received a letter from DPW regarding drainage for the dry well which they're comply with to provide erosion controls on west side of proposed construction entrance and to amend drawings to reflect proposed drain and sewer connections entering respective mains and to provide additional hay bales.

Commissioner Charpentier asked if this was a new lot, recently subdivided. Mr. Howland stated that the lot was not and that it was a separate lot.

Commissioner Charpentier stated that Rosamond Street is not fully paved and expressed concerns regarding runoff from a driveway that is so steep.

Mr. Howland stated that maybe he could add a catch basin since he is already running a pipe along Rosamond Street and cross pitch the driveway. Chair Wood asked if Mr. Howland's client would be amenable to that. Mr. Howland stated yes. Mr. Gagne stated if you cross-pitch the water on to the grass to the east Mr. Howland could probably forgo the basin.

Heidi Young stated that she works at Blair House at the end of the street and that there are major issues with erosion on the street. She requested clarification for how drainage is addressed. Mr. Howland stated that the water would be cross pitched so it would go through the grass so it would slow down before going onto to Rosamond. Mr. Young re-iterated her concerns about the existing runoff on the street.

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

### **List of Exhibits**

- Exhibit A:** Notice of Intent Application for 67 Heywood Street submitted by RPM Realty, LLC; received March 6, 2015.
- Exhibit B:** Definitive Site Plan for 67 Heywood Street; prepared by JH Engineering Group; dated January 30, 2015; received March 6, 2015.
- Exhibit C:** Memorandum from Department of Public Works & Parks to Conservation Commission; re: 67 Heywood Street – NOI- (CC-2015-011); dated March 18, 2015.

### **Other Business**

#### **9. Enforcement Order Update – Arboretum Village Estates (CC-EO-2013-003)**

Turbidity Sampling Results for January & February from EcoTec re: Arboretum Village Estates; dated March 9, 2015; received March 11, 2015.

Mr. Rolle stated that the project is still being reviewed by the Planning Board. He asked the Commission to wait until the Planning Board makes a decision on the Site Plan Approval application in front of them.

#### **10. Requests for Certificate of Compliance**

- a. 11 Good Harbor Drive (CC-2003-018)

- b. 17 Gilman Street (CC-2006-057)
- c. 15 Admiral Avenue (CC-1997-009)

Ms. Smith stated that all three items were incomplete and requested that they be postponed.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Charpentier, the Commission voted 4-0 to postpone Items a., b., & c. to the April 13, 2015 Conservation Commission meeting.

**11. Proposed Ecotarium West Conservation Restriction (145 Harrington Way)– review and signing**

Ms. Zhaurova stated that a draft was included in Commission’s packet and it is a proposal for the City of Worcester and the Greater Worcester Land Trust to hold a Conservation Restriction over 145 Harrington Way which will be the main entry point for people visiting Crow Hill area. The purchase price for the conservation restriction is \$300,000.

Commissioner Charpentier stated that he would like to congratulate the City of Worcester, The Greater Worcester Land Trust and the Ecotarium on their work on the project. Chair Wood and Commissioner McKone stated they echoed Commissioner Charpentier’s comments.

Upon a motion by Commissioner Charpentier and seconded by Commissioner McKone, the Commission voted 4-0 to accept and sign the Conservation Restriction.

**12. 1088 A,B,C (formerly known as 1098) West Boylston Street – Status update to the Enforcement Order (EO-2015-001) and a request for Commission to determine what additional approvals are required, if any, as a result of project scope change (CC-2012-023).**

Chair Wood stated that a site walk had taken place on March 21, 2015.

Commissioner McKone stated that they looked at the property and did not find wetland flags associated with the project but did see a wetland flag that was closer to the house than the wetland line shown on the approved plans and he recalled some flagging in the 2000’s and they needed clarification on that.

Ms. Smith distributed three sets of plans to the Commissioners – the 1<sup>st</sup> set is dated to 2002 and is of the 1078 West Boylston Street property showing wetland flags and subject to the enforcement order that Commissioner McKone recalled; the other two sets included ZBA approval in 2013 that amended the location of the structure and the original approval of the project by the Conservation Commission in 2012.

Chair Wood provided a copy of the 2002 plan to Mr. Samson who said he has never seen it before.

Chair Wood summarized the difference between the 2012 approvals and the new plan. The building’s footprint was turned about 90 degrees and is roughly parallel to the street, the location of the stormceptor did not significantly changed, and there have been changes to the grading in the front of the building. Commissioner Charpentier noted that in his reading of the two plans, that it appeared that the grade differential between the 1088 and the 1098 West Boylston Street properties is steeper than what was proposed previously. He stated that overall impervious area seems to be less which is a positive improvement. Mr. Samson stated that the work he did on the nearby property (1098 West Boylston St, which he co-owns with Ms. Healey) involved removing tree stumps and constructing a swale and was intended to alleviate water issues there. He stated that the original topography of 1098 West Boylston Street was draining the water towards Ms. Healey’s building from the front and the rear, with her house

being the lowest point. Commissioner Charpentier asked if the grading of 1088 West Boylston Street exacerbated the water issues on 1098 West Boylston Street. Mr. Samson stated that originally there was a stone wall separating the 2 properties and that it was removed and a pipe installed to direct the water from 1098 to 1088 West Boylston. He stated that when he purchased the 1098 West Boylston St. property he removed the pipe. He stated that the work he has done was intended to alleviate the problems on both properties he owns.

Mr. Charpentier stated that it appears that the wetland flag line from 2002 filing end about where hay bales are on the 1088 West Boylston property. Mr. Samson stated that as he recalled it was an isolated wetland which was not a jurisdictional area, but that the current filing in front of the Commission is triggered by proximity to a catch basin and not a wetland which is located more than 100-ft away from the land disturbance.

Mr. Samson stated that at the Zoning Board of Appeals meeting in 2013 a question was asked if anything changed with respect to the Conservation Commission approval and that his engineer said no, so he was under impression no additional approvals were required.

Commissioner McKone stated that based on the site walk, there did not seem to be any permanent structures within proximity of a wetland, but water seemed to be an issue. He stated that the roof leaders are not currently discharging into the ground. Mr. Samson stated that roof runoff and other impervious surface runoff design was approved by the Commission previously. Mr. McKone clarified that this design was not approved, as it has changed.

Upon a motion by Commissioner Charpentier and seconded by Commissioner McKone, the Commission voted 4-0 to determine that the buildings, location and grades are different enough from the original approval that they require another hearing.

Commissioner Charpentier stated that both plans specify that all roof leaders will go into infiltration recharger and that in the very least this needs to happen. Chair Wood stated that when the project is complete, the property needs to be re-surveyed to ensure that topography matches the approved plan and did not exacerbate the water problem.

Mr. Samson stated that the Building Inspector inspecting his project commented that he improved the site and the water drainage issue. Chair Wood reiterated her statement that she would like the property surveyed after construction to have a confirmation of the topography and water drainage.

Commissioner Berg Powers expressed frustration with the fact that the applicant did not apply for an amendment to his approval and that the Commission is forced to review the changes retroactively. Mr. Samson stated that he was represented by an engineer and an attorney and was not told he needed an amendment to the Commission's approval and that Zoning Board of Appeals did not tell him he needed a new approval from the Commission. Mr. Rolle stated that staff's memo to the ZBA stated that the applicant would need an amendment to the Conservation Commission approval, though he cannot speak to why it did not occur or was not followed-up upon.

Mr. Rolle asked for a clarification as to whether the Commission wanted to see a request for an amendment to the Order of Condition or a new filing for the Notice of Intent. Commissioners McKone, Charpentier and Wood felt an amendment Order of Conditions would be sufficient, but Commissioner Berg Powers felt a new Notice of Intent would be more appropriate. Upon a motion by Mr. Charpentier and seconded by Commissioner McKone, the Commission voted 3-1 (with Commissioner Berg Powers voting no) to require Mr. Samson to apply for an Amendment to the existing Order of Condition.

Ms. Healey stated that Mr. Samson owned 1078 West Boylston Street property for some time and she made allegations that he lied about the timing of conducting a 'wetlands survey impact study.' Chair

Wood stated that a wetland flagging of 1078 West Boylston Street was done prior to the 2012 approval of the project by the Commission. Ms. Healer stated "I challenge it; I challenge you to challenge it because it is a lie. The whole land was full of wetland plants there." Chair Wood explained to Ms. Healey that Mr. Samson was asked to file a request for an Amended Order of Condition and that this matter will be heard at a forthcoming hearing.

Ms. Healey stated that it appeared that Mr. Samson's "wetland impact study" was more valid than the one done by the City and that he was allowed to build on it because of that (referring to the 2002 item for 1078 West Boylston Street). Mr. McKone stated that the Commission has no evidence that Mr. Samson built on wetlands and that while it is possible that the wetlands are closer to the proposed project than shown, the Commission is not sure of that and is waiting for the submission of revised plans. Chair Wood clarified for Ms. Healey that the 2002 plan was not done by the City of Worcester but by a private company for the private party and focusing on the land that Mr. Samson does not currently own, and the reason it was mentioned is because some flags were spotted by the Commission on their site walk. She stated that wetland delineations change over time and 13 years after that flagging the wetlands are likely to have changed their position.

Commissioner Charpentier stated that the Commission does not have the responsibility to certify wetlands and relies on professionals to do that. He stated that the 2012 approved plans were done by a professional engineer which showed delineated wetlands.

Ms. Healey stated that she does not want the swale on her property and that she understands that it is a private matter, but that she worries about implication for the future owner and potential litigations for the City. Chair Wood said it is not within Commission's purview and suggested she contacts an attorney.

Ms. Healey stated that she believed the project at 1088 West Boylston St. cannot happen without the swale at 1098 West Boylston Street. Commissioner McKone stated that his understanding is that the grading is designed to have water at 1088 West Boylston Street to be draining away from 1098 West Boylston Street but that they are waiting for the revised plans to be submitted to confirm that.

## **Communication:**

### **13.**

#### **a. Crompton Park Improvements (Phase 2) - overview and discussion regarding forthcoming filing**

Rob Antonelli Assistant Commissioner for the Worcester Parks Department gave a review of proposal which included:

- Relocation of the existing driveway and parking lot that currently services the community building and pool. The intent of this improvement is to improve and reduce conflict between pedestrian and vehicular traffic.
- Relocate/Install two tennis courts, providing additional amenities identified during the Master Plan public meetings.
- Install two new handball courts, providing additional amenities identified during the Master Plan public meetings.
- Meet ADA Accessibility regulations.
- Cesar Valentine from the Parks Department asked the Commission whether the Commission would consider this a redevelopment project.

Chair Wood recused herself and Commissioner Berg Powers assumed Chair position.

Nick Anderson from, Weston Sampson, discussed the project changes which may result in new net increase in impervious area and proposed mitigation strategies which would negate the increase and subsequent changes to compensatory storage given the site is located in floodplain.

Mr. Anderson asked what would be the Board's stance on their meeting the ten Stormwater Standards and he believes the site qualifies as a redevelopment site, but requested information from the commission regarding how strictly the project would need to meet these standards.

Previous phases associated with the project resulted in ~18 cubic yards of storage and they were hoping to use this gain to off-set possible decreases in storage resulting from re-grading and impressments in case they're unable to account for the fill for the parking area.

Commissioner Berg Powers asked whether there be work on the field itself or if there would be any substantial re-grading. Mr. Anotonelli stated no, only minor re-grading, and will remain in a grass state but they are looking for future improvement of the fields and basketball courts, but that the City does not have the financial resources at this time to do that portion of the project at this time.

Commissioner Charpentier indicated his preference was against allowing banking but noted he was unsure of the Commissions ability to consider such banking of compensatory storage from previous project phases.

Commissioner McKone stated that he felt the banking of compensatory storage could be used so long as it was part of the same project and approved within a reasonable timeframe.

Mr. Anderson asked again about what the Board's stance on the project strictly meeting the ten Stormwater Standards.

Commissioner McKone stated that he would have to review the definition of redevelopment site and that he would tend to agree that this appears to be a redevelopment site.

Mr. Anderson stated they're still working on calculations and are looking at pervious pavers but that they were wanted such information in the case they were unable to meet the stormwater standards. Commissioner McKone suggested they consider other phases and where the storage could be made up.

Commissioner Berg Powers agreed with the other Commissioners and supported the idea of using pervious surfaces.

Chair Wood resumed Chair.

b. Nelson Place School – overview and discussion regarding forthcoming filing

Julie Lynch from the City of Worcester, Robert Para from Lamoureux Pagano Architects and Sandy Brock appeared on behalf of the item.

Sandy Brock reviewed on plans what is being proposed for the Nelson Place School. She stated they have already delineated the wetlands area and showed on the plans where they were located.

Ms. Brock reviewed the landscaping plan for the site and stated they plan to submit on May 20, 2015 an application for the Notice of Intent and stated there will be a lot of improvements when the new school is built and they have a meeting with the City of Worcester officials to review the project.

Ms. Brock stated that one of the biggest problem is the fact that old school will remain open during construction and the ideal time to do that is during the summer and one of the things that need to be

done is delineating the area of where things will be and how the construction trucks will access the site and reviewed on plans where they believed construction areas will be and they need to know what will be required by the Commission as some work will be near drainage but are away from the wetland area.

Chair Wood asked if there was any way to cut through Hapgood Road. Ms. Brock stated that in the future there will be emergency access through an easement with Assumption College but will not be one of the main truck accesses.

Chair Wood asked how long it was going to take for the new school building to be built. Ms. Brock stated about eighteen months.

Chair Wood asked about what would be the plans would be for snow storage. Ms. Brock stated that they have discussed with the contractor with the phasing of the project and part of the erosion control process they will review the snow storage concern.

Ms. Brock stated that they just want to make sure the Commission is aware of project and just wanted to get input on the project and as they develop the plan they can submit the plans on an informal basis just so the Commission knows what is happening with the project.

#### **14. Discussion and Issuance of Orders of Conditions**

##### *655 & 661 Salisbury Street Discussion*

Chair Wood expressed concern regarding applicant's liability with regards to the proposal and potential financial burden with MassDEP requiring water testing for detrimental impacts if a chemical's registration is revoked. She stated that the NOI included all the herbicides that could possibly be used on the pond, one of which is under review by MassDEP, although it's registered, but it's still under study. She expressed concerns about the potential vernal pool and a non-community drinking well down gradient. She stated that if anything was to reach the well or suspected to reach the well, it would be the applicant's liability She stated that she would prefer to find out what the well downstream serves given that the guidance on Diquat states water treated with it should not be used for consumption for 2-3 days. She stated that Lake Quinsigamond is treated with the chemical and there is a swimming ban after it's applied.

Chair Wood stated that she is in support of the second chemical - Fluridone, which has an extended exposure, but in her opinion is the most precautionary in regard with drinking/water use.

Flumioxazin is newly registered in Massachusetts but is still undergoing review and full approval and therefore, in her opinion, is risky and possibly pose a great financial burden and liability to the applicant if MassDEP were to find it has detrimental impacts. Commissioner McKone responded that in his opinion this would be outside of the Commissions purview given Flumioxazin's approval is part of the MassDEP pesticide application license.

Commissioner Berg Powers expressed concerns about the level of scrutiny the Commission was giving to such a small pond, with such a minimal flow and outflow even at peak flow. He stated that the Pond is only used by the applicant and limits the risk versus large bodies of water in the City. He stated that people swim in large lakes in the City that were treated with pesticides.

Chair Wood reiterated concerns about possibly affecting the downstream well and a potential vernal pool. Commissioner Berg Powers suggested that the Commission require notice to the owner of the well. Chair Wood suggested the Commission limit the type of herbicides to be used by excluding Diquat (aka Reward). Commissioner Charpentier stated he did not have enough expertise about the chemicals to



decide either way. Commissioner McKone stated that the application requires research into the use of the well and notification of MassDEP and felt such actions were appropriate safeguards for any possible detrimental impacts.

Chair Wood stated that if DEP revokes registration of the chemical, it could not be used.

Commissioner Berg Powers re-iterated that such approval are often granted allowing use of various herbicides for vegetation management and large bodies of water and his concern for this site was minimal with regard to approving various herbicides for treatment. Chair Wood stated that she verifies proximity to Priority Resource Map for every single site coming in front of the Commission.

#### *Other Notices of Intent*

The Commissioners discussed conditions of approval for Notice of Intent applicants.

- The Commission voted 4-0 to issue Orders of Conditions as discussed for 655 & 661 Salisbury Street (MBL 50-022-00001 & 50-022-00002) (CC-2015-008)
- The Commission voted 3-0-1 (with Commissioner Berg Power abstaining) to issue Orders of Conditions as discussed for 67 Heywood Street (MBL 35-007-002+4) (CC-2015-011)
- The Commission voted 4-0 to issue Orders of Conditions as discussed for 28 Bullard Avenue (MBL 46-022-00331) (CC-2015-010)
- The Commission voted 4-0 to issue Orders of Conditions as discussed for 0 Eustis Street (MBL 32-021-104-2) (formerly part of 56 Darrow Street) (CC-2015-012)

## **15. Signing of Decisions**

### **Adjournment**

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Charpentier the Commission voted 4-0 to adjourn the meeting at 9:07 p.m.