

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

SEPTEMBER 26, 2016

WORCESTER CITY HALL – LEVI LINCOLN CHAMBERS

Conservation Commission Members Present: Joe Charpentier
Peter McKone-
Amanda Amory-Arrived late
Henry Fields-Arrived Late

Member Absent:

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

Approval of Minutes: None.

Requests for Continuances, Postponements, Withdrawals:

1. 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 – 9/12/2016

Upon a motion by Commissioner McKone and seconded by Commissioner Berg Powers the Commission voted 3-0 to postpone the item until the October 24, 2016 Conservation Commission meeting.

2. 0 & 770 Franklin Street (MBL 17-024-0203A & 17-024-02+03) (CC-2016-048)

Application: Notice of Intent
Applicant: Cesmir Spiro
Project: The construction of a new road (aka Kiara Drive), 9 single-family semi-detached dwellings (duplexes), and associated off-street parking, along with related grading, drainage, utilities, and site work, on property located at 0 & 770 Franklin Street.
Jurisdiction: The Massachusetts Wetlands Protection Act and the City of Worcester Wetlands Protection Ordinance – The proposal shall occur within the 100' buffer zone,

associated with a bordering vegetated wetland and within the Stormwater Protection Zone

Public Hearing Opening Deadline: WPA – 9/14/2016; WWPO – 10/8/2016

Upon a motion by Commissioner McKone and seconded by Commissioner Berg Powers the Commission voted 3-0 to postpone the item until the October 24, 2016 Conservation Commission meeting.

3. 550 Grove Street (aka City of Worcester, Morgan Park) and a portion of Indian Lake (MBL 21-INX-00012 & MA-DEP-INDIA) (CC-2016-052)

Application: Notice of Intent

Applicants: City of Worcester Department of Public Works & Parks & the Massachusetts Department of Fish and Game

Project: To remove and replace a concrete boat ramp, along with related site work, on property located at the City of Worcester Morgan Park and within Indian Lake.

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

Public Hearing Opening Deadline: WPA – 9/22/2016; WWPO - 10/16/2016

Upon a motion by Commissioner McKone and seconded by Commissioner Berg Powers the Commission voted 3-0 to postpone the item until the October 24, 2016 Conservation Commission meeting.

4. 201 Plantation Street (aka City of Worcester Holmes Field) (MBL 19-014-00003) (CC-2016-053)

Application: Notice of Intent

Applicant: City of Worcester Department of Public Works & Parks

Project: To construct improvements to existing recreational amenities (e.g. hockey court, playground, etc.) and install new recreational and pedestrian amenities (e.g. lighting, pathways, tennis courts, etc.), along with related site work, on the northern portion of property located at Holmes Field.

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 – 10/22/2016

Upon a motion by Commissioner McKone and seconded by Commissioner Berg Powers the Commission voted 3-0 to postpone the item until the October 24, 2016 Conservation Commission meeting.

5. Request for Performance Bond Release for 501-505 Mill Street “Center Hill” Project (CC-2001-027)

Upon a motion by Commissioner McKone and seconded by Commissioner Berg Powers the Commission voted 3-0 to continue the item until the November 14, 2016 Conservation Commission meeting and to extend the constructive grant deadline until December 13, 2016.

Public Hearings:

Unfinished Business – Notices of Intent:

6. 48 Tory Fort Lane (MBL 40-041-00005) (CC-2016-044)

Application: Notice of Intent

Applicant: Sparhawk Realty, LLC

Project: The construction of two single-family detached dwellings and associated parking as well as related grading and site work on property located at 48 Tory Fort Lane.

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

Public Hearing Opened: 9/12/2016

Scott Morrison appeared on behalf of the application. He stated that he spoke with the engineer about the proposed grading and they have decided that the fill that is in there needs to be removed prior to construction on this property so the plans haven’t changed. He stated that they have DPW comments and they received new letter from DPW asking for some more items and they have shown the erosion controls and the utilities proposed and it looks like DPW may have to add a connection in the roadway. He stated that there is some type of sewer/water line on the paper street but there is no work proposed in that area but if it needs to be added to the plan they can do that.

Mr. Kochling stated that the revised plan came in before the meeting and he has done some research and there was a former home at the site that was demolished and the services are still on at the property and he like to see those on the plan.

Chair Charpentier asked if possible to show that on the plan. Mr. Morrison stated that anything on the plan would be taken from DPW plans and the water/sewer lines are outside the Conservation Commission restrictions.

Commissioner McKone asked if the cul tec will cover entire roof and is shown on the plan. Mr. Morrison stated that is something that could be conditioned to make sure that does occur.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner McKone the Commission voted 3-0 to close the public hearing.

List of Exhibits

7. 640 Park Avenue (MBL 08-023-00001) (CC-2016-046)

Application: Notice of Intent

Applicant: Branded Realty Group II, LLC

- Project: To demolish the existing structure and to construct two new commercial buildings and an associated surface parking lot, along with related grading and site work, on property located at 640 Park Avenue.
- Jurisdiction: The Massachusetts Wetlands Protection Act and the City of Worcester Wetlands Protection Ordinance – The proposal shall occur within bordering land subject to flooding, associated with Beaver Brook, and within the stormwater protection zone

Public Hearing Opened: 9/12/2016

James Tehreault & Robert Branca appeared upon behalf of the item.

Mr. Tehreault stated that at the last meeting there were specific points of discussion and one was the oil water separator and they have since resubmitted their plan which shows four catch basins in the front of the site all directing the flow to a CDS unit. He stated that Mr. Kochling has gone to the site and found a manhole that connected to the site and it does show a second pipe out so there is availability for drainage to Park Avenue and they will make use of that connection.

Mr. Tehreault stated that they have modified the stormwater checklist for redevelopment and they have also added sidewalks, plantings.

Mr. Tehreault stated that they met with the abutter to Skylight Drive regarding to runoff and they have worked out that they will install add a drain to pick up their roof run off which will go through that CDS system and he stated that they have received a file # from DEP but the flood map is not consistent to what they have so they would ask if the Commission is willing to issue an order with requirement that there be no net decrease for flood storage.

Chair Charpentier stated that they just received the plans today so haven't had to chance to look at them in depth.

Mr. Branca stated that their closing deadline is fast approaching as the business on the site is closing so they don't want to have an abandoned building on the site and this is essentially a paper change and a diminitomous change in the grade so not a major issue with regard to the construction and the Commission could approve with conditions.

Commissioner McKone stated that he received the plans at 5:30 p.m. and hasn't had chance to review them at all and he emphasized that he would like time to review them.

Mr. Branca stated that they have multiple properties in Worcester and always follow through on what is required.

Ms. Smith stated that she had drafted a condition for compensatory storage and read the condition and stated the Commission could vote that it be a condition.

Commissioner Berg Power stated that thing he was most concerned with was the oil was being treated on site and he knows there has been discrepancies on the FEMA portion before but as long as what is proposed is done and this project has been before the Commission before.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner McKone the Commission voted 3-0 -1 (Commissioner Fields not able to vote on item) to close the public hearing.

List of Exhibits:

New Business – Requests for Determination of Applicability:

8. 8 Lake Avenue North & 11 Lake Avenue (along the Kenneth Burns Memorial Bridge aka Rt. 9 or Belmont Street) (MBL 57-005-00001 & 17-017-00002) (CC-2016-054)

Application: Request for Determination of Applicability

Applicant: Massachusetts Department of Transportation

Project: To seek determination as to whether or not the proposed work associated with the installation of a permanent security fence, along with related site work, on property located at 8 Lake Avenue North & 11 Lake Avenue and/or within the Belmont Street Right-of-Way, is subject to the Commission's jurisdiction

Jurisdiction: The Massachusetts Wetlands Protection Act & the City of Worcester Wetlands Protection Ordinance – The proposal shall occur within the 100' buffer zone to Lake Quinsigamond and bordering land subject to flooding associated therewith

Public Hearing Opening Deadline: WPA – n/a; WPO – 10/22/2016

Constructive Grant Deadline: WPA –9/28/2016; WPO – n/a

Bill Clarhity and Alex Kasper from Mass DOT appeared on behalf of the application.

Mr. Clarhity stated that this is for installation of fencing to deal with vandalism problems and reviewed on plans where the fence would be located. He stated that the post supporting the fence will be the only impact to the floodplain.

Mr. Kasper stated that they have excavated 1500 cubic yard of material from under the Burns Bridge and they have compensatory for the post being installed.

Chair Charpentier asked if the fence would be installed by hand. Mr. Kasper stated that the post will be installed in concrete and the post will be excavated by hand and there should not be any impact.

Commissioner Berg Powers asked if it would be chain link fence. Mr. Kasper stated it would be cyclone and would run 28' along the shoreline.

Jo Hart, city resident, asked how close the fence was going to be to the bridge.

Mr. Kasper stated that fence is being installed so no one can get access to bridge.

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

Commissioner Armory arrived for meeting.

New Business – Requests for Determination of Applicability:

4. 730 Plantation Street (MBL 46-49A-00010) (CC-2016-056)

Application: Request for Determination of Applicability

Applicant: City of Worcester Department of Public Works & Parks

Project: To seek determination as to whether or not the proposed work associated with a geotechnical boring, along with related site work, on property located at 730 Plantation Street, is subject to the Commission’s jurisdiction.

Jurisdiction: The City of Worcester Wetlands Protection Ordinance – The proposal shall occur within the 100’ buffer zone to a bordering vegetated wetland and/or bank associated with Poor Farm Brook

Public Hearing Opening Deadline: WPA – n/a; WPO – 10/28/2016

Constructive Grant Deadline: WPA – n/a; WPO – n/a

Applicant (didn’t identify himself) stated that they plan to do further removal at the dam so needed to do further geotechnical work and they filed RDA and the borings must be reviewed by the Commission. He stated that that boring is at the top of the dam and it is within 100’ of the Bordering Vegetating Wetland.

Chair Charpentier asked what would be done with the soil. Applicant stated the samples would be reviewed and be removed for testing.

Applicant representative (didn’t identify herself) stated that samples would be sent in for testing.

Upon a motion by Commissioner McKone and seconded by Commissioner Berg-Powers the Commission voted 5-0 to issue a Negative Determination of Applicability.

New Business – Notices of Intent:

Other Business:

5. Request for Determination of Significance and Subsequent Action due to a Project Change –

a. 125 Olean Street (CC-2004-034 & DEP #349-800)

Ms. Smith stated that the Commission had last at previous meeting if waiver could be granted and reviewed what the Commission options could be utilized and up to the Commission to decide if the change is inconsequential, whether it an amendment to Order of Condition or requiring the filing of new Notice of Intent application filed.

Upon a motion by Commissioner McKone and seconded by Commissioner Armory the Commission voted 5-0 that the applicant must file an Amendment to the Order of Conditions for Lot #7.

b. New England Power Company’s Utility Reconductoring Project - located to the east of the Leicester/Worcester town-line, south of Stafford Street, west of Nixon Avenue and north of Clover Street (CC-2015-074)

Ms. Smith stated that the applicant's representative was not able to be present tonight but a packet of the changes had been provide to the Commission and the grading is less than what was proposed prior.

Upon a motion by Commissioner McKone and seconded by Commissioner Berg Powers the Commission voted 5-0 that the proposed change was inconsequential.

6. Enforcement Order Updates:

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

Scott Morrison appeared on behalf of the item. He stated that some members had viewed the premise and substantial of the site has been stabilized and there is loam stockpiled and there are two houses under construction.

Ms. Smith stated that Mr. Morrison had provided a memo and a revised plan and the Commission has been provided. Mr. Morrison stated that the plan had been provided to the Commission in May.

Chair Charpentier stated his biggest concern is there is a lot of moving parts to the erosion controls and he would prefer to look at something that was static and other concern is what is the next step.

Mr. Morrison stated in the letter provided he provided the sequencing of what would be constructed and stabilize and they have been day and night to make sure erosion controls in place so don't effect the turbidity numbers.

Chair Charpentier stated that the like to see the erosion controls at bottom of Slope B being maintained.

A discussion was held regarding the catch basins and which one would remain.

Mr. Morrison stated that he believed is one #111 but would confirm with staff in the a.m.

Chair Charpentier stated that he had also had concern about the berm on the road. Mr. Morrison stated that they would use the berm during construction but would go way after the buildings constructed.

Chair Charpentier asked if the Berm A would remain. Mr. Morrison stated that anything with house of driveway would slope down the road.

Mr. Morrison requested that the Commission remove the enforcement order as it been three years without any issues.

Chair Charpentier stated that he wasn't comfortable with lifting the enforcement order.

Commissioner McKone asked if enforcement order include Slope B. Ms. Smith stated that it does.

Commissioner McKone stated he could see taken off Bittersweet but like to see the turbidity monitoring order continued.

Ms. Smith stated that if they wanted to amend the Order of Conditions then applicant would have to come in with a new application for that.

Mr. Morrison stated that if Commission plans to continue the enforcement order he would request that status updates every two months so he doesn't have to attend every Conservation Commission meeting.

Commissioner McKone stated that he thinks every three months be fine as long they receive turbidity monitoring and updates on erosion control measures. Mr. Morrison stated that they could do that along as provide the SWIP information for the site.

Chair Charpentier stated that the Commission still has a problem that their DPW agent is not allowed on the site.

Ms. Smith stated that staff would be concerned as this is being done informal and there is no written agreement.

Commissioner Berg Powers stated that he understands staff concern but if reports don't come in they can just bring applicant in.

Mr. Rolle stated that staff will coordinate with applicant on when item would on agendas.

8. Informal Presentation Regarding a Possible Filing for Drawdown of Coes Reservoir

Peter Coffin appeared on behalf of the item.

Mr. Coffin stated that they would work with City on draw down and they would like to do it this winter but they have questions as to what they need to file for as this is temporary impact and what would be the owner name for the property.

The Commission request that staff look at what previous drawdown project had done and advise Mr. Coffin on what he should file.

7. Possible Violation Updates

- a. Salisbury Street (various lots -including lots 4 (aka 671), 6 (aka 675), & 7 (aka 697) Salisbury Street)**

Mr. Kochling stated that there was discharge during last rain event and applicant is trying to work with DPW but needs to be a better solution.

Chair Charpentier stated that he had been to site and noticed a new erosion control fence but not really doing its job as it looks like it was put in piece meal and not adequately taking care of the storm water.

Mr. Kochling stated the goal is to keep the silt on site and that is not happening and he can go up and make a few more suggestions to the applicant and it may be advisable that an engineer review the applicant's plan.

Chair Charpentier asked if they should issue an enforcement order. Commissioner McKone stated that he would think that they should put a request in writing,

Chair Charpentier asked Mr. Kochling how many times he had been to the site. Mr. Kochling stated numerous and they need to keep the eye on the brook in the area but stated that he could try and call the applicant and go over the erosion controls before the next storm.

Ms. Smith stated to clarify that Commission would like staff to go out and clarify what needs to be done and if not done then an enforcement order will be issued.

Mr. Kochling stated on Lot #4 was soded. #67# there was not issue.

Ms. Smith asked that on Lot #6 (675) the Commission wants the erosion controls to remain in place. The Commission stated yes.

Ms. Smith asked if any problems with #673. Chair Charpentier stated there didn't appear to be any issues.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner McKone the Commission voted 5-0 that staff to contact the owner to see if they can obtain compliance before issuing an enforcement order.

b. Maverick Street

Mr. Kochling stated that a six inch drainage pipe and put in a dry well that has fell into the brook and it is now in the brook and this street is private and due to believing it be safety issue he requested that sewer due an emergency repair.

Ms. Smith asked if Commission wants to issue emergency certification to DPW and request staff advise the property owner of erosion problem.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner McKone the Commission voted 5-0 to issue an emergency certification.

8. Requests for Certificate of Compliance:

a. 125 Olean Street – Lots 3 & 4 – (CC-2004-034 & DEP #349-800)

Applicant appeared on behalf of the application

Upon a motion by Commissioner McKone and seconded by Commissioner Fields the Commission voted 5-0 to issue a Certificate of Compliance.

b. 30 Nippnapp Trail aka Greenwood Street Landfill (CC-2012-046, 2013-016, & DEP# 349-1042)

Brian Huntley appeared on behalf of the application.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Fields the Commission voted 5-0 to issue a Certificate of Compliance.

c. 61 Dawson Road (CC-1998-041 & DEP# 349-584)

1. 283 Lake Avenue (aka Lake Park, Quinsigamond State Park) (MBL 41-047-00004) (CC-2016-057)

Application: Request for Determination of Applicability

Applicant: Massachusetts Department of Conservation and Recreation

Project: To seek determination as to whether or not the proposed work associated with trail maintenance, including the repair and paving of existing pathways, resurfacing of existing paved pathways, and the addition of erosion prevention measures, along with related site work, on the southern portion of property located at 283 Lake Avenue, is subject to the Commission's jurisdiction.

Jurisdiction: The Massachusetts Wetlands Protection Act & the City of Worcester Wetlands Protection Ordinance – The proposal shall occur within the 100' buffer zone to the bank of Lake Quinsigamond and an unnamed, partially culverted, intermittent stream and associated bordering vegetated wetlands and within the stormwater protection zone

Public Hearing Opening Deadline: WPA – n/a; WPO – 10/29/2016

Constructive Grant Deadline: WPA –10/5/2016; WPO – n/a

Paul Gangi from DCR appeared on behalf of the application. He stated that this is for some pathway repairs and some paving and he would like to know if the City would like to know co-sponsor the application and also to request for a RDA.

Ms. Smith stated that first request is to whether the Commission would like to waive the fee.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Fields the Commission voted 5-0 to waive the fee.

Mr. Gangi reviewed the scope of work.

Chair Charpentier stated his biggest concern is at the top of the steep bank. Mr. Gangi stated that plan for that area is to repaved with asphalt at the existing width.

Chair Charpentier asked if they had any concern with additional runoff. Mr. Gangi stated that he didn't anticipate any.

Ms. Smith stated that the legal notice did not mention the paving but the type of the work is similar that if abutter wish to come to attend the meeting they would have had noticed.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Fields the Commission voted 5-0 to issue a Negative Determination of Applicability.

9. Update Regarding Electronic Submissions per Amendment to the City's Wetlands Protection Regulations

Ms. Smith stated that staff had provided copy to the Commission of what was approved.

10. Approval of Updated Application Checklist to Require Electronic Submissions

Upon a motion by Commissioner McKone and seconded by Commissioner Fields the Commission voted 5-0 to approve the electronic submission.

11. Emergency Certification for Mill Street Bridge Work – Between Park Avenue and Main Street

Ms. Smith stated that an emergency certification had been issued but informed applicant that they still need to submit a filing.

Upon a motion by Commissioner McKone and seconded by Commissioner Berg Powers the Commission voted 5-0 to issue an emergency certification.

Other Business:

12. Communication:

- a. Notice of Treatment for Crystal Park Pond (DEP# 349-425) on 9/21/2016; from Solitude Lake Management; received 9/19/2016. No comment.
- b. Notice of Treatment for Little Indian Lake (DEP# 349-678) on 9/21/2016; from Solitude Lake Management; received 9/19/2016.-No comment.
- c. Communication about and photos of 655 Salisbury Street Pond from Jamie Vander Salm – re: 0 (aka 697 or Lot 7) Salisbury Street (CC-2015-070); received 8/26/2016 & 9/12/2016. No comment.
- d. Membership Update for FY 2017; from the Massachusetts Association of Conservation Commissions; dated 9/12/2016. No comment.
- e. Request for Comments re: Accreditation Application to Land Trust Accreditation Commission; from Greater Worcester Land Trust; received 9/19/2016. Ms. Smith stated that they have asked Greater Land Trust if they wanted to staff to draft a letter to the Greater Land Trust.

The Commission asked that the Greater Worcester Land Trust provide a template of what they are requesting.

Upon a motion by Commissioner McKone and seconded by Commissioner Berg Powers the Commission voted 5-0 to ask that a Letter of Support be drafted.

13. Land Acquisition and Land Management:

- a. Draft Policy on Priority Property Acquisitions Criteria
Ms. Smith stated that the item was not ready yet.
- b. Potential Property Acquisitions (via Tax Title Foreclosure):
 - i. 64 & 66 Rockrimmon Road (MBL 47-007-10-12 & 47-007-00013)
 - ii. 6 Passageway Six (MBL 42-023-00124)

Chair Charpentier stated he felt comfortable moving forward on Rockrimmon Road as that had already been discussed at previous meetings.

Commissioner Berg Powers stated he was comfortable with both.

Upon a motion by Commissioner McKone and seconded by Commissioner Berg Powers that the Commission pursue both properties.

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

15. Signing of Decisions

Adjournment

Upon a motion the Commission voted 5-0 to adjourn the meeting at 9:36 p.m.