

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

February 27, 2012

WORCESTER CITY HALL – LEVI LINCOLN ROOM

Conservation Commission Members Present:

Stefanie Wood – Chair
Jeremy Theerman – Vice Chair
Jordan Berg Powers
Paul Franco
Jack Donahue
Mia McDonald
Joseph Wanat (absent)

Staff Present:

Jonathan P. Gervais, Department of Public Works & Parks
Luba Zhaurova, Division of Planning & Regulatory Services

CALL TO ORDER: The Chair called the meeting to order at 5:30 pm.

APPROVAL OF THE MINUTES: Upon a motion by Mr. Berg Powers and seconded by Mr. Franco, the Commission voted 6-0 to approve the 1/23/2012 minutes.

OTHER BUSINESS:

1. Timothy McGourthy, City of Worcester Chief Development Officer presented an Economic Development Overview to the Commission. Mr. McGourthy welcomed the Commission to the Executive Office of Economic Development and summarized current development projects, policies and directions that the City is taking. Mr. McGourthy thanked the Commission for its service and commitment. He covered topics of downtown projects, targeted investments, neighborhood revitalization strategy areas, and Economic Development projects website. Mr. Berg Powers asked if the public will have an opportunity to comment on some of the projects that were described. Mr. McGourthy stated that it depends on a project. He stated that Neighborhood Revitalization projects obtain public participation through it local partners; that many private development projects come in front of Boards for review and approval (e.g. Conservation Commission, Planning Board, Zoning Board of Appeals, etc); and that several planning categories require public charettes to elicit public feedback. Mr. McGourthy stated that there is no one single master plan of the City's development, but rather a compilation of smaller projects and plans. Mr. Berg Powers requested that a copy of Mr. McGourthy's presentation is made available on line. Mr. McGourthy stated that he will make sure that an updated version is posted on www.worcestermass.org.

UNFINISHED BUSINESS:

Public Meeting

2. **2 Sears Island Drive - Request for Determination of Applicability** (CC-2012-002): Lee DeMatos of Helping Hands Home Service, representative for Lisa Benoit, the applicant, stated that the applicant is seeking to construct a 2nd floor 10ft by 16ft sun room over the existing 1st floor dining room. He stated that no soil disturbance will result from the project and that it will take about 2 weeks to complete. Mr. Dematos stated that a construction fence is proposed near the work area and Indian Lake. Chair Wood stated a concern for construction debris that could enter the Indian Lake and requested that in addition to a construction fence, haybales and silt fence are also installed.

Upon a motion by Mr. Theerman and seconded by Mr. Franco, the Commission voted 6-0 to issue a negative Determination of Applicability with a condition that in addition to the proposed construction fence, a silt fence and haybales are also provided in the same area.

NEW BUSINESS:

Public Hearing

3. **40 Walcott Street – Notice of Intent under Wetlands Protection Ordinance** (CC-2011-047): Hossein Haghanizadeh of HS&T Inc., representative for Polar Beverages, the applicant, stated that the applicant is seeking to construct a parking lot with associated drainage facility associated with the Polar Beverages manufacturing. He stated that the applicant will provide 47 parking spaces (as compared to the originally proposed 53). Ms. Zhaurova requested that the applicant provides final revised plans for the Conservation Commission file that are identical to the Planning Board-approved final revised plans.

Upon a motion by Mr. Theerman and seconded by Mr. Franco, the Commission voted 6-0 to close the Public Hearing. Issuance of the Order of Conditions was held to the end of the meeting.

List of Exhibits:

Exhibit A: Notice of Intent for 40 Walcott Street; prepared by Brian LaForte; received December 22, 2011.

Exhibit B: Plan titled “Parking – Drainage for Walcott Street – Polar Beverages”; prepared by HS&T Group, Inc; dated July 20, 2011 (a), revised February 6, 2012 (b).

Exhibit C: Hydrology & Stormwater Management Report; prepared by HS&T Group; dated October 5, 2011 (a); revised February 3, 2012 (b).

Exhibit D: Memorandum from Department of Public Works to Conservation Commission; re: Walcott Street Polar Beverages - NOI; dated January 19, 2012.

4. **30 Glennie Street – Notice of Intent under Wetlands Protection Ordinance** (CC-2012-003): Michael Andrade of Graves Engineering, Inc., representative for Grove Street Properties II, LLC, stated that the applicant is seeking to construct a second building and associated grading, landscaping and utilities on a developed site. In response to the DPW&P memo, he stated that there will be an increase in impervious surface of about 1,000 SF and that 2 additional dry walls

should offset this increase. Mr. Andrade stated that he submitted revised stormwater calculations and revised plans to that effect to DPW&P. Mr. Gervais confirmed receiving these documents and stated that he believed the applicant sufficiently addressed DPW&P comments. Chair Wood requested that the applicant submits revised plans and stormwater calculation for the file.

Upon a motion by Mr. Theerman and seconded by Mr. Donahue, the Commission voted 6-0 to close the Public Hearing. Issuance of the Order of Conditions was held to the end of the meeting.

List of Exhibits:

Exhibit A: Notice of Intent for 30 Glennie Street; prepared by Michael Andrade of Graves Engineering, Inc.; submitted February 3, 2012.

Exhibit B: Definitive Site Plan – 30 Glennie Street; prepared by Graves Engineering, Inc.; dated January 27, 2012 (a); revised February 28, 2012 (b).

Exhibit C: Stormwater Report for 30 Glennie Street; prepared by Graves Engineering, Inc.; dated January 27, 2012 (a); revised February 27, 2012 (b).

Exhibit D: Memorandum from Department of Public Works to Conservation Commission; re: 30 Glennie Street – NOI; dated February 24, 2012.

5. **1212 (aka 1220 & 1222) Main Street - Notice of Intent under Wetlands Protection Ordinance (CC-2012-004):** Scott Morrison of EcoTec, representative for Botany Bay Construction Company, the applicant, stated that the applicant is seeking to construct a walkway and a playground in the rear of the property with access from Bishop Avenue. Mr. Morrison described proposed sedimentation and erosion control measures and stated that there will be no change in water flow on site as a result of the project. Mr. Berg Power asked if the project will result in increase of impervious surface. Mr. Morrison stated that he believed there will be a slight decrease due to a shortening of the concrete path. He stated that some trees will need to be removed and that no new vegetation is proposed.

Upon a motion by Mr. Theerman and seconded by Mr. Franco, the Commission voted 6-0 to close the Public Hearing. Issuance of the Order of Conditions was held to the end of the meeting.

List of Exhibits:

Exhibit A: Notice of Intent for 1212 Main Street; prepared by Botany Bay Construction Company; submitted February 10, 2012; includes Erosion Control Protocol by EcoTec, Inc., dated February 8, 2012 (A-a).

Exhibit B: Proposed Grading Plan and Detail Sheet for Our Lady of the Angels Parish at 1212 Main Street; prepared by Finlay Engineering Services; dated February 1, 2012.

Exhibit D: Memorandum from Department of Public Works to Conservation Commission; re: 1212 Main Street – NOI; dated February 24, 2012.

OTHER BUSINESS:

6. **Greater Worcester Land Trust's Proposal – Tettaset Hill Habitat & Access Project:** Colin Novick of Greater Worcester Land Trust, stated that GWLT has purchased a parcel of land (0 Esper Drive, MBL 48-030-00003) and is seeking a reimbursement grant from the state's Department of Conservation Services for this purchase. He stated that a condition of the grant is for the City to take ownership of the land and to grant a Conservation Restriction to GWLT. Mr. Novick stated that this parcel was approved for development several years ago which did not take place due to a slowing economy. He described the importance of this parcel in terms of its ecological diversity, presence of a vernal pool, and opportunity for linking to other nearby open spaces owned by MassAdubon, City of Worcester's Conservation Commission and Department of Public Works & Parks Department. Mr. Novick submitted a draft Conservation Restriction language modeled on the previously approved Cascading Waters Conservation Restriction. He stated that GWLT's intent is to keep the land largely in its natural state, with some trails and signs and a 500-ft buffer around the vernal pool for its protection.

Chair Wood expressed strong support for the project and asked that staff submits the Conservation Restriction draft for a legal review to the City's Law Department.

Harlan Chaput, an abutter at 15 Esper Drive, stated that he had no objections to the project and asked if GWLT will provide parking. Mr. Novick stated that he is not sure and that he thinks a trail head could be located at the intersection of Midgley Avenue and Esper Street. Mr. Novick stated that one of the names for the land that are considered by GWLT is Tettaset Ridge.

Upon a motion by Chair Wood and seconded by Mr. Franco, the Commission voted 6-0 to request that a draft Conservation Restriction submitted by Mr. Novick is submitted to the City Solicitor for review and that a revised Conservation Restriction is submitted to the Commission for the next regularly scheduled meeting.

List of Exhibits:

Exhibit A: Tettaset Hill Habitat & Access Project Description and attachments relevant to the Department of Conservation Services Grant; received from the Greater Worcester Land Trust; February 8, 2012.

Exhibit B: Proposed Conservation Restriction Language; received from the Greater Worcester Land Trust; February 8, 2012.

7. **Enforcement Order Update – 1119-1121 Grafton Street – (CC-2006-088):** Chair Wood stated that she was informed by the City Solicitor that the original Order of Conditions issued for this project had an error due to not stating that the filing came under the Wetlands Protection Ordinance, which affects the Commission's ability to ticket for non-compliance. She asked if a corrected Order can be issued. Ms. Zhaurova stated that a new hearing would need to be held for that to take place, and suggested an alternative path of action as following: if the Commission's intent is to give the owner one last opportunity to comply, it could combine that with a contingent request that the Law Department seek injunctive relief to require the removal of the noncompliant unit and installation of a compliant system.

Mr. Gervais stated that he spoke to Hobbs Engineering a couple of days after the January 23, 2012 meeting who indicated that they had not commenced testing of the unit and that they need 30 rain events to demonstrate whether or not the unit meets Massachusetts Stormwater Standards.

Ms. McDonald asked how long it usually takes to get an order. Mr. Gervais stated that a lead time on ordering is 6-8 weeks and suggested that the Commission requests proof of purchase from the applicant by the next meeting on March 19th, 2012.

Upon a motion by Chair Wood and seconded by Mr. Theerman, the Commission voted 6-0 to send a letter to the owner requesting that he provide a proof of purchase of the compliant unit prior to the upcoming hearing on March 19, 2012 along with information on the lead time as to when the unit will be delivered. In case of failure of receiving the requested documentation, the Commission will request the Law Department to seek injunctive relief through Superior Court and/or fines under the Wetlands Protection Act at its upcoming meeting.

List of Exhibits:

Exhibit A: Letter from Quinn Engineering, Inc. to Conservation Commission; re” 1119-1121 Grafton Street; dated 11/14/2011.

Exhibit B: Letter from Quinn Engineering, Inc. to Conservation Commission; re” Stormwater Treatment 1119-1121 Grafton Street; dated 11/29/2011.

Exhibit C: Memorandum from Joel J. Fontane of Planning & Regulatory Services Division to Conservation Commission; re: 1119-1121 Grafton Street (CC-2006-088, DEP File # 349-922) – Enforcement Strategy; dated 2/27/2012.

8. **Enforcement Order - 187 Greenwood Street** (CC-2012-001): Scott Goddard of Goddard Consulting, LLC, representative for InTransit Container Facility, operating on the property, stated that per direction of the Commission, his company was retained to study the area and to ascertain the original conditions of the site and to describe the current conditions. Mr. Goddard stated that prior to work conducted without permits by Greenwood LLC, the owner of the property, there was a large pond with an outlet stream to the east and what he believes an outlet control system. He stated that he believed fill was stockpiled on site. He stated that he was able to delineate the western edge of the bordering vegetated wetland, but he has less certain about the accuracy of the eastern edge. Mr. Goddard estimated that ~2,500 SF of bordering vegetated wetland alteration and ~380 linear feet of bank alteration took place on site.

Ms. McDonald left the meeting at 7:00 pm.

Mr. Goddard summarized results of 4 fill analysis tests and stated that type of fill appeared to be uniform. He stated that one of the tests came back with high arsenic and lead levels, but that a repeat test on the same sample came back normal.

Chair Wood stated that she needs time to review the report submitted by Mr. Goddard and requested that Mr. Goddard proposes a plan of action with respect to restoration of the site.

Mr. Goddard stated that all activity has ceased on site currently, that it is flat and causes no erosion. He asked if the Commission wants the owner to operate under the Enforcement Order or if a Notice of Intent is more desirable.

Chair Wood expressed concern with not having enough information about original conditions on site. She expressed preference for a Notice of Intent filing. Mr. Theerman concurred. Mr. Franco stated that he preferred to keep the Enforcement Order open. Mr. Goddard suggested that Order of Conditions can be kept until Order of Conditions is issued. He stated that fill was placed by InTransit Containers.

Mr. Donahue recused himself from the discussion.

Chair Wood requested that Mr. Goddard talk to the owner and ‘formulate ideas’ regarding plan of action with respect to restoring the site.

Mr. Franco left the meeting at 7:25 pm.

9. **Enforcement Order Update - 14 Ada Street:** Ms. Zhaurova stated that staff is looking into possibilities of allowing Mr. Aubin on City’s property with a purpose of clearing the stream bed.

10. **12 Foxboro Street** – Informal discussion about a potential project: Marcus Pinney, wetland scientist, and Daniel Hill, an attorney, presented a concept development plan of a single-family home and wetland alteration and mitigation, and establishing new 15-ft and 30ft wetland buffers. Chair Wood asked about the grade of the property. Mr. Pinney stated it is “fairly level”. Chair Wood asked how the existing wetland is recharged. Mr. Pinney stated that he believes the area might have been a historic fill. Attorney Hill stated that this tax title property was acquired by his client and that there is still a question is to whether the stream is perennial or intermittent. Chair Wood stated that this project ‘warrants a discussion and a good solid look’. She stated that if the applicant files early, a site walk can be accommodated before the first hearing. Mr. Pinney stated that the stream connects to Blackstone River and that he is anticipating less than 1,000 SF of fill for this project.

Mr. Gervais stated that wetland needs to be replicated in the ratio of 1:2, and not 1:1.5 as shown on the concept plans.

List of Exhibits:

Exhibit A: Conceptual Plan for 12 Foxboro Street; received February 27, 2012.

Exhibit B: Site Photographs for 12 Foxboro Street; dated February 2, 2012; received February 27, 2012.

11. **25 Ellis Drive – Informal discussion / potential for Enforcement Order:** The owner was not present and the Chair instructed staff to send a letter requesting the owner to be present at the next meeting.

12. **Potential for an Enforcement Order - Weasel Brook’s culvert** (in the vicinity and north of the point where the culvert crosses under Brooks Street near the Boston & Maine railroad bridge): Mr. Gervais stated that upon inspection of the site, he found that the issue has been resolved. He stated that the train trestle was removed and the stream channel was cleaned-up. Mr. Gervais stated that that he discovered that this work was done by the Railroad Company in 2010.

13. **Request for Certificate of Compliance – 853-855 West Boylston Street (CC-2002-053):** Mr. Gervais stated that he inspected the site and was recommending approval of issuance of Certificate of Compliance. Upon a motion by Mr. Theerman and seconded by Mr. Berg Powers, the Commission voted 4-0 to issue a Certificate of Compliance for 853-855 West Boylston Street.
14. **Request for Certificate of Compliance – 71 Pullman Street (CC-2003-083):** Mr. Gervais stated that he inspected the site and was recommending approval of issuance of Certificate of Compliance. Upon a motion by Mr. Theerman and seconded by Mr. Berg Powers, the Commission voted 4-0 to issue a Certificate of Compliance for 71 Pullman Street.
15. **Discussion & Issuance of Orders of Conditions as relevant to a hearing closed 1/25/2012:** Upon a motion by Mr. Donahue and seconded by Mr. Berg Powers, the Commission voted 4-0 to issue Order of Conditions for Vicinity of Burncoat Park Pond (North Service Road and I-290) (70 North Parkway, MBL 22-INX-00001) (CC-2011-046).

List of Exhibits:

Exhibit A: Notice of Intent for Impaired Waters Remediation, Burncoat Park Pond; prepared by Tetra Tech; submitted December 20, 2011.

Exhibit B: Maps prepared by Tetra Tech:

- (1) Site Location Map
- (2) NHESP Map

Exhibit C: Notice of Intent Plans; dated November 4, 2011.

Exhibit D: Memorandum from Department of Public Works to Conservation Commission; re: Impaired Waters Remediation, Burncoat Park Pond – NOI; dated January 19, 2012.

Exhibit E: Memorandum from TetraTech to Worcester Department of Public Works; re: Worcester, Massachusetts; Impaired Waters Remediation Burncoat Park Pond (MA 51012), File Number: 606279; Drainage Analysis; dated January 23, 2012.

Exhibit F: Stormwater Report; dated January 23, 2012.

16. **Discussion & Issuance of Orders of Conditions as relevant to hearings closed 2/27/12:** Upon a motion by Mr. Donahue and seconded by Mr. Berg Powers, the Commission voted 4-0 to issue Orders of Conditions for:
 - a) 2 Sears Island Drive - Request for Determination of Applicability (CC-2012-002)
 - b) 40 Walcott Street – Notice of Intent under Wetlands Protection Ordinance (CC-2011-047)
 - c) 30 Glennie Street – Notice of Intent under Wetlands Protection Ordinance (CC-2012-003)
 - d) 1212 (aka 1220 & 1222) Main Street - Notice of Intent under Wetlands Protection Ordinance (CC-2012-004)

ADJOURNMENT

Upon a motion by Mr. Donahue and seconded by Mr. Berg Powers, the Commission voted 4-0 to adjourn the meeting at 8:00 pm.