

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

October 7, 2013

WORCESTER CITY HALL – LEVI LINCOLN ROOM

Conservation Commission Members Present: Stefanie Wood, Chair
Jeremy Theerman, Vice-Chair
Paul Franco
Joseph Charpentier

Members Absent: Jack Donahue
Jordan Berg Powers

Staff Present: Christopher Gagne, Department of Public Works & Parks
Nancy Tran, Division of Planning & Regulatory Services

CALL TO ORDER:

The Chair called the meeting to order at 5:30 p.m.

APPROVAL OF THE MINUTES –

7/15/13 – Held

**REQUESTS FOR CONTINUANCES, EXTENSIONS OF TIME, POSTPONEMENTS,
WITHDDRAWALS**

UNFINISHED BUSINESS

Public Hearing

1. 74 Bay Edge Drive (CC-2013-044) – Request for Determination of Applicability:

Chair Wood noted the applicant was not in attendance and discussed the issue regarding whether the built structure is a dock or deck. She recommended referring the applicant to Massachusetts General Law Chapter 91 for guidance and to file a Notice of Intent.

Commissioner Franco suggested deferring the matter until the applicant was present.

Chair Wood recommended that staff share the guidelines with the applicant prior to the next meeting.

Commissioner Theerman recommended moving forward with the Request for Determination since it was not an Enforcement Order.

John Flanagan, owner of 74 Bay Edge Drive, joined the meeting and stated that a dock and steps were constructed along Lake Quinsigamond due to safety concerns over the cliff. He said there are posts and beams in the water and that the entire structure is removable.

Commissioner Charpentier asked whether the support posts were connected to the dock and sit on the lake floor. Mr. Flanagan said the posts are set in concrete blocks that hold the structure into place. The concrete blocks are removable and there were no pylons dug into the lake floor.

Commissioner Theerman inquired whether the structure could be converted into a floating dock. Mr. Flanagan stated that it was possible with some changes.

Chair Wood provided Mr. Flanagan Massachusetts General Law Chapter 91 information and explained that MassDEP has specific requirements regarding docks. Flanagan requested a continuance in order to allow time to review the documents.

Upon a motion by Commissioner Charpentier and seconded by Commissioner Franco the Commission voted 4-0 to continue the item to October 28.

List of Exhibits:

Exhibit A: Request for Determination of Applicability Application for 74 Bay Edge Drive submitted by Jon Flanagan; received September 3, 2013.

Exhibit B: Memorandum from the City of Worcester Department of Public Works & Parks to the Conservation Commission; re: 74 Bay Edge Drive- RDA; dated September 13, 2013.

NEW BUSINESS

2. Salisbury Streets Lots 4-10 (CC-2013-043) – Notice of Intent:

Engineer Patrick Healy of Thompson-Liston Associates, Inc. appeared on behalf of Capital Group Properties LLC, for its Notice of Intent application to construct seven single-family homes along Salisbury Street, subject to the Massachusetts Wetlands Protection Act and the City of Worcester Wetlands Ordinance. Mr. Healy summarized changes to the project since the last filing which include: reduction of work within the buffer zone, limit of work changes, reduction of frontage for some properties, relocation of some homes further away from the wetland buffer, increased infiltration system sizes on each lot, relocation of City drainage discharge, addition of bio retention cells and modification of stormwater management techniques.

Commissioner Theerman asked if future rain garden maintenance were considered following lot sale. He also asked if there were a way to permanently mark the areas to ensure maintenance. Mr. Healy said a deed restriction will be used to ensure system maintenance and that he will submit a copy for the Commission's input. Chair Wood suggested requiring submission of a yearly statement to the City regarding maintenance as part of the deed restriction.

Chair Wood asked if bounds will be installed to ensure that there is no future creeping into the wetlands. Mr. Healy was amenable to the idea and suggested tree tags instead of bounds.

Mr. Charpentier inquired about Lot 7's drain locations and Chair Wood asked whether they could be moved further away from the wetland boundary. Mr. Healy explained that the two pipes shown on Lot 7 are the subdrains for the bioretention cell discharge and cannot be relocated due to slope.

Atty. Vander Salm, Trustee for 655 Salisbury Street, recommended that the Commission prohibit construction on Lot 7 due to the effects it may have on the wetland. He stated that based on the State's *Structural BMP: Specifications for the Massachusetts Stormwater Handbook. Vol. 2, Ch. 2*, the bioretention cell installation on Lot 7 is improper given the 40% slope. He questioned whether the maintenance of the stormwater management systems will continue with the new owners given the standards and related cost.

Mr. Healy responded stating that Lot 7's slope is not extreme and that bioretention cells will be installed on level ground following grading to treat slope runoff. Mr. Healy offered to share the breakdown of the costs associated with the maintenance.

Chair Wood asked that the cost breakdown for maintenance and a draft example of the deed restriction be submitted to the Department of Planning and Regulatory Services.

Environmental scientist Scott Goddard of Goddard Consulting, also representing Capital Group Properties, LLC, stated that he believes that the project meets the standards of the Massachusetts Wetlands Protection Act and the City of Worcester Wetlands Ordinance.

Atty. Vander Salm expressed his disagreement with the statements made by Mr. Goddard.

Upon a motion by Commissioner Theerman and seconded by Commissioner Charpentier the Commission voted 4-0 to continue the item to November 18 so the applicant may provide the deed restriction example and cost estimates for bioretention cell & tree box maintenance.

List of Exhibits:

- Exhibit A: Notice of Intent for Salisbury Street submitted by Capital Group Properties, LLC; received August 28, 2013.
- Exhibit B: Definitive Site Plan for Single-Family Lots 4-10; Prepared by Thompson-Liston Associates, Inc.; dated November 23, 2011; last revised July 26, 2013.
- Exhibit C: Memorandum from the City of Worcester Division of Planning and Regulatory Services to the Conservation Commission; re: Salisbury Street – Lots 4-10 (CC-2013-43); dated October 7, 2013.
- Exhibit D: Letters and Exhibits from Atty. Vander Salm; dated May 9, 2013 and received October 4, 2013.

3. 545 Salisbury Street (CC-2013-045) – Request for Determination of Applicability:

Environmental scientist Scott Morrison of EcoTec Inc. appeared on behalf of St. Mary's Albanian Orthodox Church for its Request for Determination of Applicability application to determine whether the proposed work for sewer connection installation and parking lot repaving on property located at 545 Salisbury Street are subject to the jurisdiction of the Wetlands Protection Act or Wetlands Protection Ordinance.

Mr. Morrison said the project on the adjacent property was recently approved and that the present project proposes to tie into an existing sewer manhole across from Illyrian Gardens. He noted that as part of a state mandate, the Illyrian Gardens parking area must be repaved every two years.

Mr. Charpentier clarified that the paving work would be done on the parking lot to the west of the west of the current work.

Upon a motion by Commissioner Theerman and seconded by Commissioner Franco the Commission voted 4-0 to issue a Negative Determination of Applicability.

List of Exhibits:

- Exhibit A: Request for Determination of Applicability Application for 545 Salisbury Street submitted by St. Mary's Albanian Orthodox Church; received September 6, 2013.

Exhibit B: Site Development Plan for 501 % 509 Salisbury Street; prepared by Quinn Engineering; dated January 25, 2013; last revised September 5, 2013; received September 6, 2013.

Exhibit C: Memorandum from the City of Worcester Department of Public Works & Parks to the Conservation Commission; re: 535 Salisbury Street- RDA; dated October 4, 2013.

4. 280 Mill Street (CC-2013-046) – Notice of Intent:

Engineer David Petravage of HS&T Group, Inc. appeared on behalf of Jerry Brooks on a Notice for Intent application to construct two garages (1,800 SF and 576 SF) at 280 Mill Street associated with a single-family house on an adjacent property (276 Mill Street).

Mr. Petravage requested a postponement to the October 28 meeting in order to revise plans showing compensatory flood storage.

Upon a motion by Commissioner Theerman and seconded by Commissioner Charpentier the Commission voted 4-0 to postpone the item.

List of Exhibits:

Exhibit A: Notice of Intent for 276 & 280 Mill Street submitted by Jerry Brooks; received September 17, 2013.

Exhibit B: Wetland Resource Evaluation, 280 Mill Street; prepared by EcoTec, Inc. dated March 31, 2013; received September 17, 2013.

Exhibit C: Plan of Land for 276 Mill Street; prepared by HS&T Group, Inc. dated September 12, 2013; received September 17, 2013.

Exhibit D: Memorandum from the City of Worcester Division of Planning and Regulatory Services to the Conservation Commission; re: 276 Mill Street (CC-2013-046); dated October 4, 2013.

5. 5 Pickwick's Circle (CC-2013-047) – Notice of Intent:

Mr. Morrison of EcoTec Inc. appeared on behalf of appeared on behalf of the Indy Lake Trust concerning a Notice of Intent to construct a single-family home with associated site work that includes a driveway, retaining wall and grading. He stated the single family home would be located within the 100 foot buffer zone and that hay bales and silt fences would protect Indian Lake during construction. Mr. Morrison added that the closest limit of work point would be ~20 feet from Indian Lake, with a 45-foot buffer zone average.

Commissioner Charpentier asked whether there would be drainage mitigation given the site's slope. Mr. Morrison stated that there may be a need for temporary basins.

Commissioner Theerman asked whether the wall was a retaining wall, to which Mr. Morrison responded yes and that he was unsure about its drainage method.

Commissioner Charpentier asked about the erosion controls that would be employed on site during construction. Mr. Morrison stated they propose standard hay bales and silt fence in addition to a temporary catchment area.

Mr. Gagne inquired whether a pump sewer system would be installed and where the onsite septic system would be located. Mr. Morrison stated the intent would be to install a pump system.

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

List of Exhibits:

- Exhibit A: Notice of Intent for 5 Pickwick's Circle submitted by Indy Lake Trust; received September 17, 2013.
- Exhibit B: Site Plan for Pickwick's Circle; prepared by B&R Survey, Inc. dated September 13, 2013; received September 17, 2013.
- Exhibit C: Memorandum from the City of Worcester Division of Planning and Regulatory Services to the Conservation Commission; re: 5 Pickwick's Circle (CC-2013-047); dated October 4, 2013.

6. Pierce Avenue (between Varney & Whitten Streets), Burncoat Gardens – Phase IV (CC-2013-048) – Notice of Intent:

Engineer Chuck Scott of CFS Engineering appeared on behalf of Goldthwaite Holdings, LLC for a Notice of Intent to construct 378 linear feet of roadway on Pierce Avenue (currently a paper street between Varney and Whitten streets). Mr. Scott stated the proposed project is a roadway that will connect Varney Street and Whitten Street to provide frontage for five lots. The roadway will be constructed outside the 30-ft buffer zone. He said erosion control measures will be installed along the 15-ft no disturbance zone. Mr. Scott stated utilities are installed on Pierce Avenue but that there is no pavement in place.

Commissioner Franco asked about the status of Pierce Avenue and whether it was a public way. Mr. Scott stated it was currently overgrown and under 81G provisions they would like to make it passable and into a public way with adequate drainage.

Commissioner Theerman asked whether lot be buildable or if a variance will be needed. Mr. Scott stated it would be buildable with a stepped foundation and no garage.

Jill Chaplis, owner of 18 Whitten Street, stated that there are numerous sink holes, underground streams, and ruptured pipes. She would like to see the Commission limit large trucks going down Whitten Street because of these issues.

David Wheeler, owner of 22 Stratton Road, expressed his concern with the potential effects on the wetlands. Mr. Scott stated there is no intent to extend Whitten Street any further than what was currently proposed.

Bob Klauke, owner of 29 Goldthwaite Road, expressed concern about ponding due to potential water increase to the sewer system. Mr. Scott stated there would be improvements to the sewer system and the amount of flow coming through Goldthwaite would be reduced.

Commissioner Theerman stated his preference for the roadway to be terminated at Lot 37. Mr. Scott stated work would only take place in the buffer zone.

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

List of Exhibits:

- Exhibit A: Notice of Intent for Pierce Avenue, Phase IV – Burncoat Gardens; submitted by Goldthwaite Holdings, LLC; received September 18, 2013.
- Exhibit B: Plans for Burncoat Gardens – Phase IV; prepared by CFS Engineering; dated March 11, 2010; received September 18, 2013.

Exhibit C: Memorandum from the City of Worcester Division of Planning and Regulatory Services to the Conservation Commission; re: 5 Burncoat Gardens (CC-2013-048); dated October 4, 2013.

Other Business

7. Lake Quinsigamond Commission Request for Letter of Support – re: Continued drawdown of Lake Quinsigamond and Flint Pond:

Stefanie Wood appeared on behalf of the Lake Quinsigamond Commission stating that there have been annual drawdowns of the lake. Two years ago, an Order of Conditions extension was requested and approved by both the City of Worcester and Town of Shrewsbury under the Governor's State Permit Extension Act. The Town of Grafton's Order of Conditions was due to expire in the next few weeks and a request will be presented to Grafton's Conservation Commission. Ms. Wood requested a letter from the Worcester Conservation Commission to support the continued drawdown as a key part of the vegetative management for Lake Quinsigamond and Flint Pond.

Commissioner Theerman expressed his concern regarding the lack of quorum and suggested that Ms. Wood request a letter from DPW&P. Commissioner Theerman asked whether he would have the authority to write a letter with the City's letterhead as the sitting chair. Ms. Tran indicated she would research on the matter. In the absence of proper authority, the Commission took no action and Commissioners will draft letters as individual citizens.

8. Enforcement Order Update– 25 Ellis Drive (CC-EO-2013-002):

Ms. Tran stated that the owner, Sotirios Georgiadis, submitted a bond for \$10,000 earlier in the day and requested a continuance until the next meeting to complete the work.

Mr. O'Connor expressed his concern with the lack of changes to the site. He said the bond was supposed to be submitted and work completed by September 30, 2013.

Commissioner Franco recommended putting the item on the next agenda and sending a letter to the applicant.

Upon a motion by Commissioner Franco and seconded by Commissioner Theerman the Commission voted 4-0 to accept the bond continue the matter until October 28, 2013 with a follow up by DPW&P.

List of Exhibits:

Exhibit A: E-mail to Luba Zhaurova from Sotirios Georgiadis dated September 27, 2013.

Exhibit B: 25 Ellis Drive bond for \$10,000.00 dated October 7, 2013.

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

Commissioner Charpentier stated he was concerned with turbidity reading on August 9, 2013 but said it appears that enforcement orders are being followed.

Upon a motion by Commissioner Theerman and seconded by Commissioner Franco the Commission voted 4-0 to continue the matter until the next meeting.

List of Exhibits:

Exhibit A: Letter and turbidity sampling results from EcoTec, Inc. to the Conservation Commission dated September 20, 2013.

10. Enforcement Order Update – 11 Brookshire Road (CC-EO-2013-004):

Karen Oates, owner of 11 Brookshire Road, stated she is unsure what the Commission would recommend regarding remediation of vegetation near the brook.

Chair Wood stated she would like to set up a site visit to determine the best course of action.

Commissioner Theerman suggested that Ms. Oates provide a visual to illustrate what she would like to plan along the brook.

Commissioner Charpentier asked whether the homeowner is allowed to plant vegetation within the wetland buffer to which Chair Wood said it was needed to stabilize the area. She recommended that Ms. Oates provide a list of appropriate species to be planted at the time of the site visit.

The item was continued to October 28 for further updates.

List of Exhibits:

Exhibit A: Letter from Karen Oates to the Conservation Commission dated September 10, 2013 and received September 11, 2013.

11. Update on Encroachment Issue – 42 Amanola Avenue:

Mr. Gagne stated that DPW&P attempted to contact USDA regarding the situation but was unable to due to the government closure, no answer has been provided.

Commissioner Charpentier stated that there must be an answer regarding the felled trees before the Commission can move forward. The item was continued to October 28 for further updates.

12. Emergency Certification – Kenneth F. Burns Memorial Bridge – Issued 9/25/2013:

Chair Wood stated that a significant crack was found on an arch on the existing portion of bridge resulting in a lane closure and an emergency repair, which has been completed.

List of Exhibits:

Exhibit A: WPA Emergency Certification Form for the Kenneth F. Burns Memorial Bridge dated September 25, 2013.

Exhibit B: E-mail from Alex Kasprak of MassDOT dated September 25, 2013 re: Burns Bridge Emergency Repair Work

Exhibit C: Design Sketches Burns Bridge Emergency Repair Work

13. Request for Certificate of Compliance – 15 Ararat Street (CC-2010-001):

Steve Mirick of Mirick & Daniels, Inc. located at 15 Ararat Street stated he is unsure why this matter is on the Commissions agenda.

Mr. Gagne stated he found no issue with the certificate of compliance.

Upon a motion by Commissioner Franco and seconded by Commissioner Theerman the Commission voted 4-0 to issue a Certificate of Compliance.

List of Exhibits:

Exhibit A: Application for Certificate of Compliance for Public Roadway Adjacent to 15 Ararat Street submitted by David Cowell, BSC Group; received September 10, 2013.

14. Request for Certificate of Compliance – Cook’s Pond (CC-2008-007):

Mr. Gagne stated he found no issue with the certificate of compliance.

Upon a motion by Commissioner Franco and seconded by Commissioner Theerman the Commission voted 4-0 to issue a Certificate of Compliance.

List of Exhibits:

Exhibit A: Application for Certificate of Compliance for Cooks Pond Substation (Tory Fort Ln to Mill St and June St to Chandler St) (DEP # 349-953) submitted by David Cowell, BSC Group; received September 10, 2013.

15. Request for Certificate of Compliance – Tory Fort Lane (CC-2010-032):

Mr. Gagne stated he found no issue with the certificate of compliance.

Upon a motion by Commissioner Franco and seconded by Commissioner Theerman the Commission voted 4-0 to issue a Certificate of Compliance.

List of Exhibits:

Exhibit A: Application for Certificate of Compliance for Tory Fort Lane (Cooks Pond Substation) (DEP # 349-1001) submitted by David Cowell, BSC Group; received September 10, 2013.

Exhibit B: As-Built Plan – Cook’s Pond, Substation No. 23; prepared by Coneco Engineers; dated August 28, 2013; received September 10, 2013.

16. Request for Certificate of Compliance – 121 Russell Street (Elm Park) (CC-2010-027):

Mr. Gagne stated that the work had been completed and there were no issues.

Upon a motion by Commissioner Franco and seconded by Commissioner Theerman the Commission voted 4-0 to issue a Certificate of Compliance for 121 Russell Street (Elm Park).

List of Exhibits:

Exhibit A: Application for Certificate of Compliance for 121 Russell Street (Elm Park) (DEP # 349-953) submitted by City of Worcester Department of Public Works and Parks; received September 18, 2013.

17. Request for Certificate of Compliance – Farm Street (Lot 8B) (CC-2005-0086):

Mr. Gagne stated that the work had been completed and there were no issues.

Upon a motion by Commissioner Franco and seconded by Commissioner Theerman the Commission voted 4-0 to issue a Certificate of Compliance for Farm Street (Lot 8B).

List of Exhibits:

Exhibit A: Application for Certificate of Compliance for Farm Street submitted by Luigi Digioia; received September 25, 2013.

18. Feedback on the draft RFP for brush clearing on public sidewalks abutting Conservation Commission land:

Ms. Tran stated that a draft Request for Proposals was submitted to the Commission as part of the supplemental packet and asked for its review and comments. Chair Wood requested that the Commission be given time to review the RFP more thoroughly and that staff send an e-mail the Commission reminding them to submit feedback.

19. Communication Received:

The Commission took no action on the received communication.

- a. Massachusetts Association of Conservation Commissions re: 2013 Fall Conference.
- b. b. Email and attachment from Randall Christensen of Stantec re: Worcester Airport Vegetation Management Plan (11th report); received September 20, 2013.
- c. c. Letter from the Scott Morrison of EcoTec, Inc. re: Arboretum Village Estates; received September 24, 2013

20. Discussion & Issuance of Orders of Conditions as relevant to a hearing closed 10/7/2013

The Commission reviewed the closed items and issued an Order of Conditions for 5 Pickwick's Street and Pierce Avenue.

Signing of Decisions:

- 545 Salisbury Street (CC-2013-045) – Negative Determination
- 5 Pickwick's Circle (CC-2013-047) – OOC with special conditions
- Pierce Avenue (between Varney & Whitten Streets), Burn coat Gardens – Phase IV (CC-2013-048) – OOC with special conditions
- Emergency Certification – Kenneth F. Burns Memorial Bridge – Issued 9/25/2013
- 15 Ararat Street (CC-2010-001) - COC
- Cook's Pond (CC-2008-007) - COC
- Tory Fort Lane (CC-2010-032) - COC
- 121 Russell Street (Elm Park) (CC-2010-027) - COC

Adjournment

Upon a motion by Commissioner Franco and seconded by Commissioner Theerman, the Commission voted 4-0 to adjourn the meeting at 8:29 p.m.