

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

**February 10, 2014**

**WORCESTER CITY HALL – LEVI LINCOLN ROOM**

**Conservation Commission Members Present:** Stefanie Wood, Chair  
Jack Donahue  
Joseph Charpentier  
Jordan Berg Powers  
Jeremy Theerman (arrived at 6:00 pm)

**Members Absent:** None

**Staff Present:** Christopher Gagne, Department of Public Works & Parks (DPW&P)  
Stephen S. Rolle, Division of Planning & Regulatory Services  
Nancy Tran, Division of Planning & Regulatory Services

**CALL TO ORDER**

The Chair called the meeting to order at 5:33 pm.

**APPROVAL OF THE MINUTES**

Upon a motion by Commissioner Charpentier and seconded by Commissioner Berg Powers, the Commission voted 4-0 to approve the minutes of January 27, 2014.

Commissioner Theerman arrived late and was not present for the approval of the minutes vote.

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

Ms. Tran stated that the applicant for 40 Quinsigamond Avenue (CC-2014-002) submitted request to postpone the item to March 3. Upon a motion by Commissioner Charpentier and seconded by Commissioner Donahue, the Commission voted 4-0 to continue the item to March 3.

**UNFINISHED BUSINESS**

**1. 72 Goldthwaite Road – Burncoat Gardens Phase I & V (CC-2013-057) – Notice of Intent**

Engineer Chuck Scott of CFS Engineering and environmental scientist Glenn Krevosky of EBT Environmental appeared on the behalf of the applicant, Goldthwaite Holdings, LLC for a Notice of Intent to construct three private driveways to build 70 single-family detached homes with associated grading, stormwater management system, site work and utilities at 72 Goldthwaite Road (Burncoat Gardens, Phase I & V). The applicant also proposed a new residential drive (Cameron Way) and road extensions (Goldthwaite Road and Hillsboro Road). Also present were two holders of Goldthwaite Holdings – Michael Kent and Lois Mariaia.

Mr. Scott said the Commission continued the item from December 9 in order to conduct a site visit and to allow the applicant time to address comments from the Commission and DEP. He stated that he met with DEP to discuss issues raised and submitted revised plans and a response letter to the Commission. Mr. Scott stated that the submitted filing had an error, causing the total wetland alteration to surpass the 5,000 SF threshold which would trigger federal review. He added following the Commission's suggestion, the Bordering Vegetated Wetland (BVW) crossing was redesigned to become narrower and would no longer alter 175 SF of BVW; only 4,699 SF of Isolated Vegetated Wetland (IVW) would be altered which is not subject to State and local regulations. He stated that he submitted a comprehensive sedimentation and erosion control plan showing: detention basins, double haybales at more sensitive areas, localized diversion channels, interceptor swale and slopes armored with blankets. He added that the applicant will return with a separate Notice of Intent to improve the natural capacity of an existing curved channel that collects water from adjacent streets.

Mr. Scott said the applicant proposes to clear the site at a single time; grubbing and stumping will not occur until construction will occur in the phased region.

Mr. Krevosky elaborated on the erosion and sedimentation control measures with respect to material, system and monitoring frequency.

Commissioner Theerman arrived to the meeting at 6:00pm.

Chair Wood expressed concern over clear cutting the site all at once and the effects once snow cover is gone and thawing begin.

Mr. Scott said full clear cutting a single time allows for greater mobilization, reduces cost and will create minimal erosion due to frozen conditions. He stated that the applicant intends to clear cut the entire site at once and install erosion and sedimentation controls and that grubbing and stumping will not occur until it is ready for construction.

Commissioner Donahue inquired whether the U.S. Department of Agriculture surveyed the area and found it to be infected with Asian Longhorned Beetles (ALB). He suggested using corduroy roads (log roads) over channels to minimize soil disturbance.

Mr. Kent stated the area is ALB infected and said it was ideal to remove trees in the winter because the beetles are dormant. He said that vegetated stumps will remain after clearing and will not be disturbed until the previous area has been stabilized.

Commissioner Donahue expressed his concern with overland flow of water over the steep slopes.

Mr. Krevosky responded that the project's basins provide adequate capacity to handle flow. He said water will be diverted before the slope, swales will be stabilized and that thick poly matting or light jute netting will be used depending on steepness.

Commissioner Charpentier asked whether there will be separate crew on each of the wetland crossing, to which Mr. Scott said each of the areas can stand alone which provide construction flexibility.

Mr. Gagne stated that DPW&P requests city and culvert details to be shown on the plans.

Mr. Scott said the roadways are located on a private site and will be built to city specifications but is amenable to providing the information. He added that the bottomless culvert at the wetland crossing will have footings installed for support.

City Councilor Anthony Economou expressed his concern over the full site clear cutting at a single time because erosion and sedimentation controls can/do fail. He recommended that the Commission oppose the clear cutting or suggest alternatives.

Upon a motion by Commissioner Charpentier and seconded by Commissioner Berg Powers, the Commission voted 4-0-1 (Commissioner Theerman abstained) to close the public hearing. Discussion regarding issuance of Order of Conditions for this item was held to the end of the meeting.

**List of Exhibits:**

- Exhibit A: Notice of Intent Application for Burncoat Gardens, Phase I & V submitted by Goldthwaite Holdings, LLC; received November 20, 2013.
- Exhibit B: Drainage Calculations Phase I to Phase V; prepared by CFS Engineering; dated November 23, 2013; received November 20, 2013.
- Exhibit C: Plans for Burncoat Gardens, Phase V – A Cluster Group, Goldthwaite Road – Assessor’s Map 19, Block 026, Parcel 0000A & Assessor’s Map 39, Block 020, Parcel 2-6 & 7-11; prepared by CFS Engineering; dated October 23, 2013; received November 20, 2013.
- Exhibit D: Memorandum from the City of Worcester Department of Public Works & Parks to the Conservation Commission; re: Burncoat Gardens Phase V – NOI-CC-2013-059; dated December 9, 2013.
- Exhibit E: DEP Comments re: Goldthwaite Rd 349-1075; dated December 16, 2013.
- Exhibit F: Response Letter from CFS Engineering re: Burncoat Gardens Phase I & V; dated February 6, 2014; received February 7, 2014.
- Exhibit G: Revised Plans for Burncoat Gardens, Phase V – A Cluster Group, Goldthwaite Road – Assessor’s Map 19, Block 026, Parcel 0000A & Assessor’s Map 39, Block 020, Parcel 2-6 & 7-11; prepared by CFS Engineering; dated October 23, 2013; last revised January 31, 2014; received February 7, 2014.
- Exhibit H: Continuance Request for 72 Goldthwaite Rd – Burncoat Gardens Phase I & IV from January 6 to January 27, 2014; dated and received February 6, 2014.
- Exhibit I: Continuance Request for 72 Goldthwaite Rd – Burncoat Gardens Phase I & IV from January 27 to February 10, 2014; dated and received January 23, 2014.

**2. Toronita Area Storm Drain & Sewer Improvements (CC-2013-056) – Notice of Intent**

Engineer Charles Tripp represented the City of Worcester for its Notice of Intent application for street and sewer improvements in the Toronita Avenue area. Mr. Tripp said the item was continued from February 10 because the Commission wanted a minimum 1:1 wetland mitigation provided due to the installation of the proposed bioretention basin. He said that 1.6:1 mitigation can be provided in the Luther area right-of-way in small pieces, not one contiguous piece.

Upon a motion by Commissioner Charpentier and seconded by Commissioner Berg Powers, the Commission voted 4-0-1 (Commissioner Theerman abstained) to close the public hearing. Discussion regarding issuance of Order of Conditions for this item was held to the end of the meeting.

## **List of Exhibits:**

- Exhibit A: Notice of Intent for Toronita Avenue Sewer and Drainage Improvement Project; submitted by City of Worcester Department of Public Works & Parks; dated November 2013, received November 20, 2013; last revised January 2014, received January 9, 2014.
- Exhibit B: Site Plan for Toronita Avenue Area Storm Drain and Sewer Improvements Project; prepared by Tighe & Bond; dated November 20, 2013, received November 26, 2014; last revised January 7, 2014, received January 9, 2014.
- Exhibit C: Stormwater Report; prepared by Tighe & Bond; dated November 2013; received November 26, 2014; last revised January 2015; received January 9, 2014.
- Exhibit D: Memorandum from the City of Worcester Department of Public Works & Parks to the Conservation Commission; re: Toronita Avenue, NOI - CC-2013-056; dated December 6, 2013.
- Exhibit E: Comments from MassDEP re: Notification of Wetlands Protection Act File Number for Toronita Ave Area; dated December 9, 2014.
- Exhibit F: Email from Charles Tripp, Tighe & Bond to Jonathan Gervais, DPW&P; re: Toronita Wetland Mitigation (Sheet 16 revision); dated February 3, 2014.
- Exhibit G: Postponement Request from Jonathan Gervais DPW&P- 12/9/13 to 1/6/13 meeting; dated and received December 5, 2013.
- Exhibit H: Revised Toronita Avenue Area Storm Drain and Sewer Improvements Project, Sheet 16; received February 4, 2014.

### **3. 231 Brooks Street (CC-2014-003) – Request for Determination of Applicability**

Steve Eriksen of Norse Environmental Services, Inc. appeared before the Commission for a Request for Determination of Applicability. The applicant sought determination as to whether the area and / or work related to construction of a 4,250 SF building addition with associated site improvements, grading and utilities on property located at 231 Brooks Street are subject to the jurisdiction of the Wetlands Protection Act and / or City of Worcester Wetlands Protection Ordinance.

Mr. Eriksen stated that the flagged area could be considered as an intermittent stream channel but said he believed that it is rather an open drainage channel. He said the work will provide more infiltration than what currently exists on site.

Commissioner Theerman inquired about the resource area delineation and whether the resource area is depicted.

Mr. Eriksen responded that the plan depicts the top of the bank from the property side. He added that flagging was only done on one side as the area is fenced off and difficult to access. He said the channel is 2' wide and consists of stone, concrete and bituminous pavement throughout.

Commissioner Donahue asked whether the compacted soil on site was a mix, to which Mr. Eriksen responded that it was mix and thus corresponds with his opinion that the channel is manmade.

Ms. Tran stated that staff found a previous Order of Conditions from the 1980s stating that the channel was an intermittent stream known as Kendrick Brook. She said that the decision outlined

the Commission's requirement of the then applicant to stabilize the brook banking with rip rap or stones.

Chair Wood asked if there is minimum watershed area for intermittent streams, to which Mr. Erikson replied no and that determination of an intermittent stream is dependent on whether there is an upgradient wetland area. He said upgradient of the channel is the highway, not a wetland.

Chair Wood requested that the roof infiltration system is moved slightly to the east, outside the 30' buffer. Mr. Erikson said it was possible and can provide revised plans.

Commissioner Theerman stated that the project should be done under a Notice of Intent because of the permanent structure and lack of resource area delineation. He expressed his concern over voting on the item without full depiction of the resource area and because the filing states that the channel could be considered a bank.

Mr. Gagne had no comments and provided a letter stating that the submittal meets DPW&P's standards.

Chair Wood and Commissioner Theerman recommended a site walk to view the resource area. Mr. Erikson said he was amenable to the visit.

Upon a motion by Commissioner Charpentier and seconded by Commissioner Theerman, the Commission voted 5-0 to continue the hearing pending a site walk.

#### **List of Exhibits:**

- Exhibit A: Request for Determination of Applicability Application for 231 Brooks Street submitted by Norse Environmental Services, Inc.; received January 21, 2014.
- Exhibit B: Site Improvement Plan for 231 Brooks Street; Norse Environmental Services, Inc.; dated January 14, 2014; received January 21, 2014.
- Exhibit C: Project Drainage Report, 231 Brooks Street; prepared by Norse Environmental Services, Inc. dated January 1, 2014; received January 21, 2014.
- Exhibit D: Memorandum from the City of Worcester Department of Public Works & Parks to the Conservation Commission; re: 231 Brooks Street- RDA (CC-2014-004); dated January 30, 2014, revised February 10, 2014.
- Exhibit E: Site Improvement Plan for 231 Brooks Street; Norse Environmental Services, Inc.; dated January 14, 2014; last revised February 14, 2014; received February 20, 2014.

#### **OTHER BUSINESS**

##### **4. Enforcement Order Update – 235 Hamilton Street (CC-2013-005)**

Commissioner Wood recused herself from discussing the item and Commissioner Theerman assumed Chair of the Commission.

Mr. Gagne reported that he had spoken with the owner who said that erosion controls had been installed. Mr. Gagne stated that upon inspection, he observed a stone berm and chain link fence with unstaked haybales at the front of the property. He said there are two parts of the property that are affected – the front excavated area and the back, are where the excavated soil is stored without erosion controls. He told the owner that the additional stabilization measures needed to be installed. Mr. Gagne stated he believed the Commission has jurisdiction over the front of the site but is uncertain about the rear.

Commissioner Donahue stated that at the last meeting, the Commission wanted an opinion from the Law Department regarding jurisdiction.

Mr. Rolle said that staff did not yet get a Law Department opinion. He stated that staff sent a letter to the applicant to address issues on site.

Chair Theerman recommended continuing the item to allow time to obtain a law opinion.

The item was continued to the March 3 meeting.

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

Commissioner Wood resumed Chair of the Commission.

Chair Wood stated that the Commission and staff conducted a site walk with Arboretum Village LLC representatives on February 1.

Mr. Rolle reported that Arboretum Village LLC is mostly complying with the Enforcement Order. He said there was no ongoing work other than that related to site stabilization and mentioned that one portion of the slope continues to have stabilization issues.

Chair Wood concurred and said she observed stabilization issues during the site walk and noted that measures were installed at the bottom of the slope. She inquired regarding status of DEP's actions for the site.

Mr. Rolle said he has not yet heard back from DEP. He added that the site is also under review by the Planning Board which required revised plans by February 20.

Commissioner Charpentier said the constructed berm at the top of hill seemed adequate to contain water from flowing over but indicated that it was still not clear how much runoff was coming from the hill. He believed that stabilization should be addressed by the Planning Board and not Conservation Commission. He suggested installing an additional silt fence as close to the slope as possible.

Mr. Gagne said he had not been back since the site walk to see if additional work has been done.

Commissioner Charpentier stated he observed soil sloughing off the slope in the undeveloped lots. He said the area was obviously unstable and did not believe additional hydroseeding will be sufficient as previous hydroseeding has sloughed off. Commissioner Charpentier also expressed concern with runoff as he saw iced over sidewalks with water flowing from the site and possibly into the wetland.

Chair Wood stated she observed patches of moisture and groundwater seeping from the top of the rock of the excavated area. She said that it seemed to be holding up due to being frozen but said that it will create imminent problems once it begins to thaw.

Commissioner Charpentier agreed and recommended additional stabilization measures.

Chair Wood suggested installing haybales to prevent the dirt berm from washing away and sedimentation coming down from the slope. She stated the excavated soil area is within the Conservation Commission jurisdiction if it fell over and said she wanted to see it pulled back regardless of comments/recommendations by Planning Board or DEP.

Commissioner Charpentier stated he was open to require Arboretum Village LLC provide an erosion control plan showing how it will address the excavated area.

Commissioner Berg Powers said he saw sedimentation from the berm flowing down onto the properties fronting Honeysuckle Road.

Chair Wood said the Commission can require installation of additional measures to address stabilization of the area and soil on the cliff. She said the Commission can tie it to Enforcement Order – Section C, B “Immediately install erosion control designed to stabilize all exposed and erodible soils on the Site and prevent additional alterations of resource areas.”

Timothy Viele, 46 Honeysuckle Road, said there are haybales installed at the base of the hill on properties. He recommended a drainage swale at least.

Chair Wood said Planning Board has jurisdiction over stability issues and said the Commission is still awaiting DEP comments and can only make sure erosion controls are in place and prevent the berm from being eroded.

Upon a motion by Commissioner Theerman and seconded by Commissioner Berg Powers, the Commission voted to issue a letter requiring the owner to install additional erosion control measures on the undeveloped excavated site.

**List of Exhibits:**

Exhibit A: Memorandum from Stephen Rolle, Director of Planning & Regulatory Services and Christopher Gagne, Department of Public Works & Parks to the Stefanie Wood, Worcester Conservation Commission re: Arboretum Village Estates – Enforcement Order (EO-CC-2013-003); dated February 7, 2014.

**6. 14 Jewett Street (CC-2008-032) - Request for Certificate of Compliance**

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

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Theerman, the Commission voted 5-0 to issue a Certificate of Compliance for 14 Jewett Street.

**List of Exhibits:**

Exhibit A: Application for Certificate of Compliance for 56 Cheyenne Road submitted by Peters and Sowyrda; received December 16, 2013.

**7. Discussion – Beaver-related activity near 2-4 Gustavus Avenue**

Chair Wood inquired whether anyone witnessed beavers in the area.

Mr. Rolle responded that there was no definitive answer. He stated that a trapper and staff visited the area separately and did not see evidence or obvious signs of beavers.

Mr. Gagne stated that according to DPW&P’s Director of Sewer, there was no debris blocking drains.

Mr. Rolle stated that the area will continued to be monitored twice a year in addition to DPW&P’s regular inspection of the area for beaver activity.

Commissioner Charpentier said he was comfortable with DPW&P’s regular inspection of the area and did feel there was a need for further action as there was no evidence of ponding.

Chair Wood asked whether there was any communication regarding beaver-related complaints in the area, to which Mr. Rolle said none that staff was aware of. She recommended that monitoring updates/reports be available should there be any inquiries regarding the matter.

**List of Exhibits:**

- Exhibit A: Guidance for Conservation Commissions Implementing G.L. c.131, s.80A: Threats from Beaver and Muskrat-Related Activities. (Executive Office of Environmental Affairs Department of Environmental Protection.)
- Exhibit B: The Use of Water Flow Devices in Addressing Flooding Problems Caused by Beaver in Massachusetts. Compiled by Susan Langlois and Thomas Decker, 1997; Revised by Chrissie Henner, 2004. Massachusetts Division of Fisheries & Wildlife
- Exhibit C: Living With Wildlife: The Beaver in Massachusetts. Division of Fisheries & Wildlife. November 2009.
- Exhibit D: Memorandum from Luba Zhaurova, DPRS to the Conservation Commission; re: 2-4 Gustavus Avenue – Update on Beaver-Related Activities; dated February 7, 2014.

### **8. Communication Received:**

The Commission reviewed the following communication received but took no action on it.

- a. From Scott Morrison of EcoTec, Inc. re: Arboretum Village Estates; dated January 24, 2014; received January 27, 2014.
- b. From Atty. Nicole Lavallee on behalf of James Bisceglia re: Letter from Norman G. Hill – Site Inspection Report (June 2013); received January 28, 2014.
- c. From City of Worcester DPW and Parks re: A Master Plan for Indian Lake Park Facilities Public Hearing #5; undated; received January 27, 2014.
- d. From Massachusetts Land Trust Coalition re: 2014 Massachusetts Land Conservation Conference; undated; received January 28, 2014.

### **9. Discussion and Issuance of Orders of Conditions as relevant to a hearing closed 1/6/13.**

The Commission reviewed the closed item and issued an Order of Conditions for 72 Goldthwaite Road.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Charpentier, the Commission voted 3-1-1 (Commissioner Berg Powers voted against, Commissioner Theerman abstained) to issue conditions as discussed.

The Commission reviewed the closed item and issued an Order of Conditions for Toronita Area Storm Drain & Sewer Improvements.

Upon a motion by Commissioner Charpentier and seconded by Commissioner Berg Powers, the Commission voted 4-0-1 (Commissioner Theerman abstained) to issue conditions as discussed.

### **10. Signing of Decisions**

- 72 Goldthwaite Road – Burncoat Gardens Phase I & V (CC-2013-057) – Order of Conditions
- Toronita Area Storm Drain & Sewer Improvements (CC-2013-056) – Order of Conditions
- 14 Jewett Street ( CC-2008-032) – Certificate of Compliance

### **Adjournment**

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Theerman, the Commission voted 5-0 to adjourn the meeting at 7:58 pm.