

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

**August 4, 2014**

**WORCESTER CITY HALL – LEVI LINCOLN ROOM**

**Conservation Commission Members Present:** Jack Donahue, Acting Chair  
Joseph Charpentier  
Jordan Berg Powers

**Members Absent:** Stefanie Wood  
Peter McKone

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

**CALL TO ORDER**

The Chair called the meeting to order at 5:41 pm.

**APPROVAL OF THE MINUTES**

Upon a motion by Commissioner Charpentier and seconded by Commissioner Berg Powers, the Commission voted 3-0 to approve the minutes from the June 23, 2014 meeting.

**NEW BUSINESS**

**Public Hearing**

**1. 30 Tory Fort Lane (CC-2014-039)– Request for Determination of Applicability**

Project managers Melissa Kaplan of BSC Group, Inc. and Siona Patisteas of National Grid appeared before the Commission on behalf of the applicant, Massachusetts Electric Company dba National Grid, for a Request for Determination of Applicability. The applicant sought determination as to whether the area and/or work related to the installation of 20-24' tall sound barrier walls (total length ~300') with 39 posts and associated work to replace existing chain-link fencing and two light poles are subject to the jurisdiction of the Massachusetts Wetlands Protection Act and/or City of Worcester Wetlands Protection Ordinance.

Ms. Kaplan stated that the work will occur within the 100' buffer to an isolated vegetated wetland, intermittent stream and stormwater protection zone but will have no impacts to the resource areas. She added that materials storage will be in the substation and driveway, all of which will be within the perimeter of erosion and sedimentation controls.

Chair Donahue inquired about the total area of disturbance and site drainage. Ms. Kaplan replied stating there will be a total of ~520 SF of impact, no change in footprint and that all disturbed areas will be restored. She said that runoff will be collected in a swale and directed toward a drainage system to avoid undermining the wall. Ms. Kaplan also stated that there will be a concrete washout area for trucks and filter fabric erosion and sedimentation controls for dewatering.

Commissioner Charpentier asked how poles will be installed, to which Ms. Kaplan stated that excavated soils will be removed from site after holes are made for each pole.

Jo Hart, Worcester resident, asked why only two sides of the substation will have barrier walls. Ms. Kaplan said the walls were proposed to mitigate sounds from the substation to the adjacent residential properties.

Mr. Gagne of DPW&P had no comments.

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

**List of Exhibits:**

- Exhibit A: Request for Determination of Applicability for 30 Tory Fort Lane submitted by Massachusetts Electric Company dba National Grid; received July 16, 2014.
- Exhibit B: Site Locus and Environmental Constraint Maps, Sound Wall & Elevations; prepared by BSC Group, Inc.; dated July 2014 and undated, received July 16, 2014.
- Exhibit C: Site Photographs; prepared by BSC Group, Inc.; dated July 2014; received April 28, 2014.
- Exhibit D: Erosion and Sedimentation Control Details; prepared by BSC Group, Inc.; dated August 8, 2012.
- Exhibit E: Memorandum from the City of Worcester Department of Public Works & Parks to the Conservation Commission; re: Cooks Pond Substation – RDA (CC-2014-039); dated August 4, 2014.

**2. 31 Apthorp Street (CC-2014-040)– Request for Determination of Applicability**

Vishwajit K. Jha, owner of 31 Apthorp Street, appeared before the Commission for a Request for Determination of Applicability. He sought retroactive determination as to whether the area and/or work related to the bi-level expanded deck replacement (~340 SF) at the rear of 31 Apthorp Street is subject to the jurisdiction of the Massachusetts Wetlands Protection Act and/or City of Worcester Wetlands Protection Ordinance.

Mr. Jha said the 16’ x 20’ deck was constructed in 2006 without a building permit to replace a previous 16’ x 16’ structure. He stated that the stairs are angled, located ~28’ from the property line and an additional ~3’ from a stream on the adjacent parcel. Mr. Jha added that the existing house is located closer than the new deck which was built both on existing and new sonotubes.

Commissioner Charpentier expressed he was uncomfortable voting for a negative determination based on the information provided.

Chair Donahue suggested that the Commission can do a site walk.

Commissioner Berg Powers said that he did not think a site walk was necessary with the information provided. He said he was comfortable voting for a negative determination.

Mr. Gagne of DPW&P had no comments.

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

## **List of Exhibits:**

- Exhibit A: Request for Determination of Applicability for 31 Apthorp Street submitted by Vishwajit K. Jha; received July 18, 2014.
- Exhibit B: Structural Drawings, Site Plan and Images; prepared and annotated by Vishwajit K. Jha; undated, received July 18, 2014.
- Exhibit C: Memorandum from the City of Worcester Department of Public Works & Parks to the Conservation Commission; re: 31 Apthorp Street – RDA (CC-2014-040); dated August 4, 2014.

## **OTHER BUSINESS**

### **3. Crow Hill North** (southern portion of 145 Harrington Way) – Request to Review Comment, and Endorsement of the Baseline Report and Land Management Plan (LAND Grant Reimbursement Requirement)

Commissioner Berg Powers said he enjoyed reading the Baseline Report and Land Management Plan.

Commissioner Charpentier concurred and stated that a significant amount of information was provided regarding resources on site and possible encroachment.

Commissioner Berg Powers stated that the plan could provide more information regarding long term management of the property.

Ms. Tran said she will note the Commission's comments and that a notary will be present at the next meeting for endorsement of the plan.

Exhibit A: Baseline Documentation Report and Land Management Plan; prepared by Tyler Maikath of Greater Worcester Land Trust; dated May 13, 2014 as revised.

Exhibit B: EcoTarium Savanna Lands Management Study; prepared by Thomas J. Rawinski; dated March 4, 2004.

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

Ms. Tran stated that the Commission requested an analysis of turbidity at its previous meeting to determine whether to amend the enforcement order with respect to monitoring requirements. She said a graph of the turbidity monitoring results was provided to the Commission (Exhibit A).

Environmental scientist Scott Morrison of EcoTec, Inc. appeared before the Commission stating that he has continued to monitor turbidity in the area and that slope B was addressed with hydroseeding which has slowly germinated and held up well after rain events. He added that samplings showing high readings are from discharges in other areas and not from the slope. Mr. Morrison said DEP requires that turbidity readings be below 100 and that current readings from Arboretum Village are around 20.

Commissioner Berg Powers inquired about storage on Bittersweet Boulevard. Mr. Morrison said that the Planning Board recently approved a site plan for construction of houses on the left side of Bittersweet Boulevard with no work proposed to slope A.

Chair Donahue stated that the request dated June 29, 2014 to monitor following rain events of ½" or more was reasonable.

Commissioner Charpentier expressed his disagreement.

Upon a motion by Commissioner Berg Powers and seconded by Chair Donahue, the Commission voted 2-1 (Commissioner Charpentier voted no) to modify the enforcement order to require turbidity monitoring following rain events with ½” or more precipitation threshold.

**List of Exhibits:**

Exhibit A: Arboretum Village Estates Turbidity Monitoring Results (April to June 2014); prepared by Division of Planning & Regulatory Services; created August 1, 2014.

**5. Enforcement Order – 25 Ellis Drive (CC-EO-2012-004)**

Chair Donahue stated that the Commission cannot proceed because the submitted as-built plan does not provide calculations with respect to flood storage.

Mr. Gagne concurred and recommended continuing the item to August 25.

Commissioner Charpentier stated that the as-built shows a proposed drain connection.

Mr. Gagne stated that he believed there was no intent by the applicant to install and connect the drain to the city system. He added that if it did, the plan would not comply with DPW&P standards.

Commissioner Charpentier stated that the owner should provide an accurate plan.

John O’Connor, 129 Newton Avenue North, expressed his concern with accumulation of stagnant water following excavation on the property.

Chair Donahue said that many bodies of water remain stagnant and that there is no prohibition to leave them as is.

Mr. Berg Powers stated that it was his understanding that any change on the property should prevent flooding in other areas.

Mr. O’Connor said he was assured that the City would address the water issue on site. He thought that the Commission voted last year to require connection of the drain to the street.

Chair Donahue said the item will be continued to the following meeting.

Commissioner Charpentier requested staff to contact the owner or engineer to have a representative present at the August 25 meeting in order to answer any questions.

**6. Enforcement Order – 30 Breeze Drive (CC-2014-001)**

Mr. Morrison submitted a Notice of Intent filing for the August 25 Conservation Commission meeting.

**7. Enforcement Order – 42 Stoneleigh Road (CC-2014-002)**

Shawn and Tara Dexter, owners of 42 Stoneleigh Road, stated that they received an enforcement order for installing a pool within 100’ of wetlands. Mr. Dexter said the contractor had graded the area and placed excavated soil on the adjacent parcel owned by Greater Worcester Land Trust (GWLTL). Mr. Dexter stated that he had been in contact with the GWLTL and was given permission to enter the property to remove the soil as soon as possible. He asked the Commission if it were permissible to use a bobcat to remove the soil.

Chair Donahue stated that the enforcement order required remediation and a Notice of Intent filing.

Mr. Gagne stated that there is a culverted drain with stream behind the constructed above-ground pool. He added that ground excavation was performed to level the area with excess soil dumped

on GWLT land. He said that removal of the soil will not be an issue and the area can be restored following loam and seed.

Commissioner Charpentier recommended a site walk prior to the August 25 meeting.

Chair Donahue requested that a restoration plan detailing soil removal be submitted.

Commissioner Charpentier stated that the soil removal should be done under the Notice of Intent because it is within the 100' buffer zone.

Commissioner Berg Powers said the Commission has allowed work to be done under enforcement orders in the past. He recommended that the applicant coordinate restoration work with Mr. Gagne and to schedule a site walk before the August 25 meeting.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Charpentier, the Commission voted 3-0 to permit removal of excavated soil from Greater Worcester Land Trust property.

**8. Request for Minor Revisions of Approved OOC – Arboretum Village Estates (Phase IV) (CC-2009-042)**

This item was taken up contemporaneously with communication item #10g.

Mr. Morrison of EcoTec appeared before the Commission regarding request for minor revisions of a previously approved Order of Conditions for Arboretum Village Estates (Phase IV) which included Bittersweet Boulevard, Snowberry Circle and Indigo Circle. He said that a portion of the work was within the 100' buffer zone to Bordering Vegetated Wetland. The developer recently received Planning Board approval to construct homes on the easterly side of Bittersweet Boulevard and needed to change grading on lots 113-116 and 117. Mr. Morrison said the minor revised plan provides more erosion and sedimentation controls, reduces the slope and proposes a retaining wall.

Chair Donahue stated that the plan provides more erosion and control measures. He said that it is good that more protection is provided than previously proposed.

Commissioner Berg Powers concurred and said it was good to see the entire picture of proposed development in the subdivision rather than in pieces.

Mr. Morrison clarified that the minor revisions only applied to lots 113-116 since the previous order only approved work on those lots.

**List of Exhibits:**

- a. Letter from EcoTec, Inc. re: Arboretum Village Estates (Phase IV) Worcester, Massachusetts (DEP#349-979, WCC 09-42); dated July 21, 2014; received July 22, 2014.
- b. Revised Grading & Erosion Control Plan (2 sheets) for Arboretum Phase IV, Lots 113-18 and 18; dated June 30, 2009, revised September 9, 2009 and February 28, 2014, revised March 26, 2014.

**9. Request for Certificate of Compliance – 441 Lake Avenue (CC-2005-083)**

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

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Charpentier, the Commission voted 3-0 to issue a Certificate of Compliance for 441 Lake Avenue.

## **List of Exhibits:**

Exhibit A: Request for Certificate of Compliance for 441 Lake Avenue; prepared by Karen R. Fine; dated July 14, 2014.

## **10. Communication Received:**

The Commission reviewed communication items a and c-f received but took no action on them.

- a. From MassDOT; re: Geotechnical Soil Borings in Worcester, MA (adjacent to McKeon Road and Route 146); dated June 30, 2014; received July 7 2014.
- b. From EcoTec, Inc. re: Arboretum Village Estates (Turbidity Sampling for June); dated June 3, 2014 (sic); received July 7, 2014.  
  
This item was taken up contemporaneously with item #4.
- c. From Asian Longhorned Beetle Eradication Program; re: Forest Cutting Plan (301 Green Hill Parkway); dated July 7, 2014; received July 10, 2014.
- d. From AMEC Environment and Infrastructure, Inc.; re: Notification of Site Work (NSTAR Gas, 25 Quinsigamond Ave); dated July 8, 2014; received July 9 2014.
- e. From MassDCR; re: Downstream Newsletter; dated Spring 2014; received July 15, 2014.
- f. From CR Environmental, Inc.; re: Proposed Boring and Test Pit Locations Nelson Elementary School Site, City of Worcester; dated and received July 24, 2014.
- g. From EcoTec, Inc. re: Arboretum Village Estates (Phase IV) Worcester, Massachusetts (DEP#349-979, WCC 09-42); dated July 21, 2014; received July 22, 2014.

This item was taken up contemporaneously with item #8.

## **11. Request for Extension of Order of Conditions – 8R Ellie Way (CC-2007-059)**

Joseph Panarelli, owner of 8R Ellie Way, appeared before the Commission to request an Extension of Time for the Order of Condition previously issued by the Commission on September 12, 2007. He stated that road construction and a number of homes on the street were completed. He said development on the subject lot was halted due to economic conditions. The work was approved under the local ordinance as there are no wetlands in the area, only catchbasins.

Commissioner Charpentier requested that staff provide copies of Order of Conditions to the Commission for similar requests in the future.

Upon motion by Commissioner Berg Powers and seconded by Chair Donahue, the Commission voted 2-1 (Commissioner Charpentier voted no) to approve the Extension of Time request for 8R Ellie Way.

## **12. Signing of Decisions**

- 30 Tory Fort Lane (CC-2014-039) – Negative Determination of Applicability
- 31 Apthorp Street (CC-2014-040) – Negative Determination of Applicability
- 441 Lake Avenue (CC-2005-083) – Certificate of Compliance
- 8 R Ellie Way (CC2004-059) – Extension of Time for Order of Condition

## **Adjournment**

Upon a motion by Commissioner Charpentier and seconded by Commissioner Berg Powers, the Commission voted 3-0 to adjourn the meeting at 7:15 pm.