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

October 5, 2015

WORCESTER CITY HALL – ESTHER HOWLAND CHAMBERS

Conservation Commission Members Present: Stefanie Wood, Chair
Peter McKone
Joseph Charpentier
Amanda Amory

Member Absent: Jordan Berg Powers

Staff Present: Michelle Smith, Division of Planning & Regulatory Services
Edmund Kochling, Department of Public Works & Parks (DPW&P)

CALL TO ORDER: 5:30 p.m.

REQUESTS FOR CONTINUANCES, EXTENSIONS OF TIME, POSTPONEMENTS, WITHDRAWALS

1. 1117 Grafton Street (MBL 38-034-00016) (CC-2015-047)
   Application: Notice of Intent
   Applicant: Anthony Bianco
   Project: To fill in and level out the rear-yard of the property and construct a retaining wall to hold the fill, along with related grading, utilities, and site work on property located at 1117 Grafton Street
   Jurisdiction: Massachusetts Wetlands Protection Act and the City of Worcester Wetlands Protection Ordinance – The proposal shall occur within the 100 ft. buffer to a Bordering Vegetated Wetland associated with an unnamed intermittent stream and within the Stormwater Protection Zone
   Public Hearing Opened: 8/31/2015

   Ms. Smith stated that staff had received a request to postpone this item until the October 19, 2015 Conservation Commission meeting.

   Upon a motion by Commissioner McKone and seconded by Commissioner Amory, the Commission voted 4-0 to continue the item until the October 19, 2015 Conservation Commission meeting and to extend the constructive grant deadline until November 17, 2015.
List of Exhibits


Exhibit B: Letter from Department of Public Works re: 1117 Grafton Street received September 21, 2015 and dated September 17, 2015.

Exhibit C: Request to continue hearing dated September 21, 2015 and received September 21, 2015.

Exhibit D: Plan prepared by ASA Engineering dated August 30, 2015


Application: Notice of Intent
Applicant: John Boggia of JNBB, LLC,
Project: For 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 on property located at 0 & 9 Hemans Street and part of 40 Milton Street.

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 – 10/16/2015

Ms. Smith stated that staff had received a request to postpone this item until the October 19, 2015 Conservation Commission meeting.

Upon a motion by Commissioner McKone and seconded by Commissioner Amory, the Commission voted 4-0 to continue the item until the November 16, 2015 Conservation Commission meeting and to extend the constructive grant deadline until December 8, 2015.

UNFINISHED BUSINESS – Notices of Intent

3. 16 Dixon Avenue South (MBL 28-027-0008A) (CC-2015-054)

Application: Notice of Intent
Applicant: Brian LaForte
Project: For partially retroactive approval of site work to re-grade a portion of the eastern yard to allow for access to cut and remove trees, clear brush, and convert to lawn portions of property located to the north and east sides of the existing structure, and associated site work, on property located at 16 Dixon Avenue South.

Jurisdiction: The City of Worcester Wetlands Protection Ordinance – The proposal shall occur within the 100 ft. buffer to a Bordering Vegetated Wetland associated with an unnamed intermittent stream
Public Hearing Opened: 9/21/2015

Brian LaForte appeared on behalf of the item.

Mr. LaForte is applying to remove trees from his property, five of which fall within a 100’ wetland buffer. The trees to be removed are either in very poor health or threatening to the house, and no earth is to be removed within the 100’ buffer. Mr. LaForte stated that his plan is to excavate stumps so he could level the yard. Brush will also be removed in conjunction with this work. Provided proper erosion control and the slope being stabilized by making it in to a lawn, this stump removal is acceptable. Mr. LaForte stated that the grading proposed is outside the 100’ buffer and he is maintaining erosion control on site and will continue to do so until lawn is established.

Chair Wood stated that the retaining wall that was constructed is covered over on the downslope side and she like that material moved back to it on appropriate side of the retaining wall. Mr. LaForte stated that he would be uncovering it. A letter from EcoTech as requested by the Commission was submitted documenting the accuracy of the documented boundary of the wetlands.

Commissioner Charpentier stated as an aside for the record, that adjacent to this property is a wetland owned by the Conservation Commission City of Worcester and there are a number of properties that abut them that appear to be doing filling that encroaches upon the wetland. It appears that 151 and 149 Clover Street there has been some significant fill brought into the 100’ buffer zone and the adjacent property on 10 Dixon Avenue some filling in on the wetland and Commission should be aware.

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

List of Exhibits

Exhibit A: Application for Notice of Intent submitted by Brian LaForte received August 28, 2015 and dated September 19, 2015.

Exhibit B: Plan prepared by Engineering Design Consultants, Inc. dated April 19, 2010.

Exhibit C: Letter from Department of Public Works re: 16 Dixon Avenue received September 17, 2015 and dated September 21, 2015.


Exhibit F: Letter from EcoTech in regards to accuracy of flagged wetland boundary.
NEW BUSINESS – Requests for Determination of Applicability

4. Quinsigamond Avenue Right-of-Way (from Southbridge St. to Ashmont Ave.) & 0 (aka 40 & 42) Quinsigamond Avenue (MBL 05-022-0102B) (CC-2015-048)

Application: Request for Determination of Applicability  
Applicant: Mass. Electric Co., d/b/a National Grid

Project: To seek determination as to whether or not the proposed work to install ~2,019 linear feet of buried conduit, along with associated site-work, on property located within the Quinsigamond Avenue Right-of-Way (from Southbridge Street to Ashmont Avenue) and at 0 (aka 40 & 42) Quinsigamond Avenue is subject to the Commission’s jurisdiction. The project is in association with the construction of the new WRTA facility

Jurisdiction: Massachusetts Wetlands Protection Act and the City of Worcester Wetlands Protection Ordinance - The proposal shall occur within Bordering Land Subject to Flooding and within the Stormwater Protection Zone

Public Hearing Opening Deadline: 10/5/2015

Theresa Patante from BSC Group on behalf of Massachusetts Electric Company appeared on behalf of the item. She stated that this will work consist of installing 1715+ linear feet of underground conduit within Bordering Land Subject to Flooding and there are some stormwater catch basins so work will be within the 100 foot Stormwater Protection zone.

The activities will be limited to previously disturbed areas and the conduit will be connected to existing manholes along the roadway. Best management practices will be used a consultant will be hired to oversee the management of the spoils. All of the catch basins within the 100’ will be protected and to reduce chance of erosion the trenches will be back-filled each day and capped with a metal plate. The work will take approximately one month and begin as soon as possible. If necessary, they will used standard dewatering practices used following National Grid’s EG-303.

Ms. Patante stated that in case of heavy rain, the trenches would have to be covered, no spoils would be left out, and there would be protection at each stormwater catch basin.

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

List of Exhibits


Exhibit B: Letter from Department of Public Works re: (aka 40 b & 42) Quinsigmaond Ave Right of Way received August 27, 2015 and dated September 1, 2015.

Exhibit C: Request to continue hearing dated August 31, 2015 and received August 31, 2015.
NEW BUSINESS – Requests for Determination of Applicability

5. 8R New Bond Street (MBL 37-002-00003) (CC-2015-058)

Application: Request for Determination of Applicability
Applicant: Massachusetts Electric Company
Project: To seek determination as to whether or not the work/area associated with the replacement of two circuit breakers and installation of a new safety fence along the southern, western, and northern portions of the exterior of the existing sub-station fence, along with associated vegetation clearing and site-work, on property located at 8R New Bond Street is subject to the Commission’s jurisdiction

Jurisdiction: Massachusetts Wetlands Protection Act and the City of Worcester Wetlands Protection Ordinance - the proposal shall occur within the 100 ft. buffer zone to the Bank of Weasel Brook and within the 15 ft. buffer to a Bordering Vegetated Wetland associated with and Weasel Brook

Public Hearing Opening Deadline: WPA – n/a; WWPO - 10/31/2015

Theresa Patante from BSC Group on behalf of Massachusetts Electric Company appeared on behalf of the item.

Ms. Patante stated that the maintenance work itself will be located within the 15’ zone and there is a wetland adjacent to the sub station bordering Weasel Brook. Requesting permission from the Commission to install a new structure within 30’ and work within 15’ of a Bordering Vegetated Wetland. The new fence will be installed within six inches of the existing fence. All soil excavated will be removed from the site and if dewatering is required they will discharge to an upland area. May need to place timber mats to act as a wetland crossing, they will be removed after work is complete. Sediment controls will be installed between the fence and the resource area prior to work. Aim is to complete as soon as possible as currently not meeting safety standards for the sub-station.

Upon a motion by Commissioner McKone and seconded by Commissioner Charpentier the Commission voted 4-0 to issue a Negative Determination of Applicability. Ms. Smith stated just for clarification that the Commission was allowing a waiver for the project to go forward under 4.2.4 General Performance Standards to allow the project to go forward as a limited project waiving the 15 and 30 foot buffer requirements under that provision.

List of Exhibits


Exhibit B: Letter from Department of Public Works re: 1 Brooks Street received October 6, 2015 and dated October 5, 2015.

Exhibit C: Request to continue hearing dated August 31, 2015 and received August 31, 2015.

NEW BUSINESS – Notices of Intent
6. 0, and 9 Hemans St
    Postponed to 16 November 2015

7. 37 Sigel Street (MBL 05-040-00017) (CC-2015-059)
   Application: Notice of Intent
   Applicant: Kathy T. Luu, of KLA Holdings
   Project: For the construction of a single-family semi-detached dwelling (duplex) and associated off-street parking along with related grading, utilities, and site work on property located at 37 Sigel Street.
   Jurisdiction: Massachusetts Wetlands Protection Act and the City of Worcester Wetlands Protection Ordinance – The proposal shall occur within land subject to flooding
   Public Hearing Opening Deadline: WPA – 10/7/2015; WWPO – 10/31/2015
   Chair Wood recused herself from this item and left the meeting room.
   Commissioner Charpentier assumed Chair.
   Kevin Quinn from KLA Holdings appeared on behalf of the item. This is for building construction within the floodplain and they submitted a plan that calls for a duplex, zero lot line with a division line between in it. Impacted area is in a flood plain, and impacted structure is a culvert in Siegel Street, no catch basins within 100’.
   The foundation will have four flood vents that will allow flood waters to pass into the foundation so the interior of the building operates as flood storage. DPW suggested connecting drywells to Siegel Street and it a great idea as it will reduce the water in the neighborhood so will reduce the incidents of flooding, applicant will do this work. They will have hay bales and silt fences during work and there is some room in back yard for soil material storage during construction which will be fenced.
   Upon a motion by Commissioner McKone and seconded by Commissioner Amory the Commission voted 3-0 to close the public hearing.
   List of Exhibits
   Exhibit A: Notice of Intent application submitted by Quinn Engineering, Inc. received September 15, 2015 and dated September 3, 2015.
   Exhibit B: Letter from Department of Public Works re: 37 Siegel Street received October 6, 2015 and dated October 5, 2015.

OTHER BUSINESS:

8. Enforcement Order Updates:
   a. Goldthwaite Road (Burncoat Gardens Phase I & V) (CC-EO-2015-007)
      Mr. Chuck Scott appeared on behalf of the item and stated that last week there was a three inch rainfall over 6 hours and they didn’t have any breaches of any of their erosion control measures. However, their basin was over burdened by silt and there was silt discharged into the storm drain system and the stream again. Mr. Scott stated
that they were at site right after the event with a Conservation Commission representative to review mitigation measures that they could undertake.

Mr. Scott stated they have not paved yet, once that is accomplished, it should lead to cleaner run off from the area. Need to evaluate and treat from the back of the curb to the proposed house lots to ensure that is stabilized and eliminate the silt going into their detention basin. Mr. Scott stated that the other measures would be paving on the street, curbing so all the water gets off the roadway and goes into detention basin.

Mr. Scott stated that they have put in the new measure on the outlet structure and sealed it against the face of the structure so they have increased the amount of water storage and time in the detention basin and installed additional erosion control. Plan is to construct a sediment basin down gradient from the bypass drain system close to the end of Pompano, diverting water using rip rap and hay bales. Basin to be constructed next week.

Chair Wood asked if DPW thinks this plan will work. Mr. Kochling stated it is hard to say but they have made a diligent effort to address the problems they reviewed at the site walk. Can’t guarantee new measures will work but they are a step in the right direction. All the runoff was from on site, and though erosion controls were in place, they were overwhelmed due to the magnitude of the storm and silt drained off site.

Mr. Scott stated that there needs to be a discussion with Commission, Board of Health re: people disposing of dog waste bags in the catch basins that wind up in the brook. Chair Wood asked Ms. Smith to reach out to other departments to find out who could assist with the problem.

Chair Wood asked if they have to vote on sediment basin. Ms. Smith stated they should vote to modify the enforcement order.

Upon a motion by Commissioner Charpentier and seconded by Commissioner McKone the Commission voted 4-0 to modify the enforcement order to allow that action.

Chair Wood stated that they have received the updated bond agreement and needs to be signed and returned to the bank with the letter of credit signed. Mr. Scott stated that he had received from Law Department last Friday and it is in process and should happen this week.

Commissioner Charpentier stated that the slope near the stream on the north side has plastic placed over it and he had noticed some erosion and since it is not stabilized, what is the plan for the slope. Mr. Scott stated that they will remediate that but the plastic is working for now to prevent further erosion. Commissioner Charpentier stated that stabilizing that slope before the end of the growing season is very important.

b. Pierce Avenue (Burncoat Gardens Phase IV) (CC-EO-2015-008)

Mr. Chuck Scott appeared on behalf of the item. He stated that the site held up very well after last storm event and they have piped the downspouts to the street. There was no introduction of sediment to the wetland area and sediment flowing downslope was intercepted by wattles and since then they have installed utilities and they are now proceeding with the back area of the house with the retaining wall.
Chair Wood asked if retaining wall at neighbor’s property was completed. Mr. Scott stated that it was loamed and hydro seeded before the storm.

Commissioner Charpentier stated when he did site visit, at the houses furthest to the east it looked like there had been erosion, asked if the entire wall along the back of those homes was going to be replaced with concrete. Mr. Scott stated that they are putting the rock wall at the toe of the slope and installing concrete above it. Commissioner Charpentier asked if there would be any exposed rock at top of the slope. Mr. Scott stated that no, there would be no exposed rock and the slope would be graded to the top of the wall.

c. 604 Burncoat Street (aka Burncoat Heights) (CC-EO-2015-011)

Mr. Chuck Scott appeared on behalf of the item. He stated that it looks like a bomb went off. There was an issue with the 30” water line that services Burncoat Street. He stated that there was tap and valve installed to service that site, and two weeks ago during testing the line would not hold pressure, found two leaks that were fixed, but the line still wouldn’t hold pressure. Found a manufacturer defect and could not turn the valve completely off. To determine this, they excavated the entire water line and they had left it all open as they were working with the Water Department to turn off the 30” main for a period of time and they tried to fix as soon as possible but left trench open. During the storm that occurred last week, the trench directed all water to the detention basin all at once and overburdened the system, causing silt laden water discharge. Water line was repaired last night and the system had to be dewatered, which they did by discharging from hydrants last night. Mr. Scott stated he did not authorize this and was not sure who did. During this they released about 25,000 gallons which wasn’t draining fast enough and so they opened up an existing valve to release the water. Mr. Scott stated this was specifically against his instructions to not add any water to the basin system. Opening the value pushed water into a trench, overburdened the system, and went into the street and then into the brook. He stated he is unsure who is responsible and believes there is some culpability on behalf of the City and some on the part of the contractor.

Mr. Scott stated currently the abutting owner of the property has allowed them to fill and create a dyke, where all overflow from the detention area will be piped and therefore there will be no further overflow from the basin into the brook. So until the site is stabilized there will be no water pumped to the site it will be pumped to this particular area. Mr. Scott stated that they have owner’s permission and can get it in writing.

Chair Wood stated that she like a site walk because the conditions are so dramatic, and instructed to arrange with Ms. Smith, inquired if the silt could be cleaned up beforehand. Mr. Scott stated he thinks all the silt will be gone before this weekend, and the contractor must work as fast as possible to stabilize site before winter.

Ms. Smith stated that in conversation with the applicant he had stated paving was planned and would the Commission consider that as an erosion control measure. Chair Wood stated yes.

d. Arboretum Village Estates (CC-EO-2015-005)
Scott Morrison from EcoTec appeared on behalf of RH Gallo and Arboretum Village LLC.

Mr. Morrison stated that the Commission had requested an update on the stabilization of Slope B. He stated that Slope A has been completed. Mr. Morrison stated that they are waiting for Slope A to dry out a little bit to rake and re-seed and matt.

Mr. Morrison stated with regard to Slope B there is some level of rock cut and given the time of area and fact it a small area they have hydro-seeded but because of Slope B you have minimal area that is exposed and water coming off is directed of Slope B and they have hay bales and silt fence at the toe and they are not planning to do anything at this time to Slope B. He stated they will continue to monitor and do storm water samplings.

Chair Wood stated she had concern with Slope B and they have been saying that for two years. Mr. Morrison apologized, energy was concentrated on Slope A that Mr. Gallo was going through Planning Board with numerous plan changes so he put effort into Slope A. Chair Wood stated getting Slope A done was impressive, but doesn’t justify ignoring Slope B, both of these slopes are Mr. Gallo’s problem.

Mr. Morrison stated that in order to do Slope B he has to be able to construct the road above it and he believes his engineer told him no to regrade up to the slope B because once you regrade up to the slope you have nothing to control runoff and right now you have a natural buffer so right now he thinks it should be hydro-seeded to get grass growing. Mr. Morrison stated he would propose they re hydro-seed in the Spring and irrigate to get the grass to grow. Mr. Gallo should hydro-seed and irrigate and Commission would like to see the grass growing.

On a site visit, Mr. Kochling brought to the attention of the foreman on site a boulder looks like it ready to fall of the cliff Slope B and behind house #24 on Mr Gallo’s property. Mr. Morrison stated that boulder will be taken care of tomorrow.

Chair Wood stated some members the public were here and they usually do not take public comments on enforcement orders but will take brief comments.

Tim Viele, 46 Honeysuckle Road & Jim Bisceglia of 52 Honeysuckle Road. Mr. Viele stated that over the weekend three man holes cover on Jim’s property were overflowing and there is a need for a second drain, where could it be put. Chair Wood stated that it is a valid concern but not germane to this enforcement order, the limit of discussion tonight is the plan for the stabilization of slope B. Mr. Viele stated he understands that but would like it jotted down as it will be a problem in future and wants to know why Mr. Gallo isn’t continuing the rise into Slope B and if they go in another 30 feet it would help with stabilization.

Mr. Viele asked who gave applicant right to do the slide. Mr. Morrison stated that the Planning Board has approved any work there.

Commissioner Charpentier stated from what he understands the concern is how Slope A ties into Slope B and they understand there are concerns about the drainage system but they cannot address that and they want them to handle Slope B. Mr. Kochling can take it look it and Commission will look at the intersecting of Slope A and Slope B but the final grade is not under review right now.

e. **27 New Street Extension (CC-EO-2015-009)**
Scott Morrison from Eco Tec appeared on behalf of the item.

Mr. Morrison stated that the property owner told tenant they could clear small area for storage of truck and tenant went and clear cut and bulldozed a large area and onto an abutting property. Mr. Morrison stated that he went out and did inspection and doesn’t think any filling took place, no encroachment within the 20-25’ of the wetland. Suggested top soil be spread, seed and mulch it so be would be stable for winter and then go from there. Erosion control barriers including straw wattles and silt fence has been installed and Mr. Morrison stated that he had provided some photos to the Board.

Chair Wood stated that the Commission would like to go do a site walk especially before winter so if any change in site before Spring they would know what it is.

Mr. Morrison stated that they need to flag and stake the property and hope to get that done by end of this week.

def. 149-151 Lake Avenue (CC-EO-2015-010)

Doug Russell appeared on behalf of the item. He stated that on Wednesday a landscape company will be in to sod property and hopefully by next week there will be grass.

Chair Wood asked about addition of the boat ramp. Mr. Russell stated that intent is to see their grandchildren in water and if wall too high it hides visibility. The ramp will be grassed right to the water. A dock 30’ to the right will be built but will not be where the opening is.

Chair Wood stated that she doesn’t remember if original Notice of Intent included a dock. Mr. Russell thought Lake Quinsigamond Commission controlled dock permits. Chair Wood stated that doesn’t mitigate person from filing with the Conservation Commission for a dock and applicants must also file with MASS DEP.

Mr. Kochling stated that he believes what was installed was a couple of I-Beams. Chair Wood stated that should have been in the Notice of Intent.

Chair Wood asked Ms. Smith to review original filing to see it had dock plans. Ms. Smith stated that she could investigate and would note that the retaining wall was included at the Commission proposed the plan.

Chair Wood stated that since the retaining wall was modified and dock was included they would request applicant submit letter to modify the enforcement order. Mr. Russell stated that he would prepare the paperwork to bring to the Commission.

g. 1117 Grafton Street (CC-EO-2015-004)

h. 181 Lake Avenue (CC-EO-2015-006)

Upon a motion by Commissioner McKone and seconded by Commissioner Charpentier the Commission voted 4-0 to ratify the enforcement orders for g and h.

9. Requests for Certificate of Compliance:
a. 501-505 Mill Street (CC-2001-027)

b. 56 Pierce Avenue (CC-2014-029)

Upon a motion by Commissioner McKone and seconded by Commissioner Charpentier the Commission voted to continue items a and b until the October 19, 2015 Conservation Commission meeting.

c. 1088 A-C (aka 1098) West Boylston Street (CC-2015-017 & CC-2012-023)

Mr. Kochling stated that area has been stabilized.

Upon a motion by Commissioner McKone and seconded by Commissioner Charpentier the Commission voted 4-0 to issue a Certificate of Compliance.
10. Communication:

a. Notice of Treatment for Crystal Park Pond (University Park) by Aquatic Control Technology; received 9/16/2015. Note: Staff requests that the Commission vote to sign a duplicate Order for purposes of recording the records at the Worcester Registry of Deeds (the documents are not presently recorded)

No comment.

b. Arboretum as-built plans for portions of Slope A; H S & T Group, Inc.; received 9/24/2015.

No comment.

c. Invitation to Coes Pond Beach Dedication October 1, 2015; from DPW&P; received 9/24/2015.

No comment.

d. Invitation to Harrington Field Master Plan Meeting October 1, 2015; from DPW&P; received 9/24/2015.

No comment.

e. Dam Draw-down in preparation of forthcoming storm; DPW&P Water Division; received 10/1/2015*.

No comment.

f. Color Run Information; DPW&P; received 10/5/2015.*

No comment.

g. CMRPC Technical Assistance - Consideration of an opportunity to apply for Local Technical Assistance (via CMRPC and MassAudubon) for mapping and land use regulatory review focusing on model best practices related to stormwater management, Low Impact Development design, and more. Request that the Chair to be authorized by the Commission to sign the application form in support of the project.*

Ms. Smith stated that staff would like to submit application and request Comissions support of the applicant.

Upon a motion by Commissioner Charpentier and seconded by Commission McKone the Commission voted 4-0 to sign the application.
11. **Conservation Commission’s Policy on Compensatory Flood Storage ‘Banking’ – Copy of Posted Policy**

Ms. Smith stated that it hasn’t been posted yet as problem with formatting and they will bring back before Commission at another meeting after they review formatting.

12. **Election of a Conservation Commission Representative to the Broad Meadow Brook Wildlife Sanctuary Advisory Committee** (to assist with Sanctuary management issues per City of Worcester Agreement with Massachusetts Audubon Society for the Management of the Sanctuary, dated September 5, 1990)

Upon a motion by Commissioner Charpentier and seconded by Commissioner McKone, the Commission voted 4-0 to appoint Commissioner Amory as Commission Representative to the Broad Meadow Brook Wildlife Sanctuary Advisory Committee.

13. **Requests for Emergency Certifications**
   a. **Bailey Street Right-of-Way – Collapse of Box Culvert**

   Upon a motion by Commissioner McKone and seconded by Commissioner Charpentier, the Commission voted 4-0 to postpone the item until the October 19, 2015 Conservation Commission meeting.

14. **Issuance of Orders of Conditions**

15. **Signing of Decisions**

**ADJOURNMENT**

*Not Otherwise Reasonably Anticipated Business*