

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

October 28, 2013

WORCESTER CITY HALL – LEVI LINCOLN ROOM

Conservation Commission Members Present: Stefanie Wood, Chair
Jeremy Theerman
Jordan Berg Powers
Paul Franco
Jack Donahue
Joseph Charpentier

Staff Present: Chris 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 5:32 pm.

APPROVAL OF THE MINUTES

Upon a motion by Commissioner Paul Franco and seconded by Commissioner Jordan Berg Powers, the Commission voted 6-0 to approve the minutes of September 16, 2013.

Minutes from the October 7, 2013 meeting were held.

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

NEW BUSINESS

1. 276 & 280 Mill Street (CC-2013-046) – Notice of Intent

David Petravage of HS&T Group appeared on behalf of the applicant, Jerry Brooks, for a Notice of Intent to construct two detached garages (1,800 SF and 576 SF) associated with a single-family house. Because the proposed garages are located in a 100-year flood zone, compensatory flood storage 1.5 to 1 will be provided. Mr. Petravage stated that 2, 086 cubic feet of flood storage will be altered and 3,129 cubic feet of compensatory flood storage is proposed for replacement. He said flood storage will be for each elevation of the areas impacted, that the limit of work is outside the 15' no disturbance buffer and that no structure will be built within the 30' buffer. Mr. Petravage added that work is proposed within the 15' and 30' buffers in order to provide compensatory flood storage.

DPW&P had no comments on the project.

Upon a motion by Commissioner Paul Franco and seconded by Commissioner Donahue, the Commission voted 6-0 to close the public hearing.

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- NOI (CC-2013-046); dated October 4, 2013.

2. 29 Brookshire Road (CC-2013-049) Request for Determination of Applicability.

The applicant, Jimmy Georges, appeared before the Commission seeking determination as to whether the area and/or work related to vegetation clearing and construction of a 192 SF shed are subject to the jurisdiction of the Wetlands Protection Act or Wetlands Protection Ordinance. Mr. Georges described the brook behind his property and said he proposed to clean up the yard by hand or with a backhoe, if possible. He added that he also proposes to plant vegetation and install a retaining wall ~ 25' from the brook to prevent debris from falling into the water as well as construct a shed ~75' from the brook.

Commissioner Theerman expressed his concern that application was incomplete as the proposed retaining wall and grading were not mentioned in the filing.

Commissioner Donohue inquired about the discrepancy in the shed location listed on the application and plan. Mr. Georges clarified that the shed will be located 75' from the water and constructed on top of a crushed stone base.

The Commission recommended scheduling a site walk and was amenable to allowing clearing of dead vegetation on the property before the next meeting.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Franco, the Commission voted 6-0 to continue the item to November 18.

List of Exhibits:

- Exhibit A: Request for Determination of Applicability Application for 29 Brookshire Road submitted by Jimmy Georges; received September 20, 2013.
- Exhibit B: Memorandum from the City of Worcester Department of Public Works & Parks to the Conservation Commission; re: 29 Brookshire Road- RDA (CC-2013-049); dated October 28, 2013.

3. 72 Bay Edge Drive (CC-2013-050) Request for Determination of Applicability.

The applicant, Joseph Fontecchio, appeared before the Commission seeking determination as to whether the proposed repair of an existing wall near the water edge is subject to the jurisdiction of the Wetlands Protection Act or Wetlands Protection Ordinance. Mr. Fontecchio stated the stone wall was damaged and that he proposed to repair it with Keystone modular block with a crushed stone base to a finished height of 4.' He said all work will be done by hand and take approximately three weeks following lake drawdown. He added that silt fence will be placed for erosion and sedimentation control.

DPW&P had no comments on the project.

Upon a motion by Commissioner Charpentier and seconded by Commissioner Franco, the Commission voted 6-0 to issue a Negative Determination of Applicability with the conditions that there will be a pre-construction conference to ensure proper erosion controls and a construction schedule are approved by DPW&P.

List of Exhibits:

Exhibit A: Request for Determination of Applicability Application for 72 Bay Edge Drive submitted by Joseph Fontecchio; received October 1, 2013.

Exhibit B: Memorandum from the City of Worcester Department of Public Works & Parks to the Conservation Commission; re: 72 Bay Edge Drive- RDA (CC-2013-050); dated October 28, 2013.

4. 604 Burncoat Street (CC-2013-051) – Notice of Intent

Engineer Chuck Scott of CFS Engineering appeared on behalf of the applicant, SJ Realty, LLC., for its Notice of Intent under the local bylaws to construct a 500' long cul-de-sac road at 604 Burncoat Street, between Matteo Street and East Mountain Street, for an 11-lot subdivision.

Mr. Scott stated that EBT Environmental delineated the site and found no bordering vegetated wetlands within 100.' He said the construction of a 500' roadway includes a drain line with two catchbasins connected to a detention basin that ties to an existing drain on Burncoat Street. Mr. Scott stated that the project meets stormwater standards, includes a sediment trap for TSS removal and also collects water from the adjacent property.

Mr. Gagne said DPW&P reviewed the stormwater calculations submitted to the Commission and Planning Board and had no comments.

Upon a motion by Commissioner Franco and seconded by Commissioner Theerman, the Commission voted 6-0 to close the public hearing.

List of Exhibits:

Exhibit A: Notice of Intent for 604 Burncoat Street submitted by SJ Realty, LLC; received October 9, 2013.

Exhibit B: Drainage Calculations for Village at Burncoat Heights, 604 Burncoat Street; prepared by CFS Engineering; dated June 13, 2013, revised September 11, 2013; received October 9, 2013.

Exhibit C: Definitive Plan for Village at Burncoat Heights, 604 Burncoat Street; prepared by CFS Engineering; dated June 13, 2013, last revised October 9, 2013; received October 9, 2013.

Exhibit D: Memorandum from the City of Worcester Division of Planning and Regulatory Services to the Conservation Commission; re: 604 Burncoat Street-NOI (CC-2013-051); dated October 28, 2013.

5. 301 Green Hill Parkway (Bear Brook Pond Dam near Rodney Street) (CC-2013-052A) Request for Determination of Applicability

Items #6 and #7 were taken contemporaneously.

Mr. Gagne appeared on behalf of the DPW&P's Request for Determination filings as to whether the proposed vegetation clearing and repairs at Bear Brook Pond Dam and Coes Lower Pond Dam are subject to the jurisdiction of the Wetlands Protection Act. He said the work involves basic maintenance, debris removal, tree cutting and stump removal. Mr. Gagne added that trees have grown within the block wall at Coes Pond Dam. The City intends to cut these trees down will leave stumps behind until later in the future.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Franco, the Commission voted 6-0 to issue a Negative Determination of Applicability for 301 Green Hill Parkway (Bear Brook Pond Dam near Rodney Street).

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Franco, the Commission voted 6-0 to issue a Negative Determination of Applicability for 28 Coes Square (Coes Lower Pond Dam).

List of Exhibits:

Exhibit A: Request for Determination of Applicability Application for 301 Green Hill Parkway & 28 Coes Square (Coes Lower Pond Dam) submitted by Worcester Department of Public Works and Parks; received October 11, 2013.

Exhibit B: Memorandum from the City of Worcester Department of Public Works & Parks to the Conservation Commission; re: 301 Green Hill Parkway (CC-20163-052A)-RDA; dated October 28, 2013.

6. 28 Coes Square (Coes Lower Pond Dam) (CC-2013-052B) Request for Determination of Applicability

Items #6 and #7 were taken contemporaneously.

List of Exhibits:

Exhibit A: Request for Determination of Applicability Application for 301 Green Hill Parkway & 28 Coes Square (Coes Lower Pond Dam) submitted by Worcester Department of Public Works and Parks; received October 11, 2013.

Exhibit B: Memorandum from the City of Worcester Department of Public Works & Parks to the Conservation Commission; re: 28 Coes Square (CC-20163-052B)- RDA; dated October 28, 2013.

7. 74 Bay Edge Drive (CC-2013-044) Request for Determination of Applicability

The property owner, Jon Flanagan, was not present. The Commission held the item until the end of the meeting to allow him time to arrive.

The Commission took up the item at the end of the meeting – the owner was not in attendance.

was seeking determination as to whether the proposed area and work for the construction of a ~144 SF enclosed dock with stairs and railings along the lake.

Chair Wood stated that MassDEP's guidance on building docks state that the construction of docks should not be heard as Request for Determination of Applicability applications but rather as Notice of Intent filings. She added that the property owner will also need to file for a Chapter 91 Permit through MassDEP as well as obtain any other necessary permits such as through the Building Department.

Upon a motion by Commissioner Theerman and seconded by Commissioner Franco, the Commission voted 6-0 to issue a Positive Determination of Applicability.

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 (CC-2013-044); dated September 13, 2013.

OTHER BUSINESS

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

Ms. Tran stated that given multiple failed attempts to force compliance, staff recommends that the Commission vote to allow the City's Law Department to file for injunctive relief. She said a site visit earlier in the day revealed that no work has commenced on the property.

Upon a motion by Commissioner Theerman and seconded by Commissioner Franco, the Commission voted 6-0 to refer this item to the City's Law Department to seek injunctive relief. Staff is to update the Commission at its meeting on December 9.

List of Exhibits:

Exhibit A: Memorandum from the City of Worcester Division of Planning and Regulatory Services to the Conservation Commission; re: 25 Ellis Drive – Enforcement Order, Notice of Intent (CC-2013-017); dated July 2, 2013, last revised October 28, 2013.

9. Enforcement Order Update – Arboretum Village Estates (CC-EO-2013-004)

Ms. Tran informed the Commission that there were no updates on this item. The item was continued until December 9 or until staff is in receipt of updates for the property.

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)

Chair Wood reported that she attended the scheduled site walk and it was determined that the stairs installed are outside the 15' buffer and not permanent. She suggested to keep the enforcement order following an update on vegetation planted.

Staff is to update the Commission at its November 18 meeting and place the item on the agenda in the spring.

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 said he had no information regarding USDA regulations regarding tree chipping. The Item was continued to November 18.

12. Request for Certificate of Compliance – 725 Grafton Street (DEP 349-088)

Ms. Tran stated staff incorrectly listed on the agenda ‘725 Ararat Street (DEP 349-088’ and that it should state ‘725 Grafton Street (DEP 349-088).’

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

Upon a motion by Commissioner Franco and seconded by Commissioner Theerman, the Commission voted 6-0 to issue a Certificate of Compliance for 725 Grafton Street.

List of Exhibits:

Exhibit A: Application for Certificate of Compliance for 725 Grafton Street submitted by ISM Holdings, Inc.; received September 18, 2013.

13. Request for Certificate of Compliance – Webster Tap (CC-2012-045)

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

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Franco, the Commission voted 6-0 to issue a Certificate of Compliance for Webster Tap.

List of Exhibits:

Exhibit A: Application for Certificate of Compliance for Webster Tap submitted by Tim Smith, Massachusetts Electric Company; received October 9, 2013.

14. Request for Certificate of Compliance – 26 Sunrise Avenue (DEP 349-325, 94-9-261; CC-1998-83)

Upon a motion by Commissioner Theerman and seconded by Commissioner Franco, the Commission voted 6-0 to issue resolutions to clarify the title for 26 Sunrise Avenue.

List of Exhibits:

Exhibit A: Application for Certificate of Compliance for 26 Sunrise Avenue submitted by Thomas F. Galvan Jr.; received October 24, 2013.

15. Feedback on the draft RFP for brush clearing on public sidewalks abutting Conservation Commission Land.

Ms. Tran recommended that the Commission provide comments, if any, and vote allow staff to forward it to the DPW&P and Law Department.

Upon a motion by Commissioner Charpentier and seconded by Commissioner Theerman, the Commission voted 6-0 to forward to DPW&P and the Law Department, the Request For Proposal for brush clearing on public sidewalks abutting Conservation Commission land.

16. Discussion and Issuance of Orders of Conditions as relevant to a hearing closed 10/28/13.

The Commission reviewed the closed items and issued an Order of Conditions for 276 & 280 Mill Street and 604 Burncoat Street.

Upon a motion by Commissioner Franco and seconded by Commissioner Theerman, the Commission voted 6-0 to issue these conditions as discussed.

17. Signing of Decisions –

- 74 Bay Edge Drive (CC-2013-044) – Request for Determination
- 276 & 280 Mill Street (CC-2013-046) – Notice of Intent
- 72 Bay Edge Drive (CC-2013-050) – Request for Determination
- 604 Burncoat Street (CC-2013-051) – Notice of Intent
- 301 Green Hill Parkway (Bear Brook Pond Dam near Rodney Street) (CC-2013-052A) – Request for Determination
- 28 Coes Square (Coes Lower Pond Dam) (CC-2013-052B)
- 725 Grafton Street (DEP-349-088) - Certificate of Compliance
- Webster Tap (CC-2012-045) - Certificate of Compliance
- 26 Sunrise Avenue (DEP-349-3251 94-9-261; CC-1998-83)

Adjournment

Upon a motion by Commissioner Franco and seconded by Commissioner Charpentier, the Commission voted 6-0 to adjourn the meeting at 6:58 pm.