

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

October 27, 2014

WORCESTER CITY HALL – LEVI LINCOLN ROOM

Conservation Commission Members Present: Stefanie Wood, Chair
Peter McKone
Jack Donahue
Jordan Berg Powers

Member Absent: Joseph Charpentier

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

CALL TO ORDER

The Chair called the meeting to order at 5:32 pm.

APPROVAL OF THE MINUTES

Upon a motion by Commissioner Donahue and seconded by Commissioner McKone, the Commission voted 3-0 to approve the minutes from the September 8, 2014 and September 29, 2014 meetings.

New Business – Notices of Intent

1. 0 Crierie Avenue (fka 7 Holt Ave, Lot B) (MBL 22-008-0007B) (CC-2014-052)

David Tarian appeared before the Commission on behalf of Robert Mitchell for a Notice of Intent to construct a single family dwelling with associated grading and site work. He stated that the property was adjacent to Dodge Park which was affected to the Asian Longhorned Beetle. He indicated that he did not anticipate any issues affecting the nearby wetland. The work proposed minor grading within the 30 to 50 foot buffer zones. The balance of the work would just be to re-grade with siltation control such as hay bales or silt fencing.

Chair Wood asked if there were any catchbasins in the area. Mr. Tarian stated that the area did look like an area with catch basins.

Chair Wood inquired about how the project will address roof runoff. Mr. Tarian stated none was proposed but did not find any issue with providing the appropriate system.

Chair Wood asked if driveway would be asphalt or gravel. Mr. Tarian stated asphalt.

Chair Wood asked if any construction was within the 30 ft. buffer. Mr. Tarian stated no.

Commissioner Donahue asked if there were any plans to dewater. Mr. Tarian stated the garage foundation will be at grade and did not anticipate the need to dewater.

Upon a motion by Commissioner McKone and seconded by Commissioner Donahue, the Commission voted 3-0-1 (Commissioner Berg Powers abstained) to close the 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 Lot 7B Holt Avenue submitted by Robert Mitchell; received October 8, 2014.
- Exhibit B: Certified Plot Plan for Lot 7B, William & Nancy Donahue; prepared by Blackstone Valley Mapping & Consulting; dated October 6, 2014; received October 8, 2014
- Exhibit C: Site Photographs of 7B Holt Avenue; unknown preparer; undated; received October 8, 2014.
- Exhibit D: Memorandum from the City of Worcester Department of Public Works & Parks to the Conservation Commission; re: 0 Cerie Avenue (FKA 7B Holt Avenue) -- NOI (CC-2014-052); dated October 24, 2014.

2. 0 Millbury Street (near McKeon Rd & Rt. 146) (MBL 31-020-00001) (CC-2014-053)

Project Manager Carl Chamberlin and engineer Gary Garfield both of URS Corporation appeared before the Commission on behalf of the applicant, MassDOT. Mr. Chamberlin stated the applicant sought authorization under the Massachusetts Wetlands Protection Act to conduct vegetation removal along the canal walls and embankment of the Middle and Blackstone Rivers – the future of the Worcester Blackstone Visitor Center and DCR Regional Headquarters. The project will include permanent alteration to the Resource Areas to allow for detailed analysis of the fragile canal walls and failing embankment at the edge of the river. The site will be restored at the completion of the full project next year. The work performed will consist of cutting the vegetation of the vertical canal walls and between the chain link fence and vertical canal walls. Mr. Chamberlain stated that this is first part of the project and that plans for the second phase will be submitted to the Commission at a future date. He stated that some test bits were proposed. He added that the total impacted area is 13,500 SF and that hay bales and silt fence can be installed.

Chair Wood asked about the anticipated depth of the test bit. Mr. Garfield depends stated that it will depend – it could be 8 to 20 feet in some areas.

Mr. Chamberlain stated they had previously done some test bits.

Chair Wood stated only two test bits were proposed and asked whether additional will be required. Mr. Garfield stated he was unsure.

Chair Wood asked if any thought was given to a GPS survey. Mr. Garfield stated that would be difficult as there all types of material behind the walls and that it would not give a clear picture.

Chair Wood asked if test bits would be one day process. Mr. Garfield stated it would be one day.

Mr. Chamberlain stated that they will not be grubbing the root system and erosion controls will be installed.

Chair Wood asked if there were any concerns with the removal of the trees that could wind up causing emergency measures to do something with the wall. Mr. Chamberlain stated that any vegetation coming through the wall they would leave the roots in place if there is case where

vegetation is coming through walls. Mr. Garfield stated that is part of work the structural engineers will do once work begins. He stated the retaining walls constructed to hold back the embankment and that certain areas have not be maintained.

Mr. Chamberlain stated the historic use of the previous building on site was as a mill manufacturing.

Commissioner Berg Powers asked how long MassDOT had oversight of the site. Mr. Chamberlain stated about 12-15 years. He said sections of the wall were in disrepair with partial collapse and repair under an emergency order in prior years. He added that following project completion, MassDCR will take over the building.

Commissioner Berg Powers asked about the long term vision for the project. Mr. Chamberlain stated the purpose of the evaluation of the site is to determine what portion of the site was not in good condition. A program will be put in place for a Visitor Center design and a bike pathway as part of the design which includes the canal wall.

Commissioner Berg Powers asked how the vegetation will be cleared. Mr. Garfield stated the tree clearing contractor will use a couple techniques. Small vegetation will be removed and chipped following OSHA regulations.

Commissioner Berg Powers asked about the plan for over sight. Mr. Chamberlain stated that currently there is chain link fence and an existing robust safety plan.

Commissioner Berg Powers asked about the protocol after work stops. Mr. Garfield stated that the fence will be locked at the end of the day to prevent unauthorized access.

Mr. Chamberlain stated that DOT timeline is very aggressive on the project as funding is earmarked for the project.

Commissioner Donahue asked about equipment storage and security. Mr. Garfield stated equipment will be on the flat embankment, may be relocated to the south parcel and will be locked.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner McKone, the Commission voted 4-0 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 0 Millbury Street submitted by Massachusetts Department of Transportation; received October 8, 2014.
- Exhibit B: Figures and Photographs for 0 Millbury Street; prepared by URS Corporation; dated various; received October 8, 2014
- Exhibit C: Proposed Vegetation Maintenance Plan for Worcester WBVC & DCR HQ; prepared by URS Corporation; dated September 25, 2014; received October 8, 2014.
- Exhibit C: Proposed Test Pit Access Plan for Worcester WBVC & DCR HQ; prepared by URS Corporation; dated October 3, 2014; received October 8, 2014.
- Exhibit D: Memorandum from the City of Worcester Department of Public Works & Parks to the Conservation Commission; re: 0 Millbury Street -- NOI (CC-2014-053); dated October 24, 2014.

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

Mr. Gagne stated he had viewed the site and not much had changed. The water from the temporary gravel detention area looked like it breached the measures in place and was entering the catchbasin. He said he will contact the contractor to take the catchbasin offline to prevent it from affecting the nearby resource area.

Chair Wood stated they have GZA's report on the slope. Mr. Rolle stated that the report will be discussed at the Planning Board's November 5 meeting. He said he will report to the Commission with an update on the progress.

Chair Wood asked if GZA could come before the Commission and give an update. Mr. Rolle stated he could look into that and see if that was a possibility.

Chair Wood stated the reports shows there are some major inadequacies in the slope but they will wait to see what happens next.

List of Exhibits:

Exhibit A: Arboretum Village Estates (August Results); prepared by EcoTec, Inc.; dated September 4, 2014; received September 5, 2014.

4. Requests for Certificate of Compliance – 25 Ellis Drive (CC-2001-064 & CC-2013-017)

Engineer Patrick Burke of HS&T Group and Sotirios Georgiadis, owner of 25 Ellis Drive, appeared on behalf of the item. Mr. Burke stated the Commission had questions at its last meeting regarding the plans. He said the last as-built listed the date as 2013 and should have said 2014. The property was staked and there-surveyed upon the Commission's request to ensure enough fill was removed.

Chair Wood asked if the new plans with revisions had been submitted with the corrections. Mr. Burke stated he would provide the plans to staff.

Commissioner Berg Powers asked why there were two different flood storage numbers in the pre-development plan. Mr. Burke explained that the existing conditions should be 1732 which is shown on the plans. Commissioner Berg Powers stated it was not shown on the August 4, 2014 set of plans. Mr. Burke stated he it was retraced and was the volume approved by the Commission that the owner needed to provide on-site.

Commissioner Berg Powers stated the pre-development have the same number but with you have two different outcomes. Mr. Burke stated 1994 volume was post development and that the predevelopment storage value was 1692.

Mr. Gagne stated he had been to site earlier in the day and that the work completed complies with accepted as-built. He said that it was sufficient to remedy the enforcement order.

John O'Connor, abutter at 129 Newton Avenue North, stated there were compliance issues with the enforcement order with respect to the pool of stagnant water that developed following the recent excavation where no pooling previously occurred. He said there should be no flooding, or stagnant water which affects public health. Mr. O'Connor stated engineers visited the site but their reports were outdated by two years. He inquired whether the reports met requirements, where the existing catchbasin drained to and capacity. He stated that there have been problems due to the property and that five homes in neighborhood have been put up for sale due to these problems.

Chair Wood stated that the Board of Health had jurisdiction regarding the nuisance ordinance, not the Conservation Commission. She stated she had discussion with Mr. O'Connor after the previous meeting and explained providing a detention pool is a viable option under the Wetlands Protection Act and that it is a valid means of stormwater control. She added that it is one of the methods in current common practice and should there be an issue with mosquitoes or overgrowth then the concerns should be brought to the Board of Health.

Mr. O'Connor insisted that the Commission should address the nuisance issue. Chair Wood explained such enforcement can only be addressed through the Board of Health. The Commission can only operate under the rules and regulations set by the Wetland Protection Act.

Chair Wood stated that the pool of water is 10 to 15 feet away from the property line so it is not encroaching on abutting properties. Mr. O'Connor stated not at the moment. Chair Wood stated that based on the Order of Conditions and approved plan, calculations were reviewed to unsure that water would not be displaced over the property line.

Mr. O'Connor stated the Commission's approval of work conflicted with the nuisance ordinance. Chair Wood stated that the issue may be taken up with the Board of Health. She stated the Commission would not comment further on it.

Mr. O'Connor stated that ordinance mandates that local/federal conditions not be interfere with it Chair Wood reiterated that would be a Board of Health issue.

Mr. Rolle stated if there were a violation, Inspectional Services or Board of Health could take action but that such does not preclude the Commission from making a decision under the Wetlands Protection Act. Mr. O'Connor stated it may be a legal matter.

Commissioner Donahue asked for clarification regarding the natural basin in the neighborhood that was referred to a swamp and whether it was in the rear of 25 Ellis Drive. Mr. O'Connor stated a lot is gone now as a home was built on it.

Commissioner Berg Powers stated he believed the Commission had purview over the situation and stated it should try to resolve the issue in the area. He said it may be done through the Board of Health but that it could not be fixed at the present meeting.

Mr. O'Connor stated that staff and Commission members have told him over the years that it was mistake to approve construction. He inquired how it can be addressed at present and if it were possible to move forward. He also asked where the catchbasin drained to.

Commissioner McKone stated they are not connected to the city system so they go nowhere.

Chair Wood stated it legal to bury concrete but not encouraged and it not uncommon to find construction debris in rubble.

Commissioner McKone further elaborated by stating that it could be done as long as it did not affect storage capacity. He said isolated land subject to flooding is for surface water, particularly ensuring that water is kept on site.

Upon a motion by Commissioner McKone and seconded by Commissioner Donahue, the Commission voted 4-0 to issue the Certificate of Compliance for 25 Ellis Drive.

List of Exhibits:

Exhibit A: Request for Certificate of Compliance for 25 Ellis Drive (CC-2001-064 & CC-2013-017); prepared by Sotirios Georgiadis; received December 3, 2012.

- Exhibit B: Request for Certificate of Compliance for 25 Ellis Drive (CC-2013-017); prepared by Sotirios Georgiadis; received August 27, 2014.
- Exhibit C: As-built Plan for 25 Ellis Drive; prepared by Sotirios Georgiadis; dated 8/5/2014; received August 27, 2014.
- Exhibit D: 25 Ellis Drive – Conservation Commission Summary; dated September 8, 2014.

5. Iowa Street – Complaint concerning erosion and runoff from Conservation Commission property

Mr. Rolle stated photos were provided to the Commission after staff received a complaint regarding a serious erosion problem. Staff investigated and found significant dumping on Conservation Commission property that created stabilization issue. He said the heavy rain led to heavy runoff downhill and that staff was working with a contractor on possible remediation efforts.

Commissioner Berg Powers asked if anything been done to discourage the dumping. Mr. Rolle stated not yet but a sign was put up and they will follow up with other action to curb the problem.

6. Request for Certificate of Compliance – 709 Salisbury Street (CC-2005-030)

Mr. Gagne stated this could be issued.

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

List of Exhibits:

- Exhibit A: Request for Certificates of Compliance for 709 Cheyenne Road; prepared by ProBuilt Construction, LLC; dated October 7, 2014.

7. Communication Received:

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

- a. From EcoTec, Inc. re: Arboretum Village Estates (September Results); dated October 6, 2014; received October 7, 2014.
- b. From MassDOT re: 401 Water Quality Certification Major Dredging Amendment (Kenneth F. Burns Memorial Bridge); dated September 24, 2014; received September 26, 2014.
- c. From GZA GeoEnvironmental, Inc. re: Review of Slope A, Arboretum Subdivision, Honeysuckle Road/Bittersweet Boulevard; dated October 16, 2014.

Other Business

Chair Wood stated suggested a new administrative rule regarding received communications – that it must be received by noon Friday before the meeting. She appreciated comments but that it was difficult to review them the day of the meeting. Commissioner Berg Powers concurred. Mr. Rolle stated he would have to review with Law Department on whether they would still need to review items received after the communication deadline.

Upon a motion by Commissioner Berg Powers and seconded by Commissioner Donahue, the Commission voted 4-0 to accept implement deadline of noon on Friday before meeting for items for reviewed by the Commission.

**8. Discussion & Issuance of Orders of Conditions as relevant to a hearing closed
10/27/2014**

The Commission reviewed the closed item and upon a motion by Commissioner Berg Powers and seconded by Commissioner McKone, the Commission voted 3-0-1 (Commissioner Berg Powers abstained) to issue conditions as discussed for 0 Cerie Avenue (CC-2014-52).

The Commission reviewed the closed item and upon a motion by Commissioner Berg Powers and seconded by Commissioner McKone, the Commission voted 4-0 to issue conditions as discussed for 0 Millbury Street (CC-2014-053).

9. Signing of Decisions

- **0 Cerie Avenue**– Order of Conditions
- **0 Millbury Street** – Order of Conditions
- **25 Ellis Drive** – Certificate of Compliance
- **709 Salisbury Street** – Certificate of Compliance

Adjournment

Upon a motion by Commissioner McKone and seconded by Commissioner Donahue, the Commission voted 4-0 to adjourn the meeting at 7:09 pm.