

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

June 11, 2012

WORCESTER CITY HALL – LEVI LINCOLN ROOM

Conservation Commission Members Present:

Mia McDonald, Acting Chair
Jordan Berg Powers
Paul Franco
Jack Donahue

Staff Present:

Jonathan P. Gervais, Department of Public Works & Parks
Luba Zhaurova, Division of Planning & Regulatory Services

CALL TO ORDER: The Chair called the meeting to order at 5:50 pm.

APPROVAL OF THE MINUTES: The Commission held approval of March 19, 2012 and May 21, 2012 minutes.

REQUESTS FOR CONTINUANCES, EXTENSIONS OF TIME, POSTPONEMENTS, WITHDRAWALS:

1. **Enforcement Order – 20 Jasmine Drive (CC-EO-2012-005):** Mr. Gervais requested a continuation of this item because the owner told him he had to work and was not able to attend. The Commission was amenable to the continuation.

NEW BUSINESS

Public Hearing

2. **321 Greenwood Street (CC-2012-021) – Notice of Intent:** John Grenier of J. M. Grenier Associates, project engineer and representative for Shadow Brook Acres Nominee Trust, the petitioner, stated that the petitioner is seeking to construct a 7,440 SF retail/food service building, parking lot and associated stormwater management within 100-ft wetland buffer zone to Bordering Vegetated Wetland and 100-ft Stormwater Protection Zone.

He stated that the site is currently vacant and that a previous residential structure on site was burnt down. He stated that wetlands were delineated by David Burke from Berlin, MA and that the owner does not yet have tenants for the site. Mr. Grenier showed locations of proposed erosion and sedimentation controls along the limit of work.

Mr. Grenier showed snow storage areas on the plan along the southern property boundary and eastern 30-ft buffer to the wetland. Chair McDonald expressed concern with the proximity of the snow storage area to the wetland. Mr. Grenier stated that it is outside 30-ft buffer for the most part and that most of the snow from big snowstorms would be untreated. He stated that snow would be

trucked off-site if necessary. Chair McDonald asked if there are alternative locations for snow storage. Mr. Grenier stated that some of it could be located in the northern side yard setback.

Mr. Berg Powers suggested that 30-ft wetland buffer is permanently marked. Mr. Grenier stated that the limit of work will be at about 30-ft buffer line outlined by the existing tree line. Chair McDonald recommended stone markers to prevent encroachment into the wetland in the future. Mr. Berg Powers stated that it would make sense to space the markers ~50-ft.

Mr. Donahue recommended that the proposed dumpster is located outside the 50-ft buffer to the wetland.

Chair McDonald asked that aprons are provided around staging area. Mr. Grenier stated that there would be no stockpiling on site as materials will be trucked off-site. Chair McDonald asked that no equipment fueling is done outside the proposed staging area.

The Commission felt comfortable proceeding without scheduling a site walk.

Upon a motion by Mr. Franco and seconded by Mr. Berg Powers, the Commission voted 4-0 to close the public hearing. Discussion regarding issuance of Order of Conditions was held to the end of the meeting.

List of Exhibits:

Exhibit A: Notice of Intent application for 321 Greenwood Street; submitted by Shadow Brook Acres Nominee Trust; received May 10, 2012.

Exhibit B: Notice of Intent Plans; prepared by J. M. Grenier Associates, Inc.; dated May 8, 2012.

Exhibit C: Stormwater Management Report for 321 Greenwood Street; prepared by J. M. Grenier Associates, Inc.; dated May 8, 2012.

Exhibit D: Memorandum from Department of Public Works to Conservation Commission; re: 321 Greenwood Street - NOI; dated June 11, 2012.

3. **26 Queen Street (CC-2012-022) – Notice of Intent:** Hossein Haghanizadeh of HS&T, project engineer and representative for Franklin Realty Advisors, Inc., the applicant, stated that the applicant is seeking to demolish the existing vacant building on site and provide 106 off-street parking spaces with associated drainage for use by UMass Medical Center. He stated that the proposal shall occur within the 100-ft Stormwater Protection Zone. Mr. Haghanizadeh stated that peak runoff rates will not increase and that the site will comply with the Stormwater Standards. He stated that provided snow storage is outside the 100-ft buffer to the catch basins.

Mr. Haghanizadeh stated that the timeframe for the demolition is 3-4 weeks. Mr. Donahue asked if equipment will be refueled on site. Mr. Haghanizadeh stated yes. Mr. Donahue stated that he would prefer any refueling be done outside the 100-ft buffer to the catch basins.

Jo Hart, Worcester resident, asked that the applicant clarify ownership of the parcel. Fran Early of UMass Memorial Realty stated that UMass Memorial Realty owns the building and that the plan is to remove the Jaques' Building, which was originally planned when the City hospital has closed. He stated that Community Health Link, a tenant, has received a \$5 million grant and will move into the 20,000 SF ground floor of the building, while UMass Memorial will move in-patient unit into the building's now-vacant 4th floor. Ms. Hart stated that UMass added parking 5 years ago and

that she did not understand why more parking was needed given that square footage of the building was decreasing. She stated that she felt there was too much parking provided on site.

Ms. Zhaurova stated that the site will experience an increase in impervious surface, but will comply with the Stormwater Standards.

Upon a motion by Mr. Franco and seconded by Mr. Berg Powers, the Commission voted 4-0 to close the public hearing. Discussion regarding issuance of Order of Conditions was held to the end of the meeting.

List of Exhibits:

Exhibit A: Notice of Intent application for 26 Queen Street; submitted by Franklin Realty Advisors Inc; received May 16, 2012.

Exhibit B: Notice of Intent Plans; prepared HS&T, Inc.; dated May 8, 2012.

Exhibit C: Hydrology & Stormwater Management Report for 26 Queen Street; prepared by HS&T Group; dated March 7, 2012.

Exhibit D: Memorandum from Department of Public Works to Conservation Commission; re: 26 Queen Street - NOI; dated June 11, 2012.

4. **1098 West Boylston Street (MBL 32-020-00001) (CC-2012-023) – Notice of Intent:** Chair McDonald asked if the applicant wanted to postpone the hearing to have a chance for a larger quorum at the next meeting. Atty. Donald O’Neil, representing Ricky Sampson, the applicant, requested postponement of the hearing to July 2, 2012. Upon a motion by Mr. Berg Powers and seconded by Mr. Donahue, the Commission voted 4-0 to postpone the hearing to July 2, 2012.

John Brand of 1104 West Boylston, an abutter, stated that work has been ongoing on the site before all approvals were secured. He stated that trees have been removed and that there are flooding problems on-site.

Mr. Gervais stated that he is familiar with the site and was asked by Department of Environmental Protection to conduct a site visit several weeks ago with respect to a complaint that trees were cut down and there was a stockpiling of materials. He stated that there should be no work conducted on the site without approvals and that location of the wetlands was not clear when he did a site walk.

Atty. O’Neil stated that the only work that took place was investigative work ~6 weeks ago with respect to the origin and location of a drainage pipe on his property. Chair McDonald asked if trees were removed on site. Mr. Sampson stated that 2 trees were taken down ~8 months ago along West Boylston Street. Atty. O’Neil stated that the applicant is before the Commission regarding proximity to a catch-basin.

Mr. Gervais stated that wetland delineation forms should be submitted with the filing. Atty. O’Neil stated that he will submit these form and will amend the plans.

Chair McDonald stated that no work should be done prior to the hearing. Mr. Berg Powers asked that staff schedule a site walk for the Commissioners prior to the next hearing.

List of Exhibits:

- Exhibit A: Notice of Intent application for 1098 West Boylston Street; submitted by Ricky Sampson; received May 23, 2012.
- Exhibit B: Notice of Intent Plans; prepared Robert D. O’Neil Jr. and by James F. Malley Jr.; dated May 1, 2012.
- Exhibit C: Memorandum from Department of Public Works to Conservation Commission; re: 1098 West Boylston Street - NOI; dated June 11, 2012.
- Exhibit D: Pictures submitted by Susan Healey on June 11, 2012.
- Exhibit E: Pictures submitted by Megan (unknown last name) on June 11, 2012.

Public Meeting

5. **Highland Street and Park Avenue intersection near 121 Russell Street (Elm Park) (CC-2012-020) - Request for Determination of Applicability:** Jonathan Gervais represented City of Worcester Department of Public Works & Parks, the applicant, regarding reconstruction of Highland Street and Park Avenue intersection including new signal equipment, ADA accessible ramps, roadway resurfacing, and pavement markings within the 100-ft of the Elm Park Pond. He stated that a temporary easement on park land will be provided and that the project will not increase the impervious area. Mr. Gervais stated that the impetus behind the work is to change the street lighting structure and that sidewalks and ramps will be redone as well. He stated that there will be no stock-piling for this project. Chair McDonald asked if the road will be scraped and resurfaced or if the new pavement will be laid on top. Mt. Gervais was not sure.

Karin Valentine-Goins asked if this project would be part of the larger project along Lincoln Street. Mr. Gervais was not sure. She asked about drainage. Mr. Gervais stated that drainage is usually reviewed and upgraded during resurfacing of the pavement. Mr. Berg Powers clarified that Ms. Valentine-Goins can contact Mr. Gervais to specify ‘water puddling areas’ that require particular attention. Mr. Gervais confirmed that.

Upon a motion by Mr. Franco and seconded by Mr. Berg Powers, the Commission voted 4-0 to issue a negative Determination of Applicability for Highland Street and Park Avenue intersection near 121 Russell Street (Elm Park) (CC-2012-020).

List of Exhibits:

- Exhibit A: Request for Determination of Applicability for Highland Street and Park Avenue intersection near 121 Russell Street; submitted by represented City of Worcester Department of Public Works & Parks; received May 7, 2012.
- Exhibit B: Request for Determination of Applicability Plan for Highland Street and Park Avenue intersection near 121 Russell Street; prepared by Howard / Stein – Hudson Associates; received May 16, 2011.
- Exhibit C: Memorandum from Department of Public Works to Conservation Commission; re: Highland Street and Park Avenue intersection - RDA; dated June 11, 2012.

6. **9A Sears Island Drive (MBL 13-034-77A-3) (CC-2012-024) - Request for Determination of Applicability:** Edward Hardy, the applicant, stated that he is seeking to construct a 140 SF deck addition to the existing 240 SF deck facing Indian Lake. He stated that the current deck is 27-ft from the lake and that the proposed expansion would be ~17-ft from the retaining wall, but because the Lake is often drained down, 6 months out of the year the water recedes much farther from his dwelling.

Chair McDonald stated that the deck and its footing are considered a structure and no structures are allowed within 30-ft buffer of a resource area. Mr. Gervais stated that precedents exist for Commission's discretion in cases like these.

Mr. Hardy stated that he would be using concrete blocks, and not sono-tubes, and that he has construction experience.

Mr. Berg Powers stated that he is amenable to granting negative determination as long as there would be no material staging and no debris on site. Mr. Franco concurred. Mr. Hardy stated that the site is flat.

Upon a motion by Mr. Donahue and seconded by Mr. Franco, the Commission voted 4-0 to issue a negative Determination of Applicability with a conditions that there would be no staging of materials on site within 100-ft of the lake and that there would be no excavation for the proposed deck's structural supports.

List of Exhibits:

Exhibit A: Request for Determination of Applicability for 9A Sears Island Drive; submitted by Edward Hardy; received May 23, 2012.

Exhibit B: Request for Determination of Applicability Plan for 9A Sears Island Drive; received May 16, 2011.

Exhibit C: Memorandum from Department of Public Works to Conservation Commission; re: 9A Sears Island Drive - RDA; dated June 11, 2012.

OTHER BUSINESS

7. **Request for Extension of Order of Conditions – 5, 15, 25 & 35 Tobias Boland Way & 0 Blackstone River Road (DEP 349-1000; CC-2010-035):** Ms. Zhaurova stated that the previous extension was to August 18, 2013 and that the applicant is seeking an extension of 2 years to August 18, 2015. Mr. Gervais stated that the delay is due to legal work related to the need to secure easements. Upon a motion by Mr. Donahue and seconded by Mr. Franco, the Commission voted 4-0 to approve an Extension of Order of Conditions to August 18, 2015.

List of Exhibits:

Exhibit A: Request for Extension of Order of Conditions – 5, 15, 25 & 35 Tobias Boland Way & 0 Blackstone River Road (DEP 349-1000; CC-2010-035); submitted by City of Worcester Department of Public Works & Parks; dated May 22, 2012.

8. **Request for Certificate of Compliance – Goddard Memorial Drive Lot 0 (DEP 349-329):** Mr. Gervais stated that he conducted a site visit and that the site appears to be stabilized. Ms. Zhaurova stated that David Asmus has submitted a plan of land prepared by Burke Consulting Service on April 10, 1989. She stated that it was difficult to read and she was not able to ascertain if this is the final revised plan. The Commission felt comfortable proceeding. Upon a motion by Mr. Franco and seconded by Mr. Donahue, the Commission voted 4-0 to grant Certificate of Compliance for Lot 0 Goddard Memorial Drive.

List of Exhibits:

Exhibit A: Request for Certificate of Compliance – Goddard Memorial Drive Lot 0 (DEP 349-329); submitted by David Asmus of Asmus Engineering; dated May 1, 2012.

9. **Request for Certificate of Compliance – 99 Stafford Street (DEP 349-916; CC-2006-083):** Mr. Gervais stated that he conducted a site visit and that the site is stabilized. Upon a motion by Mr. Franco and seconded by Mr. Donahue, the Commission voted 4-0 to grant Certificate of Compliance for 99 Stafford Street.

List of Exhibits:

Exhibit A: Request for Certificate of Compliance – 99 Stafford Street (DEP 349-916); submitted by SF Properties LLC; received May 30, 2012.

10. **Enforcement Order Update - 1121 Grafton Street – (CC-2006-088):** Staff did not have an update. Chair McDonald requested that staff check the progress by the next meeting.

11. **Enforcement Order - 187 Greenwood Street (CC-EO-2012-001):** Ms. Zhaurova stated that she has no update as the applicant has not yet applied for a Notice of Intent which probably has to do with difficulty of getting signatures from all owners of the properties involved in wetland restoration. Mr. Gervais stated that he believed no work is taking place on site beside initial investigative work with respect to wetland delineation. Mr. Berg Powers asked what the pond conditions were. Mr. Gervais stated that he will conduct another site visit to check the condition of the overflow structure.

12. **Enforcement Order - 126 Sears Island Drive (CC-EO-2012-002):** Ms. Zhaurova stated that Ms. Wood requested staff to obtain an answer to her question regarding whether the Commission can impose a fine after lifting an Enforcement Order. Ms. Zhaurova requested postponement of this item in order to have more time to research. The Commission was amenable to that.

13. **Enforcement Order - 2 Woodcliffe Ave (CC-EO-2012-003):** Mr. Gervais stated that he did a site visit with a permission of the owner and that no wetland filling appears to have take place, but that the work entailed vegetation clearing and trees planting within a 100-ft buffer of the wetland. He stated that the site appears to be revegetating naturally and is stable, that some trees are stored on a side waiting to be planted. He stated that landscaping and yard maintenance work is exempt from the regulations. Upon a motion by Mr. Franco and seconded by Mr. Berg Powers, the Commission voted 4-0 to lift the Enforcement Order.

14. **Enforcement Order – 25 Ellis Drive (CC-EO-2012-004):** Ms. Zhaurova requested more time for staff to advise the Commission on its enforcement options given that the owner has not responded to the attempts to communicate or the Enforcement Order that was recently sent. The Commission was amenable to that.

15. **Discussion & Issuance of Orders of Conditions as relevant to a hearing closed 6/11/2012: The Commission discussed and issued Orders of Conditions for the following projects:**

- a. 321 Greenwood Street (CC-2012-021) – Notice of Intent
- b. 26 Queen Street (CC-2012-022) – Notice of Intent

16. **Received Communication**

- a. 21 Day Notice of Spraying by MassDOT along selected locations along MassDOT right of way; dated May 21, 2012.
- b. 0 Salisbury Street (CC-2011-044) – Status on Appeal of the Conservation Commission’s Order of Conditions

The Commission did not take action on the received communication.

ADJOURNMENT

Upon a motion by Mr. Berg Powers and seconded by Mr. Franco, the Commission voted 4-0 to adjourn the meeting at 7:28 PM.