

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

December 3, 2012

WORCESTER CITY HALL – LEVI LINCOLN ROOM

Conservation Commission Members Present:

Joseph Wanat, Chair
Jeremy Theerman
John Donahue
Paul Franco
Mia McDonald

Staff Present:

Jonathan P. Gervais, Department of Public Works & Parks
Abby McCabe, Division of Planning & Regulatory Services
Nancy Tran, Division of Planning & Regulatory Services

CALL TO ORDER: The Chair called the meeting to order at 5:35 pm.

APPROVAL OF THE MINUTES: Upon a motion by Commissioner Franco and seconded by Commissioner Theerman, the Commission voted to approve the minutes from the October 22, 2012 and November 5, 2012 meetings.

NEW BUSINESS

Public Meeting

1. 662 Burncoat Street (CC-2012-051) – Request for Determination of Applicability (RDA):

Dan Bremser of Hancock Associates and Rich Martell of Seven Hills Family Services, Inc. were present to discuss the Request for Determination (RDA) application. Mr. Bremser brought revised plans showing the required 15' and 30' buffers shown for the Commission to review. He said the project proposed to tear down an existing single-family dwelling and construct a five unit group home. He stated that work will be done outside the buffer to a nearby stream, haybales are to be used to contain runoff, no runoff will reach the wetlands on the other side of Burncoat Street due to the street's topography and no runoff will reach abutters' property. Mr. Bremser estimated the project will have 4,000-5,000 SF of parking area and 5,000 SF for the new building. He added that the project sought to minimize tree removal with grading adjustments but proposed new landscaping.

Chair Wanat said the Commission required that the tree species be specified on the plan or filing to ensure they were Asian Longhorned Beetle resistant. He stated he was inclined to issue a positive determination and request a Notice of Intent (NOI) for the project due to the amount of additional pavement and utility changes.

Mr. Bremser said impacts were minimized by placing the new driveway onto the old and outside the buffer zones. He asked what the Commission would want to see on the Notice of Intent plans as opposed to the plans presently before the Commission. Mr. Bremser said that Ms. McCabe contacted him notifying him that the Commission would likely require a Notice of Intent due to the amount of ground disturbance. He explained to the Commission his interpretation of the City's Wetlands Protection Ordinance was that his project was exempt. He said he would revise the plan to show the tree species and hoped that the

Commission would continue to treat it as an RDA as he was told the filing deadline for the January 16, 2013 meeting had passed.

Chair Wanat said some of the project is subject to the Commission's discretion and he said he was more comfortable with an NOI filing.

Commissioner Donahue asked for clarification regarding the single-family interpretation, specifically the difference between one unit versus five units. Ms. McCabe said the City would consider the project a group home, not a single-family residence. She added that there is still time to send the NOI legal advertisement for the December 17, 2012 meeting. Mr. Bremser said a group home is considered a single-family under the State's Zoning and Building bylaws.

Mr. Gervais he spoke to Phil Nadeau from the Department of Environmental Protection (DEP), who clarified that DEP's interpretation is different than that of building code and considered it commercial, not single-family. Mr. Bremser said he would contact Mr. Nadeau regarding the interpretation.

Mr. Gervais clarified DPW&P's letter regarding the need for an NOI. He said that since the project total ground disturbance within and outside the 100' buffer zone to a catchbasin is greater than 10,000 SF, an NOI is required.

Mr. Bremser said he interpreted the City's Wetlands Protection Ordinance, Section 3 (d) with respect to the (10,000) square feet of ground disturbance applies only to disturbance within the buffer – not the project in total.

Chair Wanat disagreed with Mr. Bremser's interpretation and concurred with Mr. Gervais' statement that the project falls under local jurisdiction, not only the Wetlands Protection Act.

Commissioner McDonald stated she thought the applicant did well in minimizing the impact within the buffer zones and suggested a Negative Determination with conditions such as more revised plans with more details with respect to TSS removal, etc.

Commissioner Theerman stated that he preferred a NOI but was amenable for continuing to receive more information from the applicant's attorney.

Commissioner Franco said the project would need conditions, an NOI or clear understanding with respect to jurisdiction.

Staff said the project would not go before the Planning Board and thus no abutters would be notified.

Commissioner Franco said he was not concerned with the group home interpretation but the large driveway. He preferred an NOI in order to notify abutters. Chair Wanat concurred about possible abutter concerns regarding the dumpster and parking.

Mr. Bremser requested for a continuance to contact Phil Nadeau and the applicant's attorney with regards to interpretation of a group home treated as a single-family dwelling.

Commissioner McDonald asked why the driveway was so large. Mr. Martell responded that it was to accommodate for handicapped vans, shift changes and to avoid on-street parking.

Commissioner cautioned the Commission regarding setting the statute and discrimination of privatized adult care.

Mr. Gervais had no further comments.

Jo Hart, Worcester resident, expressed her support of abutter notification for the development, whether required or not.

Upon a motion by Commissioner Franco and seconded by Commissioner Theerman, the Commission voted 5-0 to continue the item to December 17, 2012.

List of Exhibits:

Exhibit A: Request for Determination of Applicability application for 662 Burncoat Street; submitted by Seven Hills Family Services Inc; received November 7, 2012.

Exhibit B: Permit Site Plan; prepared by Hancock Associates; dated October 31, 2012

Exhibit C: Existing Conditions Plan; prepared by Hancock Associates; dated October 31, 2012

Exhibit D: Memorandum from Department of Public Works to Conservation Commission; re: 662 Burncoat Street - RDA; dated December 3, 2012.

OTHER BUSINESS

2. Request for Certificate of Compliance – 24 Jolma Road (DEP-349-531)

Mr. Gervais stated that the work had been completed and there were no issues.

Upon a motion by Commissioner Franco and seconded by Commissioner McDonald, the Commission voted 5-0 to issue a Certificate of Compliance.

List of Exhibits:

Exhibit A: Request for Certificate of Compliance – 24 Jolma Road; submitted by Saltus Realty; received November 11, 2012.

3. Request for Certificate of Compliance – 615 Salisbury Street (DEP-349-539)

Mr. Gervais stated that the work had been completed and there were no issues.

Upon a motion by Commissioner Franco and seconded by Commissioner McDonald, the Commission voted 5-0 to issue a Certificate of Compliance.

List of Exhibits:

Exhibit A: Request for Certificate of Compliance – 615 Salisbury Street; submitted by James Mahan; received November 14, 2012.

4. Request for Certificate of Compliance – 3A & 3B Tyson Terrace (CC-2011-032)

Mr. Gervais stated that the work had been completed and there were no issues.

Upon a motion by Commissioner Franco and seconded by Commissioner McDonald, the Commission voted 5-0 to issue a Certificate of Compliance.

List of Exhibits:

Exhibit A: Request for Certificate of Compliance – 3A & 3B Tyson Terrace; submitted by Richard Bezdegian; received November 26, 2012.

5. Request for Certificate of Compliance – 40 Foxmeadow Drive (Lot 66) (DEP-349-365)

Mr. Gervais stated that the work had been completed and there were no issues.

Upon a motion by Commissioner Franco and seconded by Commissioner McDonald, the Commission voted 5-0 to issue a Certificate of Compliance.

List of Exhibits:

Exhibit A: Request for Certificate of Compliance – 40 Foxmeadow Drive; submitted by Lauren Smith; received November 26, 2012.

6. Enforcement Order Update – 14 Ada Street (CC-2011)

Ms. Tran said she contacted the owner, Gerard Aubin who stated he did not begin any work because of the water level. She said she would update the agenda once she is notified that the mitigation work had been completed.

Upon a motion by Commissioner Franco and seconded by Commissioner McDonald, the Commission voted 5-0 to continue the item until updated by Mr. Aubin.

7. Enforcement Order Update – 187 Greenwood Street (CC-EO-2012-001)

Dan Wells of Goddard Consulting brought and reviewed as-built plans with the Commission. He stated that the restoration work was completed on November 5, 2012 and there were no changes since then. He showed the area's elevations, restoration area and wetlands extent.

Chair Wanat said the enforcement order would not be lifted until after two growing seasons had passed, during which staff should receive quarterly monitoring reports of the subject area.

Upon a motion by Commissioner Franco and seconded by Commissioner McDonald, the Commission voted 5-0 to continue the enforcement order until updated by the consultant.

ADJOURNMENT

Upon a motion by Commissioner Franco and seconded by Commissioner McDonald, the Commission voted 5-0 to adjourn the meeting at 6:32 PM.