



Conservation Commission

January 7, 2014 – 6:30 PM – **Minutes**
City Hall, 133 William Street

****View Agenda ****

Members Present

Kenneth Motta, Chairman
Jack Radcliffe
Craig Dixon
Dennis Audette
Paul Pacheco

Members Absent

Staff Present

Agent Sarah Porter
Sandy Douglas, Admin. Specialist

Chairman Motta called the meeting to order at 6:30 p.m.

HEARINGS:

1. **SE49-0692 – (Continued from 6/11/13, 6/25/13, 7/9/13, 7/23/12, 8/13/13, 8/27/13, 9/10/13, 9/24/13, 10/7/13, 10/22/13, 11/12/13, 11/26/13, 12/10/13) - A Notice of Intent as filed by Richard Hopps for property identified as south side of Cardinal Street/ 1156 & 1158 Cardinal St. (Map 136, Lot 353; Map 138, Lots 377 & 378).** Applicant requests a wetland boundary verification and approval for an eight lot subdivision in the Buffer Zone to Bordering Vegetated Wetland. Representative is Richard Rheume of Prime Engineering, Inc. **CONTINUED**
2. **(Continued from 10/7/13, 10/22/13, 11/12/13, 11/26/13 & 12/10/13) - A Request for Determination of Applicability as filed by Ron Labelle, City of New Bedford Commissioner of Public Infrastructure for property identified as 1350, 1296, 1232, 1216, 1182 & 1174 Sassaquin Avenue, New Bedford (Map 138, Lots 445, 81, 67, 69, 60, 392, and 191) and the Swallow Street and Sassaquin Avenue Rights of Way.** Applicant proposes to upgrade the storm water management system in the Buffer Zone. Representative is David Fredette of the Department of Public Infrastructure. **CONTINUED**
3. **SE49-0698 – (Continued from 11/12/13, 11/26/13 & 12/10/13) - A Notice of Intent as filed by The City of New Bedford Planning Department for property identified as Palmers Island (Map 32, Lots 1 & 2).** The applicant proposes to establish a pedestrian pathway and manage invasive species in the Buffer Zone and Land Subject to Coastal Storm Flowage. Representative is Mathew Creighton of BSC Group. **CONTINUED**
4. **A Request for Determination of Applicability as filed by Albert J. Santos for property identified as 104-106 Co-Op Wharf (Map 53, Lots 252 and a portion of 253).** Applicant proposes to construct an addition, deck and handicap access ramp in the Buffer Zone to the Acushnet River (Land Under the Ocean). Representative is Ken Ferreira of Kenneth R. Ferreira Engineering.

Commissioner Audette recused himself from this hearing and left the room at this time.

Mr. Kenneth Ferreira of Kenneth Ferreira Engineering was present and stated that the applicant is proposing to renovate an existing structure at 104-106 Co-Op Wharf. The applicant has a license to lease approximately

3,000 s.f. of land adjacent to the building from the City for an outside deck and are proposing to construct a handicap access ramp, a brick walk to match the other walkways. They need to add a small addition for handicap access and handicap bathrooms to the building. Landscaping is proposed. Mr. Ferreira stated that it is a small project but there is a lot of construction details. The applicant is also licensed from the City the right to use 30 parking spaces within the State Pier and has been approved by the Planning Board. CLE Engineering will be filing a Chapter 91 License.

Mr. Luis Da Silva the manager of the operation at the Black Whale was also present.

Mr. Ferreira also advised that there is a landscape designer from G. Bourne Knowles to design the landscaping around the project and Patrick Day from the City of New Bedford has proposed additional landscaping around the Harbormaster's Office and it will all be done by the applicant.

Mr. Ferreira stated that there is a current five year license from the City of New Bedford on this land to the Black Whale to construct the outside ramp. Mr. Ferreira advised that there is a collapsed manhole in front of the building which the City of New Bedford's DPI Department are going to fix it and he is sure they will use all the appropriate erosion and silt control.

Agent Porter inquired as to how much excavation they plan on doing. Mr. Ferreira replied that there is no proposed basement and it will only be a 4'-5' below grade and there are special conditions that the architect has discussed with Coastal Rail because the property abuts the railroad tracks and they want special considerations during construction to make sure it doesn't undermine the tracks.

Mr. Ferreira stated that it's a very small excavation area and doesn't feel that any erosion would get into the harbor.

Commissioner Radcliffe inquired as to how much excavation and how long will it take. Mr. Ferreira responded that it should be done within two weeks.

Chairman Motta suggested that the contractor be responsible for the proper management of the stormwater throughout the construction period such as there is no untreated discharge into the Harbor and that this be a condition. And the only other condition is that there be a pre-construction meeting with the Agent.

Commissioner Radcliffe made a motion for a negative determination of applicability subject to the conditions as recommended. Motion was seconded by Commissioner Dixon. All in favor. Motion carries.

5. SE49-597 – A Request for Certificate of Compliance as filed by Ana M. Reis, Trustee of Bismark Meadows Realty Trust for property identified as Bismark Street (Bismark Meadows Road), (Map 136, Lot 131). Representative is Edwin H. Gless of Existing Grade, Inc.

Mr. Edwin Gless of Existing Grade, Inc., was present. Mr. Gless stated that the pond that is out there has been there for approximately 4-5 years and they have prepared the plans and he and Agent Porter walked the site and would answer any questions the Commission may have.

Commissioner Motta asked Mr. Gless if he has conducted a survey and an inspection of the site and if he has reviewed the Order of Conditions and that he feels that all was built in accordance and is in substantial compliance. Mr. Gless responded that he did survey and inspection.

Commissioner Motta stated that the size of the basin appears to be much smaller in the as-built than what was approved on the original plan and if he could give the Commission calculations to show the comparison between what the approved volumes were in the basin and what the as-built volumes were. Mr. Gless responded that he will have to get in touch with the previous engineer and then provide that to the Commission.

Councilor Jim Oliveira was present and stated that on behalf of the residents and this is probably the final step of getting street accepted after five years of waiting. The residents have been without City services including no snow plowing and are paying in excess of \$5,000.00 in taxes. Councilor Oliveira asked that the Commission provide final approval so that they could move forward to submitting the final acceptance of the street on January 23.

Commissioner Motta confirmed with Councilor Oliveira that the Planning Board is going to consider the street acceptance on January 23rd. Councilor Oliveira replied that was correct and that the Planning Board is ready to submit it to City Council for acceptance.

Agent Porter advised that right now there is a fence line which goes along the adjacent lot which ties into the chain link fence and for some reason there is supposed to be another split rail fence in the 10' no disturb line which is not there and it does not make sense to put one there since it is behind all the other fences. Commissioner Radcliffe agreed. Agent Porter also advised that the detention pond has not been mowed and there is some woody growth that has started to grow.

Commissioner Radcliffe inquired as to who is responsible for the maintenance. Agent Porter replied that the developer is responsible.

Mr. Gless stated that the pond has been mowed but is not sure whether or not they went down the side slopes and agrees with the Agent that there is woody vegetation there and he could have someone cut it by hand.

Commissioner Radcliffe questioned whether this Commission's granting a Certificate of a Compliance would expedite a process that would result in better maintenance of this area. If that was the case he would be in favor of granting said Certificate.

Agent Porter replied that there are a couple other issues including that the silt fence is still present but down on the ground and the 100 year storm is at a different location with a slightly different elevation than what was proposed under the original plan. Chairman Motta added that it's approximately ½" lower which means there is less available volume in this basin which is his primary concern.

Mr. Gless stated that it is ½" lower and its all rock lined and it could be very easily fixed to bring it up to the correct volume but it still should be fine because it's an emergency overflow it's not a volume contained. There are also three different outlets on that structure that controls the flow.

Agent Porter stated that she has not received anything from DPI yet, they usually will send something inquiring whether all the Departments are ready for the acceptance of the street and that's when Agent Porter responds yes or no. Agent Porter advised that the Commission can go ahead and issue a Certificate of Compliance contingent upon all the issues raised this evening are resolved. But, in the meantime, if she receives something from DPI that it is ready for acceptance than she can sign off on it.

Chairman Motta stated that this Commission does not know for sure nor is it the Commission's purview as to whether or not the developer intends to petition the City to accept the roadway and the drainage basin and maintenance of it.

Mr. Gless stated that he has prepared the street acceptance plans for the engineer with the full detail of the basin and the area showing the fence and the easement. It is Mr. Gless' understanding that the developer will be asking the Planning Board to accept the roadway and the drainage basin.

Councilor Oliveira advised that the City is still holding \$15,000.00 in bond.

Chairman Motta stated that there are some minor clean up items as far as vegetation removal, the silt fence removal and verification of the pond volumes. Chairman Motta asked Mr. Glass if the developer would be willing to get the physical work of clearing the vegetation and the removal of silt fence done prior to the Planning Board meeting. Mr. Glass replied that he did not know. Agent Porter added that they cannot remove the silt fence out of the ground at this time it is frozen. Chairman Motta stated that he would then have to defer that to the Planning Board it would be between them and the DPI since they are still holding part of the performance bond.

Commissioner Radcliffe inquired if conditions could be attached to the Certificate of Compliance. Agent Porter replied that there can be conditions attached.

Agent Porter stated that the conditions would be: 1) verification of the pond volume; 2) removal of the silt fence; 3) removal of woody vegetation; 4) 100 year spillway will need to be confirmed or adjusted as need be to meet the requirements of the ½" difference; and 5) regular continuing conditions #34, #35 and that the owners of this property covered by this order or their successors in title shall be responsible for maintenance and operation of all components of the stormwater management system in accordance with the operation and maintenance schedule provided on the approved plan and this condition is ongoing and it does not expire with the issuance of a Certificate of Compliance.

Chairman Motta stated that the Commission could vote on this being contingent upon the work being done.

Commissioner Dixon inquired if DPI comes by for a sign-off on the street, if the Commission can sign off on the street without the work being done. Agent Porter advised that she can explain to DPI that the Commission will not issue a Certificate of Compliance until the volume is corrected as proposed but she can still sign off on the acceptance of the street. Chairman Motta stated that may jeopardize the acceptance of the street.

Commissioner Pacheco inquired as to how long it would take to draw the volume calculation. Mr. Gless responded that he could have that prepared fairly quickly.

Chairman Motta stated that if the developer can get the verification of the pond volume to add stone, removal of the silt fence and removal of the silt fencing done before the Planning Board Meeting than this Commission would be receptive to having a special meeting to take a final vote on the Certificate of Compliance.

Mr. Gless stated that he will get back to Agent Porter tomorrow after he has had an opportunity to speak with the developer.

The Commission agreed to hold a special meeting on January 21st, 2014.

Commissioner Radcliffe made a motion to continue this matter to January 21st, 2014 for a special meeting. Motion was seconded by Commission Dixon. All in favor. Motion carries.

OTHER BUSINESS:

1. Agent updates

MARKET BASKET

Agent Porter advised that she sent letter to Market Basket and did receive a response. She met on site with Mike Hebert from DW White and he stated that a lot of the debris is windblown debris and know that they have to clean all of it and he wanted to know if the Commission would consider allowing them to erect a snow fence.

The Commission agreed to allow him to erect a snow fence.

THE AIRPORT

Agent Porter advised that this office has received the first Annual Monitoring Report from the Airport on their mitigation areas and that seems to be going well. They had some areas where the woody vegetation had been planted has died so they are working with contractor to figure out what to do about that.

THE BUSINESS PARK

Agent Porter advised that there was another ATV raid by the Environmental Police.

Commissioner Radcliffe stated that the trails are overgrown and that his wife is organizing a volunteer crew to go and maintain the paths properly sometime in March. Commissioner Radcliffe stated that the work would be done at Polaroid and State Property. Agent Porter stated that he would need the property owner's permission because Polaroid is owned by the Massachusetts Department of Fish and Wildlife, Natural Heritage Program. Commissioner Radcliffe stated that he will get a plan together and submit it for approval.

A motion to adjourn was made by Commissioner Radcliffe at 7:25 pm. Motion was seconded by Commissioner Dixon. All in favor. Motion carries.

Respectfully submitted,

Sandy Douglas
Administrative Specialist