



Conservation Commission

March 19, 2014 – 6:30 PM – **Minutes**
City Hall, 133 William Street

****View Agenda ****

Members Present

Kenneth Motta, Chairman
John Radcliffe
Craig Dixon
Dennis Audette

Members Absent

Paul Pacheco

Staff Present

Agent Sarah Porter
Sandy Douglas, Admin. Specialist

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

Commissioner Dixon made a motion to take general business out of order with regard to Maddie Drive. Motion seconded by Commissioner Audette. All in favor. Motion carries.

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, 1/7/14, 2/8/14, 2/19/14 & 3/4/14) - 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.

Mr. Richard Rheume of Prime Engineering was present together with Mr. Richard Hopps. Mr. Rheume advised the Commission that they have made all the modifications that the Planning Board and DPI requested and they are just keeping their hearing open until the Conservation Commission is satisfied and has issued an order. Agent Porter had made a request to eliminate the sidewalks in the development to reduce the impervious area and the Planning Board voted in favor. Mr. Rheume stated that infiltration basins are oversized now from what they were before and have received a clean letter from the Conservation Commission's peer review, Nitsch Engineering.

Chairman Motta stated that one of the things that Mr. Turner of Nitsch Engineering had mentioned was a portion of the pavement that was still discharging onto Swallow Street. Mr. Rheume replied that under existing conditions, there is about 1,000 s.f. of pavement and 6,000 s.f. of other area that drains to Swallow Street and has taken that 7,000 s.f. and reduced it to 1,000 s.f. It was reduced to approximately ¼ of the volume that is currently going to the Sassaquin Pond under the existing conditions. Chairman Motta stated that Mr. Turner did acknowledge the reduction in the rate but the Commissioner's concern was the treatment of that portion of the roadway. Mr. Rheume replied that the catch basins are a slope shallow that they cannot fit anything in and they have made it considerably better than what is existing.

Chairman Motta inquired as to why Mr. Rheume cannot just replace those catch basins with a deep sump catch basin on both sides and that would give some treatment. Mr. Rheume replied that can definitely be done on the West Side as a deep sump catch basin with a hood. Chairman Motta stated that there isn't enough headroom for the hood and just do a deep sump catch basin and match the line and grade of the pipe that is out there. The first basin seems to be the one that is catching most of the water from the roadway as opposed to the one on the

other side and he is more concerned with the catch basin that is on the East side. Mr. Rheume replied that he can do that and asked that the Commission add this as a condition to the order.

Commissioner Audette inquired whether lot #10 had anything to do with this project. Mr. Rheume replied that lot has nothing to do with this project. Commissioner Audette requested that before anything is done he would like to all the trash and debris to be cleaned out and not buried and then checked by the Conservation Commission to make sure the land is completely clean. Mr. Rheume agreed to Commissioner Audette's suggestion.

Commissioner Audette stated that he would like to make sure everything is laid out correctly with the detention pond before any work is done.

Mr. Rheume replied that the Jill MacLean the City Planner also had the same concern and they are planning on releasing only a certain number of the lots and requiring that the road be built including the finished course within a specified period of time and not releasing the final lots. Mr. Rheume stated that the condition could be that they are not allowed to have some of the final few lots to be done. Commissioner Audette stated that he would like the detention pond done completely.

Chairman Motta stated that most of the lots are going to be subject to future NOI filings with the exception of Lot #1 depending on what the development program is for that particular lot and it may not fall under the Conservation Commission's purview.

Chairman Motta suggested the following conditions: 1) that there will be no Order of Conditions issued on any of the lots nor will this Commission sign off on any building applications until the drainage system is functional and substantially complete; 2) that Nitsch Engineering be more involved on the QAQC construction, quality control, and inspections at critical milestones during the construction of the basins such as the subgrade excavation on the infiltration basins, subgrade excavation on the leaching pits and any other milestones that would be predetermined at the pre-construction meeting.

Chairman Motta inquired whether there was anyone present that wished to comment on this matter.

Mr. Bob Mandeville of 1240 Sassaquin Avenue and stated that he is in opposition to this project.

Mr. Jeffrey Miller of 13 Tobey Lane was present and stated that he is in opposition to this project and feels that this project does not belong in Sassaquin and is against any water that naturally flows into the pond and any water that is flowing into the pond to have some deep filtration and has some concerns with regard to the construction itself with trucks coming in and out of the neighborhood.

Ms. Elizabeth Miller of 13 Tobey Lane was present and stated that she is in opposition to this project.

Mr. Peter Silva of 1309 Sassaquin Avenue was present and stated that he is in support of this project.

Commissioner Radcliffe stated that the Commission needs to consider what the ultimate impact on the resource area will be after construction and the other is the disruption to the area and what could or might not happen to the pond. There isn't any guarantees that the construction process itself will go without a hitch, or that there won't be any accidents in which material doesn't infiltrate the pond. There are still some minor concerns represented in the Nitsch letter and it is true that the City has spent some time, energy and money to look at the entire Sassaquin Pond area to have it designated as an important resource area and he thinks that the concerns and the respect for that resource that has been represented by the abutters are correct and proper and should be listened to more carefully and that he will be voting against this project on this basis.

Mr. Rheume stated that they have proven that the whole area is not part of the Sassaquin Watershed and any implication that this is going to impact the pond is founded on misinformation. There hasn't been one shred of

evidence that this development will impact the pond. Mr. Rheume added that the people in the Sassaquin area are continuing to fertilizing their lawns and allowing their pets to soil the area and they are the ones that are greatly degrading their pond.

Commissioner Radcliffe stated that Nitsch Engineering mentions in its letter that the flow will be collected by the Swallow Street drainage system and is discharged to Sassaquin Pond. Mr. Rheume replied that there is 7,000 s.f. of pavement and contaminated area and they are eliminating 6,000 s.f. of it.

Commissioner Radcliffe inquired whether there was a way to construct an issuing Order of Conditions for the removal of sidewalks in perpetuity and it will have to be deeded and registered. Agent Porter stated that she could include that as a condition.

Chairman Motta stated that could be included in the Order and when they come back for the Certificate of Compliance that will be one of the perpetual conditions that there will never be any sidewalks on this sight.

Mr. Jeffrey Miller inquired if there was any way restrictions could be placed on the construction vehicles as to access to the construction site. Chairman Motta replied that request is beyond this Commission's purview and he would have to address that concern with DPI, Planning Board, Fire Department Chief or Police Department.

Mr. Bob Mandeville commented that if back in 1970s they thought this area was saturated and now it's more saturated there isn't enough ability for water to cleanse itself because of the roadways, driveways, parking lots, etc., and to him this continually adversely affects the pond.

Chairman Motta replied that the Zoning By-Laws allows for the dense of this development in the area and it is being developed within the zoning constraints.

Chairman Motta suggested the following additional conditions be added to the Order of Conditions: 1) the two existing catch basins at the end of Swallow Street will be replace with 4' deep sump catch basins; 2) that the drainage system be constructed substantially complete prior to any additional Order of Conditions issued on this property or endorsement of any building permit applications; 3) a completed as-built plan certified by the Engineer shall be submitted and reviewed by the Conservation Commission's consultant; 4) before any construction, the lots are to be completely cleaned out and nothing is to be buried and Agent Porter will inspect the site after clean-up.

Mr. Rheume inquired whether the Commission would allow the filing of Notices of Intent prior to any construction on any homes.

Chairman Motta replied that he would not entertain issuing any Order of Conditions on the lots if any of the activity is within the buffer zone nor will he authorize Agent Porter to endorse any building permit applications until the drainage system is substantially complete.

Chairman Motta also would like construction inspections to be made by the Commission's consultant at critical milestone during the construction of the detention basin. One of the milestones being during the excavation of the rear infiltration basin is between lots 3 and 4. Chairman Motta would also like the Commission's consultant to do a sub-grade inspection on the excavation for the leaching pits prior to the placement of the leaching pits and the stone and also the excavation of the swale and the installation of the roadway structures. Chairman Motta stated that the exact milestones can be worked out at the pre-construction meeting with Agent Porter, the Commission's consultant and the contractor.

Agent Porter suggested following conditions also be added to the Order of Conditions in addition to Chairman Motta's conditions: 1) when the Notices of Intent are filed for the individual lots, the roof infiltrators for each lot shall be sized to accommodate the 100 year storm event; 2) that the storage and use of fertilizer, pesticides

in the buffer zone is prohibited; 3) the stormwater management device shall be maintained as established in the approved Permanent Stormwater System Operation and Maintenance Plan dated 2/3/2014 or as required by DEP Stormwater Management Handbook; and 4) the 2/3/14 revised Development Impact Report, Appendix B, Erosion and Sediment Control Procedures is also an approved document.

Commissioner Dixon made a motion to approve Notice of Intent subject to all conditions as recommended by Agent Porter and Chairman Motta. Motion was seconded by Commissioner Audette. All in favor except for Commissioner Radcliffe who abstained from voting. Motion carries.

2. **(Continued from 10/7/13, 10/22/13, 11/12/13, 11/26/13, 12/10/13, 1/7/14, 2/8/14, 2/19/14 & 3/4/14) - 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, 1/7/14, 2/8/14, 2/19/14 & 3/4/14) - 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. **SE49-597 – (Continued from 1/7/14, 2/8/14 & 3/4/14) - 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.

Agent Porter advised the Commission that she met with Mr. Jim Holding this morning and he agreed to have his contractor go back out and re-do the detention pond so that it is in accordance with the approved design plans. They intend to have the work done within the next month or so. Agent Porter stated that when the work is complete it will be sent back to Nitsch Engineering for review.

Chairman Motta stated for the record that he will not entertain any further extensions of the Order of Conditions beyond May. If the work is not done prior to expiration of the Order they will have to re-file.

Commissioner Radcliffe made a motion to table this matter to the next meeting. Motion was seconded by Commissioner Audette. All in favor. Motion carries.

5. **A Request for Determination of Applicability as filed by the Massachusetts Clean Energy Technology Center for property identified as off of Kempton Street between Route 140 and St. Mary's Cemetery (Map 61, Lot 2).** Applicant proposes to conduct vegetation clearing, soil borings and soil probes in the Buffer Zone to Bordering Vegetated Wetland. Representative is John McAllister of Apex Companies.

Mr. John McAllister of Apex Companies was present on behalf of the applicant. Mr. McAllister advised that they would like to conduct testing of the soil and DPI would be doing the clearing. There is a swale that runs through the property on the Westerly portion and the wetlands have been delineated by Agent Porter back in August. They would need to get an ATV drill rig in there to do borings. Mr. McAllister stated that they be conducting test on electricity through the soils and will have to put in probes at periodic stations and measure the electricity through that. They originally met with Ken and Agent Porter and there is a lot more area to be cleared for the design and there is concern 15' width for the drill rig and he spoke with the drill rig consultant

and they would prefer to have a 15' clearance to get the tower up. Mr. McAllister stated that rather than reduce the width they cut back the testing sections to 4 instead of 12. Mr. McAllister spoke with DPI today and they would have to clear a path with chain saws and a backhoe. There is no wiggle room on the borings.

Mr. McAllister advised that Apex will stake out a pathway for the boring locations so that DPI knows where they are going and what to clear.

Chairman Motta advised that when the pathway is staked out that Agent Porter will have to go to the site for inspection.

Commissioner Radcliffe inquired where this projection is in relation to the work that DOT is doing in the same area. Mr. McAllister replied that it is West of it.

Commissioner Radcliffe also inquired as to what is the intent of this project.

Mr. McAllister replied that right now it is to be determined if it can be developed as an accessory parcel for AM radio.

Agent Porter stated that a backhoe will need to be used to remove the stumps. Agent Porter recommended that they make small stockpiles and all stockpile materials are to be placed on the North and East sides of the access roads so that they are away from the wetland areas. Agent Porter will go and walk the flagged corridor prior to commencing any clearing. Clearing is to be left in place for wildlife habitat. The proposed Plan for approval is the Proposed Clearing Plan RDA filing dated March 5, 2014.

Commissioner Dixon made a motion to approve subject to all conditions as suggested by the Agent. Motion was seconded by Commissioner Radcliffe. All in favor. Motion carries.

OTHER BUSINESS:

MADDIE DRIVE

Mr. Tom Waterman, the builder for 28 Maddie Drive was present. Mr. Waterman advised that his contractor put the two rechargers in the back instead of the front. Chairman Motta inquired as to why this was done. Mr. Waterman replied that the front was a little crowded with gas, water, the grinder pump and the front stairs.

Agent Porter stated that there is supposed to be an outfall there now as was proposed in the original plan and it's not there.

Chairman Motta inquired if the roof leaders are in and if they go into the chamber. Mr. Waterman replied that they are in.

Chairman Motta stated that the contractor should have known that he was making a change to the approved plan when he noticed the conflicts with the utilities in the front of the building and someone should have contacted Agent Porter prior to installing the units. Mr. Waterman stated that it wasn't brought to his attention until after the units had been installed and that is why he is here this evening.

Chairman Motta inquired whether any additional fill had been brought in. Mr. Waterman replied that they took a ton of fill out that Mr. Peck had brought in.

Chairman Motta confirmed with Mr. Waterman that this site has been graded off in such a way that the water from the top of the hill is going to run straight across the lot to the detention pond. Mr. Waterman replied that was correct.

Chairman Motta advised Mr. Waterman that the overflow pipe needs to be installed and then before a CO is issued, an as-built with grades will have to be filed.

Agent Porter advised Mr. Waterman that he needs to repair the silt fence in front of the detention pond. Mr. Waterman replied that he will fix that.

1. Sassaquin Pond update on Ordinance

Agent Porter advised that she just received the proposal from Scott Turner today that was done by John Rockwell at the Buzzard's Bay Estuary Program. Mr. Turner is proposing to do a review for the Commission for \$4,700.00. That fee would be paid from the Environmental Stewardship's General Fund because it cannot be paid from the Conservation Commission's revolving account.

Commissioner Dixon made a motion to approve the fee of \$4,700.00 is paid to Nitsch Engineering from the Environmental Stewardship's General Fund. Motion was seconded by Commissioner Radcliffe. All in favor. Motion carries.

Agent Porter also advised that there will be a meeting tomorrow night to present a power point presentation to the Watershed at Our Lady of Fatima Church.

2. Agent updates

SASSAQUIN POND TREEBOX FILTERS

Agent Porter inquired if the Commissioners would like to discuss the Tree box Filters that are being installed now at Sassaquin Pond.

Commissioner Audette stated that it is a waste of money they are putting in septic system boxes. He is not sure whether a pipe is going from the tree box to the sewer. Agent Porter replied that there is a pipe there. Commissioner Audette stated that all this is going to do is leach into the ground and there is no new filtration going on.

Agent Porter stated that the majority of the tree boxes are outside the buffer zone and the Commission cannot apply for the 319 Grant because they tree boxes are not the proper approved design.

The Commission would like Agent Porter to send a letter to Ronald LaBelle advising him of this Commission's concerns.

Commissioner Radcliffe made a motion to send a letter to Mr. LaBelle with a copy to the Mayor. Motion was seconded by Commissioner Dixon. All in favor. Motion carries.

HASKEL PROPERTY

Agent Porter advised the Commission that the Trustees for the Reservation have contacted her and would like to know if the Commission would be interested in taking on the Conservation Restriction of the Haskell property. Agent Porter advised that it will be an urban park and the Massachusetts Land Conservation Trust is the Grantor and the Commission would be the Grantee.

Agent Porter advised that they would like to come before this Commission on April 1st to explain their proposal and they would also like an opportunity to do a site walk with the Commission.

Chairman Motta commented that this Commission becomes the proprietors of the property with the CR and this Commission has to be sure that the property is sure and have to prepare a baseline documentation report and have to do annual inspections.

The Commission agreed to do a site walk next Tuesday at 5:30.

3. General Correspondence

None.

A motion to adjourn was made by Commissioner Radcliffe at 7:50 pm. Motion was seconded by Commissioner Dixon. All in favor. Motion carries.

Respectfully submitted,

Sandy Douglas
Administrative Specialist