



Conservation Commission

April 1, 2014 – 6:30 PM – **Minutes**
City Hall, 133 William Street, Ashley Room

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.

Chairman Radcliffe made a motion to take item #5 out of order. Motion was seconded by Commissioner Dixon. All in favor. Motion carries.

HEARINGS:

1. **(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 & 3/19/14) - 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**
2. **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 & 3/19/14) - 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**
3. **SE49-597 – (Continued from 1/7/14, 2/8/14, 3/4/14, 3/19/14) - 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. **CONTINUED**
4. **A Notice of Intent as filed by Claremont Companies for property located on Downey Street (Map 123, Lot 3).** The applicant seeks to construct an airplane hangar building along with 12 paved parking spaces, utilities, landscaping and stormwater management. Representative is Christian Farland of Thompson Farland, Inc. **CONTINUED**
5. **SE49-642 – A Request for Certificate of Compliance as filed by Multilayer Coating Technologies c/o Watermill Group for property located at 50 Phillips Road (Map 133, Lot 15).** Representative is Richard R. Riccio of Field Engineering Co., Inc.

Chairman Motta recused himself from this hearing because of employer conflict and left the room at this time.

Commissioner Radcliffe will be the Chairman for this hearing.

Mr. Richard Riccio of Field Engineering was present and stated this was a previous Order of Conditions for maintenance work on an existing drainage ditch at the old Polaroid Site, which site is in the process of exchanging owners and will be filing a new Notice of Intent to do additional improvements. The old Order of Conditions needs to be cleared so that the real estate transaction may be completed.

Agent Porter asked Mr. Riccio if he had recently been at the site. Mr. Riccio replied that he was at the site approximately a week or so ago. Agent Porter inquired as to what was the disturbance about. Mr. Riccio replied that is from the demo work. Agent Porter advised Mr. Riccio that they need to be careful not to get that disturbance into the wetland areas or else Mr. Riccio's client will be inheriting a problem. Mr. Riccio understood.

Agent Porter advised the Commission that the work was never done but the Order of Conditions is still valid. The Agent recommended the issuance of a complete Certificate of Compliance because Condition #51 is ongoing and it does not expire with the issuance of the Certificate of Compliance. The whole purpose of the NOI is to maintain the stormwater management system.

Commissioner Dixon made a motion to approve as recommended by Agent Porter. Motion was seconded by Commissioner Audette. All in favor. Motion carries.

OTHER BUSINESS:

1. Conservation Restriction – Haskell Property, Trustees of the Reservation to be present to go over CR.

Commissioner Radcliffe advised that he asked for a Determination of a possible conflict of interest because he is a longstanding member of the Trustees of the Reservations. The Solicitor's office advised that he allowed to be part of this discussion.

Ms. Kelly Whitmore was present together with Kristine DeSousa who is the Superintendent, main caretaker and manager of the property. Ms. Whitmore stated the Trustees purchased this property at the end of June, 2013 and the property will become on the Trustee's Reservations. The Trustees have over a hundred properties over the states where the public comes and enjoys the outdoors. There is a Federal Land and Water Conservation Fund Grant that is specifically for the purchase of Conservation Restriction on the property and they felt like this would be a good funding program to work with the City's committed \$100,000.00 in CDBG (Community Development Block Grant) Funds. The Grant was for the purchase of a Conservation Restriction on the property and the goal is that it just further insures that the property will continue to be open to the public for conservation purposes. They have the Conservation Restriction appraised which means there was an assessment done by a third party appraiser that looks at the value of the property as it would sell on the fair market and then the value of the property as if it would sell at a restricted where it couldn't be developed and then the difference is the value of the PR. It was determined to be \$410,000.00.

Ms. Whitmore added that a meeting has been scheduled for this coming Friday with City Solicitor Jane Freidman to go over the CR and she would like the Commission's comments this evening so that they could be reviewed on Friday. Ms. Whitmore would like this to be ready for a final vote at the next meeting. A closing needs to take place prior to the end of the fiscal year.

Commissioner Dixon stated that he felt that this is beyond his expertise and feels that the Solicitor's office needs to go over this with a fine tooth comb because a lot of this is legal in nature.

Chairman Motta stated that Solicitor Friedman did not change much in the content of the reserved rights.

Commissioner Audette stated that there was never livestock on this property it was just birds and dogs.

Ms. Whitmore stated that they would only be able to have livestock on the property if the Local, State and Federal regulations allowed it. Ms. Whitmore made it clear that if chickens are not allowed by the City of New Bedford, then they would not be allowed on this property. It would be only per what the City of New Bedford allows. Ms. Whitmore also stated that they don't plan on having livestock but they have to think about the future and sees that maybe some chickens could be there. So if the City Zoning allows it then she feels that it should be allowed and she doesn't want it to state in the CR that livestock cannot exist.

Ms. Whitmore suggested discussing this concern with City Solicitor Jane Friedman at the upcoming meeting. Ms. Whitmore does not want the CR to prohibit livestock completely and then have to go through an amendment process if it becomes allowable by the City and the Board of Health.

Chairman Motta stated that he personally doesn't see the primary function of that land being raising livestock.

Commissioner Radcliffe stated that when drafting a CR you can make it more restrictive than the City By-Laws allow but you can't make it less restrictive. So if the City prohibits livestock you cannot put something in the CR that allows it.

Chairman Motta stated that the CR has to be tailored to the location and this is a very unique location because it is in an urban area, and to his knowledge, it has no real past history as being an active farm or raising of livestock.

Chairman Motta also stated that if it is not allowed as a matter of right under zoning it shouldn't be allowed in the CR. If it is allowed as a matter of right under the zoning, the Conservation Commission can still prohibit it under the CR.

Commissioner Radcliffe suggested that it might be helpful if Ms. Whitmore could submit some literature showing what they have done in other similar properties. Ms. Whitmore stated that this one is their first one in an urban area but she does have some with residential impact that she can submit.

Chairman Motta inquired as to how this property is zoned. Ms. Whitmore replied that she doesn't know. Commissioner Audette replied that he believes it was commercial. Chairman Motta stated that the CR is already being prohibited from certain uses as a matter of right under a commercial district anyway. Chairman Motta added that even if it is a grandfathered use he would draw the line at no expansion of any animals, cages, or house that already exist and can use as a matter of right as a potential grandfathered use. Chairman Motta added that if you look at allowed uses under a commercial district they could put a food service establishment there under the current by-law.

Ms. Whitmore inquired as to what the Commission's concerns were with regard to having animals. Chairman Motta replied that his concern is this turning into a community farm.

Ms. DeSousa stated that there has been some discussion with regard to using the coops for chickens.

Commissioner Audette stated that flying pigeons can become a total nightmare for the neighborhood.

Ms. Whitmore stated that she will put this matter on the list to discuss with Solicitor Friedman along with looking into the zoning.

Ms. Whitmore explained how the property would be maintained.

Chairman Motta inquired if they have any properties similar in demographics to this particular property. Ms. DeSousa replied that they have similar ones in Walpole, Brockton, and in Easton. But this is the first true urban property that they have. Chairman Motta inquired if they raise livestock at any of these locations. Ms. DeSousa replied that they do not in Walpole or Easton but do on a couple of other farms.

Commissioner Dixon inquired as to who takes care of the livestock. Ms. DeSousa replied that it's the Trustees that take care of them. Ms. Whitmore explained that the property will be under the ownership of the Trustees and will be completely taken care of by the Trustees.

Chairman Motta stated that in order to entertain anything to do with livestock he would like to see that definition narrowed down to a point that it is subject to the approval of the grantee whether it's to reactive the existing cages or an expansion of the existing cages. He would also like to see that boundary limited to only that designated area for what's being used for the housing of animals.

Commissioner Radcliffe stated that this is a restoration of preservation project rather than a development or expansion.

The Commission and Ms. Whitmore went through the CR and discussed some concerns and made some suggested changes, additions and deletions to the language.

Ms. Whitmore stated that she will make the suggested changes and corrections and will meet with City Solicitor Jane Friedman and hopefully it will be ready to be approved at the next meeting.

Commissioner Radcliffe made a motion that the Conservation Commission has an interest in the CR. Motion was seconded by Commissioner Audette. Chairman Motta stated that he does not have an objection to this motion as long as it is a non-binding vote at this point because it is still subject to refinement and this Commission's final vote of approval. All in favor. Motion carries.

2. Agent updates

NITSCH ENGINEERING CONTRACT

Chairman Motta stated that there is a modification/amendment to the current contract with Nitsch Engineering for the peer review of applications. Chairman Motta stated that this Commission had previously voted that they would like Nitsch Engineering to be more involved on the construction quality control inspections of projects. So since, this was outside the scope of their original contract, an amendment is necessary to conduct period construction oversight services on an as needed basis for up to a maximum of three projects and there will be six site observations per project. The value of the amendment is \$18,000.00 in labor costs with an estimated expense cost of and addition \$1,100.00 with a total value of \$19,100.00.

Commissioner Radcliffe made a motion to approve amendment to Nitsch Engineering in the total amount of \$19,100.00. Commissioner Audette seconded said motion. All in favor. Motion carries.

15 Timberlane Road

Agent Porter advised that she visited this property this morning and the homeowners would like to cut down 4-5 trees along the lawn area that they feel are threatening there house. There is also a stone wall that has wetland shrubs in the front of it and they would like to clear it back to the stone so that they could maintain their yard and replant other vegetation.

Chairman Motta stated that any tree that is an eminent threat to the property would be allowed to be removed and also can remove the shrubbery up to the stonewall. Agent Porter advised that they are good size red maple

trees and are about 40 feet away from the house. Agent Porter will advise the homeowners of the type of plantings they can use. Chairman Motta also stated that the trees are to be left in the wetland area.

Agent Porter stated that they also wanted to know if they could cup up the lawn and reseed it. The Commission did not have an issue with this.

SASSAQUIN POND TREEBOXES

Agent Porter advised the Commission that a letter has been sent to Commissioner Ronald Labelle and no response has been received.

3. General Correspondence

A motion to adjourn was made by Commissioner Dixon at 8:20 pm. Motion was seconded by Commissioner Radcliffe. All in favor. Motion carries.

Respectfully submitted,

Sandy Douglas
Administrative Specialist