

BROCKTON CONSERVATION COMMISSION

Wednesday, January 19, 2022 at 6 PM

Via ZOOM

MINUTES

Stephanie Danielson called the January 19, 2022 meeting of the Brockton Conservation Commission to order and read the following statement: This meeting is being recorded in accordance with the government order suspending certain provisions of the Open Meeting Law General Law chapter 38 section 20. Real time public participation and comment can be addressed to the conservation Commission utilizing the zoom virtual meeting software for remote access; this application will allow users to view the meeting and send a comment or question to the chair via the question and answer function; submitted text comments will be read into the record. For those of you joining by phone press star (*) nine. If you want to ask a question please raise your hand. A copy of this recording will be on the City's web pages. All votes will be done via roll call to ensure account accuracy.

The following members were confirmed to be in attendance by roll call: Stephanie Danielson, Bonnie Sparks, Laura Biechler, Joyce Voorhis, Joanne Zygmunt, and Peggy Curtis. Conservation Agent Megan Shave and Admin Pam Gurley were also in attendance. New member Ruby Clay attempted to attend but was unable to participate due to a nonfunctional headset and lack of computer speakers.

1. Commission Matter: Review & Approval of Meeting Minutes – 12-15-21

Joyce Voorhis asked for a reminder from the Christy's Drive ANRAD review of what the potential expansion might be; was told that it would presumably be an expansion from the hotel property next door.

Joyce Voorhis made a motion to approve the minutes of 12-15-21 and was seconded by Joanne Zygmunt; the roll call vote was unanimous in the affirmative.

2. Commission Matter: Authorization of Agent to Physically Sign for Commissioners

Stephanie Danielson expressed a need to authorize the Agent to physically sign documents on behalf of the Commission due to an issue with the Land Court no longer accepting electronically-signed documents for recording.

Joanne Zygmunt made a motion to authorize the Brockton Conservation Agent, currently Megan Shave, and her successor(s), to physically sign Commission documentation, including but not limited to order(s) and notification(s) issued pursuant to M.G.L. c. 131 § 40 and/or 310 CMR 10.00, for, as and on behalf of individual Commissioners. Peggy Curtis seconded the motion, and the roll call vote was unanimous in the affirmative.

3. Extension Request (SE 118 – 0745)
Project: Route 123 (Belmont St) Roadway Improvements
Applicant: MassDOT

Andrea Coates of MassDOT had made the Extension Request, but no representative was present at the meeting.

The Agent said the OOC was issued March 2019 for redevelopment and expansion of Rt 123 (Belmont St). The road goes over West Meadow Brook by BHS; the work included the replacement of hearwall at the Bank. The Agent visited the site today and noted that the headwall has already been replaced and Bank appeared stable; the Agent saw no issue with granting the extension so that MassDOT could continue any roadway work in the Buffer Zone.

Stephanie Danielson reminded the Commission that a request for Extension should be made at least 30 days before the expiration, and expired OOCs cannot be extended. This request was properly made, so the Extension can be granted.

Joanne Zygmunt made a motion and was seconded by Joyce Voorhis; roll call vote was unanimous in the affirmative.

4. Request for Partial Certificate of Compliance
Property: 64 Eisenhower Dr
Project: Drainage on original subdivision parcel (SE 118-0332)
Applicant: Sylvia Exantus

Stephanie Danielson noted that this was an old OOC.

The Agent explained that Sylvia Exantus is the current homeowner of 64 Eisenhower Dr. An OOC had been issued for the subdivision roadway and drainage work on one of the lots that was within Conservation Commission jurisdiction. The subdivision also went to Land Court, and the resulting certificate encumbered each lot with the OOC. The Agent recommended issuing a partial COC for 64 Eisenhower only, as the Commission has done in the past for a few other lots in the subdivision.

Joanne Zygmunt made a motion to issue a Partial Certificate of Compliance releasing 64 Eisenhower Drive only from the OOC in its entirety. The motion was seconded by Peggy Curtis; the roll call vote was unanimous in the affirmative.

5. Notice of Intent - Request to Continue to **2-16-21**
Property: 219 Bellevue Ave
Project: Yard expansion and accessory structures (after-the-fact NOI)
Applicant/Representative: Marcia Dosreis / JK Holmgren Engineering

Stephanie Danielson noted that the applicant has requested a continuance to the February 16th meeting. Peggy Curtis made a motion to continue the hearing to February 16th and was seconded by Joanne Zygmunt. The roll call vote was unanimous in the affirmative.

Stephanie Danielson requested that the Agent convey to the applicant that they should be present at the next meeting or the Commission will take action.

6. Notice of Intent - Request to Continue to **2-16-21**

Property: 940 Belmont St (VA Hospital)

Project: Roadway improvements

Applicant/Representative: Monument Constructions / JK Holmgren Engineering

Stephanie Danielson noted that the applicant has requested a continuance to the February 16th meeting. Peggy Curtis made a motion to continue the hearing to February 16th and was seconded by Joanne Zygmunt. The roll call vote was unanimous in the affirmative.

7. Notice of Intent

Property: 93 Tilton Ave

Project: Landscape work and septic system installation

Applicant/Representative: Gary Tremblay / Collins Civil Engineering Group

Peter Lyons of Collins Engineering explained the plan to renovate the existing single family home, install a new septic system to replace the existing system in the front yard. They are proposing an upland planting mix in the cross hatched area on the plan, and an area of removal of Japanese knotweed and re-seeding with wetland mix and plantings as shown on the plan. They added the requested permanent limit of work to the plans and the limit of work markers.

The Agent confirmed that the 12-15-22 plan they received shows markers every 15' along the LOW as suggested. comments have been addressed. The Agent recommends an OOC include additional special conditions from her report for trash and debris removal and monitoring of the restoration area.

Laura Biechler asked if there is a reserve field; Peter Lyons explained that it is not required but there is a reserve area to the south of the system; they did test pits 3 & 4 in the area.

Joanne Zygmunt asked if the plan shared here is the same as the one in our file; the Agent confirmed yes; the plan on the screen is in color and looks different due to light colors used.

Stephanie Danielson asked why May 15th deadline for restoration work, why not earlier; the Agent said she pulled the date from another OOC; the intention would be to give them some leeway to begin work because the Commission would have grounds to issue an Enforcement Order after that date.

Peggy Curtis said May 15th is a good compromise because a late frost could affect the plantings.

Stephanie Danielson said the restoration will need some earth work first, so she would personally prefer an April start time.

Abutter Debbie Peterson (85 Tilton Ave) asked how the applicant will address the original violations on the site. Stephanie Danielson said the prior violation was addressed at a prior meeting and asked the Agent for a summary.

The Agent explained that they don't have a clear understanding of the details of the prior violations on the site around 2005; from her understanding site access was difficult then and the prior owner was not cooperative, but the available documentation mentioned vegetation cleared from jurisdictional areas and dumping. The purpose of the proposed restoration area is to remove some of the resulting Japanese knotweed and restore some native plant species; a 1-to-1 replication can't be guaranteed without knowing the exact disturbance footprint, but the restoration is proposed in the area most likely to succeed in removing the knotweed. The current owner had also said at the first meeting that they wanted to pick up the trash and clean up the site, which was the reason for including a special condition for manual removal of debris within jurisdictional areas.

Debbie Peterson asked what the markers are made of; the Commission recommends an iron rebar with a labeled aluminum cap that sits on top of the rebar.

Joyce Voorhis asked if they could require early removal of the knotweed; the Agent said they could revise the condition to have a date for removal and a date for replanting.

Joyce Voorhis asked when does knotweed emerge; the Agent explained that stalks are persistent even during winter, so you can see the previous year's footprint; the plants are in full growth and flowering in summer.

Joanne Zygmunt made a motion to close and was seconded by Bonnie Sparks; the roll call vote was unanimous in the affirmative.

Joyce Voorhis made a motion to issue an Order of Conditions with the additional special conditions outlined in the Agent's report, with a modification to the start date that knotweed removal be initiated in April and the planting in May. The motion was seconded by Joanne Zygmunt; the roll call vote was unanimous in the affirmative.

8. Notice of Intent

Property: 159 Torrey Street – Thorny Lea Irrigation Pond Vegetation Management

Project: 4 Lot Subdivision

Applicant/Representative: Thorny Lea Golf Club / SOLitude Lake Management

Stephanie Danielson said the application has submitted revised plans showing mechanical removal of invasives and no use of chemicals.

Jeffrey Castellani of SOLitude Lake Management showed the screen with pictures of the pond area and ground protection mats and straw wattles. He said there will be no brush disturbance. The pond is bordered by brush and trees, not manicured lawn. The debris will be taken to the upland disposal site. A 10-12' area around the pond will be disturbed by the rig launch but protected. He had a short video of the hydro rig but was unable to share the screen.

Stephanie Danielson said a letter was sent 12-30 with questions and concerns and asked if their office prepared a written response; Jeffrey Castellani said no, that is why he showed the pictures.

Stephanie Danielson said she would like to see a written response so it can be reviewed by the Agent and reported to the Commission; the answers also become part of the permanent record.

Jeffrey Castellani said they addressed the issue of herbicide treatment by removing it from the NOI. Stephanie Danielson asked the Agent if hydro raking and replanting would resolve the issue of invasive species.

The Agent said we are not sure of the species at this point, but if they are rooted like Phragmites, perhaps they could be replaced with native species as Bonnie suggested at the previous meeting.

Bonnie Sparks said that sediment cover growth of the native plants will prevent re-emergence of the invasives; the earlier the better once the sediment settles.

Jeffrey Castellani said any Phragmites would be in water and not rooted; by removing them they won't come back. The diagram of the map shows a road to the disposal site; they can drive a truck there using the access road.

Joyce Voorhis asked how the Phragmites would be disposed of. Jeffrey Castellani said it can be buried or smothered under plastic. Joyce Voorhis asked which would be used; was told plastic sheets. Bonnie Sparks says they need to ensure that the seeds and rhizomes are destroyed to prevent spread. Stephanie Danielson said they need a written description on how the raked material will be disposed of and separated.

Joanne Zygmunt asked if the disposal site is in the area of the solar field. The Agent said there is a designated landscape debris area marked on the solar site plan; Joanne Zygmunt asked that it be conditioned to be cross reference to the existing order.

Joyce Voorhis asked if there could be monitoring reports to make sure the work was successful. Joanne Zygmunt acknowledge that the raking is a reasonable response to a irrigation problem on a golf course; but it does not address the causes, so she would not be surprised to see invasives are back Jeffrey Castellani said they cannot control seed blowing and other natural processes; there is 100-200' of wild grass between pond and golf course.

Stephanie Danielson asked if the members are still waiting for a written response; they confirmed yes. Jeffrey Castellani will have a response by next week, but has questions about the comment requesting flagging the resource areas; they are working within land under water.

Stephanie Danielson said there are also Bank and jurisdictional Buffer Zones. The Agent explained that the legal definition of the Bank is the mean annual high water line; often observed as the first break in the slope. Sometimes the Bank is obvious in the field, but it is still standard practice under the WPA to flag. The expected minimum for water bodies is a surveyed plan showing one series of flags (Bank series); sometimes there are two series if there is a band of BVW with hydric soils and wetland indicator plants upgradient of the Bank. The current plans do not show the Bank or if there was a BVW to the Bank. The OOC needs to account for temporary impacts to Bank and any BVW at the launch area.

Jeffrey Castellani said they usually create an ArcGIS map and polygon the area.

Joyce Voorhis noted that the golf course pond is in a city not a rural area; it is necessary to give fair consideration because of density and lots of waterways traverse this property.

Stephanie Danielson recommended that the hearing be continued so that they can receive the written response and disposal plan for the February 16th meeting.

Hearing continued to February 16th by agreement of the parties.

Stephanie Danielson recused herself and left the meeting prior to the start of the next hearing; she stated that she is the Planning Director in Easton and has a perceived conflict of interest in a development project proposed primarily in Easton.

9. Notice of Intent

Property: Map 003-049 Pleasant Street

Project: 40B apartment complex with stormwater infrastructure in Brockton

Applicant/Representative: Blackledge, LLC / Coneco

Vice Chair Joanne Zygmunt proceeded as Chair of the meeting following Stephanie Danielson's recusal.

Joanne Zygmunt asked if proof of abutter notification was received and noted a reported problem with the abutters list: the address for Wildlands Trust address was incorrect and they were not notified.

The Agent explained that the applicant did fulfill the requirement under the WPA and its Regulations to send the notifications via Certified Mail to the abutters listed on the certified abutters list from the Assessors Office. However, Karen Grey of Wildlands Trust stated today that the listed address has not been used since 2015, and she requested that the hearing be rescheduled so that they can participate. The Agent said that despite the regulations it behooves everyone to ensure that an interested abutter has the opportunity to participate.

Michael Toohill and Damien Dmitruck from Coneco Engineers & Scientists attended on behalf of the applicant. Michael Toohill confirmed that they followed the rules and received a certified abutters list from the Assessors Office. But they were willing to continue the hearing as there will be some re-design needed.

Joanne Zygmunt asked if they wanted to give their presentation or wait until the next meeting .

Michael Toohill said they would like to open the hearing but immediately continue to a date certain.

Joyce Voorhis made a motion to continue to the February 16th meeting; the motion was seconded by Bonnie Sparks; the roll call vote was unanimous in the affirmative.

Meeting adjourned.