



Robert F. Sullivan  
Mayor

# CITY OF BROCKTON

DEPARTMENT OF PLANNING AND ECONOMIC DEVELOPMENT

Planning Board

Historical Commission

Conservation Commission

Robert May, CECD  
Director

## **BROCKTON CONSERVATION COMMISSION**

**Wednesday, December 15, 2021 at 6 PM**

**Via ZOOM  
MINUTES**

Stephanie Danielson called the December 15, 2021 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. As your name is called please indicate that you are present. Members present: Stephanie Danielson, Bonnie Sparks, Laura Biechler, Joyce Voorhis. The chair recognized the two new members: Ruby Clay and Peggy Curtis (present but not sworn in and able to participate). Conservation Agent Megan Shave and Admin Pam Gurley were also present.

### 1. Request for Determination of Applicability

Property: 161 Mulberry St

Project: Snow Storage – National Grid Headquarters

Applicant / Representative: National Grid / LEC Environmental Consultants

Andrea Kendall explained the jurisdictional areas; she said there is no elevation for the site and they are using a Mass GIS overlay; she said they are looking to re evaluate where snow can be stored realizing that there will be times that snow is just trucked off; she said they are proposing the northern portion of the site (red area) and also an area just outside the 50' BZ and outside the floodway; she said erosion controls will be installed.

Megan Shave said that the proposed limit of snow storage will be outside 50' BZ and if we assume that is in the flood plain that seasonal snow storage is permissible; she said that the area is either paved or gravel now and it complies with the MassDEP Snow Policy and is recommending a negative 3 determination.

Bonnie Sparks asked if there will be any impact from silt because of the proximity of the location to the river; Andrea Kendall said that the erosion control will mitigate that during times of thaw and that all debris will be cleanup. She was told that there are existing erosion controls all around the property and

that Clean Harbors changes the erosion controls every six weeks; she said that there is erosion from the abutting property.

Joyce Voorhis asked if the commission can require erosion control along the area that faces the river; Stephanie Danielson asked if there was any pre treatment and said if there is no treatment we would need permanent erosion control. Andrea Kendall asked if they were looking for a more expansive configuration; the chair said they are looking for something that will prevent silt from entering the BZ; she said they can augment what is already there and expand on the erosion.

A motion was properly made (Sparks), seconded (Voorhis) and unanimously passed by a roll call vote to issue a negative three determination with the condition that there is to be the configuration and installation of permanent erosion controls to prevent snow runoff from entering into the BZ.

## 2. Request for Certificate of Compliance

Property: 1330 Pleasant Street (1288 Pleasant St Lot 3)

Project: Single-family House

Applicant / Representative: Danielson Gomes / Jacobs Driscoll Engineering

Danielson Gomes (owner and builder) was present. The chair noted that there are a number of deviations on the as built plan. The agent said she conducted a site visit on 11-23-21; she said the footprint of house was flipped; a patio was added extra from the porch; the LOW encroaches into the 25'; a row of arborvitaes was added along the limit of work; a boulder wall was added along the LOW; a crushed stone drive was added along the house; there is a block retaining wall on the eastern side; there is some construction debris in 25' BZ; she said in 2018 the owner was asked to remove the extra fill; a significant amount of fill was removed however portions of the property are still 2' higher than what was approved; she noted that the western side of the property (176 contour) was not graded as shown.

Stephanie Danielson said she assumes that the encroachment exists. Bonnie Sparks said that she would like to see the site reflagged to verify the possibility of the encroachment and the amount of excessive fill; she said so much has changed since the plan was approved.

Laura Biechler said this is a completely different plan....she said there are significant issues that need to be revised.

Joyce Voorhis asked if the drainage pattern changed because of the amount of fill; the chair said that the crushed stone is an issue; she said the site is wholly in the 100' BZ and quite a bit in the 50' BZ.

Bonnie Sparks said she would like to see a restoration process and wanted to know if the fill is causing any impact.

The chair said that the option here is to either continue or deny the application. The agent said this is not a hearing...no filing fee...no notice...it is not difficult for the applicant to re-apply for a COC, so in terms of house keeping, if the commission wants to issue something in writing to the applicant it would make more sense to issue a denial.

A motion was properly made (Sparks), seconded (Biechler) and unanimously passed by a roll call vote to deny the request for a COC; the agent is to notify the owner of the deviations to the plan and conditions to be met before a COC can issue.

### 3. Abbreviated Notice of Resource Area Delineation

Property: 1123 Pearl St

Applicant / Representative: Casey Properties / Beals Associates

Larry Beals said that this property is partially developed; he said there is a parking lot and building on a portion of the site; the resource area is a large pond off the property but the BZ extends onto the site; he said there is irregular topo; they have mapped the top of the embankment; there is a Fema zone A flood boundary with no elevation.

Megan Shave said she was on the site on 11-22-21 and can confirm the noticeable transition; she said based on her review the ORAD can be issued for BVW; she said there is no base elevation on Zone A but has no issue with using the Zone A as the limits of BLSF because FEMA's Zone A tends to be a conservative boundary.

Bonnie Sparks what the intended use of the property was and was told they recommend to the owner to verify the wetland boundary first; no use yet. The chair noted that the ORAD is valid for three years.

A motion was properly made (Sparks), seconded (Voorhis) and unanimously approved to close the hearing.

A motion was properly made (Sparks), seconded (Voorhis) and unanimously passed by a roll call vote to issue an ORAD for the resource areas and limits of BLSF.

### 4. Abbreviated Notice of Resource Area Delineation

Property: Map 015-146 Christy's Drive

Applicant / Representative: Ashutosh LLC / JK Holmgren Engineering

Matt Tavares said this is an undeveloped property; he said the property has wetland and inland bank; (wetland line (B flag series) IVW (A series)).

The agent said she was out at the site and was able to located the flags; she said that the series A are a closed depression and that the depression contains standing water at some times but not large enough to be jurisdictional; she said the commission can consider issuing the ORAD confirming BVW and bank flags as accurate.

Bonnie Sparks asked if there was an intended use and was told there are no definite plans as of yet; maybe expansion

A motion was properly made (Voorhis), seconded (Sparks) and unanimously approved to close the hearing.

A motion was properly made (Sparks), seconded (Voorhis) and unanimously passed by a roll call vote to issue an ORAD confirming BVW and bank flags.

#### 5. Request for Certificate of Compliance

Property: 15 Leach Ave

Project: Two-Family House

Applicant/Representative: Michael Haikal / JK Holmgren Engineering

Matt Tavares said the as built shows a walkway was added between the two driveways; he said that the bulkhead was moved because of the location of the gas line causing the compensatory storage area to be shortened; he said that additional compensatory storage added on the other side.

Stephanie Danielson said that the western side was overfilled according to as-built survey and said there is crushed stone around three sides. She said since this is a residential structure is compensatory storage green space; the agent said grass is considered as green space. The chair asked why that area was not grass (crushed stone) and was told to keep pests out.

Megan Shave said that the brook is culverted but jurisdiction is retained as there is known localized flooding and a stream within the culvert; the chair said she would like to see the gravel removed. The agent noted that the compensatory storage area was updated to show the revised storage volumes, but the revised fill volumes should be updated as well.

The agent said that if the commission wants their concerns in writing that the denial is the best easy way.

Laura Biechler said that for consistency purposes a denial would be the proper channel.

A motion was properly made (Biechler), seconded (Sparks) and unanimously passed by a roll call vote to deny the request for a COC; agent is to notify the applicant of the deviations and conditions to be met prior to the issuance of a COC.

#### 6. Notice of Intent

Property: 219 Bellevue Ave

Project: Yard expansion and accessory structures (after-the-fact NOI)

Applicant/Representative: Marcia Dosreis / JK Holmgren Engineering

Continued to 1-19-22 by agreement of the parties.

#### 7. Notice of Intent

Property: 940 Belmont St (VA Hospital)

Project: Roadway improvements

Applicant/Representative: Monument Constructions / JK Holmgren Engineering

The chair asked if these changes were made since the last meeting and Matt Taraves said they were. He said he has discussed some of the comments with the agent. The agent said she is trying to keep their LOW on the lawn area where there is no brush line cutting; she would like them to avoid brush cutting where possible; she is trying to keep the LOW at the 25'BZ. She said the BETA 12-6-21

comment 3 has been addressed but there is still an outstanding item; she asked Matt Tavares if the draw down device has been added and was told no. She said they need to make sure the LOW and erosion control are consistent across all the sheets.

The chair said the plans still need to be revised. She said to make the revisions and come back to the next meeting and said that the hearing should be quick.

Continued to 1-19-22 by agreement of the parties.

#### 8. Notice of Intent

Property: 93 Tilton Ave

Project: Landscape work and septic system installation

Applicant/Representative: Gary Tremblay / Collins Civil Engineering Group

Peter Lyons said this is a reconstruction of an existing single family home on an existing foundation and installation of a septic system and elevated leaching bed. He said the site contains a stream, a pond, BVW & buffer zone; he said erosion control parallels the lawn area and the site is loaded with japanese knotweed; he said they are proposing to remove a 2100 sf area of knotweed and plant it with wetland mix and plantings.

Megan Shave said that based on her site walk she concurs that the proposed restoration area is the best area to remove knotweed and add a shrub restoration area; she said the plan should show where permanent markers will be and said her report contains a plan with a red line for the markers.

Bonnie Sparks asked how they will remove the knotweed and was told by hand or mechanical; the agent said there should be a condition that the entire footprint be excavated to eradicate the root mass.

There was a question from the public regarding the elevated septic area and Peter Lyons said that the existing system is a cesspool and that the new system provides separation to ground water.

Debbie Peterson asked how the higher area will impact adjacent properties; Peter Lyons said that discharge off the property is not a concern at this property and that the drainage patterns are remaining the same.

The agent said that regulations state that as long as the leaching area is 50' from a wetland resource area and meets the conditions of Title V, then it is presumed to meet the conditions of the wetland protection act; she said that Title V is regulated by BOH. She said that the plan should show final limits of work so that it is very clear for the location of markers. The chair said that the agent has already submitted recommended special conditions; Peter Lyons asked about intervals for the markers and was told every 15'.

Continued to January 19, 2022 by agreement of the parties.

#### 9. Notice of Intent

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

Project: 4 Lot Subdivision

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

Jeffrey Castellani said the application is for pond restoration and repair of the irrigation pump; he said that pond has lost of ½ of its water volume; he said that the secondary goal is to provide additional plant matter; he said they are proposing mechanical removal of plant material, root matter etc. and spot application of herbicide to control growth.

Shawn Mccarthy said he will not know until spring what the plants are in the pond; he said they will want to do a survey and treat for only those plants are invasive using EPA approved herbicides focusing on . phragmites and treatment of reemergence.

Stephanie Danielson said they did not provide a plan showing surveyed limits...is there BVW around the pond; She was told that they don't usually present engineered plans. She asked if the hydro rig sits on the pond surface and Jeffrey Castellani explained how the rig works; he said it does not displace water, it's driven by paddle wheel.

The agent said there are two identified resource areas; bank and land under water; she said she echoes MassDep's recommendation that the commission determine whether work meets the definition of ecological restoration project. She said if it does not the project needs to meet the performance standards for bank and land under water.

Stephanie Danielson said that based on their presentation the purpose of this is to increase the water storage capacity of the pond for irrigation purposes at the golf course.

Joyce Voorhis said this seems like a restoration project for the golf course...not an ecological project and asked that the agent again read the definition...primary purpose are the key words.

The chair said it looks like the primary purpose is to increase the volume for irrigation and a side benefit would be ecological improvements. Joyce Voorhis said she is concerned about the use of herbicides; the chair said that the use of herbicides contradicted the ecological benefit; Shawn Mccarthy said that the chemicals have a short shelf life and are allowed by EPA for use.

The chair asked what the benefit is to the the applicant by being an ecological restoration project; the agent said that if it is considered a limited project then they are exempt from meeting performance standards...only need to meet them to the maximum extent practicable. The chair asked if they were claiming they can not meet the performance standards and the applicant said no.

Laura Biechler asked if restoration restores the pond to its prior volume; Jeffrey Castellani said they are not changing the bottom; but removing organic matter and nutrients that will prevent their growth.

The chair asked the agent if performance standards could be met and was told they are not burdensome; she is concerned with the physical stability of the bank...what happens when the rig is launched....are there erosion controls?

The chair asked the members if they felt this project meet the definition of an ecological restoration project; the commission unanimously felt it did not.

Joyce Voorhis said she would like to know how they prevent the problem from recurring once it is cleaned. The chair asked if there was a management plan; Bonnie Sparks said there are no plans, maps etc.; Joyce Voorhis asked where the irrigation pond was located; the chair said she had a hard time with the use of herbicides.

Shawn Mccarthy said that ongoing maintenance is different than the initial treatment.

Bonnie Sparks said that the whole point of this is to make the pond deeper...she said that once it is raked they can introduce plant species that will out compete with invasive species.

Shawn Mccarthy asked if they could split the project into two projects to get the dredging done. He was asked what happens to the muck removed and said they will find a local compost site. He asked again about splitting the project and the chair said that the commission is not ready for a vote tonight; she said he needs to address the questions that were raised and then they can discuss splitting it into two projects.

Jeffrey Castellani asked if they remove the use of herbicides can they move forward as an ecological restoration; the chair said she does not believe that this meets the ecological standards and said she does not know why the performance standards can not be met; she said that stabilization of the bank is important and she wants to make sure the area is restored.

Continued to 1-19-22 by agreement of the parties.

#### 10. Notice of Intent

Property: Curve St, Churchill St, Pine St

Project: Grove Street Gas Main Replacement

Applicant/Representative: Eversource / SWCA Environmental Consultants

Becky Weissman said this is a proposed gas main replacement project and a modification of a previously approved project filed by Columbia Gas; she said the location is Grove St. to N. Ledydon across a wetland system and across the river; she said the project received a negative determination in 2-2019. She said that Eversource has identified a route that will avoid wetland impacts; the new project will go from Curve St to Clinton to Pine and cross the Salisbury River at an existing bridge crossing and connect with the main at N. Leydon. She said this is a limited project...a utility installation project. She said they will be installing erosion controls as shown; the pipe will be installed through open trenching within the road at the crossing; there will be no wetland impact; the wetlands are separated by a berm; the new pipe will be hung on the side of the bridge; the existing gas main will be retired in place; she said that impacts are temporary in nature and that the only permanent impacts are to flood plain (hanging of pipes on bridge); she said there will be a weekly compliance monitor.

The agent said she has no issues with meeting the performance standards; most of her recommendations are housekeeping; the plans need to be stamped by a PE; replace the missing flags prior to start of work; silt sock is recommended instead of straw waddles and the usual special conditions.

Joyce Voorhis asked how common it was to attach a pipe to a bridge; Rich DeAguila said when the opportunity exists they do utilize existing structures; he said that the pipe is wrapped and protected; no debris can get stuck...he said on the downstream side water is running in the opposite direction.

A motion was properly made (Sparks), seconded (Voorhis) and unanimously approved to close the hearing.

A motion was properly made (Sparks), seconded (Voorhis) and unanimously passed by a roll call vote to issue a stand OOC with special conditions as recommended by the agent.

#### 11. Review & Approval of Meeting Minutes – 11-17-21

A motion was properly made (Sparks), seconded (Voorhis) and unanimously approved to accept the minutes from 11-17-21.

#### 12. Wetlands Protection Ordinance Draft Discussion

The agent will contact the Law Dept for guidance and coordinate a separate meeting for this discussion.

**The listing of matters is those reasonably anticipated by the Chair which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.**