



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, April 20, 2022 at 6 PM**

**Rescheduled to May 5, 2022 at 6 PM**

#### **MINUTES**

Stephanie Danielson called the May 5, 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, Chair, Laura Biechler, Peggy Curtis, Joyce Voorhis. Conservation Agent Megan Shave and Admin Pam Gurley were also in attendance.

1. Commission Matter: Review & Approval of Meeting Minutes – 03-16-22

A motion was properly made by Laura Biechler, seconded by Joyce Voorhis, and unanimously passed to accept the minutes of 3-16-22 as presented.

2. Commission Matter: Wetlands Protection Ordinance Draft Update

The Agent confirmed that the best date to schedule the Special Meeting was June 2nd.

3. Enforcement Matter: 58 Trout St

The Agent said she was contacted by Deputy Chief Ed Williams about an entertainment space in the rear of property near Trout Brook; the property is in the flood plain, and the new fencing extends into 25' Buffer Zone, if not the BVW itself. A letter was sent; the owner called today to say that he was working and could not attend the meeting tonight, but asked to attend the May 18th meeting instead.

Stephanie Danielson asked if the area was being used for events and if other departments should be notified. The Agent said based on the photos taken at the site, it is a fairly large space with tables that has been fenced off; the Quality of Life task force referred it to Conservation due to the proximity to the Brook.

A motion was properly made by Joyce Voorhis, seconded by Peggy Curtis, and unanimously passed to continue to 5-18-22.

#### 4. 77 Spark St

The Agent said the owner is requesting a partial COC because they are trying to refinance, but the property is part of a subdivision and encumbered in Land Court by an OOC on 90 Intervale Street. No work was proposed at 77 Spark St under this OOC.

A motion was properly made by Laura Biechler, seconded by Joanne Voorhis, and unanimously passed to issue a partial COC releasing only 77 Spark St from the OOC.

#### 5. Notice of Intent - **Withdrawn**

Property: 940 Belmont St (VA Hospital)

Project: Roadway improvements

Applicant/Representative: Monument Constructions / JK Holmgren Engineering

Stephanie Danielson asked if the Commission needed to do anything with the withdrawal. The Agent said no; if any work for the project begins, the Commission can issue an Enforcement Order.

#### 6. Request for Determination of Applicability

Property: 195 Liberty Street

Project: Sign Replacement

Applicant/Representative: Infinity Real Estate Dev / JK Holmgren Engineering

Bill Self said the applicant is proposing to replace the existing sign beside a drainage ditch that goes under Liberty St. The "green" area on the plan is the area that would be disturbed. They will remove existing sign footing and install new footings for a 2X8 ft sign with a 6x7.5 ft landscape timber planting area under the sign. They are proposing a straw wattle barrier and have added silt fencing for extra protection. They are not proposing any change in elevation. They will be removing invasives within the work footprint and replanting with seed mix and blueberry bushes.

The Agent said she revised her report after extra mitigation was added to the plan; invasives (multiflora rose) are being removed and the area replanted with native species; the work footprint is small, but it is in the 25' BZ to the bank. She said multiple conditions would need to be included to issue a Negative 3 Determination; if the Commission feels that impacts are substantial and the conditions should be included under an OOC, then they should issue a Positive 4.

Joyce Voorhis asked about the timeline if a positive was issued. Bill Self believed it would put them back a few months. Stephanie Danielson said that if they resubmitted the plan with an NOI application, then it would only take one more meeting.

Peggy Curtis asked if the sign can be moved back so it is not close to the easement line. The Agent said the sign is proposed in only space it can go without regrading the slope.

Peggy Curtis asked if water will impact the footing. Bill Self noted the exact location of the existing sign and the spot elevations; he said the footing disturbance will be where the "cross hatch" box is; work will be done from existing pavement. He said they are anxious to replace the sign; it will be done quickly.

Peggy Curtis asked what is the sign made of, and why is the sign being replaced. Bill Self said the old sign has metal footings and needs replacement; Sign Design created the new sign plan with a concrete footing.

Stephanie Danielson says she doesn't see how it could qualify for a Negative determination because of the number of conditions that would be needed.

The applicant Ben Kravitz said the existing sign is in the process of falling over, currently listing; they are more than happy to comply with all conditions; they have been in business for 30 years and want to improve the corner.

Stephanie Daneilson said the conditions are what would be included in an OOC.

Joyce Voorhis made a motion to issue a Negative 3 determination and withdrew the motion. She said she thinks an NOI is needed. The Agent explained what the determination options mean.

A motion was properly made by Joyce Voorhis, seconded by Peggy Curtis, and unanimously passed to issue a Positive 4 Determination.

Member Ruby Clay joined the meeting.

#### 7. Notice of Intent

Property: 159 Torrey Street – Thorny Lea

Project: Irrigation Pond Vegetation Management

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

The Agent said JK Holmgren has prepared the requested surveyed plan; Brad Holmes flagged the Bank. At this point she recommends issuing the OOC with standard conditions and additional special conditions as recommended in her report.

A motion was properly made by Stephanie Danielson, seconded by Peggy Curtis, and unanimously passed to issue an OOC with the conditions outlined in the Agent's report.

#### 8. Notice of Intent

Property: 466 Forest Ave

Project: Health services facility

Applicant/Representative: Brockton Neighborhood Health Center / Meridian Associates

Michael Jacques and Nick Betts in attendance for BNHC; they believe they have addressed the outstanding issues from the prior meeting.

The Agent said some BETA comments were not addressed at the prior meeting; now the test pits are done and the infiltration system has been redesigned to reflect the result; BETA has reviewed the data and has no additional comments. At this time she recommends an OOC with the standard special conditions and the conditions in her report recommended by BETA.

A motion was properly made by Peggy Curtis, seconded by Laura Biechler, and unanimously passed to close the hearing.

A motion was properly made by Joyce Voorhis, seconded by Peggy Curtis, and unanimously passed to issue OOC with the conditions recommended by the Agent.

9. Notice of Intent

Property: 455 Oak St

Project: Parking lot drainage improvements

Applicant/Representative: Fuller Craft Museum / SLB Group

Timothy Power and Paul Tantillo, facilities manager, in attendance. They submitted a series of revised documents to BETA and the Agent, including additional notes and additional detail; SE parking lot pavement was pulled back out of 25' BZ and will be restored to landscape area with plant list of native species; site preparation details have been added; O&M plan is now a standalone document.

The Agent said the applicant has been back and forth with BETA since the last meeting; they are proposing substantial improvements to SE parking lot at the request of both herself and BETA; adequate pretreatment for the rain garden basin was added; she confirmed that the western wetland resource area can be treated as ILSF with no BZ; several hazard trees will be removed as part of this project, so she has proposed added special condition to address that work.

Stephanie Danielson asked does the ILSF serve as a Vernal Pool? The Agent said she saw no standing water during the first inspection; during the second inspection a small area was inundated; it is hard to assess it as a Vernal Pool without consistent standing water, but it is large enough that it should be treated as ILSF.

A motion was properly made by Joyce Voorhis, seconded by Peggy Curtis, and unanimously passed to close the hearing

A motion was properly made by Stephanie Danielson, seconded by Peggy Curtis, and unanimously passed to issue an OOC with special conditions as outlined in the Agent report.

10. Notice of Intent

Property: Massasoit Boulevard / 290 Thatcher St

Project: Infrastructure for nine existing light poles

Applicant/Representative: Massachusetts Electric Company / TRC

No representative for Mass Electric present. The Agent said at the last meeting the applicant was asked to submit a revised survey plan that rectified the discrepancy of the conduit location and removed aerial imagery background.

Stephanie Danielson said it looks like the map was made using GIS.

The Agent said what was surveyed was the bank and wetland flags and hand hole locations, which were placed on top of a GIS base layer along with the FEMA flood zone layer.

Stephanie Danielson asked about the concern with the floodplain. The Agent said they are putting the transformer pad in the floodplain; the Commission has to determine if the impacts of the fill would cause

a rise in flood stage; if that is the case, then compensatory storage would need to be provided; no excavation that proposes compensatory storage has been proposed.

Stephanie Danielson asked how is that to be determined with no contours or analysis. The Agent said the applicant's position is based on the size of what is being installed: they are concluding that just based on the small size of the pad the impacts would be negligible. There are 9 light poles with new hand holds and conduit and the concrete pad for the transformer.

Peggy Curtis asked if this is a replacement project. The Agent said the light poles are existing but the other equipment is new and the reason for the filing. Stephanie Danielson noted that the poles would not be exempt anyways if they are not transmission poles. The Agent confirmed that they are not utility poles, just light poles.

Stephanie Danielson said that although it looks like this will not cause any displacement, there are no calculations to review; she asked for the Agent's opinion.

The Agent said it could be hard for the applicant to calculate the foot by foot impacts of the pad to flood storage since it is FEMA Flood Zone A and we do not know the BFE. The safest way to ensure compliance with the performance standards is to provide compensatory storage, though this would introduce more excavation than is proposed.

Peggy Curtis asked how many light poles does this transformer power; is this setting precedent for future work on other poles. The Agent said this NOI includes all of the light poles within Commission jurisdiction for the Brook.

Stephanie Danielson said she feels this should be continued because the applicant is not here to discuss; the applicant may have mixed up the days due to the rescheduled meeting.

A motion was properly made by Peggy Curtis, seconded by Laura Biechler, and unanimously passed to continue to the next meeting.

#### 11. Notice of Intent

Property: 82 Ames Street

Project: Commercial parking lot

Applicant/Representative: Robert Toukmanian / River Hawk Environmental

The Agent said representatives were sent a followup email with the change in the date, but no one is present. At the March meeting, the engineer asked for time to submit a formal response. In the meantime she has sent him info from DPW about the location of Searles Brook.

Stephanie Danielson confirmed that the hearing has not been opened.

A motion was properly made by Peggy Curtis, seconded by Joyce Voorhis, and unanimously passed to Continue to next meeting

#### 12. Notice of Intent

Property: Map 003-049 Pleasant Street

Project: 40B apartment complex with stormwater infrastructure in Brockton

Applicant/Representative: Blackledge, LLC / Coneco

Stephanie Danielson said she will be recusing herself from this hearing.

Stephanie Danielson made a motion to make Laura Biechler temporary chair, which was seconded by Joyce Voorhis and unanimously passed.

Lori Macdonald and Damien Dmitruk from Coneco were in attendance.

Laura Biechler said additional information was requested at the last meeting.

Lori Macdonald said this is a 40B project at 41 Union St/Pleasant St; they have provided the most recent revision set, dated 4-29-22; they added 25' buffer zone no disturb boundary; a subsurface infiltration system proposed in Brockton now instead of the basin; snow storage is proposed now on top of the underground infiltration system; "no snow storage" signage on post and rail fencing has been added around the area at the Agent's request; they made revisions to infiltration system per comments from the Agent and BETA; the infiltration system is now set back more than 50 ft to BVW; they added a cleanout; the O&M plan was updated. They addressed the concern about access to areas outside the project limits: the set of stairs which are necessary to maintain the wall within the project area; they added a sign that says "emergency and maintenance use only". The entire slope of the infiltration system will be seeded and used for recreational purposes in the future.

Joyce Voorhis asked what is the proposed maintenance of the system. Damien Dmitruk said they are Cultec chambers; if there is an issue they can send hoses down; most sediment will be caught at the CB; there are inspection ports; very little maintenance is usually needed; the underground chambers are designed for stormwater holding back the larger storms; the outlet will drain to wetland and intermittent stream.

Joyce Voorhis suggested prohibiting the use of salt ; Damien Dmitruk said they have added signage for "no road salt" at the driveway entrance.

Peggy Curtis asked how the snow removal area was being used for recreation. Damien Dmitruk said it is an open grass area, so the residents will presumably use it.

Peggy Curtis asked where the maintenance stairs are; will there be any need for equipment back there at any time. Damien Dmitruk said they need access to repair the wall; the walls may be anywhere from 5-10 ft tall.

Joyce Voorhis commented that it is a large project for a delicate area. Damien Dmitruk said it is great reuse for the site; it will be an improvement to the site.

The Agent reviewed her recent report: the retaining wall will impact the 25 ft BZ to the northern wetland BVW L; the Land Use Agent in Easton and the Agent have recommended additional BZ plantings; three red maple tree plantings are proposed on the Easton side, but no additional plantings are proposed in Brockton; there is space and opportunity to do more with the BZ planting plan; Easton is suggesting the same thing; the Commission should consider if the landscape plan shown is enough. The fencing and signage was added to the snow storage area per her suggestion; the Commission should consider if it is enough protection to keep snow out of the 25 ft BZ. The stairway is a concern because of the proximity to the Brockton Audubon Preserve; it is positioned close to property line; there is an existing access road that was being used by the prior owner; the prior owner continued to use it for that storage even after the

land was donated to the Brockton Audubon Society in the 1970s; it is an existing encroachment; she had suggested a gate for the stairway; the Commission should consider if the conservation area is being adequately protected.

The Agent said she sent out the revised plans to BETA; the revisions were received 5-2-22, so no final report from BETA yet.

Lori Macdonald brought up the proposed special conditions from the Agent's report; she said there will be specific monitoring in SWPPP agreement; she suggested that the Commission allow that rather than requiring an environmental monitor under the OOC; the SWPPP reports could be forwarded to the Commission.

The Agent said the intention of the EM is to have someone responsible for monitoring because the retaining wall work is proposed very close to the limit of work; the Commission needs to make sure the limit of work is being maintained; she is not opposed to revising the condition if there will be reports confirming that the erosion control/limit of work is being monitored; the Commission knows that it can not assume that it will be maintained. Damien Dmitrik said the SWPPP requirements are now more strict on who can monitor the erosion controls; they don't want to have several people doing the same thing on site.

Laura Biechler said they should wait until the final BETA report comes back. The Agent said they should have a final report prior to the next meeting date. The members agreed.

A motion was properly made by Peggy Curtis, seconded by Joyce Voorhis, and unanimously passed to continue the hearing to May 18th.

Meeting adjourned

**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.**